

National Inquiry into  
Missing and Murdered  
Indigenous Women and Girls

# RECLAIMING POWER AND PLACE

THE FINAL REPORT  
OF THE NATIONAL INQUIRY  
INTO MISSING AND  
MURDERED INDIGENOUS  
WOMEN AND GIRLS

**Volume 1a**



Reclaiming Power and Place: The Final Report of the National Inquiry into  
Missing and Murdered Indigenous Women and Girls, Volume 1a



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Dee-Jay Monika Rumbolt (Snowbird), for *Motherly Love*  
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Christi Belcourt, for *This Painting is a Mirror*

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## Acknowledgements

As Commissioners, we were mandated to investigate all forms of violence against Inuit, Métis and First Nations women and girls, including 2SLGBTQQIA people. We were given a sacred responsibility to hear from families and survivors of violence to make concrete and actionable recommendations for the safety of Indigenous individuals, families and communities. The legacies of those who no longer walk among us will not be forgotten as all Canadians have a moral obligation to share this sacred responsibility in breaking down systemic barriers, eliminating violence, and ultimately creating safer spaces for Indigenous women, girls, and 2SLGBTQQIA people.

We honour the memory of all missing and murdered Métis, First Nations and Inuit women, girls, and 2SLGBTQQIA people including the spirits of the missing or murdered whose families shared with us. You were taken, but you are not forgotten; your lives, dreams, hopes and losses are now forever a part of Canada's living history.

We want to thank the families who shared their painful truths, knowledge, wisdom, experiences and expertise with us. We honour your strength, courage and perseverance in seeking justice and healing for the loss of your grandmothers, mothers, sisters, aunties, daughters, nieces, cousins and close friends.

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We acknowledge the survivors of violence who shared their experiences with us. You have illustrated pure strength, courage and resiliency in sharing your truth as many of you are still experiencing trauma and systemic violence. We are extremely touched you entrusted us with your experiences.

We cherish the submissions of artistic expressions, including, songs, poems and art, that have been shared with us. Thank you to the artists, family members, survivors and those across the nation who have been impacted or inspired to take action through their submission. Your art will continue to serve as powerful commemoration and legacy tools to share truth and knowledge and serve as a means to heal and inspire action in others.

We offer our sincerest gratitude to the Elders and Grandmothers Circle who worked alongside us, offering their support, wisdom, encouragement, advice, protection and love to us and all who worked with the National Inquiry. Our inspiration came from our Grandmothers who motivated us to always work to the highest standards. One of the ways we will be able to express our gratitude is to always live by the lessons and wisdom they shared.

We want to acknowledge and thank the families and survivors who guided and assisted us as members of the National Family Advisory Circle. For many years, you fought to be heard and acknowledged in seeking justice for your loved ones and your fellow Indigenous women, girls, and 2SLGBTQQIA people. You fought for a national investigation into the injustices and violence experienced by Métis, Inuit and First Nations women, girls, and 2SLGBTQQIA people. We were not provided with the

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time, tools and powers to do all that we had hoped we could do, but you walked with us every step of the way, and we are beyond humbled to have walked alongside you, and to have received your truth and your trust.

We have been honoured with the support of Elders and Knowledge Keepers across the nation who offered their guidance, knowledge, wisdom, prayers, traditions, and ceremonies to the National Inquiry at our hearings, statement-gathering events and other community events. In sitting with us, tending to the *qulliq* and sacred fires, offering ceremonies, songs, prayers, and words of wisdom, you have helped us navigate through the very challenging task of engaging in a legal inquiry process, while incorporating distinctive First Nations, Inuit, and Métis cultures, languages, spirituality, and creating opportunities for healing. You remind us that every step in our process had to be with heartfelt intention and purpose and grounded in relationships and reciprocity.

We want to acknowledge the communities across the country that welcomed us into their territories and homes. You helped us create safe spaces filled with culture, language, spirit and compassion at each hearing. In these safe spaces, difficult truths were brought to light, and for some, healing began.

We offer gratitude to the members of our Métis, Inuit, 2SLGBTQQIA and Quebec Advisory Committees, who offered their time to us in exploring issues and positive solutions. Your expertise, advice and guidance has contributed to the development of this report and recommendations for the elimination of violence against Inuit, Métis and First Nations women, girls, and 2SLGBTQQIA people.

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We are so thankful for all of the staff and the contractors who made up the National Inquiry. You have been fiercely driven and dedicated to ensuring we were able to fulfill as much of our mandate in the time we had available to us as we could. Time and time again you pulled off the impossible: 24 hearings across the country, almost 750 people's statements gathered, eight institutional visits to correctional facilities, four Guided Dialogues, eight validation meetings for the *Final Report* and numerous other gatherings which were required to fulfill this national mandate. You have truly brought to life our vision of finding the truth, honouring the truth and giving life to the truth.



## Chief Commissioner Marion Buller

**F**irst, I acknowledge and welcome the spirits of the missing and murdered Indigenous women and girls. I also acknowledge the courage of survivors. Their spirits and courage guided us in our work. This report is about these beautiful Indigenous people and the systemic factors that lead to their losses of dignity, humanity and, in too many cases, losses of life. This report is about deliberate race, identity and gender-based genocide.

The violence against Indigenous women, girls, and 2SLGBTQQIA people is a national tragedy of epic proportion. Also part of this national tragedy is governments' refusals to grant the National Inquiry the full two-year extension requested. In doing so, governments chose to leave many truths unspoken and unknown. There has been and will be criticism of our work; it is vitally important. I hope that the criticism will be constructive and never end. I take the critics and their criticism as indications of the great passion that exists about the issue of violence against Indigenous women and girls.

As a nation, we face a crisis: regardless of which number of missing and murdered Indigenous women and girls is cited, the number is too great. The continuing murders, disappearances and violence prove that this crisis has escalated to a national emergency that calls for timely and effective responses.

Within the National Inquiry, and in the short time we have had to do our work, families and survivors have provided important truths. These truths force us to reconsider where the roots of violence lie, and in doing so, to reconsider the solutions. I hope that knowing these truths will contribute to a better understanding of the real lives of Indigenous people and the violations of their human and Indigenous rights when they are targeted for violence. The truth is that we live in a country whose laws and institutions perpetuate violations of basic human and Indigenous rights. These violations amount to nothing less than the deliberate, often covert campaign of genocide against Indigenous women, girls, and 2SLGBTQQIA people. This is not what Canada is supposed to be about; it is not what it purports to stand for.

# P R E F A C E

In this report, we use hard words to address hard truths like genocide, colonization, murder and rape. To deny these hard words is to deny the truths of the families and survivors, front-line workers, and grassroots organizers. We used hard words because the violence against Indigenous women, girls, and 2SLGBTQQIA people is a difficult, critically important crisis to address and in which we all have a role.

This report is also about hope. I believe, especially after witnessing the resilience of Indigenous families, survivors and communities, that change will happen. An Elder said, “We all have to get past the guilt and shame.” This begins with recognizing the truth. For non-Indigenous Canadians, this means rethinking commonly held stereotypes, and confronting racism in every context. For Indigenous Peoples, this means using the truth to rebuild our lives, our families, our communities and Canada itself. And for governments, this means nothing less than a new and decolonized social order; it is an opportunity to transform and to rebuild in real partnership with Indigenous Peoples.

Skeptics will be fearful and will complain that the financial cost of rebuilding is too great, that enough has been done, that enough money has been spent. To them I say, we as a nation cannot afford *not* to rebuild. Otherwise, we all knowingly enable the continuation of genocide in our own country.

I thank the family members and survivors who shared their painful truths about their tragic experiences at our hearings and statement-gathering events. I am honoured to have shared your tears, hugs and hopes for a better future. I will always be inspired by your resilience.

I have special admiration for the grassroots people and activists who knew, first hand, about the depth of the violence against Indigenous women, girls, and 2SLGBTQQIA people. They knew – they have always known – that the violence has to stop. Through their sheer determination over generations, they have forced governments to pay attention, and to establish what we consider to be just the beginning of this work: a National Inquiry into the root causes of a crisis that has been generations in the making.

Canada can be a great country – the one many Canadians believe it is. Collectively, we must settle for nothing less. Achieving this greatness will take vision, courage and leadership. I have seen these qualities and more, in Indigenous people, from coast to coast to coast. I challenge them to be the new leaders who will create a new reality, a new social order – a safe and healthy country for all.



## Commissioner Michèle Audette

Throughout the ages, all societies have taken care to ensure the safety of the members of their communities. And yet, still today, the World Health Organization reports that 35% of women worldwide will experience physical or sexual violence in their lifetime, this figure reflecting only violence that is reported.

In Canada, statistics show that Indigenous women and girls are 12 times more likely to experience violence than non-Indigenous women. According to Statistics Canada, between 1997 and 2000, homicide rates for Indigenous women were nearly seven times higher than for non-Indigenous women. A risk of such magnitude requires us all to take responsibility, to clearly identify the issue and to take strong measures to address this situation, which is rooted in Canada's historical and political context.

That said, statistics cannot convey what families and communities really go through when they lose loved ones to such violence. The concept of family means so much more than biological lineage, with the strengths and diversity of a family being found in the sum of its parts. Each of them deserves to live in an environment where all of its members can develop their full potential safely and peacefully.

The National Inquiry has been an enriching learning experience, both personally and professionally, but it has also been trying. Fulfilling our mandate was a daunting task, and I often felt helpless when hearing the testimony of every person who generously contributed to the exercise we put before them.

Our mission was to shed light on a social crisis that affects Indigenous women and girls and 2SLGBTQIA people every day of their lives. Although this crisis was identified long ago, we have been slow to examine it in depth. The commission that I have been part of inquired into a situation that has affected all of Canada's Indigenous communities, as well as all Canadians, throughout the 500 years of our common history.

# P R E F A C E

This unprecedented inquiry addresses violence against some of this country's most vulnerable citizens and identifies its systemic causes. Never has there been such an opportunity for the truth about violence against Indigenous women and girls to be heard and acknowledged. Within the organization, we pushed and constantly stretched the limits of our teams to meet our goals.

Why go to such lengths? To bring about change. As my mandate comes to an end, I note, with great humility, that this National Inquiry will have honoured the struggles taken up by the families and survivors over the past 40 years. This Inquiry, which was sought by 3,000 families, will have shone light on facts that are all too often hidden.

Violence against Indigenous women and girls does not stem from one isolated event. Sadly, it is the daily reality of far too many human beings, many of whom are among this country's most vulnerable. Today, we have the opportunity to highlight the extraordinary resilience of Indigenous women and girls, who remain dedicated to advocating for their rights and charting a path forward – a path we must all take together. We wish to honourably acknowledge victims and give families the opportunity to finally be able to give their children a better future.

The present can only be understood in relation to the past: we must know our past, understand it and accept it, if the future is to have meaning. We now need to go further and put forward a true social blueprint that will enable the country to adequately address this major social issue and break through this impasse. All our efforts will have led to identifying the solutions, means and actions needed to bring about this movement. Every Canadian can and must become involved at their own level if things are to change. Together, we have a duty to take effective measures to prevent and put an end to violence against Indigenous women and girls and ensure their safety.

This commission of inquiry does not mark the end of a movement, but represents a step in a healthy process that is a source of hope, a social undertaking. Today is the first day of the Canada of tomorrow. We cannot change the past, but we can work together to shape a better future built on the strengths of each and every community that welcomes it, thereby committing to improving the safety of Indigenous women and girls together.

#EndViolence #WomenAndGirlsAreSacred #ThankYouLife



## Commissioner Qajaq Robinson

**A**s a non-Indigenous person, I must acknowledge the significance of the welcoming, respect and kindness I, like others, have graciously received from Indigenous communities throughout the National Inquiry. I acknowledge that for many Indigenous Peoples, however, welcome, respect and kindness is not what you receive when you encounter government agencies and the Canadian public. Through this process, I have come to more fully understand that the Canada I live in and enjoy is not the Canada that Indigenous women, girls, and 2SLGBTQQIA peoples experience. In the eyes of the state, through law, policies and practice, we are not seen or treated as equals.

The continued actions of our governments to deny and infringe on human rights and Indigenous rights and the colonial, sexist and racist attitudes held by non-Indigenous peoples fails to reciprocate this welcome, respect and kindness you have shown me. Despite the numerous human rights laws and instruments the federal, provincial and territorial governments are bound by, and despite the recognition and affirmation of Indigenous rights in our Constitution, and the numerous court decisions calling for rights recognition and respect, this is not the reality for Indigenous Peoples, and especially Indigenous women, girls, and 2SLGBTQQIA people in Canada.

There continues to be a widespread denial of rights and dehumanization of Indigenous women, girls, and 2SLGBTQQIA peoples. This denial and dehumanization is the foundation Canada is built on, and upon which it continues to operate today. It is the cause of the violence we have been called upon to examine. It is a hard truth to accept for Canadians today, as we pride ourselves on being a just and principled society, bound by the rule of law and respectful of human rights and human dignity. However, we have been blind to the reality that our own place and privilege as Canadians is the result of gross human rights violations against Indigenous Peoples. These violations continue to persist in overt and in more subtle ways daily across Canada. This truth hurts us all, and grossly undermines our values and our potential as a country.

So what are we non-Indigenous Canadians to do now? We must acknowledge our role and we must become actors in the rebuilding of this nation. We must acknowledge that the crisis of violence against Indigenous women and girls has been centuries in the making, and its root cause is colonialism, which runs deep throughout the foundational fabric of this country. We are here

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now because of years and years of decisions and actions that built Canada, all while robbing Indigenous Peoples, and especially women, girls, and 2SLGBTQQIA peoples, of their humanity, dignity and ultimately their lives. It is genocide.

We must be active participants in decolonizing Canada. We must challenge all institutions, governments and agencies to consciously and critically challenge the ideologies that govern them. We must critically examine our systems of laws and governance to identify how they exclude and oppress Indigenous Peoples. We must challenge and call on all leaders to protect and uphold the humanity and dignity of Indigenous women, girls, and 2SLGBTQQIA peoples. And when they fail to do so, we must hold them accountable.

Finally, ending the genocide and rebuilding Canada into a decolonized nation requires true and equal partnership with Indigenous Peoples. I hope that the *Final Report* of the National Inquiry into Missing and Murdered Indigenous Women and Girls can be a tool to do just that.



*Martha Kyak designed and sewed this amauti. Sewing this amauti was a healing process for her. Martha has dedicated this amauti in memory of her sister Lily.*



## Commissioner Brian Eyolfson

**A**s I reflect on the work of the National Inquiry, I have tremendous gratitude for the family members and survivors of violence whose voices and contributions have carried this work forward. Over the course of the National Inquiry, we heard from many courageous grandmothers, mothers, sisters, aunties, daughters, grandfathers, fathers, brothers, uncles, sons and other family members, including families of the heart, about their loved ones who have gone missing or been murdered, as well as survivors of violence. As one of the Commissioners of the National Inquiry, I have had the honoured privilege to be a part of this opportunity to change the way forward.

To witness the extraordinary strength and courage of the families and survivors who shared their truths with all of us has been an incredible experience. Those shared truths will always be in my heart, and observing such strength and resiliency also gives me hope for positive change on a stain that has covered this country for far too long. The release of this *Final Report* is also an important opportunity and step in honouring the gifts of the truths that families and survivors shared with the National Inquiry and everyone in Canada.

The mandate given to the National Inquiry, to inquire into and report on the systemic causes of all forms of violence – including sexual violence – against Indigenous women and girls, is far-reaching. In carrying out this mandate, it was important to the National Inquiry to create a process that put family members and survivors first, to help create a path towards healing, and to find, honour and give life to the truth, given the undeniable need to transform the conversation about Indigenous women, girls, and 2SLGBTQQIA people in this country and in our Nations. Through this work, many beautiful relationships were also created across the land, relationships that will continue beyond the mandate of the National Inquiry. We also heard from local Elders who provided advice, such as keeping and carrying a sacred fire to each of our hearings. We have also strived to be inclusive of all Indigenous people, including 2SLGBTQQIA people, and respectful of local protocol.

Carrying out this important and necessary work from coast to coast to coast, in the allotted time, has not been without its challenges. However, the many voices and contributions of families, survivors, experts, Knowledge Keepers and other witnesses such as front-line workers, Parties

with Standing, and our Grandmothers and National Family Advisory Circle members are undeniable. The record created, the fires lit and the many connections made through the work of the National Inquiry, give strength and support for concrete and effective action that can be taken to remove systemic causes of violence and to increase the safety of Indigenous women, girls, and 2SLGBTQQIA people in Canada.

The fundamental rights, including human rights and Indigenous rights, of Indigenous women, girls, and 2SLGBTQQIA people in Canada must be upheld and respected on a substantive and equitable basis. Many Indigenous women, girls, and 2SLGBTQQIA people are denied basic rights that others in Canada take for granted, such as access to safe housing and education. For far too long, colonial and discriminatory policies, practices and attitudes have subjected Indigenous women, girls, and 2SLGBTQQIA people to violence in this country – a violence that unfortunately for many Indigenous women, girls, and Two-Spirit and transgender people has become normalized – and continues on an ongoing basis. The need for decisive action to address this crisis is urgent!

Not just governments, but everyone in Canada has a duty and responsibility to take action to address the issue of violence against Indigenous women, girls, and 2SLGBTQQIA people. This also requires critically examining attitudes and behaviours that impact the lives of Indigenous women, girls, and Two-Spirit and transgender people in this country, such as negative portrayals of Indigenous women, girls, and 2SLGBTQQIA people in the media. It is also important that men “take action and stand up to end violence towards women and children,” as the Moose Hide Campaign encourages, through actions such as speaking out against violence, holding each other accountable, and healing and being healthy role models for youth. It is also vitally important that we listen to Indigenous women, girls, and 2SLGBTQQIA people in addressing this pressing issue, as they are the experts and have the solutions and important roles to play in ending violence.

I firmly believe that the work of the National Inquiry, and the findings and recommendations set out in this *Final Report*, provide a strong basis for changing the way forward. We have the opportunity and the will of many to make the necessary changes to ensure the safety of Indigenous women, girls, and 2SLGBTQQIA people for generations to come. Through our concrete actions, let’s honour and give life to the truth.

Our women and girls are sacred.

Chi-Meegwetch

## Messages from the Directors

My continuing prayer is that this national tragedy will end. We have the roadmap drawn in this Final Report, guided by the heartbreak and hope of the many family members and survivors who testified, and the Knowledge Keepers, experts and institutional witnesses who took the time to appear before us. Now, we need the courage to face these truths and the collective will to make Canada the country it was meant to be.

*- Jennifer Rattray, Executive Director*

I would like to thank my team for their hard work and dedication throughout the Inquiry. They ensured the Commissioners and the Legal, Research, and Outreach and Support Services teams were able to concentrate on the survivors and family members who have been impacted by this national tragedy, and that the witnesses were able to travel to and attend hearings across the country. Despite being largely behind the scenes, we bore witness to terrible truths shared by incredibly brave people, and we wholeheartedly believe that the recommendations from this report must be acted upon immediately.

*- Alexandre Desharnais, Director, Logistics*

I am honoured and humbled by the incredible trust placed in us to hear these truths and to share them within this report. To my incredible team - it has been a privilege to share this experience with you. I hope that the vision we have outlined reflects the needs of those who came forward to share their experiences, and that they ultimately contribute to a safer world for all Indigenous women, girls, and 2SLGBTQQIA people. Each and every one of us has a role; it is time to act.

*- Dr. Karine Duhamel, Director, Research*

Even though my role and responsibility was to provide enabling administrative services, I feel privileged to have supported such quick, forceful and meaningful change. I am beyond hopeful that the work instigated by the National Inquiry will be a catalyst towards repairing damage and altering a trajectory which will provide equality of opportunity if not equality of circumstance. With the advent of this Final Report and recommendations, what lies ahead is a great deal of hard work, sure to be filled with moments of despair as well as celebration. Onwards.

*- Nicholas Obomsawin, Director, Operations*

The Registry's responsibility was to hold all of the sacred truths and the evidence given to the Commission by the thousands of witnesses who stood up to denounce the ongoing violence against Indigenous women, girls, and 2SLGBTQQIA people in this country. My team and I count ourselves lucky to have helped build a public record that resounds with the grace and strength of the witnesses and their advocates. Their perspectives can help Canadians heal from our country's past and they tell us we must stop the current, normalized forms of violence. We must begin to listen and to act.

*- Bryan Zandberg, Registrar*

The National Inquiry has a large public record accessible to anyone. The work was only accomplished with the bravery, courage, and resiliency of all who shared their truth. The evidence is compelling; it demonstrates how Indigenous women, girls, and 2SLGBTQQIA people are treated and how indifference and discrimination are maintaining harm and violence. I encourage everyone to listen or read the record; it will not be easy – while the truth is heartbreaking it also provides solutions and calls for change that need to occur so that this country is safe for everyone.

*- Christa Big Canoe, Lead Commission Counsel*

It has been a great honour and privilege to be a part of this historic process. My sincere wish is for the voices of the families and loved ones who testified at the National Inquiry to be finally heard, and that their stories of loss and human rights abuses pave the way to a new future for Canada, one in which we all are respected and treated as equal citizens. The Final Report and its Calls for Justice speak to all Canadians; may we hear their truth and act.

*- Catherine Kloczkowski, Director, Communications*

I want to acknowledge all those who had the courage to forge this new path with us, the spirits of our stolen sisters who guided every step of my journey, and my grandmothers in the spirit world, who watched over me and my son throughout this journey and kept us safe. Now, more than ever, we must all have the courage to continue on this road. We cannot turn a blind eye nor remain comfortable with the status quo. My hope is that together with all Canadians, unified in empathy and compassion, we will undertake the responsibility of ensuring the dawn of a new reality for all those who have yet to be born.

*- Terrellyn Fearn, Director, Outreach and Support Services*



## Reflections from the National Family Advisory Circle

The role of the National Family Advisory Circle (NFAC) is to help guide the work of the National Inquiry and to serve as the voice of truth for the families and communities of missing and murdered Indigenous women and girls. NFAC does this by providing advice during the planning and hearing processes to ensure that the lived experiences of families are heard by the Commissioners alongside the evidence that is presented by the Expert Witnesses, and to ensure that the concerns and experiences of families are taken into account by the Commissioners when they cross-examine the witnesses bringing evidence before them.

Members of the National Family Advisory Circle are volunteers who provide advice to the National Inquiry. The members are not involved in any operations. Members were invited by the Commissioners to participate based on three considerations:

- They are longtime leaders and advocates for their loved ones.
- They have indicated interest in providing their support to the National Inquiry.
- They are representative of a diversity of Nations, geographical regions, and urban and rural communities across the country.

# FOREWORD

We asked members of NFAC, on a voluntary basis, to share some reflections about their own experiences within the National Inquiry and their hopes for the *Final Report* and the outcome of the National Inquiry. We emphasize their invaluable contribution to the process; words are not enough to thank them for their time, expertise, and commitment.



*NFAC members in Vancouver discuss and provide feedback on the Final Report.*

## Vanish, by Gladys Radek

Tamara Lynn Chipman stole her Daddy's heart from the moment she was born. Even her Mom knew she would be a Daddy's girl forever. When Tamara lost her Grampa – her favourite person in the world – she clung to her Daddy and became his little shadow. Tamara loved fishing boats, fast cars, and dogs. She was an adventurer. She grew into a tall, lanky, charming, beautiful young lady with a smile that would brighten anybody's day – from Daddy's little tomboy to a young mother at age 19, forever bonded with her son. She was never afraid of anything and lived life to the fullest.

Then, one day, out of the blue, something out of the ordinary happened. There were no phone calls, no knock on the door, no cheery hello, no more, “Hey Daddy, what we going to do today?” All of a sudden, our world came crashing down. Tamara had vanished. Days turned into weeks, a month and then into years. She disappeared on September 21, 2005 from the northernmost tip of the Highway of Tears in British Columbia.

Our family conducted search parties through the mountains, along the railroad tracks, in ditches and culverts and tread through the back allies of communities where angels wouldn't dare tread. We searched local, provincial, national and international waters for our baby girl only to realize that there were so many more missing, like her.

The eternal flame will continue to burn in the hopes that someday soon she will bounce in that door and say, “Hey Daddy, what we going to do today?” We wonder, is she warm, is she safe, is she alive, and is she being held against her will, is she being raped or tortured, is she being bought or sold? What happened to her, is she dead? Somewhere out there someone knows something; we pray that someday they will come forward and tell us the truth. This thought runs through the minds of all the families of our missing loved ones, the thousands of us who wake up to this nightmare every single day.

Of all of the hurtful experiences associated with the vanishing of a loved one, one of the most is the racism displayed when our First Nations loved ones disappear. We hear things like “I heard she was just a party animal,” or, “Was she wanted by the cops?” Or, the worst of all, that she “lived a high-risk lifestyle.” These labels have taught mainstream society that all our women and girls are just that – prostitutes, addicts and hitchhikers, and therefore not worthy of care or effort.

This is not true: Tamara is loved, now and forever. The Government of Canada as a whole has the responsibility of ensuring every citizen is protected by the laws of the land; all people living in Canada have the responsibility to live in peace and with respect for basic human rights, including safety and justice. It is time for justice, closure, accountability, equality and true reconciliation.

It is time to *END VIOLENCE* against Indigenous women, girls, and 2SLGBTQQIA people. What do we want? JUSTICE! When do we want it? NOW!

## Fallon Farinacci

When the opportunity arose to be part of the National Inquiry into Missing and Murdered Indigenous Women and Girls, I immediately knew I was being guided to share my family's story. I had to be the voice for those who no longer could speak for themselves. Being part of the National Inquiry as an NFAC member has been a stepping stone to a deeper level of healing. It has opened my eyes to the emotional wounds I was suppressing.

It has truly been an honour being part of NFAC. The National Inquiry into Missing and Murdered Indigenous Women and Girls is bigger than most Canadians understand. It's not only about bringing awareness to the lives that have been lost, but it's also about bringing attention to the deep historical wounds that Indigenous people have had to endure. It's about a movement for healing for all.

I'm overwhelmed with gratitude for being given the opportunity to be a member of NFAC and to have my voice heard for my mother (and father). Without NFAC, I don't feel we would have had the same level of respect laid out throughout the work for those who have gone. NFAC members have drawn from deep within themselves to share and fight for change for generations to come. My hope for the National Inquiry is that we the families, survivors and victims can all find healing, but it must start with change.

## Jeremiah Bosse, widower of Daleen Bosse

At first, my thoughts about a National Inquiry were, "Will this actually work or help?" Doubt wandered around my brain, knowing how many First Nations issues have been swept under the rug.

I now hope this National Inquiry touches the hearts of the people of Canada, helping non-Indigenous people understand the need for reconciliation.

Today I feel hopeful for the first time that as victims of violence our words will be heard. The words of our lost ones are spoken! We will be there to represent them; they may be lost, but they are not forgotten!

## Myrna LaPlante

Our LaPlante/Osmond family began our journey as family members of missing and murdered Indigenous women and girls in September 2007, and we have since been involved in a number of activities in Saskatchewan and nationally.

In February 2017, I was invited to a family members meeting in Acton, Ontario. There began my journey as a National Family Advisory Circle (NFAC) member. It was truly an honour to serve as a member on this committee alongside other family members who are seeking justice. My goal was to bring knowledge and expertise also from the volunteer MMIWG work that we do in Saskatchewan.

The National Inquiry has provided the opportunity for our family to tell our story about missing Aunt Emily to the Commissioners and a national and international audience. This also provided the opportunity to offer recommendations on the topic of missing and murdered Indigenous women, girls, and 2SLGBTQQIA people.

The sudden and unexpected loss of loved ones in a family dramatically shifts family dynamics, and that presents a new way of interactions within family and with external entities – for example, with work and extended relationships, friends, and social and other activities. There is a lot of sadness; our family tends to be more subdued, and immediate family gatherings change. We learn to cope with this ambiguous loss rather than heal. The National Inquiry has provided me with an opportunity to learn new skills and to engage in true healing through the aftercare funding via an Edu-Therapy Grief Resolution certification.

We trust that the truth is reflected within the *Final Report*, that it is evaluated, and that it is compiled in a way that is respectful of families. We trust that the recommendations that will stem from all of the testimony and family stories, and that there will be swift implementation by governments. We also trust that there will be ongoing supports for families who have suffered great losses.

The love and support of our NFAC family has been tremendous for me. For that, I am thankful. We know that we are in the same boat as many families and we are not alone.

## Melanie Morrison

I've been fighting for years to have change, and one of the focuses of Native Women's Association of Canada was to have an inquiry into missing and murdered Indigenous women and girls.

We wanted the concerns about our experiences and our files to be heard. It was important to our family that change happens. I saw it as an opportunity to expand our families' cry out for change to police protocols on Indigenous missing and murdered women's and girls' cases.

My sister went missing June 18, 2006. My mother did an initial search by talking to all of my sisters' friends and people who usually knew where she was. It was unlike my sister to not come home because she was a young mother. She told my mother she was coming home early that night. When my mom went to the police, she was met with the stereotype that because she was only 24, she was probably just out with friends and would show up. Unfortunately, my sister's remains were found four years later. It was devastating because where she was found was less than a kilometre from her home. Local police were in charge up to that point. Then, after follow-up with the case, it was handed over to the Sûreté du Québec and the file remains active. My niece was left to be raised without a mother. My daughter and I were very close to my sister, and my youngest never got to know her aunt. My mother hasn't recovered from the loss. My father passed in 2015. He passed without answers. She was very outspoken and a ball of energy. When her life was taken, the light fizzled and things are not the same.

Being part of the National Family Advisory Circle is healing in the prospect of having real change. It's another ray of light that I hope will burn. The way our women's files are treated is wrong, and my hope is that our reality won't be someone else's reality. These women and girls were important. They never got to fulfill their purpose because someone was able to take their life. I would love for all Canadians to think of our women as important because they were important to us. When this happened to my sister, she was in a good place. She had just finished an entrepreneurial course and she had a dream to build a house for her and her daughter. It was painful because she was doing all these great things and then this happens.

My hope would be that there is an immediate change of how the police handle Indigenous files on- or off-reserve so there's no delay in pursuing every possible option to find that missing or murdered loved one. There was such a divide in my personal experience. On-reserve, my sister's case wasn't considered important, and off-reserve, people didn't think they had to be responsive. If the local police and off-reserve police had communicated with each other, we could maybe have had closure.

## Darlene Osborne

Tansi, Kitatamiskatinawow, I am a member of the National Family Advisory Circle and have attended five hearings across the country in Winnipeg, Regina, Saskatoon, Calgary, and Quebec City. My husband, John, often attended with me as my support.

For John and I, there was truth in the words and tears of the families who shared their stories and experiences about their loved ones. While this National Inquiry represents a start, there is so much more to do. The limitation of the process, and its structure, could not shine enough light on so many dimensions of truth we had hoped the Inquiry's noble mandate would illuminate. In the end, we as family members, because of the Inquiry, are able to stand strong together and united in the singular message that there cannot be any more violence against women and we must find a way as a nation to end these shameful and preventable deaths and murders.

There are many solutions that were offered by families and by survivors. While the National Inquiry's mandate was limited to Indigenous women and girls, we heard from many other families who lost Indigenous men and non-Indigenous women; families who felt their grief and loss but who did not have a voice or a way to contribute to the National Inquiry. Their stories need to be heard, too.

We also feel there is a need to further investigate policing in this country; we are concerned that the truth around how police departments treated the investigations of our loved ones at the time will be lacking. We need this information to truly tackle the problems; to make changes so that our women and children do not go missing or, if they do, these crimes no longer go unpunished.

We realize that as we seek the truth, we must also focus on healing. Healing needs to happen to address violence that still occurs today. Our community of Norway House Cree Nation has many members who have lost loved ones to senseless violence. We need true healing centres where there is long-term aftercare, particularly for the children of the murdered and missing women. Many of these children are now young teens and adults. They are lost and angry for what has been stolen from them. A healing centre would recognize the lasting legacy these crimes have had on our community; a healing centre would also allow our community to offer a place to heal that addresses each family member's needs.

We are honoured that we could be part of the National Family Advisory Circle. We hope our words and reflections are taken in the spirit with which we intend: a sincere desire for change, rooted in an honest reflection on the achievements and failings of this process, and on the difficult task of finding truths and answers that end the loss of our sisters', mothers', and daughters' lives. The losses of our loved ones have profoundly affected those of us who were there when our loved ones went missing – and who are still here now, looking for answers. We demand more from this nation called Canada.

## Pamela Fillier

My daughter Hilary went missing on September 15, 2009. When I went to the police, they assumed she was out partying and did not look for her. My community ended up looking for her. We called the media and when the media got involved and it blew up on television, the police started looking for her. When my daughter was found, it was discovered that her first cousin had murdered her. He had previously been to jail for raping the mother of his children. He was let out of jail even though his file said he was at a high risk of reoffending, and now I don't have my little girl.

The National Inquiry has been a healing process for me. I felt very alone, but when I go to the hearings and to meetings with NFAC, I don't feel so alone. The person next to you knows how you feel because they've been there in a sense. No two stories are the same, but there is always something that is the same that you can identify with. I will stay in contact with these women because they really feel like my family.

My hope for the *Final Report* is that it will raise awareness about how much racism still exists in Canada. I also hope for tougher laws for rapists, pedophiles, and murderers. My daughter's murderer received a sentence of 25 years in prison, but after 13 years he will qualify for day passes. He was also previously charged in a number of violent cases. I fear for the safety of women and girls in his community because he showed no remorse for what he did to my daughter and I fear he will reoffend.

Something else I would like to see come of the *Final Report* would be more safe spaces for children. My dream would be to create Hilary House, a safe haven where children from the community could play or have a place to stay the night. I would like for it to include an arcade room and a dance floor. There are no existing houses of this kind on reserves and I believe that it would be a wonderful initiative to keep our kids safe.

## Priscilla Simard

Verna Mae Simard-Shabaquay was born to Charles and Tina Simard in Red Lake, Ontario. Together they raised their children Cecil, Verna, and Mitchel. She was born into a warm and loving family. As a child, she was happy, kind, and full of spirit. Her father affectionately called her Fawn for her gentle nature. Her mother died when Verna was a very young age. Her father was grief-stricken. Children's Aid Society (CAS) took the children and placed them in a Mennonite home in Red Lake. They were placed in foster homes where physical and sexual abuse occurred.

Verna married, but it did not last long. She raised her children, but they were taken into CAS. To compound that loss, her oldest son died. Verna became a grandmother, and Verna doted, cared for, loved, and lived for her granddaughter. Verna's life was difficult and tragic, as she was unable to deal with her traumatic history, the grief and loss of her mother, the tragic death of her father, the loss of her brother, and the loss of her oldest son. We believe these factors contributed to her high-risk lifestyle: alcohol/drug addiction, multiple partners, and intimate partner violence, which resulted in her death.

Verna had allegedly fallen from a sixth-floor window of Vancouver's Regent Hotel on Hastings Street. The circumstances surrounding her death remain suspicious, unsolved but ruled "no foul play" by Vancouver City Police. This case can be reopened pending any new information brought forward by any person. We, as a family, believe the intimate partner violence contributed to her death. We believe she was thrown out of the window.

At the National Inquiry into Missing and Murdered Indigenous Women and Girls hearing in Thunder Bay, Ontario, December 2017, the family put forward several recommendations for change, including on issues such as the investigative process of the Vancouver City Police, police reports, coroners' reports, police response and protocols, credible witnesses, and a preponderance of evidence based on environment. As well, the family had specific recommendations on child welfare, domestic violence, intimate partner violence resulting in death, and the need for holistic healing strategies.

We honour the memory of Verna and seek justice. We look to the National Inquiry to advocate for and advance the recommendations for women like Verna. These recommendations cannot be downplayed, ignored, or shelved. When the recommendations are implemented, we avert suffering, justice can be served, and her spirit can rest!

Miigwech!

## Sylvia Murphy

I am honoured to be part of this mission for justice. I have obtained so much knowledge and direction from the National Inquiry. The hard work and dedication of the Commissioners and National Inquiry staff, the strength and dedication of witnesses and survivors, who offered testimony – all have impacted my own journey in important ways.

Intergenerational trauma has been the outcome of my mother's life, my own life, my daughters' lives and my grandkids' lives. If things would be the way that they should be, our family would have not had to live through this. Our journey, filled with trauma, was caused by my father's death that left my mother, at 28 years of age, with eight children to support. My own journey in care, first in an orphanage and then in foster homes, left me with deep feelings of rejection, loss, and alienation within an often cruel world.

The struggles have not been without successes, though. My youngest daughter will soon celebrate two years of sobriety and of living clean from drugs and alcohol. During this time she has worked to complete grade 12 and has started college to be an Addiction Support Worker. She is working to heal, one day at a time.

I have lived my journey, which has not been an easy one. With the Creator's guidance, I have transformed into the person I am today. My grandchildren are living in this world with the help and love from their mothers and me. As their Grandma, I have tried with the best of my knowledge to direct my daughters with help from programs we will get on our journey of healing and love.

Respect, love and patience are very important for a better life for all. Key to these values include all the members of our communities, including Grandmothers, who are Knowledge Keepers full of wisdom and knowledge, who give guidance to all in need at any time. Men and boys are important as well; they need programs and support to be fathers of future generations. Improvements in programs to help men and boys recognize their importance in protecting the women and girls in this world.

While I have many hopes for the future, the most important thing, for me, is to make sure that a program is put in place so children in care receive direction and support, to ensure their survival and the survival of future generations.

The Creator is making us all strong. I pray every day that justice will come.

## Barb Manitowabi

The support of my family (Shailla, Michael and Jacob) was what helped me participate in the Truth-Gathering Process and contribute as a National Family Advisory Circle member. For us, this was a step we took together in our healing from past traumas and abuse and to gain a sense of justice and validation; to gain a better understanding about the oppression facing our people.

My family's experience reflects many of the themes that other families shared, including the intergenerational trauma, racism, abuse; ongoing economic and social challenges; the issue of lateral violence; our deep mistrust in the institutions of Canada to protect and take care of us; and in large part, how systems have failed in protecting and helping my family when we needed it most. Retraumatizing, revictimizing and setting us up for more poverty and even more violence. This was an opportunity to give a voice to the grief, pain and rage that we, as a family, were unable to let go of otherwise.

After this journey we are closer and stronger as a family; for this, I am grateful.

This process has changed me forever. For two years we went to the darkest places where the pain and hurt still lives. The National Inquiry has uncovered failure after failure in protecting the lives and rights of Indigenous women, girls, and 2SLGBTQQIA people. It is a system that, at its core, aims to destroy and pull families apart. Our reality is that we are watching the slow, painful destruction of Indigenous Peoples. Canada has built a system of rules and laws stemming from greed, racism, and hate; this system continues to devour our families today. Canadians cannot deny the facts, as ugly as they may seem: this is genocide.

From my experience being in NFAC and working with the Commissioners, I am in absolute awe at the dignity, strength, beauty, courage, and perseverance our NFAC group has shown over the past two years. Through all the bad media, political posturing, on top of the stress of testifying and hearings, we stayed committed to our mission: ensuring that the truth be heard.

We all had moments of wanting to quit when things got too painful. In these moments of doubt we tried to stay focused and remind each other why we were doing this – and for whom. We are doing this for the sons and daughters of future generations, and it is only by sharing and knowing the truth that healing can begin. I'm proud to be standing with other survivors and family members knowing we did all we could to help the next generation of survivors and warriors.

I am grateful to NFAC and to the Commissioners for hearing and supporting my family. I would also like to say Gchi Miigwetch (big thank you) to family, friends and Elders who supported us through many storms along the way and helped me personally to stay focused on my commitment. Rebekka Ingram, Thohohente Kim Weaver, Maura Tynes, Gladys Radek, Lorna Brown, Ron Zink; I hold you in my heart always and forever. Shailla, Michael, Jacob, I love you.

## Lesa Semmler

When the National Inquiry started and I was asked to be part of the National Family Advisory Circle, I had never been on MMIWG walks or been to rallies.

I had never identified with MMIWG even though my mother was murdered by her common-law partner when I was eight years old. I didn't think she fit the category because she had not gone missing first. When I attended the pre-inquiry meeting in Yellowknife in 2016, it lit a fire inside of me because I realized that I could use my voice to make change. During the first NFAC member meeting there was a lot of talk about the issues First Nations are facing and talk of chiefs and reserves. The other Inuit NFAC members and I explained that we are Inuit and that our issues are different, and we deal with them differently. We live in an isolated part of the world and our women are dealing with a lot of family violence. I wanted to ensure people in our region had a voice and that their concerns were represented in this national process.

It has been a healing journey to talk about what happened to my mother at the National Inquiry into MMIWG so I can deal with it. It has been healing for me to tell my mother's story. Other people who have identified with my experience decided to start talking about what happened to them, too. Sharing our Truth was important for me and for my grandmother who never talked about it before. After we shared, she felt relieved because she finally had the chance to say what she wanted to say. She also realized so many other people have had similar experiences.

My hope for the *Final Report* is that there will be good recommendations for the northern territories to ensure the safety of children, women and men in the North. We need programs and support for families that are culturally relevant. Western ways do not work for Inuit women because they are not heard the way they want to be heard. I hope that the recommendations are written in a way that will be easily adopted by the provinces and territories and that they will initiate action. I hope that all people in Canada will sit down and read everything that has been done to Indigenous people before they just say it's our own fault. Without a shift in that thinking, nothing is going to change.

## Pauline Muskego

The day I received a call from Commissioner Michelle Audette to ask if I would consider sitting as a member of the National Family Advisory Circle (NFAC) for the National Inquiry into Missing and Murdered Indigenous Women and Girls (NIMMIWG) is a day I will never forget.

I recall the emotions I felt knowing that I would be honouring the memory of all MMIWG across this land. My late daughter, Daleen Kay Bosse (Muskego) was one of the thousands who had gone missing and was later found murdered. It was because of what we went through as a family and what all families have gone through and continue to go through that I said yes, that it would be an honour. My family was greatly impacted by our loss. Being able to tell our truth was a way for us to heal from the pain we went through; however, it is a life-long healing journey for a lot of the family members.

As a member of NFAC, these past few years have been challenging yet rewarding, knowing that a National Inquiry of this magnitude and scope was able to accomplish what it did in the short time it was given. The NIMMIWG is now in its final stages of completion and if it wasn't for the Commissioners and staff who stood strong and pushed forward despite all the opposition, challenges, and obstacles, this National Inquiry would not have happened. For this I am thankful.

I close by saying, thank you.... It was an honour to sit as a member of NFAC.

*“My Loved One Is Forever In My Heart”*

## Toni Blanchard

I decided to become involved in NFAC to have a voice for our Northern area and help make sure something is done.

Being a part of the NFAC group helps with my healing and makes me stronger.

I want people to know that my sister, who was murdered in 2008 in Whitehorse, Yukon, had a face. She was a daughter, mother, sister, auntie, granddaughter, and was very loved. She left behind three beautiful children, who loved her very much. It is a hard journey to be able to talk openly about what happened. I always end up crying and hating, when I shouldn't be. All MMIWG2S have people who care and love them so very much.

I hope the National Inquiry leaves as its legacy a beginning of decolonization, and that all governments implement all Calls for Justice.

## Norma Jacobs

Guyohkohnyo Cayuga Nation of the Haudenosaunee (Iroquois) Confederacy

Haudenosaunee people, like other Indigenous Peoples, are so used to struggling. We are prisoners in our own lands, struggling with the traumas inflicted on us with the arrival of settler people in our homelands, this great continent of North America, or, as the Original Peoples call it, “Turtle Island.”

Through these struggles, we try to protect our “Mother, the Earth.” We do this to provide for and leave something great for future generations, or as we say, our “coming faces yet unborn.”

Long ago, the Onkwehón:we, or Original Peoples, were given a sacred bundle made up of our songs, languages, families, ceremonies, and everything else that supports our way of life. But our people were beaten, enslaved and punished for using our language, coerced into giving up land, ridiculed for our way of life and labelled negatively, violating our sacred boundaries of space and time.

Even after we became aware of our own history, we dared not talk about it for fear of further punishment, or even for fear of losing something we kept safe in our own minds. If we saw someone violating our values and principles, not being accountable, we still did not speak up. We learned to keep quiet and stick with the status quo, don’t talk, don’t feel.

Now! We are breaking that bond and speaking about our truths, even as we are surrounded by our abusers and violators of our sacredness. It is possible to rebuild and restructure and restore our ceremonies and languages. It is our blood memory.

Our Creation started with prayer and ceremony, guided by a sacred council. The Grand Council of the Haudenosaunee Confederacy provided us with our bundles of values and principles so we may experience this human journey with dignity and integrity.

Over 400 years ago, the Original Peoples made the first Treaty with European settlers, called the Two Row Wampum Treaty. The Two Row Treaty was about each people respecting each other’s sacred boundaries. Every Treaty was made with good intentions, respect, compassion and love.

Today, all of our demands are about respecting our values and principles. Settlers should respect Turtle Island from our perspective, as visitors in our homes. We have to speak out and instill responsibility and accountability in each and every living person.

It takes so much time to heal our wounds and scars and transform oneself because of the status quo. We have to heal not only ourselves, but also the trauma of our ancestors over generations. But until we can move away from the status quo, break the cycle and gather our strength, we will continue to have negative and hurtful relationships in this world and in our lives. By transforming ourselves we can stop this cycle and instill within those coming faces yet unborn the values and beliefs that will enhance our attitudes and behaviours for a more balanced future.

## Our Values and Principles

Adenidao shra:	Compassion and Kindness
Dewadadrihwa noh Kwa:k:	Respecting One Another
Degayenawako:ngye:	Working Together
Dewagagenawako:ngye:	Assisting One Another
Esadatgehs:	Self-Reflection on Actions
Gaihwaedagoh:	Taking Responsibility
Gasgya:nyok:	Encouragement
Gasasdenhshra:	Strength & Supporting One Another
Drihwawaihsyo:	Honest Moral Conduct
Oihwadogehsra:	Being Truthful and Consistent
Sgeno:	Peaceful Thoughts and Actions
Ongwadeni:deo:	“Taking Care of Our Own”

## Rebecca Moore

I am an l'nu woman who was born and raised in the Kjipuktuk district of Mi'kma'ki (so-called Halifax, Nova Scotia).

As an l'nu woman, I have been taught by my Elders that it is our inherent duty, as l'nu women, to take care of the water and to protect the water for the future seven generations. I feel that this is imperative for Canadians to understand. I take my inherent duty very seriously, which requires much of my time, effort, care, and attention.

Our inherent duty and responsibilities as an l'nu woman places us as a direct target for violence, harassment, police violence, misinformation by mainstream Canadians, criminalization, and incarceration. You see, it is not only Indigenous women who are living “at-risk” lifestyles or are on the streets who are being targeted, it is Indigenous women as a whole. Because non-Indigenous society benefits from settler-colonialism.

Being an Indigenous woman means living under a society and “civilization” that benefits from your voicelessness, invisibility, disappearance, non-existence, and erasure. Because if we don't exist, then Canadians – while claiming to live an earnest and honest living – are free to steal and exploit what is rightfully ours by loosening the “Rule of Law” for themselves and tightening it to extinguish our existence and resistance.

Indigenous matriarchs – being the life-givers, grandmothers, clan mothers, and steering decision makers – are not affirmed or recognized by the colonial courts and systems for their significant place in Indigenous societies.

The Canadian government strips Indigenous women of their rightful place within Indigenous societies and the outside world. By imposing their colonial structures, Canada removes the decision-making power from the women and displaces it to corrupt government departments, agencies, and service providers, etc.

Being l'nu in theory isn't illegal, but in practice, living in action as one is. We have Treaty rights under the Peace and Friendship Treaty, but good luck asserting them because the government is going to tell you, “No, you can't do that.” When it comes to hunting, fishing, or “earning a moderate livelihood” with our own initiatives, we, as individual inherent rights holders and descendants of the land itself, are treated by the state as criminals.

The Canadian government prevents Indigenous women and their families from having the autonomy to earn a moderate livelihood and achieve their own safety and security. Until Indigenous women are given the power and authority to self-determine what happens within their own territories, we will always be at risk under Canada's “Rule of Law.”

## Lorraine Clements

I woke this morning to a soft but inviting snow covered mountain,  
 A mountain of my childhood  
 A mountain I returned to this week to move forward speak my truth and  
 continue the healing within  
 A mountain of pain  
 A mountain of learning  
 A mountain of Hope.  
 My mountain has been a hard one to climb,  
 In my time have never reached the top.  
 Now with this day, my day of truth telling,  
 My mountain is not too high.  
 My mountain seems easier to climb.  
 My mountain now has hope.  
 My climb is just the beginning as with  
 many others this week.  
 Our mountain will be conquered.  
 With love, kindness and always together,  
 fighting the systems for Justice.



*Photo submitted by Lorraine Clements; no copyright infringement intended.*





## Our Women and Girls Are Sacred: Reflections from the National Inquiry Elders and Grandmothers Circle

### Introduction

Early on in the National Inquiry process, the Commissioners' Elder Advisors, or "Grandmothers," gathered in a sweatlodge in Quebec. They went into this ceremony asking themselves, what should the National Inquiry into Missing and Murdered Indigenous Women and Girls look like? What is the best way to do this work?

The sweatlodge was part of the Missinak Community Home, a safe house in Quebec City co-founded by Elder Pénélope Guay, Commissioner Audette's spiritual grandmother. As Pénélope shares, "We all got together there. And we came up with a plan, in our own way. We came up with a plan to see how the National Inquiry would proceed. For the Grandmothers [and Elders], for the Commissioners. What will our work be? That's how it went. We decided on everything you see. Our role, our involvement. That was when we decided on how it would all be done."<sup>1</sup>



*Members of the Elders and Grandmothers Circle. Left to right: Leslie Spillett, Laureen “Blu” Waters, Audrey Siegl, Louise Hauilli, and Bernie Williams. Not pictured: Kathy Louis and Pénélope Guay.*

Elder Laureen “Blu” Waters, Grandmother to Commissioner Brian Eyolfson, was there as well: “When we came out of that sweat, one of the most important and profound things that came to being was that we needed to have something that showed our Indigeneity and that blanket idea came out of that. Those blankets that are hung up around the rooms [at the hearings]. Those blankets that identify people, identify their Nations, their names, their land masses, the things that they used for their cultures.... That was one of the most important things that I remember, is doing that sweat and coming out with that idea. And, that helped shape us and to make sure that we never forget about ceremony, to incorporate ceremony into everything that we do.”<sup>2</sup>

Ceremony, whatever it looks like, is deeply rooted in a people’s cultural identity. Incorporating ceremony into such a legal structure as a public inquiry is a way of reminding Indigenous families and survivors that this National Inquiry is to honour the sacred in them and in their lost loved ones. As a National Inquiry, we have faced criticism for a seemingly rigid and legalistic structure. Yet, within the limitations of our mandate, these words from the Grandmothers who have led us through the process remind us of the National Inquiry’s guiding principle: that our women, girls, and 2SLGBTQQIA people are sacred.

To honour their work, the National Inquiry asked the National Inquiry Elders and Grandmothers to sit down with the Research team, to include their reflections of this journey in the *Final Report*.<sup>3</sup> This is one small way to acknowledge their incredible contributions, which often happen behind the scenes, as well as the work of mothers, grandmothers, aunts and caregivers guiding similar work across this land.

### **The National Inquiry Elders and Grandmothers Circle**

The idea for an Elders or Grandmothers Circle first started in the fall of 2016. The Commissioners decided to each seek an Elder from their community to provide them with advice. Blu recalls that when Commissioner Eyolfson first offered tobacco to Blu, he explained that “he needed

somebody to be there as support for him, to help him with this important work that's being done and to make sure that we incorporate spirituality.”<sup>4</sup>

The Commissioners decided to use the term “Grandmother” to represent the closer, kinship relationship that was developing between themselves and their Elders. While not all the Elders are biological grandmothers, they fill those traditional roles.

The current members of the Elders and Grandmothers Circle are: Pénélope Guay, French-speaking Innu Grandmother to Commissioner Audette; Louise Haulli, Inuk Elder to Commissioner Robinson; Kathy Louis, Cree Elder to Chief Commissioner Buller; Laureen “Blu” Waters, Cree/Métis/Mi'kmaw Grandmother to Commissioner Eyolfson; and Bernie Williams, English-speaking Haida/Nuu-chah-nulth/Coast Salish Grandmother to Commissioner Audette. Leslie Spillett, Cree/Métis Grandmother to Executive Director Jennifer Rattray, joined the National Inquiry in the spring of 2018, and Audrey Siegl, Bernie's niece and a member of the National Inquiry's health support team, also supports the Elders and Grandmothers Circle.

As Indigenous women who are survivors and family members themselves, the Elders and Grandmothers are witnesses to the many ways Indigenous women and 2SLGBTQIA people have been devalued and dehumanized, making them prime targets for violence. Working with the National Inquiry has given the Grandmothers another way to do the same work they were already doing, but in a new way. Each of the Commissioners' Grandmothers bring deep community knowledge and practical expertise to their roles.

Grandmother Pénélope is a proud Innu woman from Mashteuiatsh in Quebec, who strongly believes in the power of reconnecting with your culture to heal the wounds of history. Her Innu mother was deprived of her First Nations status when she married a métis man, as stipulated by the *Indian Act*. As an adult, Pénélope has had to recover her culture through healing and reclaim her identity as an Indigenous woman.

Pénélope co-founded the Missinak Community Home (la Maison Communautaire Missinak), a safe house for Indigenous women in Quebec City, with her daughter 20 years ago. There she sees many young women who are deeply affected by the trauma of residential schools, as well as by substance use and homelessness, the consequences of residential schools today. With nowhere to go, many of them end up being exploited on the streets. However, Pénélope also gets to witness what she calls “miracles”<sup>5</sup> – the extraordinary change that can happen when you give people time and space to heal.

Elder Louise lives in Igloolik, Nunavut, a small community of less than 2,000 people. Much of Louise's work in the past has been focused on strengthening Inuit traditional values and making Inuit knowledge and skills more accessible to the Nunavut government. She has worked as the Inuit Societal Value Project Coordinator for Igloolik, where she offered traditional Inuit counselling and did radio shows on Inuit family values. She worked on community wellness projects for Igloolik and Nunavut, and was a Nunavut Human Rights Tribunal member from 2004 to 2013. She was also an Inuktitut language specialist in elementary schools and visits Elders in Igloolik to make sure they get some help around the house.

Louise shares that violence is a significant issue in the Arctic, just as it is for so many First Nations and Métis communities, although the culture of silence is even stronger: “For those of us living in the Arctic, we have experienced this, but we are less vocal... Indeed, Inuit too have gone through exactly the same experience of mistreatment.”<sup>6</sup> She emphasizes how much she has learned from hearing the stories of so many other Indigenous women in Canada, and how important it is not to feel that we know it all, but to really pause, listen to the families and survivors, and learn from what they have to share.

Elder Kathy says: “My name is Kathy Louis. My views as an Elder from Samson Cree Nation are mine and those of my Ancestors who were Leaders and Healers. Growing up on the reserve was a lived experience throughout my life.” She was raised by parents and ancestors steeped in strong traditional values. She is a residential school survivor and has spent her life helping her people heal, especially men and women involved in the criminal justice system. Kathy was the Pacific Regional Vice-Chair of the National Parole Board, where she served for many years, and successfully helped introduce Elder-assisted parole hearings in Canada along with two male First Nations Elders. She has also been awarded Canada’s Meritorious Service Medal and the Order of British Columbia. In her work, Kathy saw many women who had acted violently in their lives, but: “I observed that as the way they may have been treated as children and young adults growing up, and this was their lived experience in adult relationships. All this stems from racism, oppression and colonization.”<sup>7</sup>

When she isn’t working with the National Inquiry, Kathy volunteers with several urban Aboriginal organizations in Vancouver. In particular, she is working on the development of an Aboriginal Family Healing Court Conference project. This is an Elder-driven project that focuses on helping families involved with the child welfare system develop healing plans, to re-connect with their own Indigenous cultural values and keep families together.

Grandmother Leslie (or Giizhigooweyaabikwe, Painted Sky Woman, White Bear Clan) is a Cree/Métis woman from northern Manitoba. She began her career as a journalist and photographer before dedicating herself to what some people call “community development,” but she calls Nation-building.

Leslie was one of the principle founders of Mother of Red Nations Women’s Council of Manitoba, sat on the Native Women’s Association of Canada Board of Directors, and is the founder of Ka Ni Kanichihk, a Winnipeg organization that provides Indigenous-led programming, including for family members of missing and murdered women, girls, and 2SLGBTQIA people. Leslie, who has been raising awareness on this issue since the early 2000s, says: “One of the most extreme forms of the colonial project has been about violence against Indigenous women and girls. So that includes all kinds of violence, including state violence and discrimination, which has caused so much trauma. And at its most extreme is, of course, the missing and murdered women who just have been murdered because they were Indigenous, or who have disappeared, again, because they were Indigenous.”<sup>8</sup>

Grandmother Blu (or Istchii Nikamoon, meaning Earth Song) is a Two-Spirit Cree, Mi'kmaw and Métis community Elder working in the Toronto area. She is Wolf Clan, and her family is from Big River Saskatchewan, Star Blanket Reserve and Bra'dor Lake, Eskasoni First Nations, Nova Scotia. She currently works at Seneca College as an Elder on campus providing traditional teachings and one-to-one counselling to the students and faculty.

Blu was first raised by her Kokum (grandmother), learning traditional medicines and hunting geese, rabbits, ducks and muskrats in Toronto's High Park. At age 10, she was adopted into a white family. While she later sought out those Indigenous connections again, it caused a lot of pain in her life. Blu sees many other people going through this, too: "For a lot of Indigenous Peoples, they lose those connections and they're lost. They're wandering around lost, but knowing that there's a big piece of them inside that's missing."<sup>9</sup>

Grandmother Bernie (or Gul Giit Jaad, Golden Spruce Woman, of Raven Clan), is a Haida master carver, artist and activist. She is also a survivor and family member who has spent her life advocating for Indigenous women, particularly in Vancouver's Downtown Eastside (DTES).

Bernie's first love was her art, and she apprenticed under world-renown Haida carver Bill Reid, the only female apprentice he has ever had. Bernie's work is recognized around the world, and one of her proudest achievements was creating a traditional Haida button blanket for the first Indigenous woman to receive the Nobel Peace Prize. Through all the different kinds of violence she survived, art and music were the things that provided safety for her. Her art today is her biggest passion after her children and grandchildren.

However, she also answered her Elders' call to advocate for her people. She first joined the Red Power in 1974 and was mentored by other Indigenous Elders – "power house" women like Harriet Nahanee, Kitty Sparrow, Reta Blind, Viola Thomas, Carol Martin, Mary McCaskill, Noddy Bernice Brown, and Phillipa Ryan – who taught her who she really was and how she was connected to the land. She continues this work with other women on the front-lines of the Downtown Eastside, with no funding, simply going wherever she's called into the early hours of the morning. As Bernie says, "All I ever wanted to do was to bring the truth out – because I am a survivor of sexual abuse, domestic violence, Sixties Scoop, Indian day school, residential school, and all I wanted was, you know, the truth to come out. That women like me, you know, who have lost family members, like my mother and my three sisters... And then to hear, you know, the stories all across Canada, that we had, like, a common thread together in that, eh? And, it was the mismanaging of so many of our loved ones all across Canada."<sup>10</sup>

Audrey Siegl (or sɣɬemtəna:t, St'agid Jaad) is "Musqueam all the way back to the first sunrise,"<sup>11</sup> with Haida connections through Bernie. She is one of the National Inquiry's traditional medicine carriers. In this role, she travels to almost all of the National Inquiry's public events to support people as they need it.

Audrey is also a survivor and family member, who came to this work through activism: “A lot of people say we ‘protest’ ... I protest nothing. *I protect*. Big difference. What I stand for is as important as ... what stands against me.”<sup>12</sup> Later on, she adds, “I do the work I do because of all the women who came before me who could not.”<sup>13</sup>

### Leading with the Grandmothers’ Perspectives

The Grandmothers’ role at the National Inquiry has always been flexible, and has evolved over time.

Louise, Commissioner Robinson’s Grandmother, started her work with the National Inquiry with the intention of sitting by the Commissioner and being an Elder for her support.<sup>14</sup>

Pénélope similarly explains: “We have a role that is quite important, because we support the Commissioners in their work to ensure that the vision for each approach respects the spiritual values of our people. We’re always there from the start to the end ... if we’re needed for information, or for our thoughts, or to ask us questions. We’re always listening. We Grandmothers follow along during the National Inquiry, and we meet to talk about how it went. What can be improved? What can be done? We also meet over Skype to come together and prepare for the next event.”<sup>15</sup>

At the Grandmothers’ direction, the National Inquiry did its best to incorporate the local traditions and cultures into its hearings wherever possible. As Blu explains, “Each Nation has its own ceremonies that have sustained them over the beginning of time and they’re all valuable. None is greater than the other.”<sup>16</sup> This included the way the rooms were arranged and the opportunity for families to access both Indigenous and Western healing supports.

One of the consistent reminders of Indigenous women’s power and place was the bundle of sacred objects that traveled with the National Inquiry from hearing to hearing. The National Inquiry’s bundle started with a red willow basket, a qulliq (an Inuit women’s oil lamp), a copper cup with water, a smudge bowl and various medicines. We added to this bundle with each hearing as people gifted us a Red River cart, a birch bark biting, sealskin, photos, songs, feathers, stones, and many more medicines. Pénélope explained that: “We bring our sacred objects, like our eagle feathers. All these objects, that’s our path, it’s our way of doing things.... It’s like our way of giving thanks. Thanking the Creator a bit for the work that we have done too.”<sup>17</sup>

As Pénélope points out, making spirituality so visible in the National Inquiry is one of the things that makes it unique: “That’s still important. It’s an inquiry, there are Commissioners. Witnesses, lawyers. Putting spirituality at the centre of this National Inquiry allows us to work in a calmer atmosphere, rooted in cultural values that are thousands of years old.”<sup>18</sup>

Incorporating Indigenous ways of doing things has been critical to making the process of the Inquiry, and not just the recommendations or the *Final Report*, as healing and as decolonizing as possible.

The Grandmothers also used their strengths differently within the National Inquiry.

Blu describes her role, particularly at the hearings, as one that encompassed many different aspects: “We can be sitting in the back talking with a family member who is having a hard time, or we can be sitting up at the front supporting the Commissioners and having them know that we’re standing there with them, we’re there to watch them, we’re there to pray for them, we’re there to make sure that the Creator is helping them, to hear the words that are being spoken and to understand what they’re hearing.... Or the next day, we may be, you know, sitting with a person who has just come in off the street and is having a breakdown because they hear their life story being told, right? The same thing has happened to them and they’ve had no supports.”<sup>19</sup>

Bernie is not an Elder – her role in life is as a land defender and peacekeeper – but she takes her role as a Grandmother at the National Inquiry very seriously. Her most important focus is on supporting the families and survivors. She says it comes down to being a humble servant, lending a hand, and making sure the families, the Commissioners, the staff and everyone else are okay.

The Grandmothers emphasized that while they were originally asked to guide the Commissioners, they worked with the entire National Inquiry community. Blu says, “We support the different members of the Commission itself, so the cameramen, the security teams, you know, the Parties with Standing, the health workers, the Registrar. You know, all the community members that make up this National Inquiry, we’re here for every one of them, none of them has a greater role than the other.”<sup>20</sup>

As part of the health team, Audrey brought comfort and healing to people using traditional medicines. She says that the number one medicine she brings is love. Number two is patience, and number three is space: “My granny taught me that you have to be able to do what you do with only you. It’s good if you have the medicines, the actual medicines there, but if you can’t do – if you can’t work on someone, if you can’t work with someone with nothing, with just you, that’s not good.”<sup>21</sup>

Audrey explains some of the tools she uses: “I have an eagle fan, I have an owl fan. We have different kinds of sage, we have beautiful tobaccos, we have copal. We have medicines that have been gifted from all across Canada, north to south.... Everyone who comes in here and brings medicine, it is my job, and I am honoured and humbled to do it, to take care of them.”<sup>22</sup>

The National Inquiry also makes use of the Grandmothers’ expertise in specific areas—for example, Elder Kathy’s expertise with the justice system, or Bernie’s expertise on the DTES, as well as their perspectives as Quebécoise, Inuit and Two-Spirit women. Their advice in crafting the *Final Report* has helped ensure that the report will help keep women and girls safe, and won’t simply collect dust on a shelf.

### **What Does it Mean to Be “Sacred”?**

One of the most unique ways that the Grandmothers have guided the National Inquiry is by helping us understand what “sacred” looks like in everyday life and in the context of this work. What does “sacred” mean, and if women and girls are sacred, how does that affect what we do?

From the Grandmothers, we can see that the idea of women, girls, and 2SLGBTQQIA people being “sacred” is as multi-faceted as people themselves.

Elder Kathy, who is fluent in Cree (Y dialect), explains the literal meaning of “sacred”: “It’s Creator-gifting, Creator-power-gifting. You can say it in different ways and it will mean the same. It’s Creator-centred-thinking.... It’s a sacredness of life.”<sup>23</sup> After a bit more thought, she adds, “It’s ... you have the gifts that were given to you and you’re putting them to use for the good of humanity.”<sup>24</sup>

Grandmother Blu echoes this idea: “For me, one of the lessons I learned was that in Creation, the Creator made us and we’re all gifts. We carry gifts within ourselves and each one of us has our own unique gifts. But, together as communities, when we share those gifts, we’re very rich. It’s more valuable than any monetary means can be, because we know, and we can understand, and we can help each other, and we can take care of each other, and support and know what the right things are to do.”<sup>25</sup>

For Blu, one of her gifts is being Two-Spirited. She describes it: “As a Two-Spirited person, I encompass both that male masculinity side and that female side. It’s a delicate balance. Some days I feel more feminine, some days I feel more masculine. But, for me, it’s a blessing. For others, they look at it as you’re a freak. You should either be man or woman, you can’t be both. I don’t know how many times I’ve heard the saying, ‘God created Adam and Eve, not Adam and Steve’ just out of ignorance. So, we have a lot of ignorances out there that we fight against every day.”<sup>26</sup>

Blu explains that it was important to include 2SLGBTQQIA (Two-Spirit, lesbian, gay, bisexual, transgender, queer, questioning, intersex and asexual) and gender-diverse people in the National Inquiry’s mandate, because they have always been part of Indigenous circles: “Our Two-Spirited people, our trans people, they’ve always been in community. They were ostracized through colonization. They were told that their lifestyles were not appropriate, that they couldn’t carry on the way they were. But, we’re still here. And, that we need to teach each other the valuable skills that we pick up along the way. We need to support each other in doing our cultural work to reclaim who we are.”<sup>27</sup>

One of the most common ways Indigenous Peoples recognize women as sacred is by bringing new life into a community. Grandmother Blu explains: “Our women are so sacred. They control everything. They are the heart of our nations, right? ... Our women are the ones who are the caregivers, they’re the ones that can bring life forward, they create that new life. Yes, they need another partner to help them do that with, but they’re the ones that carry that life.”<sup>28</sup>

However, women and 2SLGBTQQIA people are sacred in many other ways, as well, since they have many gifts to offer. As Leslie explains: “I do believe that ... we are kind of portals for life. But I don’t think that’s all we are, you know? I think we’re so much more than birthers. So I don’t want to dismiss the sacredness of women as life-givers, but ... that is so not our only role.”<sup>29</sup> She points out that everyone and every community is going to reclaim women’s responsibilities differently, and that culture evolves.

Audrey offers another way to look at it: “For our young women, for our grandmothers, for our women who travel with us, we are sacred because we exist. We are sacred because we have survived.”

In many ways, the journey to the National Inquiry started in places like Vancouver’s DTES. There isn’t anything that respects the idea that women and girls are sacred there – which is why Bernie and others working with Indigenous women in the Downtown Eastside always remind them that they are important, that they matter. Bernie says, “I walk up to them and tell them, I just want to let you know how much you are loved.... Contact your families and let them know you’re okay. That’s the message we tell them, because they feel judged a lot. That’s my front-line work, is to let them know that no matter what, we’re fighting for them. You try to give them that little ray of hope. No matter what, we’re fighting for them and we value them.”<sup>30</sup>

Grandmother Blu sums it up: “Women are the life-givers, but women are not going to be life-givers without men. So, that’s a balance in life. Our Two-Spirited people bring that balance again, of masculine and femininity. Our lives are not about our sexuality or even our gender identity, it’s about us being a human being. It’s about us following those teachings that our ancestors put in place for us, those teachings of kindness and respect, truth, honesty, humility, love, wisdom, about living those ways of life. Trying to look at each other as a valuable portion of a community, what gifts does that person have to bring to the table, so that we can become a very rich table, right?”<sup>31</sup>

When we honour our own gifts and the gifts in others, we are recognizing the sacred in all of us.

### **Understanding and Restoring Power and Place**

Based on this idea of people’s gifts being respected and fulfilled, the National Inquiry’s vision is to help Indigenous women, girls, and 2SLGBTQQIA people “reclaim their power and place.” One of the best ways to do this is to recognize the importance of Indigenous ways of knowing, doing and being. This often starts with learning, or re-learning, what those Indigenous ways are.

Grandmother Leslie shares that this approach is not often welcome when it comes to Indigenous people and organizations trying to suggest their own solutions: “Assimilation is still how the dominant culture approaches Indigenous Peoples. Somehow, we need to become them to be okay. We need to have their values. We need to have their world views. If we don’t, then there’s something psychologically wrong, deficient in us.”<sup>32</sup>

Several Grandmothers spoke about how they themselves grew up separated from their culture. Grandmother Pénélope, whose mother had internalized a lot of shame for being Indigenous, had her “wake-up call” when she first started learning the true history of Indigenous Peoples: “Today, I teach this history wherever I’m invited. It takes me at least three hours from first contact to today: what happened? What happened in residential schools? What happened with the *Indian Act*, that made women like me lose their whole identity, their pride? No, as long as the Creator grants me life, I don’t think I’ll ever stop telling this history.”<sup>33</sup>

Elder Kathy's most important Cree teachings are to love, respect, help and care for one another, and to be honest and kind with one another. She says, "The more centred you are in your life, the more you realize your true essence and purpose in life of being a strong Indigenous woman. Also I believe that, in order to live and be of help to anyone, we need to know and understand our own values. We need to know who we are. Then you can take risks to do things differently and contribute to society to bring about change. Because all of us can contribute that way. When we recognize our gifts from our Creator, anything is possible. You make it real as you continue to step forward."<sup>34</sup>

Kathy is very aware that one of the greatest losses for Indigenous Peoples today is the loss of language, culture and a sense of belonging. She witnessed first-hand how powerful restoring this sense of belonging could be in Elder-assisted parole hearings for Indigenous offenders, where she said they were "very, very receptive."<sup>35</sup> Sweat ceremonies are also important to women's healing, as well as immersion-style training for all service providers who are part of the corrections system.

Kathy also shares that the inmates were functioning better than the staff because of the incredible impact Elder involvement and ceremony was having: "Men and women came to prison, admitted they came to prison to learn about their culture. To learn anything about having to do with traditions. And yet some of the men and women ... were brought up with the traditions, but had not lived and practiced any of that."<sup>36</sup> In doing this work, she has followed the teachings – of love, compassion and forgiveness for others.

Leslie sees her work at Ka Ni Kanichihk, where all of the programs are culturally-based and Indigenous-led, as an act of sovereignty: "It was us knowing that we had our solutions and learning about how to apply those solutions in a way that really has an impact in the community."<sup>37</sup> She said it was also explicitly about reclaiming women's power: "I'm not interested in, you know, taking over men. I think that we want to restore that balance ... within our culture groups, and to show our girls and our boys that there is a place that we hold them both up, and they are equally sacred and they're equally valuable, and they are equally needed to be a part of our Nations."<sup>38</sup>

Leslie reminds us: "There is no nationhood without women and without not only women, without women playing a fundamental and equal role within that Nation. There is no nationhood without that."<sup>39</sup>

Reclaiming power and place will look different across Canada, because of the diversity of Indigenous Peoples. As Elder Louise pointed out, many plans made in the south don't work when people try to implement them with Inuit, because they didn't come from Inuit.

However, Louise also sees many cultural similarities between Inuit and First Nations in how they have responded to the hurt and trauma of colonization: "Inuit in the Arctic, and the First Nations, are all one group and we have cultural values that we can recognize within each other."<sup>40</sup>

One of the biggest challenges to reclaiming this power and place is how many women and 2SLGBTQQIA people continue to be lost every day. Blu explained that "[We lose] all their

teachings. All their life lessons are lost. To learn – to be able to walk the same path that someone has already walked takes a long time. And, when those people are taken early from us or when there’s people who pass on into the spirit world, all their knowledge, their life experiences go with them.”<sup>41</sup>

Ultimately, it comes down to listening to Indigenous women, girls, and 2SLGBTQQIA people. We have to value their voices, and fight against the stereotypes and centuries of colonization that have de-valued and dismissed the many gifts they have to offer. Leslie emphasizes this: “I do believe, and I believe to this day, that there has to be an independent Indigenous women’s voice. And that doesn’t mean that we don’t play a role within our Nations or within the community. But that’s, I think, a really necessary thing at this time.”<sup>42</sup>

As Pénélope says, “It’s really important for Indigenous women to speak up. I tell myself the more they speak, the more they regain their strength. The more of us women who speak up, it’s strength. It also shows our place.”<sup>43</sup> She adds: “Taking our place also means moving forward in spite of pitfalls and prejudice. We must take our rightful place; this is the strength I wish for us. I really believe that.”<sup>44</sup>

### **How the National Inquiry is Creating Change**

The Grandmothers have seen some of the changes this National Inquiry is already making, for themselves and their communities, as well had to deal with its biggest challenges.

Louise reflects on how much work is still left to be done, especially with the National Inquiry’s short timeline: “There is still a lot of work. Those we hear from are sharing stories, these are stories they are finally sharing, of what they have been holding onto in their hearts, the pain that they have been carrying, the untold stories they have been holding onto for many years without any type of support. This is what we are seeing today... But this is their story and now they have been given an opportunity to be grounded and work towards the next stage.”<sup>45</sup>

Another challenge is that incorporating Indigenous ways into the legal inquiry structure wasn’t always successful. The short time frame, bureaucratic rules and requirements and internal difficulties all contributed to make this work as challenging at times as it was rewarding.

Bernie, Blu and Audrey all spoke about how this work – both in the National Inquiry, and outside of it – can wear you down, to the point where it’s impossible to think what a “normal day” would look like. The violence goes on, even as the National Inquiry ends. Bernie sees this every day: “These are young kids that are just fighting for their own survival and that. Yet nothing – unless you have somebody that’s going to come down there and look for you, you’re done. It’s only two ways out. Either somebody is going to come in there that loves and cares about you enough, like your family or your relatives, or you’re going out in a body bag.”<sup>46</sup>

Between January and September 2018, Bernie lost a staggering 88 friends or family members to violence in the Downtown Eastside. Children are experiencing terrible psychosis, she says, “and everyone just kind of turns a blind eye.”<sup>47</sup>

Leslie sees these challenges in Winnipeg, as well – particularly how women are blamed for the violence they experience: “We know that they’ve been called prostitutes, drug addicts. And then there’s always the polite terminology, which is coded, racially coded, like ‘at-risk,’ or those kinds of things. There’s ways of people washing their hands as if to say, ‘Well... that has really nothing to do with us.’ They’ve caused their own disappearances. They’ve contributed to their own disappearances, and/or rapes, and/or murders, by their personal behaviours – by the way that they are dressed, by what they were doing, by being Indigenous, and by being women. Many people don’t see the system as violence. But in fact, missing and murdered Indigenous women and girls is the result of imposed poverty, legal and individual racism, discrimination and the patriarchy.”<sup>48</sup>

However, the Grandmothers also recognized some of the changes already starting as a result of this National Inquiry. For Louise, one of the biggest impacts has been that more and more Inuit are speaking out: “Recently we have broken the silence, given the recent ability to tell our stories. Through the First Nations’ willingness to open their stories by sharing them, our stories are being heard. The Commissioners’ Inquiry is what opened this.”<sup>49</sup>

Pénélope sees these commonalities between our stories, too: “It’s striking too, all their stories. They show how fragile we are, and at the same time, how strong we are. And it still continues today. That’s what strikes me, and how resilient we are.”<sup>50</sup>

She sees that we are at a critical juncture: “With the National Inquiry, that’s what I say. We’re at a turning point here in Quebec just as we are in every community in Canada. Every Indigenous person in the country knows now that it’s not normal to be second-class citizens in your own country. This will make us stronger. That’s what the National Inquiry will produce.”<sup>51</sup>

Most important is the support, comfort and healing the National Inquiry has been able to provide to families and survivors – work the Grandmothers will carry on past the life of the National Inquiry. As Bernie says, “Being asked to be part of the National Inquiry has been one of the biggest responsibilities of my life, and one of the hardest. I’ve met amazing Elders, family members and survivors all across our beautiful nation and it’s given me the opportunity to walk shoulder to shoulder with families and be part of the change. I’m amazed at how resilient we all are – through our journey, we still have a sense of humour and we’re still standing together. This has been a healing journey for me.... It’s been tough sometimes, but that’s what made us stronger and closer through the process.”<sup>52</sup>

Bernie also makes a point to single out the Commissioners. “I have never seen a group of four more incredible human beings, who have taken on so much starting with nothing. They are the true warriors. They have put in long hours, long days, time spent away from their families. The Creator doesn’t make mistakes, and he knew exactly who was fittest for this journey. Now, I’ve going to support them right to the very end.”

As Elder Kathy says, “Right from the start of the National Inquiry it appears to have been held to a different standard by the government and mainstream society. However, I strongly believe that our Spiritual ancestors have guided us in powerful ways to attain what our Creator and our

ancestors rightfully gifted us, with our lifeblood – they left us their DNA to continue to right the wrongs for our loved ones, the missing and murdered mothers, girls, sisters, aunts, great-grandmothers and great-great-aunts. I have observed a hopeful future for empowerment, for recognition, acknowledgement of survival and resilience, and in particular the Canadian society’s need to validate the strong Indigenous women that we are. Perhaps some of us have not yet fully realized that Indigenous women (people) come from a strong sacred essence, teachings and knowing of personal power.”

Violence against Indigenous women, girls, and 2SLGBTQQIA people violates that understanding that each of us is sacred. This can create long-lasting trauma, but trauma is not the end of the story. As Audrey puts it: “Here I am, after a lifetime of hiding myself and shaming myself, proud, humbled and empowered. Empowered by truth, empowered by trauma and unspeakable atrocities, to travel and be bold enough to say and to work with medicines that have existed since the first sunrise, as long as we have.”<sup>53</sup>

### **Next Steps: The National Inquiry as a Beginning, Not an End**

As Louise points out, the National Inquiry into Missing and Murdered Indigenous Women and Girls is a beginning, not an end. Everyone has a part to play going forward.

For many non-Indigenous people, it’s important to be ready to “unlearn” some learned behaviours. Blu points out: “There’s still a lot of others out there that don’t really think this is that important. They don’t know the histories, they don’t know that. They think these things happened 300 years ago and why are we still talking about it.”<sup>54</sup> Bernie adds, “If you’re not outraged, you’re not paying attention. This is every Canadian’s responsibility not to turn a blind eye.”

For Leslie, getting individual people creating change is the most important step: “Individuals have a role in these things as well. They can either support the status quo or resist it.”<sup>55</sup> Later on, she adds: “I have faith in the community. I have faith in the power of the people. That’s where power truly is.”<sup>56</sup>

Leslie continues: “We have to mourn our losses, but we can’t let it stop us. We have to just keep going. And that is the strength of the prayers of the grandmothers and the ancestors, that it’s our job now, it’s all of our jobs to have strong prayers, and to have strong love for everybody. That’s the medicine.”<sup>57</sup>

Blu also emphasizes that governments have to do better: “It’s got to be the government communicating with the different communities on all the issues that surround those communities, whether it be water, whether it be land, whether it be suicides, whether it be missing persons, whether it be housing, whether it be lack of resources. The government has to start listening.”<sup>58</sup>

Louise sees hope for the future in collaboration, or mutual understanding between Indigenous and non-Indigenous peoples – for example, by using Inuit and First Nations cultural values in areas like family services and other programs, where bureaucratic and Indigenous values seem to clash.<sup>59</sup>

Pénélope reminds us that reclaiming Indigenous values is also political: “I work with a group of Indigenous women and men, and we work on crafts, and one time we were making moccasins. I said, ‘Do you know that what you’re doing is political? Because if we no longer know how to make our moccasins, embroidered, it’s a part of us that we lose.’ Now, that’s what they say. Making our moccasins is political, yes, it’s true. Because it’s part of our culture.”<sup>60</sup> As we will discuss in more detail later in the report, culture is the foundation of nationhood. Teaching people how to make moccasins not only is an act of personal growth, but it strengthens the cultural identity of a Nation.

This journey may be a hard one, but Kathy encourages people to “trust yourself. Trust your heart.”<sup>61</sup> She shares a quote from Dr. Rachel Naomi Remen, a professor at the University of California, that has been very important to her in her healing work: “ ‘We do not serve the weak or the broken. What we serve is the wholeness in each other and the wholeness in life. The part in you that I serve is the same part that is strengthened in me when I serve. Unlike helping and fixing and rescuing, service is mutual. There are many ways to serve and strengthen the life around us: through friendship or parenthood or work, by kindness, by compassion, by generosity or acceptance. Through our philanthropy, our example, our encouragement, our active participation, our belief. No matter how we do this, our service will bless us.’ ”<sup>62</sup>

Kathy reminds us, “We’re only given one life, and my gosh, we have to make the best of it when we’re walking on Mother Earth and do the best for all of humanity.”<sup>63</sup>

In the meantime, the Grandmothers will carry on – through public policy, through women’s shelters, by educating others and in their home communities.

Pénélope says she will continue to walk on this journey, no matter how difficult: “I will always continue to walk despite the pitfalls that there may be or the learning experiences that are difficult. I’ll never lose hope. Because there’s always someone put on our path to help us understand things.... It’s important to believe that we can change things even if we’re alone. When we believe, we can change something. We can change the course of history.”<sup>64</sup>

Kathy is an example of someone who has survived a lot of colonial oppression, and has given back so much to her community in spite of that. She says, “You can carry on, you can become something that your parents and ancestors knew you could make happen of your life. You can carry the lifeblood in a way that you don’t understand when you’re a kid. Much like a flower blossoming, it doesn’t blossom fast. It takes years.... But those are the times we grow, because we’re pushed to the limit of having to grow.”<sup>65</sup> She adds: “And it’s not just for Aboriginal people. Canadian society’s going to learn from what we write and what we do and what we say. They may not like some of the stuff they hear. That’s part of healing process.”<sup>66</sup>

Audrey encourages Indigenous women to “make yourself strong, make yourself smart, make yourself invincible, connect to women around you, support women around you, honour women around you, guide women around you to places of healing.”<sup>67</sup> She adds: “Yes, we have a shit ton left in front of us to do, but look at how far we’ve come and look at whose shoulders we’re

standing on to keep carrying ourselves with dignity and respect, and to keep knocking down those walls, to keep shining the light, to keep leading with love, to keep leading with medicine, to keep reconnecting to ourselves while we're surviving a genocide and being accountable to the Canadian government for legalities that they're using against us to carry on that genocide."<sup>68</sup>

Bernie will never take “no” for an answer: “As long as our women and our children are still going missing and being murdered at a high rate, I’m still going to be on those front-lines.”<sup>69</sup>

Bernie said she’s been asked many times, why do you do this work? “And, I’m always reminded, well, of Mother Teresa, she was coddling this beautiful brown baby. She was in Calcutta and she was asked the question. And, she said, where else can you see the face of God?... And, that resonated.... It hit me like a ton of bricks. I could not stop crying. Because every human being that you see, at the end of the day, we all belong on that big hoop of life together. And, these women, why? I can only say what’s in my own heart. But, if I was ever asked to, you know – I have no regrets and I would do this over and over again for the women, because they matter.”<sup>70</sup>

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## Introduction to the Final Report: Understanding Violence against Indigenous Women, Girls, and 2SLGBTQQIA People

### Introduction: Listening Deeply

Indigenous women, girls, and 2SLGBTQQIA people in Canada have been the targets of violence for far too long. This truth is undeniable. The fact that this National Inquiry is happening now doesn't mean that Indigenous Peoples waited this long to speak up; it means it took this long for Canada to listen.

More than 2,380 people participated in the National Inquiry into Missing and Murdered Indigenous Women and Girls, some in more ways than one. Four hundred and sixty-eight family members and survivors of violence shared their experiences and recommendations at 15 Community Hearings. Over 270 family members and survivors shared their stories with us in 147 private, or in-camera, sessions. Almost 750 people shared through statement gathering, and 819 people created artistic expressions to become part of the National Inquiry's Legacy Archive. Another 84 Expert Witnesses, Elders and Knowledge Keepers, front-line workers, and officials provided testimony in nine Institutional and Expert and Knowledge Keeper Hearings.

The truths shared in these National Inquiry hearings tell the story – or, more accurately, thousands of stories – of acts of genocide against Indigenous women, girls, and 2SLGBTQQA people. The violence the National Inquiry heard amounts to a race-based genocide of Indigenous Peoples, including First Nations, Inuit and Métis, which especially targets women, girls, and 2SLGBTQQA people. This genocide has been empowered by colonial structures evidenced notably by the *Indian Act*, the Sixties Scoop, residential schools and breaches of human and Indigenous rights, leading directly to the current increased rates of violence, death, and suicide in Indigenous populations.

## Defining Genocide

The term “genocide” was first used by the Polish-Jewish legal scholar Raphael Lemkin at a conference in Madrid in 1933. Lemkin later elaborated his ideas in a book, published in 1944, dealing with German actions within the context of the buildup to the Second World War. The term “genocide,” as coined by Lemkin, is a hybrid between the Greek root *genos* (“family,” “tribe,” or “race”) and the Latin suffix *-cide* (“killing”).

“Genocide,” in its original construction, is defined as coordinated actions aimed at the destruction of a group, committed against individual members belonging to that group. In Lemkin’s construction of the idea, genocide would have two phases that could contribute to establishing the political domination of the oppressor group. The first included the destruction of the “national pattern of the group,” and the second phase included what he called the “imposition of the national pattern of the oppressor,” which could be imposed on the population that remained in the territory, or on the territory itself within the context of colonization of the land by a new group.

Writing in the context of the German state’s actions in the Second World War, Lemkin defined “genocide” as occurring across several different fields:

- political, including the attack on, and subsequent disintegration of, political institutions
- social, including the abolition of existing laws and the imposition of new justice systems
- cultural, including forbidding the use of languages in schools and in the press
- economic, including the destruction of the financial base of the group, and including actions aimed to cripple or to reverse its development
- biological, including measures aimed at decreasing the birthrate among groups of people
- physical, including the endangering of health, and mass killings
- religious, including the disruption of existing systems of religion and spirituality, and the imposition of new systems
- moral, including “attempts to create an atmosphere of moral debasement within this group”<sup>1</sup>

Lemkin’s definition of genocide included an important principle, which didn’t restrict the definition to physical destruction of a nation or ethnic group. As he explained:

Generally speaking, genocide does not necessarily mean the immediate destruction of a nation, except when accomplished by mass killings of all members of a nation. It is intended rather to signify a coordinated plan of different actions aiming at the destruction of essential foundations of the life of national groups, with the aim of annihilating the groups themselves.<sup>2</sup>

The objectives of a plan of genocide would include actions aimed at the “disintegration of the political and social institutions, of culture, language, national feelings, religion, and the economic existence of national groups, and the destruction of the personal security, liberty, health, dignity, and even the lives of the individuals belonging to such groups.”<sup>3</sup>

A legal definition of genocide wasn’t incorporated into international law until 1948, following the programs of mass murder carried out by the Nazis during the Second World War. In its articulation in this forum, though, it became more restrictive. Drafters argued over whether the definition of genocide should be universal, as in other criminal categories, or restricted to certain groups, as well as whether leaving some groups out might actually serve to target them.<sup>4</sup> Lemkin, who participated in the drafting, argued that social and political groups shouldn’t be included, because they didn’t have the permanence of non-political groups. States in the negotiations – among them the Soviet Union, Poland, Great Britain, and South Africa – worried that enforcement of such a convention could violate the principles of state sovereignty.<sup>5</sup> In the end, the convention was a compromise: an agreement among states and the result of difficult negotiations.

The United Nations adopted the *Convention on the Prevention and Punishment of the Crime of Genocide* (PPCG) on December 9, 1948. Article II of that convention holds that

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

- (a) Killing members of the group;
- (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;
- (d) Imposing measures intended to prevent births within the group;
- (e) Forcibly transferring children of the group to another group.<sup>6</sup>

Canada signed the Convention in 1949 and formally ratified it in 1952.

There is much agreement when it comes to the fact that genocide can be committed both within and outside the context of an armed conflict.<sup>7</sup> However, outstanding disagreements remain concerning the question of “intent,” the nature of the groups included in its definition, and the importance of physical or biological destruction in whole or in part as an essential part of defining genocide.<sup>8</sup>

To some extent, these differences are part of a more social versus legalistic interpretation of the term. As historian and political scientist Jacques Semelin explains, those scholars relying on a legalistic concept of genocide are facing new challenges from those who question the extent to which an international legal norm based on a political agreement by the international community in 1948 should be the operational basis for how we examine and evaluate actions that may fall under one or more parts of its definition today.<sup>9</sup> Today, fields other than law also examine genocide in different terms.

Conceived as a social practice, as Daniel Feierstein, director of the Centre of Genocide Studies at the National University of Tres de Febrero in Argentina, argues, genocide involves “shared beliefs and understandings as well as shared actions” that may contribute to genocide or to attempted genocide, and which include “symbolic representations and discourses promoting or justifying genocide.”<sup>10</sup> Feierstein asserts that genocide as a social practice is a “technology of power.” It aims, first, “to destroy social relationships based on autonomy and cooperation by annihilating a significant part of the population,” in numbers or in practice, and, second, “to use the terror of annihilation to establish new models of identity and social relationships among the survivors.”<sup>11</sup>

As Canadian writer and filmmaker Larry Krotz explains, applying the term “genocide” to what happened in North America has a decades-long history, including in the 1973 book *The Genocide Machine in Canada: The Pacification of the North*, by Robert Davis and Mark Zannis; and 1993’s *American Holocaust: Columbus and the Conquest of the New World*, by David E. Stannard. A more recent work, *Accounting for Genocide: Canada’s Bureaucratic Assault on Aboriginal People*, by Dean Neu and Richard Therrien, was published in 2003.<sup>12</sup>

In recent years, and in light of the work of the Truth and Reconciliation Commission of Canada’s (TRC) *Final Report*, many Indigenous thinkers have turned to evaluating how the term “genocide” applies in Canada. As genocide scholar Andrew Woolford has noted, Canadian scholars have not given colonial genocide in Canada enough attention, due in part, perhaps, to the fact that the spatial and temporal boundaries of the case of genocide in Canada are not obvious. As he notes, “If Canadian settler colonialism was genocidal, where exactly did it occur and when did it begin? And considering the intergenerational effects at stake, as well as the perpetuation of settler colonial practices, can we say for sure whether genocide has even ended?”<sup>13</sup> Usually, and as he notes, “Much nuance is lost by force fitting it into a traditional comparative genocide studies paradigm that defines cases on national rather than regional or international levels of analysis.”<sup>14</sup>

Officially, the Government of Canada currently recognizes five genocides: the Holocaust, the Holodomor genocide, the Armenian genocide in 1915, the Rwandan genocide of 1994, and the ethnic cleansing in Bosnia from 1992 to 1995. As Krotz maintains, “In our world, genocide is absolutely the worst thing you can say about an action undertaken by individuals or groups. So atrocious, in fact, that many historic events that carry the characteristics of genocide struggle to – or fail to – get named as such.”<sup>15</sup> But as Woolford argues, and as the testimonies heard by the National Inquiry make clear, we must consider the application of genocide in both legal and in social terms, and as it persists today.

As Pamela Palmater, chair in Indigenous Governance at Ryerson University, explains:

If you speak to Indigenous women today, they will tell you that the crisis is far from over. The Indian Act still discriminates against Indigenous women and their descendants in the transmission of Indian status and membership in First Nations. Indigenous women suffer far greater rates of heart disease and stroke; they have higher rates of suicide attempts; they disproportionately live in poverty as single parents; their over-incarceration rates have increased by 90% in the last decade; and 48% of all children in foster care in Canada are Indigenous. With this list of harrowing statistics, is it any wonder that thousands of our sisters are missing or murdered?<sup>16</sup>

Considering the application of genocide on both legal and social fronts also means examining the historical record in light of the particular ways in which the programs aimed at subjugating and eliminating Indigenous Peoples were enacted, and the contemporary effect of these structures in the ways that many programs and pieces of legislation continue to be administered. In the Canadian context, and in reference to Indigenous women, girls, and 2SLGBTQQIA people, some examples include: deaths of women in police custody; the failure to protect Indigenous women, girls, and 2SLGBTQQIA people from exploitation and trafficking, as well as from known killers; the crisis of child welfare; physical, sexual, and mental abuse inflicted on Indigenous women and girls in state institutions; the denial of Status and membership for First Nations; the removal of children; forced relocation and its impacts; purposeful, chronic underfunding of essential human services; coerced sterilizations; and more.

As Palmater notes:

So why is it so important to understand the history of genocide in Canada? Because it’s not history. Today’s racist government laws, policies and actions have proven to be just as deadly for Indigenous peoples as the genocidal acts of the past. What used to be the theft of children into residential schools is now the theft of children into provincial foster care. What used to be scalping bounties are now Starlight tours (deaths in police custody)... Racism for Indigenous peoples in Canada is not just about enduring stereotypical insults and name-calling, being turned away for employment, or being vilified in the media by government officials – racism is killing our people.<sup>17</sup>

As former National Chief of the Assembly of First Nations Phil Fontaine and Bernie Farber, executive director of the Mosaic Institute, commented in a 2013 opinion piece, “Genocides rarely emerge fully formed from the womb of evil. They typically evolve in a stepwise fashion over time, as one crime leads to another.... Our conviction is that Canadian policy over more than 100 years can be defined as a genocide of First Nations.”<sup>18</sup> As they point out, the fact that Indigenous Peoples are still here and that the population is growing should not discount the charge; the resilience and continued growth of these populations don’t discount the many actions detailed within this report, both historical and contemporary, that have contributed to endemic violence against Indigenous women, girls, and 2SLGBTQQIA people.

Settler colonialist structures enabled this genocide, and “the intergenerational effects of genocide, whereby the progeny of survivors also endure the sufferings caused by mass violence which they did not directly experience,” need to be understood in the Canadian context.<sup>19</sup> Genocide is the sum of the social practices, assumptions, and actions detailed within this report. As Danny P. shared in his testimony, “Is it any different today than it was 300 years ago when this was socially acceptable and is it still socially acceptable to be going around killing our people off? ... That to me is a form of systemic genocide, which is still perpetrated today.”<sup>20</sup>

The National Inquiry’s findings support characterizing these acts, including violence against Indigenous women, girls, and 2SLGBTQQIA people, as genocide. Throughout this report, and as witnesses shared, we convey truths about state actions and inactions rooted in colonialism and colonial ideologies, built on the presumption of superiority, and utilized to maintain power and control over the land and the people by oppression and, in many cases, by eliminating them. Due to the gravity of this issue, the National Inquiry is preparing a supplementary report on the Canadian genocide of Indigenous Peoples according to the legal definition of “genocide,” which will be publicly available on our website.

## Speaking Up ... Again

As we discuss in the *Interim Report*, Indigenous women, girls, and 2SLGBTQQIA people have been speaking out about this violence for decades. While some people spoke out about their loved ones for the first time at the National Inquiry, others had also shared their testimony with the Royal Commission on Aboriginal Peoples, the Aboriginal Justice Inquiry of Manitoba, Amnesty International for their 2004 *Stolen Sisters* report, and the Native Women’s Association of Canada’s “Sisters in Spirit” research, education, and policy initiative.

In 2010, the Native Women’s Association of Canada (NWAC) confirmed 582 cases over 20 years of missing or murdered Indigenous women and girls.<sup>21</sup> In 2013, Maryanne Pearce, writing about missing and murdered women for her doctorate in law, identified 824 who were Indigenous.<sup>22</sup> The mounting evidence spurred the Royal Canadian Mounted Police (RCMP) to do their own review, which confirmed 1,181 cases of “police-recorded incidents of Aboriginal female homicides and unresolved missing Aboriginal females” between 1980 and 2012.<sup>23</sup>

The RCMP report also stated that Indigenous women made up roughly 16% of all female homicides between 1980 and 2012, despite making up only 4% of the female population.<sup>24</sup> Statistics, however, can be misleading: this number represents an average over a long time span, which obscures the increasing severity of the problem – namely, that Indigenous women and girls now make up almost 25% of homicide victims.<sup>25</sup>

Lisa Meeches, an acclaimed Anishinaabe filmmaker from Long Plain First Nation in Manitoba, co-created the true crime documentary series *TAKEN* a few years ago to help resolve the tragic reality of missing and murdered Indigenous women and girls.<sup>26</sup> As part of their advocacy, Meeches’s production company, Eagle Vision, partnered with Maryanne Pearce and Tracey Peter, an associate professor in the Department of Sociology at the University of Manitoba, to transform an updated (2016) version of Pearce’s data into an odds ratio. They found that the odds were much higher than previously imagined.

According to their calculations, Indigenous women and girls are 12 times more likely to be murdered or missing than any other women in Canada, and *16 times* more likely than Caucasian women.<sup>27</sup> Sharing these statistics – as well as the truths of families and survivors behind them – has been another of their advocacy tools.

As more and more studies show, Indigenous women, girls, and 2SLGBTQQIA people are being targeted from all sides, from partners and family members, acquaintances, and serial killers. Rates of domestic and family violence are extremely high,<sup>28</sup> but so is stranger violence. Indigenous women are also more likely to be killed by acquaintances than non-Indigenous women,<sup>29</sup> and are seven times as likely to be targeted by serial killers.<sup>30</sup> In the words of James Anaya, United Nations Special Rapporteur on the Rights of Indigenous Peoples, the rates of missing and murdered Indigenous women and girls are “epidemic.”<sup>31</sup>

Other than murder, statistics also reveal how Indigenous women consistently experience higher rates and more severe forms of physical assault and robbery than other groups in Canada.<sup>32</sup> Sexual violence is a huge problem in all its forms: Indigenous women are sexually assaulted three times more often than non-Indigenous women,<sup>33</sup> and most of the women and children trafficked in Canada are Indigenous.<sup>34</sup> According to researchers Cherry Kingsley and Melanie Mark, in some communities, sexually exploited Indigenous children and youth make up more than 90% of the visible sex trade, even where Indigenous people make up less than 10% of the population.<sup>35</sup> The majority of Indigenous women who are later sexually exploited or trafficked were sexually abused at an early age, making them easy targets for traffickers who prey on this vulnerability and count on society’s turning a blind eye.<sup>36</sup>

The rates of violence are equally alarming for members of the 2SLGBTQQIA community, who are often erased or left out of national statistics. For example, Égale Canada reports:

Lesbian, bisexual, and transgender (LBT) women, as well as gender-diverse and Two Spirit people encounter discrimination, stigmatization, and traumatic experiences of violence at disproportionately higher rates than their heterosexual and cisgender counterparts. These experiences are motivated by intolerance, fear or hatred of the person's diversity in attraction, gender identity, and/or gender expression in every social context: homes, schools, communities, religious and spiritual centres, public spaces, and health institutions.<sup>37</sup>

In particular, one Ontario study of gender-diverse and Two-Spirit Indigenous people found that 73% had experienced some form of violence due to transphobia, with 43% having experienced physical and/or sexual violence.<sup>38</sup>

Even when faced with the depth and breadth of this violence, many people still believe that Indigenous Peoples are to blame, due to their so-called “high-risk” lifestyles. However, Statistics Canada has found that *even when all other differentiating factors are accounted for*, Indigenous women are still at a significantly higher risk of violence than non-Indigenous women. This validates what many Indigenous women and girls already know: just being Indigenous and female makes you a target.<sup>39</sup>

The common thread weaving these statistics together is the fact that violence against Indigenous women, girls, and 2SLGBTQQIA people is not an individual problem, or an issue only for certain communities. This violence is rooted in systemic factors, like economic, social and political marginalization, as well as racism, discrimination, and misogyny, woven into the fabric of Canadian society. As [Kohkom] explained, “I’ve been in survival mode since I was a little girl, watching my back, watching goings on. Because I’ve seen my aunties, my cousins, my female cousins brutalized by police. And, growing up as a First Nation woman in this city, in this province, in this country – we’re walking with targets on our backs.”<sup>40</sup>

In talking of the loss of her daughter, Jennifer, Bernice C. spoke eloquently about what it means to deny her daughter’s right to life: “Somebody stole her, had no right to her, had no right to take her. She could have had a baby. She could have got married, but that was taken from her. Somebody decided she didn’t have a right to live, but she had every right to live.”<sup>41</sup>

Jennifer’s sister, Tamara S., went on to add that Jennifer’s death and experiences of violence cannot be seen in isolation from the many other stories of relationships in which the safety and security of Indigenous women were denied.

It’s really heartbreaking to see that this is happening over and over. It’s not just our family. After Jen, you hear of so many other stories of ... other women. It’s just ... it’s becoming more and more of an evident problem that’s out there. This is not just a random act. This is an actual epidemic. This is an actual genocide. Another form of genocide against women.<sup>42</sup>

Tamara’s observation that Jennifer’s death – and the violence, disappearances, and deaths of many other Indigenous women – was not a “random act” points to another important part of the story that Indigenous families, friends, and loved ones told about the relationships and encounters that violated the safety and security of Indigenous women, girls, and 2SLGBTQIA people. In her testimony, Danielle E. described how even in their daily lives when physical or sexual violence may not be immediately present, Indigenous women and girls experience a constant threat of violence and the fear that accompanies this.

I have hope that something good will come out of this, that as an Indigenous woman, I don’t have to walk on the street and be afraid because, today, when I go somewhere, I’m afraid, and it’s a fear that we all carry every day and you get so used to it that it’s like it’s part of you, and it shouldn’t have to be because not everybody in society today has to walk around and be afraid the way Indigenous women are and girls. I have seven daughters and lots of granddaughters that I worry about constantly all day. I don’t want them to become a statistic.<sup>43</sup>

As these testimonies demonstrate, the normalization of violence – or, put another way, the normalization of the loss of safety and security – becomes another way in which Indigenous women, girls, and 2SLGBTQIA people are targeted for further violence. The fact that there is little, if any, response when Indigenous women experience violence makes it easier for those who choose to commit violence to do so, without fear of detection, prosecution or penalty.

## Interpreting the Mandate

As these testimonies suggest, the National Inquiry into Missing and Murdered Indigenous Women and Girls heard about a huge range of issues that impact the safety and wellness of Indigenous women and girls. The National Inquiry itself is the result of mounting pressure from grassroots family members and survivors, community organizations and national Indigenous organizations, international human rights organizations, and the Truth and Reconciliation Commission of Canada to launch a public inquiry into the disproportionate levels of violence against Indigenous women and girls. After pointed resistance from the previous federal government, a new federal government announced a public inquiry into missing and murdered Indigenous women in 2015, and the National Inquiry into Missing and Murdered Indigenous Women and Girls formally began its work in September 2016.

The terms of the National Inquiry’s mandate (what we are meant to accomplish) is set out in our Terms of Reference. Specifically, the National Inquiry is mandated to report on:

- i. Systemic causes of all forms of violence – including sexual violence – against Indigenous women and girls in Canada, including underlying social, economic, cultural, institutional and historical causes contributing to the ongoing violence and particular vulnerabilities of Indigenous women and girls in Canada, and

- ii. Institutional policies and practices implemented in response to violence experienced by Indigenous women and girls in Canada, including the identification and examination of practices that have been effective in reducing violence and increasing safety.

The Commissioners are to make recommendations on:

- i. Concrete and effective action that can be taken to remove systemic causes of violence and to increase the safety of Indigenous women and girls in Canada, and
- ii. Ways to honour and commemorate the missing and murdered Indigenous women and girls in Canada.<sup>44</sup>

Simply put, the National Inquiry’s mandate is to (1) report on all forms of violence against (2) Indigenous women and girls. We will now take a closer look at each of these two parts of the mandate, and at how the National Inquiry has used its judgment to interpret it.

This mandate hasn’t been without its challenges. For instance, reporting on “all forms of violence” significantly broadened the mandate of the National Inquiry to include issues such as family violence, institutional racism in health care, child welfare, policing and the justice system, and other forms of violence that stem from the same structures of colonization. Reporting on “all forms of violence” also allowed the National Inquiry to hear from family members of loved ones who died due to negligence, accidents, or suicide, or whose cause of death is unknown or disputed. This is why the National Inquiry will often use the more inclusive term “lost loved ones” instead of referring only to the missing and murdered. We do not use the term “victim” of violence unless it is necessary in the context of the criminal justice system, in response to those families and survivors who expressed how the language of victimization can be disempowering.

While this mandate allowed us to look at interrelated issues in a more holistic way, meaningfully reporting on all forms of violence against Indigenous women and girls is also an extraordinarily broad mandate to cover in the span of two and a half years – the broadest mandate a Canadian public inquiry has ever received.

Even our name, the “National Inquiry into Missing and Murdered Indigenous Women and Girls,” created a barrier to clearly communicating that our mandate went beyond gathering evidence only on the specific, limited issue of missing and murdered Indigenous women and girls. As this report will show, we consider violence broadly and across time and space, understanding that the circumstances that lead to the targeting of Indigenous women, girls, and 2SLGBTQIA people, while a combination of factors, are rooted in deeper truths.

While many survivors of other forms of violence did come forward to share their truths, and nearly every family member who came to share about their lost loved one was also a survivor of violence themselves, this continued to be a difficult misunderstanding to dispel. We deeply regret that this may have kept some Indigenous women and 2SLGBTQIA people from registering with the National Inquiry to share about other experiences of violence because they did not feel

they “qualified,” or that the National Inquiry was meant for them. We strongly urge all family members and survivors to continue to speak out about their experiences if they wish to do so, to continue to raise awareness about these experiences.

In addition, the second part of the mandate, to report on all forms of violence “against Indigenous women and girls,” is also extremely broad. In the context of the National Inquiry, the term “Indigenous” can be understood as a collective noun for First Nations,<sup>45</sup> Inuit,<sup>46</sup> and Métis<sup>47</sup> people in Canada. This encompasses hundreds of distinct Indigenous Peoples, or Nations, who have their own political organizations, economies, cultures, languages, and territories.

Throughout the report, we use the term “Indigenous” to identify experiences that may be held in common by First Nations, Métis and Inuit; at the same time, we recognize that all peoples have names for themselves, many of which are shared in the endnotes to each chapter, as well as in stories and truths specific to each context. In doing so, we recognize and assert these distinctions and specific contexts.

Another important part of the National Inquiry’s work in interpreting its mandate has been to include 2SLGBTQQIA people (people who are Two-Spirit, lesbian, gay, bisexual, transgender, queer, questioning, intersex, and asexual). This is particularly important for people who don’t fit the gender binary of “male” or “female,” since their gender isn’t reflected in a simple statement of “Indigenous women and girls.” We also recognize that Indigenous 2SLGBTQQIA women and girls experience violence differently, since, in these cases, discrimination based on race and gender is combined with homophobia, transphobia, and other forms of gender discrimination. For these reasons, we have broadly interpreted this aspect of our mandate. We have chosen to use the phrase “Indigenous women, girls, and 2SLGBTQQIA people,” both to include non-binary people and people with diverse sexualities, and as an explicit reminder that gender-diverse people’s needs must equally be taken into account.

## The Powers and Limitations of the National Inquiry

Public inquiries as a rule investigate issues of national (or provincial/territorial) importance. They can take the form of Royal Commissions, Truth and Reconciliation Commissions, or Commissions of Inquiry. The length, budget, and basic format are determined by the government that created the inquiry, although inquiries also have reasonable flexibility, as we have discussed, in how that mandate is carried out.<sup>48</sup>

The National Inquiry into Missing and Murdered Indigenous Women and Girls’ mandate does not come only from the federal government, but each province and territory. The National Inquiry is not just a federal public inquiry, but 14 joint “inquiries” taking place simultaneously in every federal, provincial, and territorial jurisdiction in Canada. Although there have been inquiries in multiple jurisdictions, there has never been a joint National Inquiry of every jurisdiction. This means that the National Inquiry into Missing and Murdered Indigenous Women and Girls is the first truly “national” inquiry Canada has ever had.

While our mandate is similar in each province and territory, the rules and requirements for this National Inquiry differ from jurisdiction to jurisdiction. These rules, which delineate the National Inquiry's powers and limitations, are set out in an Order-in-Council (or Administrative Decree) for each of the provinces and territories as well as in legislation applicable to public inquiries in each jurisdiction.

Being able to operate in every province and territory is critical because it gives the National Inquiry the authority to subpoena documents, compel witnesses, and investigate the systemic causes of violence against Indigenous women and girls anywhere deemed necessary, not just in areas that fall under federal jurisdiction. This includes investigating root causes as well as government policies, laws, and practices. However, this also makes our legal requirements significantly more complicated, as there are also different laws and rules for public inquiries in general across the jurisdictions.

As in other public inquiries, the National Inquiry has the power to investigate the issue at hand by collecting evidence and hearing testimony from witnesses. This is done in as open and transparent a manner as possible, creating a “public record” of critical information that can live on past the life of the National Inquiry. The Commissioner or Commissioners then write a report and make recommendations for change. Governments are not required to implement these recommendations. However, public attention and education, particularly through the ongoing legacy work of the public inquiry, help put pressure on governments wherever possible.

One of the National Inquiry's main limitations – which is the same for all public inquiries – is that a public inquiry can't resolve individual cases or declare certain people legally at fault. This is because public inquiries are meant to focus on systemic problems and solutions with the understanding that these problems cannot be traced back to “a few bad apples.” The National Inquiry also can't do anything to jeopardize ongoing criminal investigations and must follow the privacy rules around personal information as laid out in federal, provincial and territorial privacy laws and obligations.

However, if new information comes to light during our Truth-Gathering Process or if the Commissioners have reasonable grounds to believe the information relates to misconduct, they can remit the information to appropriate authorities.

## Gathering Truth

With these powers and limitations in mind, the Commissioners designed the overall format of the National Inquiry – what we now call the “Truth-Gathering Process.”

Overall, the National Inquiry sought to be families-first (putting the family members of lost loved ones and survivors of violence ahead of others who usually hold the power, including politicians, governments, and the media), trauma-informed (supporting healing in a way that does no further harm), and decolonizing (centring Indigenous ways of being, knowing, and

doing). All of these goals were grounded in the National Inquiry's guiding principle, "Our Women and Girls are Sacred." This vision would help to build the foundation upon which Indigenous women, girls, and 2SLGBTQQA people will reclaim their power and place.

The National Inquiry also recognizes that, from an Indigenous perspective, there is not necessarily a singular "truth." Instead, each person brings with them their truth, and by gathering these truths together, we can gain a more complete understanding of the issue. For these reasons, the National Inquiry determined that our process would be called the "Truth-Gathering Process," recognizing multiple "truths" or perspectives to be brought forward.

These truths were offered by a variety of different people, families, and organizations, as well as by the National Inquiry's advisory bodies. Advisory bodies include the National Family Advisory Circle (NFAC), made up of family members of missing and murdered Indigenous women and girls and survivors; the National Inquiry Elders and Grandmothers Circle, in which the Commissioners and the executive director have an Elder or Grandmother who works closely with them; and external advisory bodies on four key cross-cutting perspectives that are often overlooked in national Indigenous research or events: Inuit, Métis, 2SLGBTQQA, and Quebec.

Part 1 of our Truth-Gathering Process focused on the lived experiences of those who came forward as family members and as survivors themselves. All family members, friends and supporters of missing and murdered Indigenous women, girls, and 2SLGBTQQA people, as well as survivors of violence within these groups, were automatically entitled to participate in the National Inquiry's process at Community Hearings, through statement gathering, or through artistic expressions. The National Inquiry did this through a public communications campaign to tell as many people as possible how to contact the National Inquiry, but did not contact family members or survivors without being asked to, to solicit their story; we believed very strongly that it was up to each person to decide if they wanted to participate. If they did, we would assist in every way to facilitate this participation.

Once a family member or survivor reached out to the National Inquiry, either by mail, email, or phone, they did an initial intake process with a member of our Health team (later renamed Outreach and Support Services) to get their contact information and hear if they had any immediate needs. Multiple options of how people could share their truth was explained to them, in keeping with the principles of our trauma-informed approach and greater personal control over the process.

This first option was to share publicly at a Community Hearing in front of the general public and the Commissioners; in this case, their testimony would be livestreamed to the rest of the country, and the transcripts of the testimony made public on the National Inquiry's website. The only restrictions would be on names and events redacted to comply with privacy laws. Our decolonizing approach meant that we travelled only to those communities that welcomed us, following local protocols and taking guidance from local Elders. In order to be trauma-informed and create culturally safe spaces, we did not allow cross-examination of family members and survivors. Commissioners asked questions for clarification only.

Sharing their truths in-camera, or privately, at a Community Hearing was another option. In this case, families and survivors shared directly to a Commissioner with their supports, National Inquiry staff members, and Parties with Standing present, but without any access by the general public. This was for the safety of the people sharing their truth, in some cases, as well as within the trauma-informed approach where people might have difficulty describing their stories in public. Whether it was for physical safety, mental safety, or cultural safety, holding private hearings was crucial to ensure we could hear the true stories of family members and survivors of violence. Confidential transcripts of these sessions were created to help contribute to the National Inquiry’s findings of fact and recommendations, and identify overall trends, but they will not be released to the public and will not be made available after the life of the National Inquiry. While truths shared in-camera have helped shape the National Inquiry’s findings and conclusions, no direct quotes are used from in-camera testimony in this report to respect that person’s confidentiality, except in exceptional circumstances where permission was granted by the witness for portions of the testimony to be used.

Sharing with a Statement Gatherer was another option. In this case, Statement Gatherers travelled to the family member or survivor and conducted an in-person, videotaped interview with them, which would later be reviewed by one of the Commissioners in all jurisdictions but Quebec, which required review by three. The person sharing could request that their transcripts be made public or kept private. There were also statement-gathering events, where multiple statements were collected from participants at one location.

Another option was to submit an artistic expression that represented that person’s response to, or experience of, violence against Indigenous women, girls, and 2SLGBTQIA people to the National Inquiry’s Legacy Archive. Commissioners welcomed people’s testimony in more than one form.

Another decolonizing and trauma-informed decision made was to include chosen families, or “families of the heart,” in all of our definitions of “family members.” This includes a broad sense of family that goes beyond a person’s nuclear, biological, or extended family to include others who consider themselves family. These “families of the heart” have chosen to stay closely involved and support each other out of mutual love and respect. This is especially important for many 2SLGBTQIA people, women who have had to leave their biological families and/or communities due to violence, or those who have been separated from their birth families through child welfare, adoption, and the Sixties Scoop.

Parts 2 and 3 of the Truth-Gathering Process involved Institutional Hearings and Expert and Knowledge Keeper Hearings. Institutional Hearings inquired into the systemic causes of institutionalized violence, as well institutional responses to violence, while those who shared as part of the Expert and Knowledge Keeper Hearings – Elders, academics, legal experts, front-line workers, young people, specialists, and others – provided their recommendations on systemic causes of violence and possible solutions. As part of the hearing process, National Inquiry lawyers and Parties with Standing had the opportunity to examine Parts 2 and 3 witnesses. The topics covered during the Institutional and Expert and Knowledge Keeper Hearings grew out of

the topics and issues that families and survivors were identifying as important to them during the Community Hearings. The Institutional and Expert and Knowledge Keeper Hearings allowed the National Inquiry to hear from representatives of the systems and institutions that many of the families spoke about during their testimony and to explore in more depth how these systems and institutions worked. It also ensured that the experiences and issues raised by families and survivors remained at the centre of the Truth-Gathering Process, even when we were hearing from experts and institutional officials.

The National Inquiry did not maintain a narrow or Western definition of “experts,” but specifically sought to include Elders and Knowledge Keepers. These are Indigenous people who are known for their wisdom, knowledge, experience, background, and insight. They are generally sought out by community members or individuals for advice on traditional as well as contemporary issues. Knowledge Keepers in particular have deep knowledge or expertise in Indigenous knowledge systems, including Indigenous intellectual traditions, world views, and laws. Some are considered the keepers of traditional knowledge or oral history within their families, communities, or Nations.

The Parties with Standing played an important part during this phase of the Truth-Gathering Process. Parties with Standing are groups that applied to have additional rights to participate in the National Inquiry’s processes because they had substantial and direct interest in the subject matter of the National Inquiry or because they represent distinct interests within which their expertise and perspective would be essential for the National Inquiry to fulfill its mandate. There are 94 Parties with Standing, including groups representing non-governmental organizations, Indigenous women’s organizations, civil societies and governments, and some police agencies.

Two of the most important ways that Parties with Standing participated in the Truth-Gathering Process were by asking questions of the Institutional and Expert Witnesses at the hearings (called “cross-examination”) and by providing closing oral and written submissions once all the evidence had been gathered to offer their additional recommendations on how to end violence. These submissions made up Part 4 of the Truth-Gathering Process. They also provided advice on how to interpret the evidence before the National Inquiry and on the key findings that needed to be made, in addition to the actions and recommendations required to promote safety and security. Their submissions are accessible on our website online.<sup>49</sup> Their contributions to the entire process, as well as their particular contributions in proposing recommendations and resources for us to consider, are evident in the Calls for Justice that we demand be fulfilled at the close of this report.

The evidence considered by the Commissioners includes all testimony, or truths, gathered in Parts 1, 2, 3 and 4 of the Truth-Gathering Process. It also includes exhibits submitted as part of a witness’s testimony. For family members and survivors sharing in Part 1, these exhibits could include photographs of loved ones, newspaper clippings, or other materials that would help tell their story. In Parts 2 and 3 hearings, exhibits usually included relevant reports, studies, public records, or other supporting documents.

## Reclaiming Power and Place

The result of research conducted through the Truth-Gathering Process that privileges the voices of those with lived experience, and that focuses on the sacred place of Indigenous women, girls, and 2SLGBTQQIA people in their families, communities, and Nations, is a report that insists on self-determined solutions distinctive to the needs of those most affected as rights bearers. And while it is far from the first report released on violence against Indigenous Peoples, and it likely won't be the last, we maintain that the framework behind *Reclaiming Power and Place: The Final Report of the National Inquiry into Missing and Murdered Indigenous Women and Girls* is both powerful and empowering in its calls to focus on rights and relationships at every level – from the individual day-to-day encounters that feed violence and discrimination, to those larger institutional and systemic structures that need to change.

In its presentation of findings, this report connects the testimony collected nationally during the Truth-Gathering Process to violations of Indigenous women's, girls', and 2SLGBTQQIA people's human and Indigenous rights. By applying a human and Indigenous rights lens, as well as a gendered lens, to the truths shared during the Truth-Gathering Process, we argue that the violence experienced by Indigenous women, girls, and 2SLGBTQQIA people – as well as all forms of violence experienced by Indigenous Peoples – is a human rights issue. In sharing their truths, families, loved ones, and survivors were not only sharing stories about the violence they or their loved one endured but also sharing stories about human rights abuses and violations. Making the changes required to end violence against them is not a matter of public policy but one of domestic and international law.

Based on the findings from our Truth-Gathering Process and our analysis of previous reports, the National Inquiry finds that the main reason these changes and recommendations haven't been implemented yet is that they rely on governments and bureaucracies to want to change their own laws, contracts, and policies. While many of these should indeed be changed, they miss the fundamental role of *relationship*. After all, Canadian laws are not set in stone; they are based on the values and relationships of the people who write them.

In sharing their truths with the National Inquiry, family members and survivors told not only stories about violence but also stories about the relationships through which violence takes place. In this report, we focus on the role of relationships, and the significant encounters within relationships, that family members and survivors described as leading to or lessening harm, violence, and suffering. Taking a basic lesson offered through the testimony – that relationships matter – this report presents many examples that illustrate how relationships – whether those as small as the relationship shared between two people or as large as the relationship between two world views – offer important ways of understanding how violence continues and how violence may be prevented. While the report and its recommendations argue for changes to the relationships that colonial systems and structures are built on, it also strives to provide examples of the way individual people and their day-to-day interactions can make a difference in ending violence.

Family members and survivors have revealed to us that relationships provide critical moments of encounter that can either harm or help others. Whether it was at the hearings, in private statements, or through artistic expressions, they told us about moments in their lives where either healthy or harmful relationships had a huge impact on their lives. This is key to understanding the real causes of violence. Because of this, we are focusing on the relationships behind the laws and structures that are currently failing to keep women and 2SLGBTQQIA people safe.

This report presents its findings in such a way that it takes the truths, experiences, and expertise held by Indigenous women, girls, and 2SLGBTQQIA people as the most important word on the subject of the violence committed against them. By looking to Indigenous women, girls, and 2SLGBTQQIA people and their testimony to explain what needs to be done to end violence in their lives, this report reflects a recognition of their strength, resilience, and expertise.

Opaskwayak Cree researcher Shawn Wilson has said:

One thing that most of these Indigenous inquiries hold in common is that they look at social, historical and economic factors to explain the differences between Indigenous and non-Indigenous peoples and then make recommendations that are intended to adapt the dominant system to the needs of Indigenous people. These programs proceed with the assumption that if economic and environmental conditions were the same for Indigenous and non-Indigenous people, Indigenous people could ‘pull themselves up’ to the standards of dominant society. This same attitude promoted the forced assimilation of Indigenous people through such social tragedies as the ‘stolen generation’ and forced residential schooling.<sup>50</sup>

In the past, “expertise” generated within academic institutions, governments, or Western ways of knowing and conducting research – all systems that have historically excluded women and especially Indigenous women – has been seen as that most suited to addressing the complex problems presented in this report related to issues such as culture, health, security, and justice. In contrast to much previous research that positions Indigenous women as “victims” in need of protection or saving, or that positions their experiences as “less than” knowledge gathered according to Western research methods or approaches, this report instead centres these voices in recognition that it is the wisdom held by Indigenous women, girls, and 2SLGBTQQIA people that has the potential to create more healthy and safe environments for all.

In this sense, the information presented in this report and the recommendations it offers are not easy to understand or implement. Due to the denial of knowledge and expertise held by Indigenous women, girls, and 2SLGBTQQIA people for so long, respecting these opinions and teachings will challenge readers, researchers, policy makers, and the general public who are used to thinking about policy solutions or social issues in a particular way or within already established systems. Really listening to this expertise often requires questioning standard ways of doing things, challenging the status quo, and being open to radical, new alternatives.

Most importantly, this report recognizes that Indigenous women, girls, and 2SLGBTQQIA people also have the solutions to counter this violence, overcome indifference, and reclaim their power and place. Greg M., whose sister Jackie has been missing since 1997, said, “It’s tough being an Indian these days. There’s so many things against us. But still we’re resilient people. We stood ... for 10,000 years here. We’re still going to be here.”<sup>51</sup>

## Evaluation of the Federal Government’s Response to the National Inquiry’s *Interim Report* Recommendations

One of family members’ and survivors’ biggest fears in opening themselves up for a process as intense as this one is that in the end, nothing is done – that the report gathers dust on a shelf and the recommendations are left unanswered. As family member Melanie D. said:

My biggest question is what is the government planning to do after this Inquiry? Like, what is the action plan? Because I hope it’s not like another RCAP [Royal Commission on Aboriginal Peoples] report. I hope it’s not 94 Calls to Action where we have roundabout circle talks about reconciliation.... And I’m not just placing that on to the government, but ... what is Canada, all of Canada going to do?<sup>52</sup>

In *Our Women and Girls Are Sacred: The Interim Report of the National Inquiry into Missing and Murdered Indigenous Women and Girls*, we issued 10 recommendations for immediate action. Many of these recommendations had to do with the procedural work of the National Inquiry itself, to make it easier and more responsive to families’ needs.

Holding those with the power to act on these recommendations to account is an essential step of this process, and evaluating the progress made to date is an important indicator of the work left to accomplish.<sup>53</sup> As Terry L. shared: “I hear words all the time. I don’t want words anymore. I want action.”<sup>54</sup>

## The National Inquiry’s 10 Calls for Immediate Action from the *Interim Report of the National Inquiry into Missing and Murdered Indigenous Women and Girls*

**1. Implementation of all the Calls to Action of the Truth and Reconciliation Commission, particularly those that impact Indigenous women and children, including the immediate implementation of Jordan’s Principle and the immediate and full implementation of the *United Nations Declaration on the Rights of Indigenous Peoples* as a framework for reconciliation, and including a federal action plan, strategies and other concrete measures to achieve the goals.**

To date, this has been partially implemented, and we recognize that the National Inquiry into Missing and Murdered Indigenous Women and Girls is in itself a fulfilled TRC Call to Action. Other actions include endorsing and passing New Democratic MP and reconciliation critic Romeo Saganash's Bill 262, a private member's bill aimed at ensuring that Canada's laws are in harmony with those rights set out in the United Nations Declaration on the Rights of Indigenous Peoples – a declaration that Saganash himself helped to create. At time of this writing, the Bill was in its second reading, in Senate. In 2018, the federal government had also agreed to work toward the equivalent of Jordan's Principle for Inuit children, to ensure health care for them would not be delayed. In addition, Bill C-91, *An Act Respecting Indigenous Languages*, which would establish measures for long-term and sustainable funding for the support and promotion of Indigenous languages, was unveiled in early 2019.

Collectively, these are important pieces of work, which will require careful implementation and reporting. In particular, ensuring that the principles that animate them are applied to all services that can help to promote security and safety for Indigenous women, girls, and 2SLGBTQQIA people is a complicated process, but one that we argue needs to move more urgently and quickly.

## **2. Full compliance with the Canadian Human Rights Tribunal ruling (2016) that found that Canada was racially discriminating against First Nations children.**

This has not been implemented. Canada has now received seven non-compliance orders from the Canadian Human Rights Tribunal (CHRT).<sup>55</sup> The First Nations Child and Family Caring Society is back in court against Canada, which is now rejecting First Nations children's claims based on their lack of Status as determined by the *Indian Act*. Aside from the many problems with assigning First Nations identity through colonial legislation such as the *Indian Act*, which we cover in more detail elsewhere in this report, the CHRT decision makes no distinction between Status and non-Status First Nations children, and the Supreme Court of Canada recently ruled that Ottawa has a fiduciary duty to non-Status First Nations people, and to Métis. As of February 19, 2019, the tribunal issued interim relief orders for Jordan's Principle in favour of the Caring Society, stating that non-Status First Nations children in urgent situations will be covered under Jordan's Principle until the evidence has been heard regarding the definition of "First Nations."<sup>56</sup>

Given that the *Canadian Human Rights Act* forbids discrimination based on race, it is the Caring Society's position that Jordan's Principle also applies to Inuit children where public services have been delayed or denied.

The National Inquiry heartily agrees with Dr. Cindy Blackstock when she says: "When I look at the wealth of this country, I think that equality for First Nations children should come in a leap, not in a shuffle. And just frankly, if they can afford to spend five billion on a pipeline, they can afford to eradicate inequalities in education and other areas for their kids."<sup>57</sup>

**3. That the federal government finds a way to provide the contact information of the families and survivors who participated in the pre-Inquiry process to the National Inquiry. Alternatively, that the federal government provide families and survivors of the pre-Inquiry information on how to participate in the National Inquiry.**

To our knowledge, this was never done. Many families who participated in the pre-Inquiry consultation process told our Outreach and Support Services team members that while they were glad to see the National Inquiry moving forward, the registration process itself was confusing due to the manner in which Canada conducted its pre-Inquiry consultations. Many families believed that being part of those placed them on a list; the reality was that these were separate processes. The pre-Inquiry process led families to believe that we would have their contact information and we would reach out to them.

Also, many families believed that as Native Women’s Association of Canada (NWAC) and the Royal Canadian Mounted Police (RCMP) had their contact information, we would have that information too and reach out to them. This was not the case. We sincerely regret that family members and survivors experienced added stress and confusion regarding our registration process as a result.

**4. That the federal, provincial and territorial governments provide project funding, in addition to regular operational funds, to help ensure Indigenous organizations full and meaningful participation in the National Inquiry.**

This recommendation was partially implemented. The federal government did increase funding to help improve the participation of the Parties with Standing, who consist mostly of Indigenous organizations, at the National Inquiry’s urging. However, many smaller community and grassroots organizations, which are already underfunded and understaffed, did not receive any additional funding to participate in the process or help the Inquiry do community outreach. In addition, the requirement to pre-pay expenses and then get reimbursed was taxing for already overstretched organizations reliant on sometimes unstable funding.

**5. That the federal government establish a commemoration fund in collaboration with national and regional Indigenous organizations (including Indigenous women’s organizations) and in partnership with family coalitions, Indigenous artists, and grassroots advocates who spearheaded commemoration events and initiatives related to missing and murdered Indigenous women, girls, and LGBTQ2S people.**

This is one of the few recommendations that the Government of Canada responded to directly. The federal government, through Status of Women Canada, committed to a commemoration fund that would provide \$10 million over two years “to honour the lives and legacies of Indigenous women, girls, and LGBTQ2S individuals.”<sup>58</sup> The commemoration fund committed to supporting Indigenous communities in developing and implementing commemorative events.

The National Inquiry is glad to see that the federal government recognizes the power of public commemoration to “honour truths, support healing, create awareness, and to advance reconciliation.”<sup>59</sup>

However, we have serious concerns with the way the federal government reinterpreted this recommendation. In particular, our recommendation specifically noted the importance of involving Indigenous women’s organizations, family coalitions, Indigenous artists, and grassroots advocates. However, the call for proposals for this commemoration fund applies only to legally constituted organizations, and it is not clear to what extent others will be able to access it.<sup>60</sup> This excludes these very same family coalitions and grassroots organizations we wanted to include, who have been organizing around missing and murdered women, girls, and 2SLGBTQQIA people for decades with very little support.

It can be a long and onerous process to legally incorporate as an organization; coupled with the very short time frame organizations were given to apply, this almost certainly excludes the very groups we intended this recommendation to reach.

**6. That the federal government immediately provide additional funding to Health Canada’s Resolution Health Support Program and expand its services to meet the increased needs flowing from the National Inquiry’s work, and at a minimum for the duration of the National Inquiry.**

In response, the Government of Canada committed to increase health support and victim services by

providing \$21.3 million over three years to complement the health supports provided by the inquiry, such as allowing the expansion of services to include all survivors, family members and those affected by the issue of missing and murdered Indigenous women and girls, improving their access to health support services and extending the timeframe during which health support services will be available up to June 30, 2020.<sup>61</sup>

They also committed to “providing an additional \$5.42 million in 2019–2020 to extend the timeframe for the two Department of Justice Canada initiatives: Family Information Liaison Units and funding for community-based organizations to support families beyond the life of the National Inquiry.”<sup>62</sup>

The National Inquiry welcomed this announcement, and in particular the portion of the Resolution Health Support Program that was designated to support the health needs of those who participated in the National Inquiry. This did help family members and survivors.

However, the National Inquiry was only minimally consulted in how to allocate these funds. Because most of the funds were allocated through regional First Nations and Inuit Health Branch (FNIHB) offices, the support services available to family members and survivors did not include travel or cultural healing, wellness ceremonies, or transportation to meet with Elders or traditional medicine practitioners, instead covering only Western approaches to health and wellness – namely, counselling. While counselling is, in fact, an important part of many Indigenous Peoples’ healing journeys, cultural safety must be a key component in any Indigenous health and wellness service. However, the FNIHB did lift all eligibility criteria so that everyone could seek advice,

including all those affected by the issue of missing and murdered Indigenous women, girls, and 2SLGBTQQIA people, whether they be Status First Nations, non-Status First Nations, Inuit or Métis.

In addition, distributing these funds through existing regional offices meant that families and survivors who already had trouble accessing health services due to living in rural and remote areas continued to have the same problems accessing these funds.

**7. That Health Canada’s Resolution Health Support Program provide funding to Indigenous organizations and other service providers (including provincial and territorial governments) through contribution agreements and transfer funds to families and survivors participating in the National Inquiry’s Truth-Gathering Process and engaging in its commemoration activities.**

The goal of this recommendation was to ensure that families and survivors, and not only established organizations, had a voice in their healing and commemoration. The National Inquiry was ultimately successful in negotiating contribution agreements with individuals for their aftercare plans, which a Canadian government had never agreed to before. This gave families and survivors direct ownership over their own healing and wellness. We discuss this in more detail in Chapter 9.

**8. That the federal government undertake an engagement process with families, survivors, Indigenous organizations, and the National Inquiry to investigate the feasibility of restoring the Aboriginal Healing Foundation.**

To date, this important recommendation has not been implemented.

**9. That the federal government work collaboratively with provinces and territories to create a national police task force to which the National Inquiry could refer families and survivors to assess or reopen cases or review investigations.**

The Government of Canada announced that they would provide

\$9.6 million over five years [which] will support the Royal Canadian Mounted Police (RCMP)'s new National Investigative Standards and Practices Unit. Members of this unit will provide national oversight to major RCMP investigations. A significant proportion of this oversight will focus on missing and murdered Indigenous women and girls investigations.<sup>63</sup>

However, this does *not* fulfill the National Inquiry’s recommendation. We maintain that Canada needs an independent national police task force specifically designed to meet the needs of family members and survivors of violence against Indigenous women, girls, and 2SLGBTQQIA people, which would include non-police members and investigators, and other built-in, transparent oversight mechanisms.

Our most important objection to providing additional funding to the RCMP in this manner is that, once again, this involves police policing themselves. The RCMP have not proven to Canada that they are capable of holding themselves to account – and, in fact, many of the truths shared here speak to ongoing issues of systemic and individual racism, sexism, and other forms of discrimination that prevent honest oversight from taking place.

In addition, our recommendation was for a national police task force, whereas the government’s response includes only the RCMP, which does not cover other police service investigations or areas covered by a national task force.

The National Inquiry is also concerned about the non-specific language used, in that “a significant portion” will go toward investigations of missing and murdered Indigenous women and girls. In 2010, the federal government cut funding to the Native Women’s Association of Canada’s “Sisters in Spirit” research, education, and policy initiative to provide additional funding to other departments and to the RCMP, where enhancements made were general and not specific to Indigenous women and girls.<sup>64</sup> These actions don’t inspire confidence for the future.

**10. Given the short timeframe of the National Inquiry and the urgency of establishing robust administrative structures and processes, that the federal government provide alternatives and options to its administrative rules to enable the National Inquiry to fulfill the terms of its mandate.**

Overall, the National Inquiry recognizes that many improvements were made to expedite some administrative services, particularly in the areas of staff hiring, security clearance, and procurement of goods and services. However, problem-solving administrative processes that were designed for indeterminate and well-established federal government organizations continued to cause significant delays and frustration. Such administrative processes do not lend themselves to inquiries with short timelines, let alone a National Inquiry with an Indigenous cultural mandate that stresses the need to accomplish the work in a trauma-informed and decolonizing way.

The area where this had the deepest effect on families and survivors was in aftercare, where the critical support the National Inquiry needed to provide to participants in order to avoid being retraumatized as a result of sharing their truths was placed on shaky ground. This came to a head in January 2018, when the federal government challenged the National Inquiry’s Terms of Reference and authority to provide health support to families and survivors in preparation for and during their appearance before the National Inquiry, and after sharing their truths. This effectively froze all movement on aftercare supports for three months, while families and survivors, including those in urgent crises, suffered. Even after coming to a funding resolution, there were many rules and regulations that continued to hamper aftercare services, causing more delays and valuable time lost. These required multiple paperwork amendments and new signatures, which generated stress for the families and survivors as well as delays in payments.

## Successes and Challenges of the National Inquiry

In reflecting on where we are today, the National Inquiry recognizes it has had many successes as well as many challenges.

One of the most important successes of the National Inquiry is how many people entrusted us with their stories. We see these stories as sacred. The National Inquiry made some mistakes along the way, but family members and survivors of violence were able to work one-on-one with our Health and Legal teams to share their stories, and continued to receive support through the National Inquiry's aftercare program for several months after they shared their truths. We are humbled by the sheer number of people who shared their stories in order to help others truly understand the levels of violence in this country.

Having so many people break the silence has already created a momentum much bigger than the National Inquiry, and has continued to build. Trauma has widespread effects, but so does healing. As one Inuk Elder told the members of the National Inquiry's internal Inuit Working Group, their work was "already saving lives." These healing effects are still rippling gently through families and communities. It is one of Canada's most important jobs in the months and years ahead to ensure that these ripples build into waves of change.

One of our biggest challenges was working under the federal government's rules and procedures, which are designed for government departments with long lifespans, not two-year public inquiries working in a culturally safe and trauma-informed way. Finding ways to navigate these rules designed for a completely different context was particularly critical, given our other biggest challenge: the lack of time.

The two years and four months' mandate given to the National Inquiry at its outset was not enough. With the broadest mandate of any public inquiry in Canadian history, and given the time required simply to hire staff, get the infrastructure in place, and begin to build key relationships, this time frame significantly hampered our ability to fully work according to families-first, decolonizing, and trauma-informed approaches. Processes that would normally take months in a government department needed to be compressed into weeks to fit our schedule. Many of our hearings were held back-to-back, and we were never able to give as much notice for hearings and events as we would have liked. It was very difficult to get the appropriate systems and policies in place until well into our mandate. It was also very difficult to build relationships with Indigenous communities with enough lead time to allow them to report back to, and work collectively within, their families, communities, and governance structures. In some cases, family members felt rushed, and received short notice for when they were scheduled to testify.

From an organizational perspective, National Inquiry staff members experienced delays in receiving computers, phones, Internet connections, email access, and access to a central shared drive – extremely important for a National Inquiry working from coast to coast to coast. Many staff members worked from home, across all time zones and in remote locations, or spent a great deal of time on the road. Ongoing technology and IT problems, along with the complex require-

ments of a public inquiry operating in 14 jurisdictions at the same time, delayed processes regarding travel arrangements, hospitality planning, procurement, and financial approvals and payments.

In the end, the National Inquiry held dozens of events, large and small, in urban settings and in northern locations across Canada. There were challenges. For example, the Community Hearing in Smithers was held while the town was under a boil-water advisory, which meant bringing in hundreds of litres of bottled water. In Rankin Inlet, National Inquiry-related activities used up every single available hotel room in the community, and, in Iqaluit, we used up almost the entire town's bandwidth of Internet to be able to livestream the hearing online. In Whitehorse, an earthquake damaged the facility originally booked for the first Community Hearing, which resulted in relocating to the already-full Kwanlin Dün Cultural Centre and setting up large tents outside.

However, we recognize that these challenges were temporary for the National Inquiry. The communities we visited have to manage with these challenges all the time. These are the kinds of geographic and distinction-based needs that must be taken into account when governments are responding to the National Inquiry's recommendations.

The National Inquiry also had many other highlights. For example, the National Inquiry advocated on behalf of Indigenous women and girls at the Supreme Court of Canada in the case of *Barton v. Her Majesty the Queen*.<sup>65</sup> This case involves the trial of Bradley Barton, the man accused of killing Cindy Gladue, who bled to death after what the accused said was consensual sexual acts. In our intervention related to the trial process, the National Inquiry argued that the trial is emblematic of how Indigenous women are seen as less believable and “less worthy” victims than non-Indigenous women, and that justice does not serve Indigenous women. Importantly, we discussed the court's failure to apply the law correctly under section 276 of the *Criminal Code* of Canada, and to take judicial notice of the high victimization of Indigenous women. We submitted that widespread racism and discrimination against Indigenous women exists and that the courts must take judicial notice of such systemic bias against Indigenous women complainants. We argued that indifference by all actors in the court, who often referred to Cindy as a “native prostitute” instead of by her name, may have led to reinforcing discriminatory beliefs, misconceptions, or upholding bias by the jury about the sexual availability of Indigenous women and specifically, Cindy Gladue.

The National Inquiry's action on this issue marks the first time a public inquiry has sought intervenor status at the Supreme Court of Canada. The Supreme Court's determination in this case, which is still pending, is anticipated to be a seminal case for determining the extent of the laws around sexual violence and consent. We felt it was imperative to act and do everything possible to speak out for Indigenous women on the issues that profoundly affect so many survivors and families.

In designing our communications approach, it was a challenge to tailor our messages to diverse stakeholders from families and survivors across Canada, to national and provincial Indigenous organizations, and to federal and provincial governments. We needed to use a tool kit to reach

people that included a variety of channels and platforms – from social media to e-newsletters to traditional print, television, and radio news stories – while being responsive to diverse cultural, language, and demographic needs and perspectives.

However, with the guidance of the Grandmothers Circle and the National Family Advisory Circle members, the National Inquiry created space for families to be heard and their truths to be validated at every event. Public awareness of the issue of missing and murdered Indigenous women is also on the rise. In 2017 on Twitter, for example, there were 13,529 tweets and 112 million impressions on a variety of topics, including spreading news of upcoming Community Hearings. When we livestreamed Knowledge Keeper, Expert and Institutional Hearings on Facebook and CPAC, thousands tuned in each day to watch the proceedings, comment, share, and be inspired by the strength of the testimony presented.

We also redesigned the National Inquiry’s website in 2018 to better offer up-to-date information on news and events, and an interactive map of all past hearings and events with links to documents and videos. Additional upgrades designed in early 2019 involve organizing and featuring thousands of public records of evidence, including testimony from survivors, families, experts, academics, and Knowledge Keepers, as well as written submissions, statements, orders, and motions on our website. It is a significant record of information now available to the public – a lasting testament of truth for all Canadians.

In many ways, this record is as much a part of the legacy of the National Inquiry as this report itself. While the *Final Report* is the culmination of over 1,000 hours of truths shared with us, it still only scratches the surface of the examination of violence against Indigenous women, girls, and 2SLGBTQQIA people. Our evidence belongs to the public, and is available in video and as transcripts. We hope that academic institutions, governments, policy makers, and individuals who want to better understand these issues will return to this public record. It presents a unique opportunity for Canadians to hear these truths for themselves and change the relationships they have with Indigenous women and girls in their own lives.

## Response to the Denial of a Two-Year Extension

One of the biggest blows to the National Inquiry’s ability to balance the urgency of these issues with the need to do this work thoroughly was the government’s decision to deny the Inquiry its requested two-year extension, providing only a six-month writing extension instead.<sup>66</sup>

The National Inquiry was given an extraordinarily large task to accomplish in a time period that federal, provincial, and territorial jurisdictions, with their knowledge of their own bureaucratic natures, should have known was too short from the beginning. This was profoundly disappointing, and does a disservice to the thousands of Indigenous women, girls, and 2SLGBTQQIA people lost to violence, and to the survivors of violence, some of whom advocated for decades for a public inquiry. As Nahanni Fontaine explained to the Commissioners at the Winnipeg Community Hearing:

Often I'll say, well, we've been working on this for 30 years, if you look at the Highway of Tears. But ... actually we have collectively been working on this for 50 years. If you look at Helen Betty Osborne, if you look at some of the first cases of missing women on the Highway of Tears, those go back actually to the late '50s, right? So, over 50 years, MMIWG families have been quietly, loudly, courageously, resiliently, have been from coast to coast to coast demanding action on MMIWG. It is only because of MMIWG families that we are here today, along with Indigenous women who have stood with families, and have been lobbying, and that voice in support of families.<sup>67</sup>

This extension would have allowed the National Inquiry to hold more Community, Institutional, and Expert Hearings, so we could have heard from more women and gender-diverse people involved in human trafficking and exploitation, who are homeless, who are in federal institutions, and who live in more remote areas and in other regions. An extension would have ensured the ability to look at regional specificities, and into larger or more complex issues.

Most importantly, however, an extension would have given more people a national public platform to speak up and speak out about issues some people haven't ever spoken about before. The opportunity to share one's truth can be remarkably transformational, especially when coupled with a flexible and responsive aftercare program. There are many, many people whose strength still need to be recognized, who are ready to take the next step. We cannot control the outcome of this National Inquiry, but we have done our best to make the process itself a healing one. We wish this National Inquiry could have been that tool for even more families and survivors.

The National Inquiry has done what it can to honour the spirits of those who are no longer with us, and the future generations that are still yet to come, in the time we were given. However, Indigenous women and 2SLGBTQQIA people cannot continue to fall to the bottom of the priority list. They cannot be expected to make do with a few extra dollars here or a new program there.

*Reclaiming Power and Place: The Final Report of the National Inquiry into Missing and Murdered Indigenous Women and Girls* calls for real, significant, foundational change. The rest of Canada must be prepared to meet this challenge.

## Foundational Concepts in Understanding Violence

Despite the short time frame to engage in this critical work, the National Inquiry humbly offers this *Final Report* as an important piece of understanding violence in a different context. As many witnesses shared, confronting the epidemic of violence against Indigenous women, girls, and 2SLGBTQQIA people – what the National Inquiry has deemed to be practices that are genocidal – begins with acknowledging the scope of the harm that has been caused. Throughout this report, we use a variety of terms and concepts to help draw critical connections between the experiences

and issues brought before the National Inquiry. Some of these terms and concepts were used by families and survivors; others were used by Elders, Knowledge Keepers, researchers, and activists. Here, we provide a brief explanation of some of these concepts that are critical to understanding why we need foundational changes, not band-aid solutions, to ending violence against Indigenous women and girls.

The National Inquiry uses a broad definition of “**violence.**” We started with the World Health Organization’s definition of “violence,” which involves the intentional use or threatened use of power or force that is likely to cause harm against someone else (for example, interpersonal violence), against a group or community (for example, armed conflict), or against oneself (for example, suicide or self-harm).<sup>68</sup>

These types of violence can take many forms:

- physical (hitting, choking, murder)
- sexual (unwelcome sexual comments, fondling, rape)
- emotional (name calling, jealousy, humiliation)
- psychological (threats, social isolation, stalking)
- spiritual (not allowing someone to practise their preferred spirituality or religion, belittling said spirituality or religion)
- cultural (violence in the name of a culture, religion, or tradition)
- verbal (yelling, lying, telling someone they are worthless)
- financial (not allowing someone access to money, destroying personal property)
- neglect (failing to meet the needs of someone who can’t meet those needs alone)<sup>69</sup>

We expanded that definition to include colonial, cultural, and institutional violence. Altogether, these lead to systemic or structural violence, as well as, in many cases, lateral violence.

**Colonial violence** stems from colonization or colonialism, and relies on the dehumanization of Indigenous Peoples. Colonial violence is perpetuated through a variety of different strategies, including depriving people of the necessities of life, using public institutions and laws to reassert colonial norms, ignoring the knowledge and capacity of Indigenous Peoples, and using constructs that deny the ongoing presence and dignity of Indigenous Peoples. It is also linked to racism. The National Inquiry grounds racism through all of its analysis, insisting that racism takes concrete and devastating forms. Racism, then, must be seen as more than just a set of ideas, but as a set of practices that are grounded in systems that serve to target Indigenous Peoples over generations, undergirding intergenerational and multigenerational violence, and contribute to economic, social, and political marginalization; lack of will; maintenance of the status quo; and the denial of agency, expertise, and value.

The process of **colonialism** is defined as the attempted or actual imposition of policies, laws, mores, economies, cultures, or systems and institutions put in place by settler governments to support and continue the occupation of Indigenous territories, the subjugation of Indigenous individuals, communities and Nations, and the resulting internalized and externalized ways of thinking and knowing that support this occupation and subjugation. These impositions are race- and gender-based.

Colonialism is not to be confused with **colonization**. “Colonialism” is the ideology advocating colonization. “Colonization” generally refers to the process by which Europeans invaded and occupied Indigenous national territories.

While some people refer to the present as “**post-colonial**,” many Indigenous Peoples reject this idea that colonialism is “over, finished business.” As Maori researcher Linda Tuhiwai-Smith says, “This is best articulated by Aborigine activist Bobbi Sykes, who asked at an academic conference on post-colonialism, ‘What? Post-colonialism? Have they left?’”<sup>70</sup>

There are many kinds of violence, particularly within the context of colonization. Colonization is based on the practice of **cultural violence**, in a broader sense than is discussed above. These practices, which can be explained by peace and conflict scholar Johan Galtung, target “those aspects of culture ... that can be used to justify or legitimize direct or structural violence.”<sup>71</sup> This includes Canada’s Western, white-dominant, mainstream culture, where racist attitudes and forced assimilation policies are both examples of cultural violence, since it stems from racist beliefs deeply embedded in Canadian culture.<sup>72</sup>

Systemic patterns of thinking such as racism, sexism, and colonialism also result in **institutional violence**. Institutional violence is perpetrated by institutions such as the military, the church, the educational system, the health system, police and emergency responders, and the justice system. Because these institutions are generally well regarded within society, and operate on specific rules, institutional violence can easily become the “status quo.”<sup>73</sup> This makes them more difficult to challenge or change.

As a result of all these forms of violence, many examples of **structural or systemic violence** become embedded in Canadian society over time. As political scientist and scholar Rauna Kuokkanen writes: “All these systems and structures – colonialism, capitalism and patriarchy – are predicated on violence, whether direct and interpersonal or structural, economic or epistemic.”<sup>74</sup>

**Structural violence** can be understood as the gap between a person’s or community’s potential well-being and their actual well-being, when that difference is *avoidable*. These gaps are due to injustices, inequalities, and other forms of violence embedded in everyday life that privilege some people to the detriment of others. For example, extreme levels of poverty are not, in themselves, examples of structural violence. But when Indigenous women, girls, and 2SLGBTQIA people are disproportionately affected from extreme poverty, and when state governments and

other institutions could address the inequalities and injustices that lead to this disproportionate level of poverty, but don't, then it becomes structural violence.<sup>75</sup> As explained by Robyn Bourgeois, in speaking about her own approach to understanding violence,

You have to recognize that all of the systems, whether it's class exploitation, whether it is disability and ableist privilege, whether it's racism or colonialism – they all work in and through one another. So, they work in mutually sustaining ways. So, this framework really requires that we pay attention to how all of those things work together.<sup>76</sup>

Because these structures still exist today, “**decolonization**” (or “**decolonizing**,” since this process is still ongoing) is also a key concept. “Decolonizing” is a social and political process aimed at resisting and undoing the multi-faceted impacts of colonization and re-establishing strong contemporary Indigenous Peoples, Nations, and institutions based on traditional values, philosophies, and knowledge systems.

A decolonizing mindset requires people to consciously and critically question the legitimacy of the colonizer and reflect on the ways we have been influenced by colonialism. According to expert in Indigenous research methodologies Margaret Kovach, the purpose of decolonization is to create space in everyday life, research, academia, and society for an Indigenous perspective without its being neglected, shunted aside, mocked, or dismissed.<sup>77</sup>

The ideas of “**resistance and resurgence**” are important to a decolonizing approach. “Resistance” refers to the diverse strategies Indigenous Peoples and Nations use to resist colonialism. To Indigenous Peoples, resistance is not just mass mobilization, armed conflict, and protest. It encompasses a broad range of strategies and activities that promote decolonization, Indigenous ways of life, values, knowledge, and broader political goals. Indigenous resistance includes “everyday acts of resistance” that embody individuals and communities living by their traditional teachings, despite overwhelming pressure from the dominant society not to do so. As a related concept, “resurgence” is the increase or revival of an activity or of ideas. For Indigenous Peoples, this involves increasing or reviving traditional land-based and water-based cultural practices that existed long before colonization and will continue to exist long after, as well as the revitalization of languages and cultural practices that have been under attack.

## “She’s not just a picture on a wall”: Privileging the Stories of Lives Lived

These concepts inform our findings, as well as undergird the testimonies of those who shared their truths. These larger concepts, however, don't obscure the most important elements of the National Inquiry's research: the loved ones who are no longer among their families, communities, and Nations. As Bernice C. said about her daughter Jennifer, “She’s not just a picture on a wall somewhere or a newspaper clipping. She’s not just a statistic with the 1,000 or more missing. She was our daughter.”<sup>78</sup>

The truth is, despite the National Inquiry’s best efforts to gather all of these truths, we conclude that no one knows an exact number of missing and murdered Indigenous women and girls in Canada. Thousands of women’s deaths or disappearances have likely gone unrecorded over the decades, and many families likely did not feel ready or safe to share with the National Inquiry before our timelines required us to close registration. One of the most telling pieces of information, however, is the amount of people who shared about either their own experiences or their loved ones’ publicly for the first time. Without a doubt, there are many more.

As witnesses made clear, we can’t forget the people behind those numbers. These women, girls, and 2SLGBTQQIA people are daughters, friends, aunts, mothers and grandmothers. They are present or future teachers, lawyers, nurses, land and water protectors, healers, artists, business-women, foster parents, social workers, community leaders, and more. Most important, however, is the fact that these women had their own hopes and dreams that were unfairly cut short.

Gwenda Y., who testified about her daughter Amber R., remembers her as a bright and loving person who loved sports and children, and was very involved with helping to raise her niece and nephew. Amber was 19 when she went missing and talked about becoming either a teacher or a police officer.

When Gwenda remembers her daughter’s milestones, some of her strongest memories are of Amber dancing. Amber loved Pow-Wows and ceremonies, and they travelled all over Canada and the United States for her dancing. Her outfits were custom-made by her father. When she was younger, the women Elders in their community even asked Amber to be the pipe girl, representing White Buffalo Calf Woman holding the pipe for four days, in the Sundance ceremony, which was a great honour.

Gwenda remembered:

I’d ... just to sit there and watch Amber dance. It was just so amazing to see her glide as she lifted up her shawl. It was like she was flying like an eagle, soaring like an eagle when she danced, and her footwork, as she danced, every step was so light. She was on her toes, and every step was so light, and ... that’s what she reminded me of when I watched her, watched her dance as an eagle soaring as she danced every step.<sup>79</sup>

Sarah N., who testified about her older sister Alacie, explained that “Alacie was wonderful to have as an older sister. She was full of love, and she had touched my inner emotions so strongly. She ensured that I wore clothing, clean clothing, and she always fixed my hair to be presentable, as mothers do.”<sup>80</sup> Alacie and Sarah grew up in the 1970s and 1980s, living a more traditional Inuit way of life with parents who loved and took care of each other. They were taught Inuit values and were raised to

respect others as we respect ourselves and to take care of others. If we see someone in pain, we will help you. We will not just abandon you. We will hear you. This is what we were taught. If a person is hungry, even if you have very little to share, you share anyway.... We like big families with lots of food to share together. It’s an Inuit culture. We still share today like that.<sup>81</sup>

Alacie eventually moved to Montreal with her cousin Lizzie. After her sister's death, Sarah was devastated to find out that the Montreal police had never even mounted a search for her and didn't investigate the death. Alacie's tragic death hasn't taken away the family's memories of a sister and a cousin held so close: as Alacie's cousin Lizzie testified, "She was very kind, and she was very loving.... She was always helping me. She fed me, because ... I was, like, homeless. Not homeless, but I was not making any money.... But, my cousin was there helping me."<sup>82</sup>

These stories of life lived in full illustrate the important need for Canada to confront what Nicole B, called "its dirty-little-secret-self.... Stop saying that this is an Indigenous problem. This is a Canadian problem.... Let's start looking inside ourselves and say, 'I'm responsible for this as well. I am accountable for this and I, as a Canadian citizen, am going to stand up and do something for this.'"<sup>83</sup>

## Sharing Our Findings from the Truth-Gathering Process

Standing up means sharing these stories and seeing the women, girls, and 2SLGBTQQIA people who are often obscured within the numbers. In sharing our findings from the Truth-Gathering Process, this report focuses heavily on the testimony gathered from families, friends, and loved ones of missing and murdered Indigenous women, girls, and 2SLGBTQQIA people, as well as survivors of violence, during the hearings, in statements, and through artistic expression. This report centres the testimony of these witnesses to share with the broader public how their lives, families, and communities have been directly impacted by violence and what they believe needs to be done to create change. In each chapter, we present an overview of testimony in order to illustrate key issues, concerns, and experiences witnesses spoke about in relation to this topic. In particular, in keeping with the National Inquiry's mandate, the findings offered here present a summary of the root causes of violence as family members described them in relation to four key themes: culture, health, security, and justice.

These are presented as experiences in common, as well as experiences that are distinctive. In presenting these experiences, we draw from truths shared from every region across Canada, and from various community perspectives. In doing so, we provide examples that reflect some of the families' and survivors' common concerns and provide real-life examples of how a particular issue has impacted an individual, family, or community. For example, in discussing the housing experiences of Indigenous women living in urban cities, we use quotes from a selection of the many witnesses who spoke on this subject to provide some specific examples that reflect broadly the concerns echoed by other witnesses. At the same time, however, because of the depth and breadth of the information collected during the National Inquiry, we encourage members of the public, Indigenous organizations, and future researchers to dive into these further opportunities for research and learning to examine the topics discussed in this report in much greater detail.

Throughout this report, we reference gender diverse and non-binary people as “2SLGBTQQIA,” in order to emphasize our intent to be inclusive of a full spectrum of experiences. While we acknowledge and reflect upon the important differences among non-binary gender identities, for instance in our Deeper Dive sections, as well as in Chapter 11, we maintain that using a more narrow conception of gender diversity limits our ability to convey the extent to which Indigenous understandings about gender and gender identity have been under assault by governments, institutions, service providers, and through discriminatory treatment.

We also made the decision to refer to those who shared their truths as family members and survivors in this report using first names and last initials only. This is because violence against Indigenous women, girls, and 2SLGBTQQIA people is an ongoing issue, and even though everyone quoted in this report agreed to share publicly, we did not want to draw unnecessary attention to individuals and, perhaps, expose them to further risk. However, we do use witnesses’ full names when they shared either in a panel or in an Institutional or Expert and Knowledge Keeper Hearing, since they are not sharing in a personal capacity. In the occasional instances where a witness testified in multiple formats, we use their initials or full names, depending on the format in which they shared their truth.

In addition to an overview of the testimony gathered during the statements, artistic expressions, and Community Hearings, this report also presents testimony from the Institutional and Expert and Knowledge Keeper Hearings (Parts 2 and 3) of the Truth-Gathering Process, as well as other relevant academic research. This allowed us to further contextualize and deepen the understanding of the truths shared by families, friends, and loved ones. This process also allowed the National Inquiry to identify commonalities, differences, gaps, or previous findings and research related to some of the issues families raised as being important to them. Many of the truths families shared offered a deeper, more personal look at issues that have been widely recognized and acknowledged in previous research and by Elders and Knowledge Keepers, front-line workers, and institutional representatives, while other truths point to knowledge gaps that still need to be filled in the future.

We have looked at and included testimony from all regions across Canada in this national report, including the experiences of those in Quebec. In addition, we have produced a provincial study of violence against Indigenous women, girls, and 2SLGBTQQIA people in Quebec, which constitutes Volume 2 of our *Final Report*. This is an example of the kind of regionally-specific work that needs to be done going forward to better understand the challenges and solutions to ending violence against Indigenous women, girls, and 2SLGBTQQIA people in different regions of the country.

## Overview of the *Final Report*

*Reclaiming Power and Place: The Final Report of the National Inquiry into Missing and Murdered Indigenous Women and Girls* is split into two volumes, 1a and 1b, for length, but is made up of three main sections, in addition to the final findings of fact and Calls for Justice. This report also includes focused examinations that look at specific issues in more detail. Volume 1a includes Sections 1 and 2, while Volume 1b includes Section 3, our final Calls for Justice, the annex summarizing the work of the Forensic Document Review Project and an overall bibliography. The report specific to Quebec is a separate volume (Volume 2).

### Section 1 – Establishing a New Framework

Section 1 of the report outlines a context that will be helpful for readers in approaching the information presented in the later sections of the report.

In Chapter 1, “Centring Relationships to End Violence,” we introduce key teachings repeated throughout the Truth-Gathering Process about the importance of relationships. As those who shared their truths with the National Inquiry emphasized, understanding what happens in relationships is the starting point to both understanding and ending violence against Indigenous women, girls, and 2SLGBTQQIA people.

In Chapter 2, “Indigenous Recognitions of Power and Place,” we show how Indigenous Peoples have always had their own concepts of rights, roles, and responsibilities within their communities or Nations. These rights are relational and reciprocal, and are based on Indigenous knowledge systems and world views.

In Chapter 3, “Emphasizing Accountability through Human Rights Tools,” we examine human rights instruments Canada has pledged to respect, maintaining that human rights instruments can be a way to hold governments to account, particularly in the relationship between the Canadian state and Indigenous Peoples.

Chapter 4, “Colonization as Gendered Oppression,” argues that the process and history of colonization have jeopardized Indigenous women’s and 2SLGBTQQIA people’s rights to culture, health, security, and justice. Colonization affected women and gender-diverse people both in ways similar to the way it affected men as well as in distinct ways. We examine gendered systems of violence at the root of the crisis of missing and murdered Indigenous women, girls, and 2SLGBTQQIA people today.

This analysis brings us to the conclusion that violence against Indigenous women and girls is a crisis centuries in the making. The process of colonization has, in fact, created the conditions for the ongoing crisis of missing and murdered Indigenous women, girls, and 2SLGBTQQIA people that we are confronting today.

## Section 2 – Encountering Oppression

In Section 2, we focus heavily on the testimony gathered from families, friends, and loved ones of missing and murdered Indigenous women, girls, and 2SLGBTQQIA people, as well as survivors of violence, to better understand their encounters with individual, institutional, and systemic forms of oppression. This section is organized according to four main areas of rights violations: culture, health, security, and justice.

In Chapter 5, “Confronting Oppression – Right to Culture,” we look at the importance of culture in relation to violence in the lives of Indigenous women, girls, and 2SLGBTQQIA people. Colonization has altered Indigenous Peoples’ relationships to their culture and identity through concerted efforts designed to sever these cultural and kin connections. Many of the stories we heard from family members and survivors are rooted in these initial and ongoing attacks on culture.

In Chapter 6, “Confronting Oppression – Right to Health,” and with a holistic understanding of health in mind, we consider the consequences of surviving violence or the loss of a loved one on the health of survivors, family networks, and wider Indigenous communities. Their truths reveal specific ways that the health care system responds to Indigenous Peoples, and how the lack of adequate responses can contribute to further harm.

Chapter 7, “Confronting Oppression – Right to Security” engages the concept of human security as distinct from a more limited understanding of the security state. In this chapter, we look at how the physical, social, and economic security of Indigenous women, girls, and 2SLGBTQQIA people is undermined through issues such as poverty, housing, education, and transportation, and how these factors contribute to violence. We also focus on the challenges that Indigenous women, girls, and 2SLGBTQQIA people face in accessing support to address their security related needs.

In Chapter 8, “Confronting Oppression – Right to Justice,” we discuss the right to justice as it relates to the experiences of the families of missing and murdered loved ones. We also look at what survivors of violence told us about their experiences with police, the court system, and the correctional system. These encounters highlight crucial disconnections between Indigenous Peoples and justice systems, in ways that compromise their basic right to justice.

Throughout Section 2, we also take a series of “deeper dives” into topics that present distinct issues or perspectives and offer opportunities to demonstrate how culture, health, security, and justice can create particular challenges for specific groups, institutions, geographies, or other circumstances, within a distinctions-based approach.

## Section 3 – Healing Families, Communities, and Nations

In Section 3, we return full circle to many of the principles and teachings that provided the foundation for Section 1, with a focus on different models of healing and Indigenous-led best practices.

Chapter 9, “Wellness and Healing,” takes a closer look at the National Inquiry’s own health and wellness approach for family members and survivors, and what we have learned from families and survivors who participated in the National Inquiry who discussed their own healing journeys.

In Chapter 10, “Commemoration and Calling Forth,” we turn to the National Inquiry’s efforts to raise awareness and engage in public education through our Legacy Archive, art outreach, and youth engagement guide. Altogether, we assert, these actions, engagements, and interactions will help reclaim the role of women, girls, and 2SLGBTQQIA people as powerful cultural carriers and sacred knowledge holders who are capable of shaping a safer future for the next generation of Indigenous women, girls, and 2SLGBTQQIA people.

In Chapter 11, “On the Front Lines: Valuing the Insight of Front-line Workers,” we provide a summary of four Guided Dialogue sessions, held in the fall of 2018. These dialogues brought together people of diverse perspectives to discuss best practices and solutions for change. These were not aimed at gathering individual testimony, but instead aimed to bring together front-line service providers, organizers, people with lived experience, Elders, academics, and outreach support to fill in gaps and discuss best practices related to their own backgrounds within specific Inuit, Métis, 2SLGBTQQIA, and Quebec contexts. Over the course of three days, participants identified barriers and discussed what best practices and solutions look like through the lenses of culture, health, security, and justice.

## **Calls for Justice**

We end with our Calls for Justice. These Calls are anchored in human and Indigenous rights instruments, Indigenous laws, and principles shared through the testimonies of family members, survivors, Knowledge Keepers, and Expert Witnesses, along with the National Inquiry’s advisory groups, both internal and external. These Calls for Justice, as their name implies, demand action that reflects, respects, and actively works to create relationships where Indigenous women, girls, and 2SLGBTQQIA people are recognized as rights bearers and have those rights upheld – working to address where justice, seen in the larger context of dispossession and marginalization, has failed.

These Calls for Justice are based on the findings of fact found at the end of each chapter and in the Deeper Dives, where applicable, as well as the overarching findings we lay out at the beginning of Section 4. In addition, they are undergirded by important Principles for Justice – lenses through which all Calls for Justice must be interpreted, applied and implemented, for change to materialize.

Restoring safety for Indigenous women, girls, and 2SLGBTQQIA people is an urgent responsibility for us all. These Calls are not simply moral principles; they are legal imperatives.

## Summary of the Forensic Document Review Project

In this annex, we summarize the important work of the Forensic Document Review Project, which examined 174 police files consisting of 136,834 documents and 593,921 pages. While the Project's important work has been limited by the time frame of the National Inquiry's mandate, our examination demonstrates the important reasons that this kind of work and re-examination must continue, to find justice for those families and survivors still desperately searching for answers.

## Conclusion: An Invitation

One of the things that makes this National Inquiry unique is that we are not investigating a past wrong, but one that is still ongoing and that is getting worse. Acts of violence stemming from the structures of colonization and coupled with racism, sexism, homophobia, and transphobia are not few and far between, but pervasive, immediate, and urgent.

However, this violence is also *preventable* – if Canadians are willing to change. The National Inquiry into Missing and Murdered Indigenous Women and Girls gave Indigenous women, girls, and 2SLGBTQQIA people a national platform to speak their truths, but the real work is only getting started. Ending violence against Indigenous women and girls will require fundamental realignment and transformation of systems and society as they currently exist. The investment into solving this crisis must be equal to or better than the over five hundred years of deficit that have preceded it.

The rights of Indigenous women, girls, and 2SLGBTQQIA people are violated or upheld every day, in small ways and large. The National Inquiry believes that the restoration of these rights is a pressing priority, as a way of transforming harmful encounters Indigenous Peoples have with systems that impact their lives. In particular, governments have a responsibility to protect and promote rights grounded in concepts of culture and identity, of health, of safety, and of justice, which are key to ensuring overall progress in addressing the crisis of missing and murdered Indigenous women, girls, and 2SLGBTQQIA people. They are also key to ending violence and finding holistic solutions to help build the foundation that will restore Indigenous women, girls, and 2SLGBTQQIA people to their power and place.

Documenting these encounters is one way we insist on accountability and a realistic assessment of the ongoing reality of violence in the lives of Indigenous women, girls, and 2SLGBTQQIA people. This is critical to understanding how our society can be transformed from its very roots.

# INTRODUCTION

There is a role in this transformation for government, for industry, for communities, for allies, and for individuals – we all have a part to play. By focusing on specific moments of encounter – moments that form relationships – we offer one path through all of these stories. We have chosen this path because we believe it achieves the mission of the National Inquiry to document in precise and exacting ways the root causes of violence and the ongoing human rights violations against Indigenous women, girls, and 2SLGBTQQIA people. We also hope, however, that the path this report leads to for you, the reader, is one that shows you that change is possible right now.

As you follow this journey through the testimony, you might find you have other questions or that there are other routes you are interested in exploring in more detail yourself. You might find that when you hear about a particular encounter, you want to know more about that family’s entire story, or about how certain issues play out in the health care system, the justice system, or other institutions. We encourage you to follow that path and incorporate what you learn into relationship within your own lives, communities, and societies. Your relationship with the stories included in this report and available online is an encounter – a transformational moment of relationship – of the utmost importance in itself.

## Notes

- 1 Lemkin, *Axis Rule in Occupied Europe*, 79; 82-89; 89.
- 2 *Ibid.*, 79.
- 3 *Ibid.*
- 4 Feierstein, “Defining the Concept of Genocide,” 15.
- 5 *Ibid.*
- 6 United Nations, *Convention on the Prevention and Punishment of the Crime of Genocide*, Article II.
- 7 Schabas, *Genocide in International Law*, 46.
- 8 Bjørnland, Markuson, and Mennecke, “What Is Genocide?” as cited in Feierstein, “Defining the Concept of Genocide,” 12.
- 9 Semelin, “Around the ‘G’ Word,” 27.
- 10 Feierstein, “Defining the Concept of Genocide,” 14.
- 11 *Ibid.*
- 12 Krotz, “A Canadian genocide?”
- 13 Woolford and Benvenuto, “Canada and Colonial Genocide,” 375.
- 14 *Ibid.*
- 15 Krotz, “A Canadian genocide?”
- 16 Palmater, “Sexualized Genocide.”
- 17 Palmater, “The Ongoing Legacies.”
- 18 Fontaine and Farber, “What Canada committed against First Nations.”
- 19 Woolford and Benvenuto, “Canada and Colonial Genocide,” 380.
- 20 Danny P. (Membertou First Nation), Part 1, Statement Volume 69, Membertou, NS, pp. 2, 4.
- 21 Native Women’s Association of Canada, “What Their Stories Tell Us.”
- 22 Pearce, “An Awkward Silence.”
- 23 Royal Canadian Mounted Police, “Missing and Murdered Aboriginal Women.”
- 24 *Ibid.*
- 25 Mahony, Jacob, and Hobson, “Women and the Criminal Justice System.”
- 26 TAKEN, “About the series.”
- 27 TAKEN, “Infographic.”
- 28 Boyce, “Victimization of Aboriginal People in Canada, 2014.”
- 29 Bruser et al., “Nearly half of murdered Indigenous women.”
- 30 Blaze and McClearn, “Prime target.”
- 31 Anaya, “Statement upon Conclusion of the Visit to Canada.”
- 32 Boyce, “Victimization of Aboriginal People in Canada, 2014.”
- 33 Conroy and Cotter, “Self-reported Sexual Assault in Canada, 2014.”
- 34 Canada, Public Safety Canada, *National Action Plan to Combat Human Trafficking*.
- 35 National Aboriginal Consultation Project, *Sacred Lives*.
- 36 Native Women’s Association of Canada, “Boyfriend or Not.”
- 37 Bucik, “Canada: Discrimination and Violence,” 4.
- 38 Pyne et al., “Barriers to Well-Being.”
- 39 Boyce, “Victimization of Aboriginal People in Canada, 2014.”
- 40 Kohkom (Piapot First Nation), Part 1, Statement Volume 122, Saskatoon, SK, p. 30.
- 41 Bernice C. (Sagkeeng First Nation), Part 1, Public Volume 15, Winnipeg, MB, p. 51.
- 42 Tamara S., Part 1, Public Volume 15, Winnipeg, MB, pp. 51-52.
- 43 Danielle E. (Kawacatoose First Nation), Part 1, Public Volume 31, Saskatoon, SK, p. 117.
- 44 Canada, Crown-Indigenous Relations and Northern Affairs Canada, “Terms of Reference for the National Inquiry.” See also, National Inquiry into Missing and Murdered Indigenous Women and Girls, *Legal Path, Rules of Respectful Practice*, available at [www.nmiwg-ffada.ca/files/legal-path-rules-of-respectful-practice.pdf](http://www.nmiwg-ffada.ca/files/legal-path-rules-of-respectful-practice.pdf).

- 45 While the term “First Nations” is relatively new, the original Nations of this land existed before colonial contact and continue to exist today, despite the Canadian government’s intentional assimilation policies (particularly through the *Indian Act*) that fractured and displaced them. This was an intentional effort to assimilate and therefore annihilate Indigenous Nations as Nations.
- 46 The Inuit are an Indigenous circumpolar people found across the North. Most Inuit live in Inuit Nunangat – the land, water, and ice that make up the Canadian Inuit homeland. This homeland is made up of four regions: Inuvialuit, in the western Arctic; the territory of Nunavut; Nunavik, in northern Quebec; and Nunatsiavut, in northern Labrador. Many Inuit also live in urban centres such as Edmonton, Winnipeg, and Montreal. The word “Inuit” means “people” in Inuktitut, which is the umbrella name for many related dialects spoken by Inuit, and is used to refer to three or more people. The word “Inuk” refers to an individual person and Inuuk refers to two.
- 47 The Métis emerged as a distinct people or Nation from the unions of European men and First Nations women during the course of the 18th and 19th centuries. Métis people now live throughout Canada. The traditional Métis language is Michif, although many Métis are also fluent in, or grew up speaking, other European or First Nations languages.
- 48 For more information on public inquiries, see the Frequently Asked Questions Resource created by the Legal Strategy Coalition on Violence Against Indigenous Women (LSC) at <https://www.leaf.ca/lsc-resource-on-public-inquiries/>.
- 49 <http://www.mmiwg-ffada.ca/submissions/>.
- 50 Wilson, *Research Is Ceremony*, 20.
- 51 Greg M. (Frog Clan, Fort St. James), Part 1, Public Volume 8, Smithers, BC, p. 16.
- 52 Melanie D. (Mikisew Cree First Nation), Part 1, Public Volume 21, Edmonton, AB, pp. 56-57.
- 53 Canada, Crown-Indigenous Relations and Northern Affairs Canada, “Addressing the Interim Report.”
- 54 Terry L. (Kaska Dena, Crow Clan), Part 1, Public Volume 3, Whitehorse, YT, p. 13.
- 55 As of March 7, 2019.
- 56 The First Nations Child and Family Caring Society of Canada, “I Am a Witness.”
- 57 Dr. Cindy Blackstock (Gitksan), Part 3, Volume 10, Toronto, ON, pp. 233–234.
- 58 Canada, Crown-Indigenous Relations and Northern Affairs Canada, “Addressing the Interim Report.”
- 59 Ibid.
- 60 Canada, Status of Women Canada, “About Missing and Murdered Indigenous Women Commemoration Fund.”
- 61 Canada, Crown-Indigenous Relations and Northern Affairs Canada, “Addressing the Interim Report.”
- 62 Ibid.
- 63 Ibid.
- 64 Voices-Voix, “Sisters in Spirit – What Happened.”
- 65 For the National Inquiry’s full written submission to the Supreme Court of Canada, called a “factum of intervenor,” see [https://www.scc-csc.ca/WebDocuments-DocumentsWeb/37769/FM110\\_Intervener\\_National-Inquiry.pdf](https://www.scc-csc.ca/WebDocuments-DocumentsWeb/37769/FM110_Intervener_National-Inquiry.pdf).
- 66 Canada, Crown-Indigenous Relations and Northern Affairs Canada, “About the Independent Inquiry.”
- 67 Nahanni Fontaine (Ojibway, Sagkeeng First Nation), Part 1, Public Volume 15, Winnipeg, MB, p. 76.
- 68 World Health Organization, “World Report on Health and Violence.”
- 69 Newfoundland and Labrador, “Types of Violence and Abuse.”
- 70 Tuhiwai Smith, *Decolonizing Methodologies*, 25.
- 71 Galtung, “Cultural Violence,” 1.
- 72 Kroeker, “Structural Violence in Canada.”
- 73 Curtin and Litke, *Institutional Violence*, xiv.
- 74 Kuokkanen, “Globalization as Racialized, Sexualized Violence,” 221–22.
- 75 Galtung, “Violence, Peace, and Peace Research,” 17.
- 76 Dr. Robyn Bourgeois (Cree), Mixed Parts 2 & 3, Public Volume 17, St. John’s, NL, p. 42.
- 77 Kovach, *Indigenous Methodologies*.
- 78 Bernice C. (Sagkeeng First Nation), Part 1, Public Volume 15, Winnipeg, MB, p. 67.
- 79 Gwenda Y. (Dakota, Standing Buffalo Dakota Nation), Part 1, Public Volume 27, Saskatoon, SK, p. 5.
- 80 Sarah N. (Inuit, Inukjuak), Part 1, Public Volume 64, Montreal, QC, pp. 4–5. In Inuktitut, a single person is referred to as Inuk, not Inuit. However, we have chosen to use “Inuit” in the end notes to designate family members’ and survivors’ identities to be as clear as possible.
- 81 Sarah N. (Inuit, Inukjuak), Part 1, Public Volume 64, Montreal, QC, pp. 13–14.
- 82 Lizzie C. (Inuit, Kuujuaq Rapid), Part 1, Public Volume 64, Montreal, QC, p. 19.
- 83 Nicole B. (Métis), Part 1, Public Volume 100, Vancouver, BC, p. 40.



## Establishing a New Framework

This section of the *Final Report* establishes a framework for the experiences we heard about from family members, survivors, and other witnesses as part of the National Inquiry’s Community, Institutional, and Expert and Knowledge Keeper Hearings. We acknowledge that, as others have stated, “the social context of racism, colonialism, and sexism produce conditions of systemic and targeted forms of violence and abuse against Indigenous women.”<sup>1</sup> For these reasons, we maintain it is necessary, first, to establish a framework that highlights how most witnesses discussed their experiences, or the experiences of their loved ones, in the context of failures to obtain basic human rights, and failures of systems, institutions, and individual service providers to offer support based on the principles of respect and of good relationships. These relationship-forming moments, or “encounters,” as we sometimes refer to them, provide an important window into understanding how Indigenous women, girls, and 2SLGBTQQIA<sup>2</sup> people are targeted for violence.

But to understand where we find ourselves today, we also need to take a step back to examine how this crisis was created within the specific realities of colonialism, racism, and misogyny in a historical context. This historical context negated the important roles, responsibilities, and rights held by Indigenous women and gender-diverse people in their own com-



munities and Nations, and actively sought to disempower women through the application of state-sanctioned violence on a number of different levels. In addition, laying down these important roots helps to convey how the structures and processes of colonization, which are often relegated to the past, are very much factors today.



*This wooden star blanket is a collaborative community art piece. It is a mosaic made up of 128 individual tiles, each one hand-painted by survivors of violence and families of missing and murdered Indigenous women, girls, and 2SLGBTQQIA people during a statement-gathering event in British Columbia. It is a symbol of the importance of centring the voices of survivors and of families who shared their truths with the National Inquiry.*

This framework also provides insight into how Indigenous women, girls, and 2SLGBTQQIA people experience discrimination and violence in

a way that is intersectional. In other words, this means that the structure of oppression, for those who are targets of violence, includes many factors that influence the outcome of their lives and those of their families.

We look to the past, and to these intersectional systems of oppression as they were developed, as a way to look toward how to transform the present and the future, engaging with tools that promote basic human rights in key areas such as culture, health, security, and justice, within Indigenous understandings. These understandings are not uniform, and neither are they static. Instead, they develop in relationship to those rights-bearers – Indigenous women, girls, and 2SLGBTQQIA people – to whom this report is devoted. The themes we address through a rights lens are those most represented in the various systems and institutions people reported dealing with, as well as those systems, institutions, and people perceived to have most contributed to harm.



*Commissioner Audette hugs a participant during hearings in Regina, Saskatchewan.*



Regardless of the context or particularities of these understandings, Section 1 of the *Final Report* makes clear that solutions that up to now have been imposed by outsiders, or by the state, must in fact rest with Indigenous women, as defined by themselves, as bearers of Indigenous and human rights. They must also begin with a recognition of how the past translates into the present to generate harm for future generations.

In this way, Section 1 of the *Final Report* is a platform and a starting point for developing a more comprehensive, person- and community-centred understanding of the crisis of violence we explore in its contemporary form in Section 2. It represents a new and unique framework for approaching lived experience, as described in the testimonies we heard, as a starting point for change and transformation.





## Centring Relationships to End Violence

### Introduction: Building a Solid Foundation

Throughout the National Inquiry, we heard stories of loss and grief. We listened to what happens when an Indigenous woman, girl, or 2SLGBTQQIA person goes missing or is murdered, and heard about the impact of that loss on those who surrounded them. These people mattered. They were mothers, daughters, sisters, aunties, grandmothers, nieces, cousins, and families of the heart – and their absence has left scars that no amount of time can ever heal.

We honour the brave families and loved ones and those who survived to tell their stories, just as we honour those who no longer walk among us, by sharing the truths they have gifted to the National Inquiry in the following pages. These truths offer powerful teachings from those who know best the steps that must be taken to end violence in the lives of Indigenous women, girls, and 2SLGBTQQIA people: the Indigenous families, survivors, Knowledge Keepers, Elders, grandmothers, and activists who have learned these teachings through experience.

In her presentation to the National Inquiry, Knowledge Keeper Mavis Windsor, a member of the Heiltsuk First Nation of Bella Bella, British Columbia, and the social development director of her community, made clear a message delivered many times over the course of the Truth-Gathering Process: “We are the legacy. Despite the trauma our communities continue to live through, we are capable of addressing the violence against women in our communities. The solution is within us – within our communities.”<sup>3</sup>

Over the course of our work, the National Inquiry learned much about the distinct ways violence shapes the lives of First Nations, Métis, and Inuit women, girls and 2SLGBTQQIA people across the country, and the creative and courageous strategies these same people are using



to fight for change. While their stories demonstrate the importance of understanding the ways that geography, culture, tradition, and many other factors must be accounted for in devising meaningful recommendations and community-led change, the stories of those who shared their truths also gave voice to one shared teaching over and over again: in order to understand the causes of violence and to make the changes necessary to ending violence, we must recognize the power and responsibility of *relationships*.

In the words of Expert Witness Sandra Montour, a Mohawk woman and executive director of Ganohkwasra Family Assault Support Services, where she has worked for over 30 years in providing support to Indigenous women and their families experiencing violence:

[We] hav[e] to build relationships, and we have to because our livelihood depends on it. Our livelihood depends on it and the lives of our women in our community depend on it, so we have to be incredible fighters, we have to be incredibly diplomatic, we have to be able to problem solve and develop relationships.<sup>4</sup>

“WE ARE THE LEGACY. DESPITE THE TRAUMA OUR COMMUNITIES CONTINUE TO LIVE THROUGH, WE ARE CAPABLE OF ADDRESSING THE VIOLENCE AGAINST WOMEN IN OUR COMMUNITIES. THE SOLUTION IS WITHIN US – WITHIN OUR COMMUNITIES.”

Mavis Windsor

In the following pages, we follow these two important teachings. We centre the voices of First Nations, Métis, and Inuit families, survivors, and others whose truths contain wisdom and guidance on ending violence that has been ignored or actively silenced for far too long; and, as we listen to this wisdom and guidance, we focus specifically on those teachings about how, through relationships, we can come to understand the underlying causes of violence and identify and implement the steps that must be taken to end violence.

We all have an opportunity to transform relationships that continue to harm Indigenous women, girls, and 2SLGBTQQIA people, but this work is not easy, and it is especially difficult for those like Mavis, Sandra, and the many other strong Indigenous people we will hear from in the following pages who work to create change within relationships that continually deny their agency and rights.

As Marilyn W., a First Nations woman who shared her story about losing her sister to violence, observed:

Each and every one of us as individual people, every morning we wake up, we have a choice that we could bring light into this world or we can feed that – that darkness that we have to live with every day. And I’m trying, and it’s real hard not to sit here and be angry. It’s really hard not to have hate in my heart because my culture is about equality and love. This is about the genocide of our people. This just isn’t about Indigenous women. This is a spiritual battle.<sup>5</sup>



To emphasize the seriousness of this battle, and the importance of the solutions and recommendations offered by the families, we look to the protections afforded to Indigenous women, girls, and 2SLGBTQQIA people as bearers of inherent Indigenous and human rights. Framing the teachings about relationships offered to the National Inquiry in terms of Indigenous and human rights in the recommendations at the end of this report reminds us that change can no longer rest on the political or moral good will of governments. Implementing the changes demanded throughout this report is the legal responsibility of Canadian governments, their institutions, and their representatives in ensuring that the rights of Indigenous women, girls, and 2SLGBTQQIA people are no longer abused and ignored. These changes also require the full engagement of Indigenous communities and service providers, working in partnership to achieve better outcomes.

## Why Start with Relationships?

Guiding our approach to analyzing the many truths collected by the National Inquiry is a teaching that was shared over and over again during the Truth-Gathering Process: relationships are key to both understanding the causes of violence and to making changes to end violence in the lives of Indigenous girls, women, and 2SLGBTQQIA people. Shawn Wilson, an Opaskwayak Cree researcher from northern Manitoba, explains that relationships are central to Indigenous ways of knowing. In this world view, we are each our own person, but we are also defined by our relationships to others. We are one person's mother, another person's daughter, and a third person's family of the heart. We are connected to our ancestors, to the land where we come from, and to future generations. In short, Wilson argues, we are not just one person; we are the sum of all the relationships that shape our lives.<sup>6</sup>

The importance of relationships to the families and survivors who shared their truths with the National Inquiry is evident in the way many chose to begin their story about a missing or murdered loved one by naming the many relationships they shared with others, as in the case of Percy P., who began his story about his 37-year-old daughter, Misty P., who has been missing since 2015, with the following words:

[Misty] was raised around the drum, songs, ceremony, traditional living off the land... And so, Misty walked that road. She was a pipe holder, Sundance pipe holder. She danced Pow-Wow. She was a good daughter, sister. She was a decent human being... Wherever she was at, she found people... She had a lot of promise. She brought us to the Canadian Aboriginal Music Awards, and we won the top hand drum for the year, and it was quite an honour for us. And, she was the one that was orchestrating all of that. Nothing like that has happened since she's been gone. Our organizer is gone; taken away.<sup>7</sup>

In an Inuit context, as well, Inuit telling their truths spoke of their loved ones with loving memories, usually beginning with "My sister, beautiful sister..." or "My daughter, my beautiful



daughter...” and loving memories of their personalities and of their lives. The death of loved ones and the experience of violence and tragedy brought out a great sense of loss, for which the consequences meant ongoing struggles for personal health and well-being. The experiences that missing and murdered Inuit women and their families had, and the encounters they had in their attempts to regain control of their lives, to become healthy and well, to gain justice and safety, determined the outcome of their lives.



*Elder Rebecca Veevee lights the qulliq at a hearing in Quebec City, Quebec.*

Like Percy P. and the many others who shared their truths with the National Inquiry, family members insisted that to begin to understand and honour those whose lives were cut short because of violence requires a careful accounting of all the relationships that shaped a person’s life and that they, in turn, played a part in shaping. Talking about the love, care, wisdom, and happiness Misty brought to her relationships with her family and friends helps others

see what was lost when she went missing; it also, however, puts in stark contrast those other relationships where, instead of being cherished and loved, Misty and others like her were controlled, ignored, and abused by those who chose to act violently toward her or those who responded to her calls for help with indifference and judgment rooted in racist and sexist beliefs about her worth as an Indigenous woman.

The truths that family members and survivors shared also pointed to the relationships that shaped the lives of their missing and murdered loved ones as opportunities for learning, understanding, and transformation. They emphasized the importance of strengthening bonds and developing strong ties with one another to be better able to protect each other. In his writing about Indigenous-settler relations, Cree researcher Willie Ermine talks about relationships as “spaces of engagement” to emphasize the opportunities that exist within relationships to work out the similarities and differences between the various ways of knowing that may be held by those involved.



When we consider relationships as spaces of engagement, Ermine explains, we pay attention to the words, actions, and behaviours that exist on the surface. These words, actions, and behaviours, however, also tell us something about the attitudes, beliefs, and contexts that run below the surface and that function as a “deeper level force” in shaping the ways of knowing and being that may be present in relationships. To make lasting change to relationships so that they reflect a particular set of values – for instance, those that respect the rights of Indigenous women, girls, and 2SLGBTQQIA people – requires doing the more difficult work of confronting and changing the “deeper level force” so that the underlying context also reflects these values.<sup>8</sup>

In their testimonies, family members and survivors talked about the need to change the underlying beliefs and contexts that are the systemic or root causes of violence and that allow that violence to happen.

Another reason we centre relationships in the following pages is that they reveal to us how these underlying or systemic beliefs translate into the day-to-day realities of the lives of Indigenous women, girls, and 2SLGBTQQIA people in troubling ways. As many of the relationships described by families and survivors illustrate, Indigenous women, girls, and 2SLGBTQQIA people are denied the power to participate as equals in defining the terms upon which the relationships that shape their lives are built.

In her testimony, Cheryl M. talked about how, after months of activism and effort to secure a review of the investigation by the Office of Police Complaints Commissioner into the death of Victoria P., it was only when she was accompanied by a well-respected and connected university professor that government officials responded to her concerns, despite her own position as then-president of the Nova Scotia Native Women’s Association.<sup>9</sup>

In her testimony, Jamie L. H.’s description of the violent, racist, and transphobic treatment she was confronted with from the police demonstrates how, for Indigenous women and 2SLGBTQQIA people, inequality in relationships is often reasserted and expressed not only by dismissive attitudes but also by threats of violence and harm.

It was right near Halloween. . . . And they [the police] began throwing off firecrackers, and I was sort of jumping around; I didn’t know what was going around. I imagine they were trying to frighten me, and they were making disparaging jokes about me; they did a strip search, including, you know, me taking off my brassiere. And of course, I had falsies on, and they were making horrible jokes about that, and tossing them around. And it was just a very humiliating experience.<sup>10</sup>

To challenge the terms of this encounter would be to put oneself at considerable additional risk.

These examples offered by strong and resilient women who have gone on to be powerful advocates for the rights of Indigenous women, girls, and 2SLGBTQQIA people demonstrate how their ability to shape relationships and to engage in relationships on their own terms is limited



by an undercurrent of colonial, patriarchal, racist, and heteronormative beliefs and institutional practices that deems them as unworthy partners in that relationship. For Indigenous women and 2SLGBTQQIA people, inequality in these contexts does not simply mean being ignored or being prevented from participating in a debate; it often means becoming targets for violence within relationships that are forced upon them.

## Encounters That Make a Difference

In describing those relationships that were important to understanding the violence experienced in their own life or the life of their missing or murdered loved one, families and survivors drew attention to specific moments in those relationships that they felt were especially important for understanding the circumstances, causes, impacts, or details of their loved one's disappearance or death or of the violence they themselves had experienced – what we have characterized as “encounters.”

We use the concept of “encounter” to reference a broad range of moments where relationships are formed. These encounters represent a time and space through which the vision, values, and principles that shape families, communities, and individual lives are created. We see these as transformational moments, too; in other words, these encounters can lead the way to harm or to healing, depending on the context. To engage in encounters like these represents an important responsibility and an opportunity to shape the terms of a relationship in a good way.

In sharing her experience as a survivor of violence, Anni P. pointed to a “pivotal moment” when her partner's actions stopped Anni from harming herself, and in doing so also fundamentally shifted Anni's belief about the possibility of relationships being loving rather than violent.

There was a pivotal moment when I wanted to do myself in. She [Anni's partner, Kim] stayed with me, she would not let me leave the house, because if I got out of the house, I would – that was it. Because she's bigger and stronger than me, thank God, she didn't let me out. When I woke up in the morning, Kim was laying in front of the door because she didn't want to let me out of the bedroom. She was protecting me like a sentinel, waiting, like you're not getting out of here. And, in that moment, it was pivotal for me. Someone loved me with everything they had.<sup>11</sup>

For Darlene G. – a First Nations woman and survivor of childhood abuse and sexual violence who shared her truth at the Community Hearing in Membertou, Nova Scotia – a conversation with her uncle in which she learned about her mother's history of abuse within the residential school system is the point at which her “life really alters,” because it is in this conversation with her uncle that she is given a new way to understand both her own and her mother's struggles with addiction – an understanding that helps her down a path of healing. She explained:



My life really alters at [Uncle V.]. He's been my rock, you know. He sat at a table one day. At my Auntie [R.]'s funeral, we were all sitting out in the back of my Uncle [L.]'s house and we're around the table and I was clean and sober. I was five years. And he looked at me, and he says, "Do you want to know why your mother was the way she was with you? Do you want to know why your mother was the way your mother was, no feeling, cold? Because she was raped by the priests." I couldn't understand that, but I could understand why she was the way she was, why she drank, she – the way she drank. Why I used and drank the way I used, it's because of systemic abuse, generational abuse, the government trying to change who we are.<sup>12</sup>

In sharing these significant moments in relationships important to them, Anni and Darlene offered teachings on ways of engaging in relationships that had a profound impact on their own healing journey from violence. In the following pages, we include similar accounts of specific moments within relationships that families and survivors pointed to as important teachings about what healing relationships can look like, and how a single conversation or action may be a powerful opportunity to shape the terms of a relationship in a good way. These teachings provide models upon which many of our Calls for Justice are based.



*Commissioner Eyolfson shares a hug with Charlotte Wolfrey in Regina, Saskatchewan.*

Unfortunately, the encounters that many family members described during the National Inquiry show that the responsibility to shape a relationship has been used to harm, rather than to honour, Indigenous women, girls, and 2SLGBTQQIA people. Most often, when families, supporters, and survivors drew attention to specific interactions within relationships that they saw as holding distinct significance for understanding violence in their own or their loved ones' lives, they pointed to moments that, in their view, made violence more likely to happen. In many cases, these moments took place during a first encounter with someone to whom they or their loved one had turned for support.



Not surprisingly, it is these examples that families stressed because – as we will see throughout the report – they provide compelling information about what led to the violence or other harm they or their loved ones endured, as in the case of the truth shared by Barbara H., regarding the death of her 17-year-old daughter, Cherisse H. In her testimony, Barbara drew attention to an encounter she had with Cherisse’s child welfare worker a few weeks before Cherisse’s death.

She [Cherisse] was – on the street and she was addicted to drugs. And, there was one time there when she said to me, “Mommy, I need help.” This was after she had her son. She was still doing drugs, and then she finally realized that she wanted to get the help she needs so she could be a good mom.

So, she said to me that she needed help, if I could phone her CFS [Child and Family Services] worker so they could place her in a locked facility so she doesn’t have to run to the streets to do drugs. I guess she used drugs, too, to cope because they took her son right at birth.

So, I phoned her worker, and her worker said to call back. So, I called back and she said there’s no facilities that could take Cherisse, and I guess that she – I guess she felt let down or – you know?

So, she went back to the street, and a week after that, that’s when – couple weeks after that, that’s when they found her body.<sup>13</sup>

After being missing for a few weeks, Cherisse’s body was discovered in July 2009 by a construction crew. Barbara is still looking for answers to understand what happened to her daughter.

For Barbara, an important part of understanding the violence that later took her daughter’s life rests in knowing why she was not able to access the services she needed to address her drug and alcohol addiction at the crucial moment when Cherisse reached out and was ready for help. Barbara reflects on a much different fate for her daughter, had such services been available. “I know if she would have got the help she needed, she would have been a really, really good mom to her son because she loved that little boy so much.”<sup>14</sup>

As you will see in the following pages, many families are keenly aware of similar moments such as that shared between Barbara and the CFS worker, where a single encounter that holds the potential of preventing or at least decreasing the likelihood of violence is squandered or lost – often with significant consequences.



In her testimony, Carol W., a First Nations woman who is deaf, talked about the harm caused by her first encounter with the police when she reported her 20-year-old daughter, Karina W., missing.

July 20th, 2010, is the day I went to the police station by myself without an interpreter. I knew I needed help to locate my daughter. When I arrived, I took a picture and a note to give to the police. I handed my note to the officer. He just looked and acted like it was not important. He ignored me. I was so angry as he was not helping me. I banged my hand hard on the counter. This is when he looked at me and handed me a witness statement.

I had no idea what I was to do with that paper. No one explained what I needed to write on that green paper. I looked for the officer to help me, but he was back on his computer, acting like I was not important or what I needed was not important. Once again, I slammed my hand hard on the desk. Finally a big man in a white shirt came and tried to help me. Once I was done with the paper, I gave it to the big man in the white shirt and I left.

I left the police station very angry and upset. The next day, I went back to the police station with an interpreter and filled out and completed my statement. Without an interpreter, communication was difficult.<sup>15</sup>

In failing to provide Carol with an interpreter, deliberately ignoring her as she stood at the counter in the police station, and handing her unfamiliar paperwork to complete without providing instruction, the officer used this initial meeting with her to establish a relationship in which, as Carol put it, “I was not important or what I needed was not important.”

Rather than recognizing the significance of this moment to respond to Carol in the ways most helpful to a woman desperate to find her missing daughter and to establish a relationship that could help facilitate an effective investigation, the officer asserted his position of authority and power over Carol as if to remind her that, ultimately, Indigenous women do not matter to the police and are not worthy of the police’s time and effort. As Carol says, “I felt unheard and dismissed simply because they chose not to hear me [or] help me to locate my daughter.”<sup>16</sup>

**“I WAS NOT IMPORTANT OR WHAT I NEEDED WAS NOT IMPORTANT.... I FELT UNHEARD AND DISMISSED SIMPLY BECAUSE THEY CHOSE NOT TO HEAR ME [OR] HELP ME TO LOCATE MY DAUGHTER.”**

**Carol W.**



Initial encounters that establish a relationship wherein Indigenous women, girls, and 2SLGBTQQIA people, family members, survivors, and others are met with derision, racism, and dismissal by those to whom they reach out for support permeate the stories shared with the National Inquiry. In many cases, these encounters occur at moments when Indigenous people are most vulnerable, as in Cherisse’s case. Almost always, these encounters demonstrate the ways those involved take advantage of that vulnerability to further their own ends or to reassert a system that devalues the lives of Indigenous women, girls, and 2SLGBTQQIA people. They occur when Indigenous women, like Barbara or Carol, engage with someone in a position of authority, such as a police officer or a social worker; and they occur in situations in which, like Cherisse, they are targets of violence. They also occur implicitly when an Indigenous woman is confronted for the first time with a policy, a rule, or a belief built into a particular institution she must navigate that punishes rather than helps her.

Again, in all these situations, the consequences of the actions of those involved are nearly always the catalyst for further violence and harm.

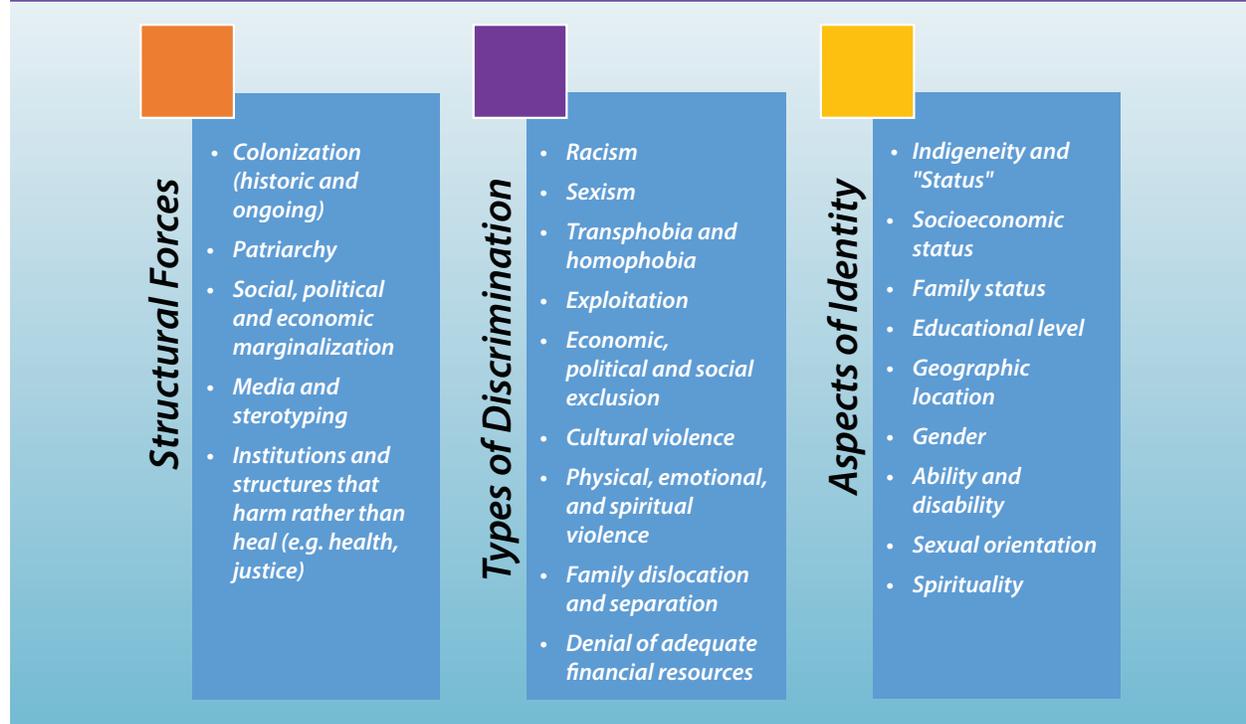
In the following chapters, we follow the lead of families and similarly highlight these important teachings. We often use the word “encounter” to describe these moments in order to signal their importance as a pivotal or distinct moment, which family members or survivors have detailed as the precise conversation, meeting, or event that took place at the beginning of a relationship and that went on to shape that relationship in ways that hold significant consequences for how violence continues within their own or their loved ones’ lives. In her testimony, Dr. Robyn Bourgeois, a Cree professor at Brock University and a survivor of sexual violence and trafficking, offered another way of asking this same question in even clearer terms: “What is the source of the ideas that [make] i[t] okay to murder Indigenous women and girls?”<sup>17</sup>

## An Intersectional Approach to Encounters

All of the stories of encounter we heard took place within relationships that created a particular context or situation. As a result, these relationships must also be conceived broadly, to go beyond the interpersonal and to engage the different systems, institutions, laws, and policies that structure these interactions. To understand how these situations are different for different people, and the potential solutions to issues created within these situations, we draw on the importance of an intersectional approach.



## INTERSECTIONALITY: A SUMMARY OF OVERLAPPING OPPRESSIONS AND IDENTITY MARKERS



Centring the lived experience of those who shared their stories with us represents the core of our analysis. As scholars Olena Hankivsky, Renée Cormier, and Diego de Merich argue, “Centering stories is consistent with any intersectional approach that prioritizes lived experience as a necessary theoretical foundation for the pursuit of social justice.”<sup>18</sup>

American civil rights advocate and leading scholar of critical race theory Kimberlé Crenshaw first coined the concept of “intersectionality” in the late 1980s, and it has gained an important following since. Crenshaw suggested that comparing the lived experiences of Black women in the United States with those of Black men or of white women minimized the level of discrimination that they faced. When people failed to understand how multiple systems, both visible and invisible, oppressed Black women, they also failed to address the ongoing mistreatment of Black women. She recommended a more integrated approach, which she called “intersectionality,” to expose the reality of sexism and racism pervasive in Black women’s encounters with the people, systems, and institutions supposedly developed to help them.<sup>19</sup>

Definitions of “intersectionality” vary, and have evolved to reflect the unique learnings and experiences of Indigenous Peoples. In its broadest terms, however, intersectionality examines more than a single identity marker and includes a broader understanding of simultaneous interactions between different aspects of a person’s social location. For example, rather than using a single-strand analysis of sexual orientation, gender, race, or class, intersectionality challenges



policy makers and program developers to consider the interplay of race, ethnicity, Indigeneity, gender, class, sexuality, geography, age, and ability, as well as how these intersections encourage systems of oppression and, ultimately, target Indigenous women, girls, and 2SLGBTQQIA people.<sup>20</sup> Intersectional understandings reflect a recognition that oppression at the personal and structural levels creates a societal hierarchy, and that this requires policy tailored to the needs of those who experience discrimination.<sup>21</sup>

In other words, in an intersectional analysis, researchers are interested in what the intersections of systems can tell us about power: who holds it, how it is used, and how it impacts various groups.<sup>22</sup> The combination of different systems of oppression against Indigenous women and girls, and including the particular issues faced by 2SLGBTQQIA people in some Indigenous communities, can show us how systems, institutions, and individual actions further target individuals in other areas, including homelessness, poverty, and other circumstances that increase the dangers they may face.

An intersectional approach can also speak to the creation of identities and to oppression historically. As scholars Marika Morris and Benita Bunjun explain, “In order to understand how anybody has come to their current situation, we need to understand the past (history/colonization).”<sup>23</sup> In Canada, this is especially important for both non-Indigenous and Indigenous people when considering colonization and how the lives of Indigenous people continue to be affected by generations of oppressive government policy, which has systematically stripped away the identities of Indigenous women and children through the imposition of the *Indian Act*, residential schools, the Sixties Scoop, and modern child welfare systems, to name a few causes. The systematic racism that Indigenous people in Canada have experienced and continue to experience has had major consequences on outcomes of poverty, substance use, violence, and mental health.<sup>24</sup>

In their testimonies, Indigenous women, girls, and 2SLGBTQQIA people argued that oppression against them is primarily based on colonialism, racism, and gender, but that other factors also come into play. Families, speaking for loved ones, reported many encounters with service providers in the aftermath of a death or disappearance that also reveal assumptions about families based on factors such as education, income, and ability, in addition to Indigeneity.

Within these testimonies, there are also distinctive bases of discrimination, depending on which Indigenous Nation or group’s experience is in play. In other words, Inuit, Métis, and First Nations women do not always face the same kind of discrimination or threat, even though all are Indigenous. In addition, non-binary people, including those who identify as 2SLGBTQQIA, may encounter individual, institutional, and systemic violence differently.



# Deidre M.

## “A beautiful person, inside and out.”

Deidre's daughter, Becky, and mother, Charlotte, both came to share about Deidre as part of the National Inquiry's Truth-Gathering Process. Here are some of the ways they described this young Inuk woman, who was only 21 when she died.

“Deidre had an amazing sense of humour, an amazing smile. She was feisty, full of energy. She had beautiful, long hair that she would give a little flick.... She was a super good cook, especially baking. She made the best cream puffs and doughnuts, and she made real good onion rings. We all probably got weight on still from her making those things. She was always experimenting and trying new things.

She let her kids help her make bread and cookies. And when she was younger, her room was always spic and span. Everything was tidy. But after she had kids, the most important thing to her was her children's happiness, and her house was lots of times messy. And she was really too busy living ... to worry about what her house looked like.

And Deidre made crafts. She was learning to sew grass, which is a traditional craft of Rigolet, and we are well-known for our grass work.... And she loved to play broomball, and she was into other sports. She lived on the land. Fishing, berry picking, gathering eggs, getting wood. You name it, she loved doing it. She lived a complete Inuit lifestyle.”<sup>I</sup>

– Charlotte W., mother of Deidre M.  
From the National Inquiry's Community Hearing  
in Happy Valley-Goose Bay,  
March 7, 2018.

“My mother was a beautiful person inside and out. She was a mother, a daughter, a friend, a family member to many. I know she was loved. I hear people speak so fondly of her. She was easygoing and loved the outdoors. I remember going to the cabin with her when I was a child and my fondest memory was just being loved.

Her friends all told me that she had a great sense of humour and her smile would brighten a room. I know she had great love for those around her....

I've always said my mother is more than what happened to her. She was a beautiful person. She was a beautiful person we were blessed with to call Mom if even for a short period. I miss her every day.”<sup>II</sup>

– Becky M., daughter of Deidre M. From the  
National Inquiry's Community Hearing in Membertou,  
October 31, 2017.

I Charlotte W. (Inuit, Rigolet), Part 1, Public Volume 52, Happy Valley-Goose Bay, NFLD, pp. 3-4.

II Becky M. (Inuit, Rigolet), Part 1, Public Volume 18, pp. 97, 103.



For instance, let us look to the story of Inuk woman Deidre M., born in 1971. Deidre and her siblings were raised in Rigolet, Nunatsiavut. Deidre’s stepfather sexually abused her when she was a young child, and then later on Deidre experienced physical and emotional abuse from her partner and father of her children. In 1993, Deidre’s partner shot and killed her, then killed himself, while their four children hid in the bedroom.

In the aftermath of Deidre’s death, her mother, Charlotte W., began advocating about the harsh realities of inadequate services in the North. In their small village of 300-plus people, there were no shelters, counselling, or women’s services to help Deidre leave her husband safely. Policing was also a serious concern. Deidre had called the police repeatedly on the day she died, but the police told her they couldn’t intervene until her partner actually did something. However, the police officer was not in Rigolet. The nearest police officer was in Happy Valley-Goose Bay and it would take at least one to three hours by plane to come to her aid, or six hours by snowmobile.

After a long struggle by people in the community, Rigolet now has a Royal Canadian Mounted Police (RCMP) detachment and a women’s shelter. However, Inuit women and 2SLGBTQQIA people continue to face unique challenges related to violence because of the isolation, economic marginalization, and poor relationship with the RCMP in these remote areas. In addition, Deidre’s childhood abuse as a form of intergenerational trauma and as rooted in the colonization of Inuit by the Government of Newfoundland and Labrador makes clear that her life had been the subject of intersectional oppression, as lived through these encounters and experiences.

“I’VE ALWAYS SAID MY MOTHER IS MORE THAN WHAT HAPPENED TO HER. SHE WAS A BEAUTIFUL PERSON. SHE WAS A BEAUTIFUL PERSON WE WERE BLESSED WITH TO CALL MOM IF EVEN FOR A SHORT PERIOD. I MISS HER EVERY DAY.”

Becky M.



# Jennifer H. and Julia H.

## Sisters much missed

Cindy H. came to the National Inquiry to share the story of her two sisters, Jennifer and Julia.

While she told the Inquiry the difficult details of their deaths, she also shared what made them special and loved.

Cindy was close with both of her sisters. She remembers when Jennifer turned 18, and started to spend more time with Cindy and her mother, sitting outside in their backyard.

We had a great time, you know? She used to always make us laugh all the time.... She used to always curl her hair like my mom, eh, back in the day. They had these big roll curling irons, big curls like this, and she'd be way more hair, you know. She used to always like to look nice with her hair. That's all I remember her as, just having a good old time with her all the time, and I used to always stick up for her all the time, or she'd stick up for me!

Cindy's sister Julia, who passed away six years ago, had been trying to escape a violent relationship and stayed for a while at a housing unit for abused women. Despite her own struggles, she took Cindy in when Cindy needed it most.

When I got thrown out of my apartment with a couple of my kids, she kept me in that — in that apartment block, what the shelter gave her. She gave us a bed on her floor for a couple months and then I found my own place with my kids. She was a good woman. She would have been a good grandma. I wish she was still alive.<sup>II</sup>

Most of all, Cindy told the Inquiry how much she missed them, and how things need to change.

They were good; they were good women at heart when they were alive.... Julia used to always listen to me and Jennifer used to always hang around with me all the time.... I wanted to be here for my two sisters, and for myself, and for my sisters' kids, you know? I'm happy I came, and my daughter is here. I just hope people will listen to my story and maybe, maybe they make a change.<sup>III</sup>

— Cindy H., sister of Jennifer H. and Julia H.  
From the statement gathered in Winnipeg,  
October 20, 2017.

- I Cindy H. (Métis), Part 1, Statement Volume 53, Winnipeg, MB, p. 12.
- II Cindy H. (Métis), Part 1, Statement Volume 53, Winnipeg, MB, p. 21.
- III Cindy H. (Métis), Part 1, Statement Volume 53, Winnipeg, MB, pp. 21, 22.



In a second example, Métis witness Cindy H. shared how entrenched poverty and marginalization made her sisters Julia and Jennifer into targets.

Julia H. was just shy of 21 when she was found naked and unresponsive on Maryland Street in Winnipeg, Manitoba. Someone had mixed diabetic pills into her drink the night before, and she was brain dead by the time her sister Cindy and her mother arrived at the hospital the following day.

Twelve years later, Cindy’s other sister Julia was also found on Maryland Street in the middle of winter. She was outside her abusive partner’s apartment, frozen to death. She had been dragged outside in the night, and her body was covered in bruises. Despite this, in both situations, police said there wasn’t much they could do. No one was charged in either case.

As we will discuss later in this report, both federal and provincial governments have historically refused responsibility for the Métis. This has entrenched many Métis families in poverty. Many Métis women and girls have been forced into some of the most dangerous parts of cities, with almost no resources for support—and in this case, no justice for their families left behind.



**Metis Moccasins, Lorraine Richard, AF A2019-0007.1**  
*These moccasins were made by the late Irene Richard, who was taken from her family too soon. Lorraine remembers the time she spent learning this master craft with her mother and grandmother: “The connection made with these two strong women came with stories and using our language.... [These] are times I remember with love and calmness.”*



# Michelle S.

## “The one I looked up to”

When Michelle first went missing, the newspapers didn't even use her name. Her family came to the National Inquiry to tell us about the strong, loving, driven person Michelle really was.

“My daughter, Michelle, she was 24 when she went missing and she was a beautiful child. Like, from when she was a baby, she was just always smiling. And then when she got used to being a big sister, she just – she loved Dani to pieces and same with Tony. She was like the second mom when I wasn't there, you know....

She deserved better, you know. And you can't question fate. I know that. I guess I'm just – I'm here also just to remind [you] my daughter wasn't just a working girl.... She was loved, you know. She has a lot of people that still cry for her, you know.”<sup>i</sup>

– Mona S., mother to Michelle S.  
From the National Inquiry's  
Community Hearing in Metro Vancouver,  
April 6, 2018.

“My oldest sister, Michelle, it's hard to put into words what she was and what she meant to my family and I. She was intelligent, caring, persistent, resilient, beautiful, kind, and extremely soft-hearted. She was also so much more than that.

She was my second mother. She was the one who gave me haircuts, the one who made me dinner when I was hungry, the one who I looked up to, the one who made my birthday special, the one who loved and looked after me when no one else was around to. She loved butterflies and the Little Mermaid. She wanted to be a stylist. She wanted to be somebody.

Around my 10th birthday my mother succumbed to the pull of addiction once more. She was not around much during this time and it was up to Michelle to take care of me. She did the best she could. She did a fantastic job.... Michelle [S.] was my sister. I miss her every day.”<sup>ii</sup>

– Anthony S., brother to Michelle S.  
From the National Inquiry's Community  
Hearing in Metro Vancouver,  
April 6, 2018.

I Mona S. (Wuikinuxv Nation), Part 1, Public Volume 98, Metro Vancouver, BC, pp. 7-8.

II Anthony S. (Wuikinuxv Nation), Part 1, Public Volume 98, Metro Vancouver, BC, pp. 38 and 40.



In a third case, a First Nations woman named Michelle S., living in Burnaby, British Columbia, had different obstacles to accessing the services she needed. For example, when her mother divorced her abusive father, her father had a legal obligation to provide child support. However, the worker assigned to her family refused to help them collect this child support. Michelle's mother, a residential school survivor, developed significant addictions, and left an 18-year-old Michelle to try to support the family. Child Protection Services became involved, and the younger children were separated into different homes. Michelle, however, since she was too old for the child welfare system, did not receive any support.

One of the biggest challenges for Michelle was in getting support from her band, the Wuikinuxv Nation, to join an esthetician program. While the band funded education for her siblings, they rejected her requests because they didn't consider it a career worth funding. Having been denied the funding, and with few options, Michelle eventually ended up working in the sex trade with her mother. In 2007, Michelle was found murdered. The perpetrator has never been tried for her death.

Unlike in Deidre's case, services existed that were supposed to help support and protect Michelle's family, both provincially and from her own band. However, the many barriers to actually receiving these services ultimately put her into a very difficult position, where she was targeted for violence.

Looking at the truths shared by survivors and family members through an intersectional lens allows us to take into account how their identities interact with different systems. It also means we can better address how those systems need to be transformed, so that governments and institutions can turn dangerous encounters into safe ones.

Using an intersectional approach also puts a person's individual lived experience in context, revealing systemic or underlying causes of discrimination. Survivor Alaya M. recognizes these intersections, and this motivates her to speak out for others in the same situation:

This story is going to ... hopefully empower those victims whom are being victimized across Canada to – to see a light and to – to understand ... that they're a victim, but [also] help them identify their roles and responsibilities moving in from that victimization into the survivor role, into the warrior role that they should be in.<sup>25</sup>

Beverly Jacobs, former president of the Native Women's Association of Canada, explains, "Just understand and care what happens to Indigenous women and communities. By considering the intersections between racism and sexism, we can hope to change the systemic barriers to equality for our country."<sup>26</sup> As Jacobs makes clear, much of the testimony we heard that concerned systems and institutions underscored the importance of understanding the lived experiences of Indigenous Peoples, and the gendered experiences of Indigenous women, girls, and 2SLGBTQIA people in particular.



Seeing how different systems work to oppress Indigenous women, girls, and 2SLGBTQQIA people is part of an intersectional approach to studying encounters. As scholar Nicole Clark suggests, this means drawing “theory and understandings from the everyday lives of young indigenous women in context.”<sup>27</sup>

An intersectional approach puts a person’s individual lived experience in context, to reveal systemic or underlying causes of discrimination. Understanding the connections among systems, institutions, and people, and how they can create further harm or help keep people safe, is vitally important to finding a way forward through concrete solutions to address violence.

## Four Pathways That Maintain Colonial Violence

As we will explore further in Chapter 4, colonial violence is not a simple construction. Psychiatrist, philosopher, and anti-colonial theorist Frantz Fanon observed that violence within the context of colonization goes beyond simple administrative policies or structures oriented toward physical control. It is also inclusive of attempts to erase or eliminate Indigenous Peoples, along with economic restrictions.<sup>28</sup> The structure of colonial violence, which looks to the complete destruction and assimilation of Indigenous Peoples, also includes structures of what sociologist Pierre Bourdieu terms “symbolic violence,”<sup>29</sup> including practices of exclusion and the idea that Indigenous cultures and peoples are inferior, as is promulgated by educational systems, religious systems, and, in a more modern sense, by media.

In their descriptions of encounters, families and survivors who spoke at the National Inquiry consistently referred to four general ways in which their experiences were rooted in colonialism – both historic and modern forms. These four pathways continue to enforce the historic and contemporary manifestations of colonialism that lead to additional violence. They are:

- historical, multigenerational, and intergenerational trauma;
- social and economic marginalization;
- maintaining the status quo and institutional lack of will; and
- ignoring the agency and expertise of Indigenous women, girls, and 2SLGBTQQIA people.

As we will examine closely in the upcoming chapters, violence is more likely to occur when these four forms of colonial violence intersect in the lives of Indigenous women, girls, and 2SLGBTQQIA people.



## Historical, Multigenerational, and Intergenerational Trauma

Throughout the testimony, family members, survivors, Knowledge Keepers, experts, and other witnesses often used the word “trauma” as a way to describe the deep emotional, spiritual, and psychological pain or “soul wounds”<sup>30</sup> they and their loved ones endure as a result of losing a loved one or surviving violence. Many Indigenous people hold a collective trauma as a result of these and many other losses inflicted through various forms of colonial violence. Family members and survivors told us that this context was significant to understanding the underlying causes of violence against Indigenous women, girls, and 2SLGBTQQIA people.

The idea of “trauma” is often characterized by medical and psychological ways of thinking that diagnose and individualize pain, suffering, or any of the ways a person responds to a traumatic experience. This perspective does not necessarily align with Indigenous ways of understanding harm, healing, grieving, and wellness. It also does not properly acknowledge the source of people’s suffering within the systems that have provoked it. As we will explore in upcoming chapters, many of the encounters that witnesses described showed moments in which their missing or murdered loved one is blamed for the violence they experienced, or for the choices they made afterwards to cope with that violence.

Indigenous practitioners and researchers have adapted the concept of “trauma” to recognize the distinct experience of colonialism as a source of trauma. For example, in her testimony as an Expert Witness during the Inquiry’s hearing on child and family welfare, Dr. Amy Bombay talked about the importance of Lakota social worker Maria Yellow Horse Brave Heart’s development of the concept of “historical trauma” to refer to the “cumulative emotional and psychological wounding over the lifespan and across generations, emanating from massive group trauma.”<sup>31</sup>

Brave Heart also introduced the concept of “historical trauma response.” This idea reframes challenges such as substance use, addiction, or suicidal thoughts, which are often seen as personal failings, as understandable responses to the trauma of colonial violence.<sup>32</sup> Other trauma theorists refer to “multigenerational” and “intergenerational” trauma to emphasize the fact that colonial violence creates traumatic experiences that are passed on through generations within a family, community, or people.<sup>33</sup>

Again, as Amy Bombay explained, these concepts “emphasize the cumulative effects that were transferred across generations, and that it [trauma] interacts with contemporary stressors and aspects of colonization like racism.”<sup>34</sup> For Bombay, these concepts are foundational to creating meaningful support and change “because without that understanding, people have a tendency to blame Aboriginal peoples for their social and health inequities and resist policies addressing them.”<sup>35</sup>



In describing encounters that led to violence, almost all of the witnesses described a surrounding context marked by the multigenerational and intergenerational trauma of colonial violence. This trauma was inflicted through the loss of land, forced relocations, residential schools, and the Sixties Scoop, and ultimately set the stage for further violence, including the ongoing crises of over-incarceration and of child apprehension, along with systemic poverty and other critical factors.

Witness Carol B. shared her perspective about the impact of intergenerational trauma on her relationship with herself and others: “The intergenerational trauma brought on by the residential schools has really impacted our families in a negative way. How can you possibly learn to love and value yourself when you’re told consistently — daily, that you’re of no value. And that we need to take the Indian out of you. How could you value or love yourself?”<sup>36</sup>

As Bombay pointed out,

After generations of children ... experienced ... this residential school context, children went back to their community with neither traditional skills nor access to dominant group resources. Victims and perpetrators were sent back to the same communities, and the effects of trauma and altered social norms also contributed to these ongoing cycles that were catalyzed in residential schools.<sup>37</sup>

As the National Inquiry listened to the voices of the sons, daughters, nieces, nephews, sisters, brothers, parents, and grandparents who have lost loved ones, it became clear that the crisis of missing and murdered Indigenous women, girls, and 2SLGBTQQIA people is yet another way in which the historic and collective trauma of Indigenous Peoples continues. In her testimony, Eva P. described the trauma she carries following the disappearance of her older sister:

You know, I’ve been going to counselling for the past two years. I’ve been seeing two different therapists. I go through my ups and downs. I isolated myself for six months after Misty went missing. I almost – I almost died. It’s tough. And, I can’t even imagine, like, this is a ... Canada-wide issue, and there’s more people. Like, there’s a lot of people in my situation.<sup>38</sup>

“THE INTERGENERATIONAL TRAUMA BROUGHT ON BY THE RESIDENTIAL SCHOOLS HAS REALLY IMPACTED OUR FAMILIES IN A NEGATIVE WAY. HOW CAN YOU POSSIBLY LEARN TO LOVE AND VALUE YOURSELF WHEN YOU’RE TOLD CONSISTENTLY — DAILY, THAT YOU’RE OF NO VALUE. AND THAT WE NEED TO TAKE THE INDIAN OUT OF YOU. HOW COULD YOU VALUE OR LOVE YOURSELF?”

Carol B.



## Social and Economic Marginalization

Another root cause of the disappearances and deaths of Indigenous women, girls, and 2SLGBTQQIA people is the social and economic conditions in which they live. It is compounded by the lack of political power that systems and institutions have afforded them to speak out. These conditions are a direct result of colonial governments, institutions, systems, and policies that actively work to ensure their social, economic, and related political marginalization. They are rooted in historic dispossession from the land as well as current policies, as many witnesses shared and as will be explored in subsequent chapters.

Indigenous Peoples experience poverty, homelessness, food insecurity, unemployment, and barriers to education and employment at much higher rates than non-Indigenous people. Indigenous women, girls, and 2SLGBTQQIA people experience social and economic marginalization at even higher rates. Again, it is essential to recognize that the high rates of poverty and these other factors are a result of colonial systems within which Indigenous Peoples are trying to survive.

Many reports have documented that people experiencing poverty, lack of housing, food insecurity, unemployment, and other conditions that make it difficult to meet one's basic needs are at a much higher risk of being targeted for violence. Witnesses who shared their stories with the National Inquiry echoed these well-known facts.

In her sharing, Marlene J. connected her inability to find safe housing to multiple experiences of sexual violence: "I would say I was raped three, sometimes four times a week.... I don't know. You'd have to ask the men that did the raping. I was just trying to survive.... Because I was homeless they decided that they would take advantage of the situation."<sup>39</sup>

Other encounters involving women's attempts to access shelters, counselling, education, or other supports in their own communities also demonstrated how social and economic marginalization occurs at the level of community in ways that increase the risk for further violence. For example, front-line worker Connie Greyeyes described the distinct challenges Indigenous women face when they live in northern communities that have become part of the resource development economy. She explained that because of the lack of shelters or transition houses and the high cost of living in the North, "It's near impossible for a woman to actually leave a relationship and not live in deep poverty."<sup>40</sup> She went on to describe how this economic vulnerability makes staying physically safe even harder for women living in violent relationships: "Many women are just one argument with their spouse away from being on the streets."<sup>41</sup>

As the National Inquiry listened to stories describing the context surrounding the disappearance or death of loved ones, it became clear that relationships were used to deny the basic needs of Indigenous women, girls, and 2SLGBTQQIA people, and that it was this denial of social and economic security that led to violence.



## Maintaining the Status Quo and Institutional Lack of Will

In describing the factors and contexts that led to violence in their own or their loved ones' lives, families and survivors clearly pointed to the role institutions and systems play in creating conditions that make violence possible.

In describing their encounters with the child welfare system, the justice system, the health care system, and with police, schools, and universities, and even with some advocacy and anti-violence agencies, witnesses commonly spoke of an institutional culture that individualized the challenges they faced, rather than recognized that these challenges were a reflection of the ways the institutions contribute to Indigenous stereotypes. As Delores S. explained:

The systems involved all respond that Nadine was at fault, and communicated it via body language, word usage and demeanor in speaking to the family. Their insensitivity to the family and uncompassionate [response to] Nadine's serious injuries exemplifies deeply ingrained attitudes and prejudices they hold.<sup>42</sup>

When institutions see the challenges Indigenous Peoples face as individual issues or personal failings, they fail to protect the very people they're meant to serve. Again, following negative encounters with police, many witnesses said that they no longer felt safe to reach out to the police when they were in danger, fearing that the police themselves might also inflict further violence. These experiences of violence – predation with impunity – were a chief contributor in the reluctance of Indigenous women, girls, and 2SLGBTQQIA people to trust institutions.



*Commissioner Lucki of the Royal Canadian Mounted Police testifies in Regina, Saskatchewan.*

Indigenous women, girls, and 2SLGBTQQIA people commonly confront racist, sexist, and other discriminatory attitudes in their encounters with institutions, along with discrimination in the wider world, which is manifested in day-to-day interactions with people as well as in media representation of Indigenous women, girls, and 2SLGBTQQIA people. Through the National Inquiry process, many family members and survivors also described examples where the institutions and those who worked for them are the source of further physical, sexual, and psychological violence, due to stereotypical views about Indigenous Peoples.



In speaking of the role institutions play in contributing to the violence, in all of its forms, that persists today, many witnesses pointed to a blatant lack of moral and political will for real change. Witnesses widely acknowledged that governments' and institutions' failure to implement the many well-known and well-documented recommendations that advocates, community organizations, and government commissions have already made demonstrated a lack of real concern for the violence endured by Indigenous women, girls, and 2SLGBTQQIA people, including the inconsistent use of gender-based and culturally relevant analysis of government programs and policies.<sup>43</sup> This lack of concern blocks the formation of positive relationships and limits the process for transforming harmful encounters into positive ones.

### **Ignoring the Expertise and Agency of Indigenous Women, Girls, and 2SLGBTQQIA People**

In describing the context around the violence they experienced, as well as the reasons why that violence has gone on for so long, witnesses regularly pointed to encounters that denied the knowledge, expertise, and agency held by Indigenous women, girls, and 2SLGBTQQIA people. The failure to value these understandings also points to the need to rebuild relationships.

Indigenous women, girls, and 2SLGBTQQIA people have gifted the National Inquiry with countless truths that make clear that they are powerful, caring, and resourceful leaders, teachers, healers, providers, protectors and more – including those whose lives have been shaped by violence. They demonstrated both an understanding of the factors that can help to improve safety, and a high level of commitment, action, and agency that can help reduce violence. We were reminded over and over again that the National Inquiry itself is the result of the tireless and creative work of Indigenous women, girls, and 2SLGBTQQIA people who have been fighting for years to have their voices and stories heard and to have their answers to the crisis of violence in their lives put in place.

Indigenous women, girls, and 2SLGBTQQIA people have solutions to ending violence in their lives. Despite this, as witnesses described in their encounters with colonial governments, institutions, and agencies, as well as within individual relationships and communities, more often than not other people or institutions actively deny them the opportunity to bring these solutions forward and create meaningful change.

As we will explore in this report, this denial of the wisdom, knowledge, and expertise of Indigenous women, girls, and 2SLGBTQQIA people happens in many different ways. This may be through the media's depiction of a survivor in ways that erase her many accomplishments to focus on her "risky lifestyle," or through bureaucratic policies that deny funding to Indigenous women's grassroots agencies. It may also happen through a general belief that an Indigenous woman living in poverty cannot be the most powerful and insightful voice on any committee or initiative working for change. In all of these scenarios, witnesses emphasized, encounters such as these that even momentarily deny the strength, wisdom, and agency of Indigenous women, girls, and 2SLGBTQQIA people are ones that rest at the heart of ongoing violence.



*In Calgary, Alberta, the Union of British Columbia Indian Chiefs makes its closing submission, as a Party with Standing (PWS).*

## Indigenous Women, Girls, and 2SLGBTQQIA People as Rights Holders

It is clear that we need to insist on solutions for ending violence against Indigenous women, girls, and 2SLGBTQQIA people that focus on addressing the underlying systemic causes of violence, such as the ones we outlined above. Nonetheless, recommendations that focus on root causes such as these have been made many times before, and little has changed.

Tired of a lack of action on previous recommendations, and a lack of meaningful action to address the underlying conditions that perpetuate violence, many Indigenous women and 2SLGBTQQIA people, organizations, and others were clear that the National Inquiry needed to talk about the disappearances and deaths of Indigenous women, girls, and 2SLGBTQQIA people as a violation of their Indigenous and human rights through a gendered lens. As our *Interim Report* pointed out,

Colonization had devastating impacts on all Indigenous Peoples, but the experiences of First Nations, Inuit, and Métis women and girls, as well as Indigenous peoples who don't identify just as male or female, are distinct in some respects from those of men and boys. Building on these reports and centring female perspectives allows us to reframe the way we look at Indigenous women and girls. They are not only “victims” or survivors of colonial violence, but holders of inherent, constitutional, Treaty, and human rights that are still being violated.<sup>44</sup>



This message is woven within our approach to analyzing the encounters and relationships that are significant to understanding violence: encounters not only teach us about the causes of violence, they also show us how Indigenous women's, girls', and 2SLGBTQQIA people's Indigenous and human rights are either protected or denied.

As we will develop throughout the *Final Report*, positioning our discussion of these encounters and their root causes in relation to the inherent Indigenous and human rights we will explore reveals significant historical and ongoing rights violations in four areas: the right to culture, the right to health, the right to security, and the right to justice. These themes are prominent ones within both human and Indigenous rights contexts, and affirm the importance of addressing the crisis of violence. They are not presented in order of priority or of importance: in fact, what our testimony demonstrates is the interconnectedness of all of these ideas and priorities, and the need to look at these as interdependent and indivisible.

For each of these four areas of rights violations, we consider both international human rights-based and Indigenous-based understandings of the rights of women, girls, and 2SLGBTQQIA people. These rights encompass the full range of socio-economic and political rights that significant and meaningful change requires. When we talk about culture, we are also talking about all of the necessary tools, supports, and resources required to enable the full realization of these rights – including social, economic, and political rights. These rights areas are also necessarily broad because of the great diversity of Indigenous Peoples who shared their truths concerning the need for basic rights in addition to specific supports in key areas like education, housing, standard of living, and health services. Indigenous Peoples have their own understandings of rights based on their own laws, traditional knowledge systems, and world views, which are often expressed through stories. These rights are not determined by international agreements, Canadian legislation, or Supreme Court rulings. These are expressions of Indigenous women's, girls' and 2SLGBTQQIA people's proper power and place.

At the same time, a variety of human rights instruments dealing with these themes can offer a tool for accountability and decolonization, if the solutions are placed within the context of the four root causes of violence: intergenerational trauma through colonization, marginalization, lack of institutional will, and the failure to recognize the expertise and capacity of Indigenous women themselves.

While we will look in depth at what family members' and survivors' testimonies reveal about each of these rights in later chapters, here we will provide a brief overview of how looking at encounters and the relationships they engender, in relation to human rights, Indigenous rights, and Indigenous laws and ways of knowing as expressed through stories, offers a new and powerful way to address the historic, ongoing, and current root causes that lead to violence against Indigenous women, girls, and 2SLGBTQQIA people today.



## Right to Culture

Cultural rights are inseparable from human rights, as recognized in the 2001 UNESCO *United Nations Educational, Scientific and Cultural Organization's Declaration on Cultural Diversity*, as well as from Indigenous rights, as articulated in various instruments including, most recently, the *United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP)*. They are also inseparable from the social and political rights necessary to their full enjoyment.



*A young jingle dress dancer dances for those in attendance in Winnipeg, Manitoba. She is the cousin of Nicole Ashley Daniels, an MMIW family member. Used with permission from the family.*

Generally, the right to culture and identity can be defined as the right to access, participate in, and enjoy one's culture. This includes the right of individuals and communities to know, understand, visit, make use of, maintain, exchange, and develop cultural heritage and cultural expressions, as well as to benefit from the cultural heritage and cultural expressions of others. It also includes the right to participate in the identification, interpretation, and devel-

opment of cultural heritage, as well as in the design and implementation of policies and programs that keep that culture and identity safe. Other human rights, such as the right to freedom of expression, the right to information, and the right to education, are also key to fully realizing cultural rights. As the testimonies reveal, the right to culture and identity relates directly to the crisis of missing and murdered Indigenous women, girls, and 2SLGBTQQIA people through the separation of families, the historical and contemporary realities of assimilationist and genocidal colonial policies, and the lack of culturally appropriate services in healing, justice, and other areas that continues to put Indigenous women, girls, and 2SLGBTQQIA people at risk. Racism, along with the attempted disruption of culture, promotes violence against Indigenous women, girls, and 2SLGBTQQIA people.



As we will examine more closely in the next chapter, most Indigenous societies place cultural knowledge at the heart of Indigenous world views. Within our framework, women, girls, and 2SLGBTQQIA people's right to culture and identity connects to their roles and responsibilities as leaders and teachers within communities. Traditional stories from Nations across Canada show us that women and 2SLGBTQQIA people have leadership and teaching roles as those who pass on culture and identity to their people. They help strengthen and maintain collective identity. This role is placed in jeopardy in many instances, as we heard much about how contemporary child welfare practices, for example, directly work against this important task, whereas understanding one's culture can directly contribute to safety.

Indigenous women, girls, and 2SLGBTQQIA people have the inherent right to their own culture and identity, and to foster culture and identity within their families and communities through the full implementation of economic, social, and political rights that can help protect these practices and this knowledge.

## **Right to Health**

When rights to culture and identity are in jeopardy, the right to health is also under threat. We define "health" as a holistic state of well-being, which includes mental, emotional, physical, and spiritual well-being, particularly within Indigenous world views. In this way, health is not simply an absence of illness or disability.

The right to health is linked to other fundamental human rights, such as access to clean water and adequate infrastructure in communities. On a more general level, however, the right to health speaks to preventing harm to others, to protecting the health of children and families, and to fostering mental health. We recognize that an absence of services, or a lack of culturally appropriate services in communities, as well as other factors linked to health place women, girls, and 2SLGBTQQIA people in vulnerable situations where they become targeted for violence.

For many groups, Indigenous understandings of women's, girls', and 2SLGBTQQIA people's right to health are based on their roles, responsibilities, and related rights as healers. Stories show us that women and gender-diverse people have critical responsibilities in creating healthier communities. As healers and medicine people, they have specific expertise in addressing physical, mental, emotional, and spiritual needs. This includes addressing their own unique needs as women, girls, and 2SLGBTQQIA people, and bringing much-needed perspectives to keep communities healthy and whole.

Indigenous women, girls, and 2SLGBTQQIA people have the inherent right to their own health and well-being, and the right to use their expertise, and the tools necessary for health, to contribute to the health and well-being of their families and communities, within the full spectrum of human rights in the areas of health.



## Right to Security

Many encounters we heard about concerned the basic right to security. We understand the right to security as a physical right, as well as a social right.

Physically, the right to security includes the right to life, liberty, and personal safety. This includes control over one's own physical and mental health, as well the protection of one's own psychological integrity. In Canada, the *Canadian Charter of Rights and Freedoms* protects individuals from grave psychological harm perpetrated by the state. On an international level, in the area of social security, the right to security means that the state must ensure protective services or social service assistance and guarantee the protection of the entire population through essential services such as health, housing, and access to water, food, employment, livelihood, and education. Because of its redistributive nature, the right to social security is an important factor in community health and harmony and in reducing poverty.

Indigenous women's, girls', and 2SLGBTQQIA people's right to security connects to their roles, responsibilities, and rights as providers and defenders. Traditional stories show us that Indigenous women, girls, and gender-diverse people have critical responsibilities in fostering a safe, secure community. They do this by providing for themselves and their communities, by protecting the vulnerable, by managing and redistributing resources as necessary, and by being the keepers and defenders of the water, land, plants, and animals on which we depend.

Indigenous women, girls, and 2SLGBTQQIA people have the inherent right to security in their own lives as well as the right to directly participate in maintaining that security for themselves and others, within their own understandings and within the full spectrum of economic, social, and political rights that can contribute to increasing security.

## Right to Justice

As many of the testimonies demonstrate, the problematic relationships between Indigenous women, girls, and 2SLGBTQQIA people and the judicial system are also very significant. Barriers to justice take many forms, including the isolation of victims through inadequate victim services, the failure to accommodate language barriers, and the way Indigenous victims are either portrayed or ignored in the media. Indigenous women, girls, and 2SLGBTQQIA people are also overpoliced and overincarcerated as potential offenders, yet under-protected as victims of crime.

All of these barriers demonstrate important moments of disconnection between Indigenous Peoples and the Canadian justice system, between the promises of blind justice that the system is meant to deliver and the actual functioning of this system. In the upcoming chapters, we will bring forward transformational encounters Indigenous people have had with the justice system, as well as ongoing issues with access and institutional constraints that present barriers to justice for Indigenous Peoples and that threaten the legitimacy of the process for Indigenous communities.

Indigenous women's, girls', and gender-diverse people's right to justice also connects to their roles in protecting their communities. Stories show us that they fought to keep themselves and



others safe from violence. Many women, girls, and gender-diverse people in stories are also survivors and heroes – those who put themselves in danger to save others.

Indigenous women, girls, and 2SLGBTQQIA people have the inherent right to live free from violence or injustice. If this does not happen, they have the right to have this violence stopped and condemned, with others' support as they confront it as needed. These rights exist both in Indigenous Peoples' own terms, as well as within the basic human rights framework that exists to eliminate violence against women in general and Indigenous women, girls, and 2SLGBTQQIA people in particular.

## Promoting and Maintaining Healthy Encounters

All of these themes – along with the encounters that Indigenous women, girls, and 2SLGBTQQIA people have in the areas of culture, health, safety, and justice – show how imposed solutions created by governments or agencies that don't prioritize the knowledge of Indigenous Peoples don't work. Rights to culture, health, security, and justice are based on another foundational right: the right to self-determination. We understand the right to self-determination in Indigenous terms, in terms specific to Nations, communities, and, most importantly, to women themselves.

That's why this report will also address how, embedded within these stories of the encounters that families and survivors see as significant, are also the strong voices and acts of resilience and strength – the encounters and relationships leading to healing. In sharing their stories of these encounters, as well as the broader relationships that are an important part of their identity, witnesses also reminded the Commissioners of, or provided teachings that assert, the strength, resistance, creativity, and power of Indigenous women, girls, and 2SLGBTQQIA people even within a system of relationships that makes every effort to deny them those qualities.

We can return to Carol's description of her initial encounter with the police to witness this resistance. When faced with the officer's indifference, Carol, in fact, did not simply walk away, as the officer may have hoped. Instead, as she stated, "I banged my hand hard on the counter," demanding attention. When he continued to ignore her, Carol said, "Once again, I slammed my hand hard on the desk." The next day, she returned to the police station with an interpreter, and went on over the next five years to become a powerful and vocal advocate for the families of missing and murdered Indigenous women and girls.

Her resistance and strength do not diminish the pain of losing her daughter to violence, or the anger she expresses at the officer's refusal to act during that crucial first meeting. However, her story shared with the National Inquiry does send a powerful message to those who may choose to act in a similarly dismissive way: relationships in which those in authority or power abuse that power to silence Indigenous women or prevent them from protecting themselves and their loved ones from violence will no longer be tolerated. Transforming these relationships will no longer be left in the hands of those who have for too long done nothing to create change.



As Fay Blaney, a Xwémalhkwu (Homalco) Knowledge Keeper, asserts, “I fully believe in the power of Indigenous women working together and being able to come up with solutions.”<sup>45</sup>

She continues:

Whenever ... we talk about women’s issues, they bring up, “Well, what about balance?” And I think that we really need to look at the fact that there is zero balance in our community. Somebody’s got to open their mouth and say that, but there is no balance right now.

It’s – men control the private sphere and the public sphere, and the private sphere is the family unit where, you know, we have our Indian Status because of the men in our lives. I have Status because of my husband, and before that, I had Status because of my father. And so, in our world, men hold all the cards and we hold none.

So I think it’s really important to look at what are we talking about when we say balance, and let’s bring balance back, I say. Let’s decolonize by bringing our matriarchal traditions back.<sup>46</sup>

As Fay’s testimony reveals, part of understanding the right to self-determination is understanding how patriarchal institutions have worked, over the course of colonization and today, to keep women and 2SLGBTQQA people out of the decision-making process.

In the sphere of rights, the right to self-determination can take several forms. It includes, among many other things, the authority to keep hold of one’s culture in the face of threatened assimilation, and right of children to be raised in their own language and culture. The right to self-determination also includes the ability to make choices in the interest of one’s own group and within one’s own group, and includes socio-economic and political rights. For women, self-determination also means that women themselves should be able to actively construct solutions that work for them and are according to their own experiences. This doesn’t mean that men aren’t a part of this conversation – to the contrary – but it does mean, as Fay Blaney shared, that solutions must come from the women themselves.

Within our framework for building better encounters, self-determination also means that we must fundamentally reconsider how to frame relationships that embrace the full enjoyment of rights in ways that go beyond simple state structures and a simple “us–them” approach, and that can extend to all aspects of community and individual life. In many of the testimonies, witnesses talked about work that needs to happen in communities and within Indigenous governments, as well as within settler governments.

Because of this, finding self-determined solutions for addressing the crisis of missing and murdered Indigenous women, girls, and 2SLGBTQQA people means conceptualizing rights as founded in all relationships, rather than in contracts, and understanding that at the centre of it all, we begin with our relationships to each other.

Understanding the crisis of violence against Indigenous women, girls, and 2SLGBTQQA people as one based in key relationships provides a new way to look at how systems, structures, policies, and people work to target Indigenous women, girls, and 2SLGBTQQA people. The frame-



work of encounter and of relationship also emphasizes the potential for change at all levels, not just at the state or government level. At the same time, it also provides a powerful lens – a call for justice – through which we can imagine a new and brighter future, with safety, health, and healing for Indigenous women, girls, and 2SLGBTQQIA people and the families who have lost those most important to them.

Encounters and relationships, within the right to self-determination, present potential for change at all levels. While state-supported human rights can be helpful in keeping governments accountable, a full understanding of both Indigenous and human rights concepts is important to also understanding how solutions must be based in new relationships that are reciprocal and renewing, and that acknowledge how we are all connected. This is where we find power and place.

“I FULLY BELIEVE IN THE POWER OF INDIGENOUS WOMEN WORKING TOGETHER AND BEING ABLE TO COME UP WITH SOLUTIONS.”

Fay Blaney

## Conclusion: Bringing It All Together

This chapter has outlined the National Inquiry’s framework and approach for understanding the truths we heard throughout this process. This includes understanding that Indigenous women, girls, and 2SLGBTQQIA people are holders of rights, as human beings and as Indigenous Peoples, in key areas that relate to their safety and to justice and that also link to Indigenous ways of knowing, understanding, and engaging in relationship. This framework has identified four root causes of violence, including intergenerational trauma; social and economic marginalization; a lack of institutional and political will; and the failure to recognize the expertise and capacity of Indigenous women themselves in creating self-determined solutions.

But understanding all of these causes in relation to only one aspect of government or service delivery won’t fully address the targeting of Indigenous women, girls, and 2SLGBTQQIA people. Of all of the threads that run through the truths the National Inquiry heard, one that remains extremely powerful in understanding every story is that relationships matter.

Relationships matter because they can contribute to health or to harm – relationships can be the difference between life and death. And when they are formed – in the moments of encounter that so many people identified as harmful or damaging – there is also a new opportunity to create something better, and to improve outcomes for Indigenous women, girls, and 2SLGBTQQIA people.

Indigenous girls, women, and 2SLGBTQQIA people are targeted by colonial violence embedded within institutions, structures, and systems, as well as interpersonal violence, where these encounters occur. In many cases, this violence was forced on people in unexpected ways. In other cases, a combination of oppressive systems and actions created circumstances that ultimately targeted women, girls, and 2SLGBTQQIA people. As a family physician specializing in



Indigenous health and northern practice, and a leader in the field of educating physicians in training, Dr. Barry Lavallee explained:

Indigenous women are not vulnerable, Indigenous women are targeted in secular society for violence. There's a very big difference to [being] vulnerable. To be vulnerable in medicine means that if I irradiate your body and you have no cells, you are vulnerable to an infection. But, to be vulnerable to murder because of your colour, and your positionality and just being Indigenous is targeting. It is an active form of oppression of Indigenous women.<sup>47</sup>

As witnesses demonstrated in their evidence and as we will demonstrate throughout this report, listening deeply to what happens within a relationship reveals important information about the contexts, institutions, beliefs, values, and people who come together in some way to form relationships that are at the root of violence against Indigenous women, girls, and 2SLGBTQIA people. By focusing on relationship and encounter, this report points to specific moments where violence and the accompanying violation of human and Indigenous rights take place, as well as the moments where alternatives exist. By documenting these encounters, this report insists on accountability for all levels of government and a realistic assessment of the ongoing reality of violence in the lives of Indigenous women, girls, and 2SLGBTQIA people.

Change begins by recognizing the importance of these interactions. Understanding that, we also understand that the way forward means nothing less than transforming these encounters within our own relationships and at every level of society.

In its focus on the teachings about relationship, offered through moments of encounter, this report aims to go beyond simply documenting the scope and nature of the crisis of missing and murdered Indigenous women and girls. Instead, we aim to step outside of frameworks and narratives that are rooted in colonial and bureaucratic structures. We look to reflect the strength and resilience that can be found in the values, cultures, and identities of Indigenous women, girls, and 2SLGBTQIA people themselves, and in relationships that begin every single day.

**“INDIGENOUS WOMEN ARE NOT VULNERABLE, INDIGENOUS WOMEN ARE TARGETED IN SECULAR SOCIETY FOR VIOLENCE.”**

**Dr. Barry Lavallee**



## Notes

- 1 Institute for the Advancement of Aboriginal Women (IAAW) and the Women's Legal Education and Action Fund (LEAF), "Submission: Independent Review of Circumstances Surrounding the Treatment of 'Angela Cardinal' in R. v. Blanchard," 15 October 2017, 1. Accessed September 8, 2018. <https://www.leaf.ca/wp-content/uploads/2017/11/Cardinal-Inquiry-IAAW-and-LEAF-Final-Submission-Oct-15.pdf>
- 2 First Nations, Métis and Inuit societies have their own understandings of gender and sexual diversity that are different from Western ones. Because there is such a wide range of understandings within Indigenous Peoples, the National Inquiry uses the umbrella term "gender-diverse people" for examples of gender diversity across different time periods, contexts, and Peoples. The term "Two-Spirit" comes out of a Native American/First Nations gay and lesbian conference in 1990, and was chosen to be a culturally appropriate umbrella term for First Nations that could replace the more derogatory term of "berdache." The National Inquiry uses the acronym of 2SLGBTQIA (Two-Spirit, lesbian, gay, bisexual, transgender, queer, questioning, intersex and asexual) to refer to a modern-day community of gender diverse people across all Indigenous people groups, including gender-diverse Inuit, while recognizing the limitations of any acronym.
- 3 Mavis Windsor (Heiltsuk Nation), Part 1, Public Volume 90, Vancouver, BC, p. 21.
- 4 Sandra Montour (Turtle Clan, Mohawk), Part 2, Public Volume 4, Calgary, AB, p. 211.
- 5 Marilyn W. (Cree), Part 1, Public Volume 30, Saskatoon, SK, p. 18.
- 6 Wilson, *Research Is Ceremony*.
- 7 Percy P. (Alexis Nakota Sioux Nation), Part 1, Public Volume 31, Saskatoon, SK, pp. 15-16.
- 8 Ermine, "Ethical Space," p. 195.
- 9 Cheryl M. (Mi'kmaq), Part 1, Public Volume 18, Membertou, NS, p. 17.
- 10 Jamie L. H. (Indigenous/Irish), Part 1, Public Volume 78, Vancouver, BC, pp. 12-13.
- 11 Anni P. (Cree), Part 1, Public Volume 80, Vancouver, BC, pp. 16-17.
- 12 Darlene G. (Annapolis Valley First Nation), Part 1, Public Volume 18, Part 1, Membertou, NS, pp. 54-55.
- 13 Barbara H. (Ebb and Flow First Nation), Part 1, Public Volume 10, Winnipeg, MB, p. 114.
- 14 Barbara H. (Ebb and Flow First Nation), Part 1, Public Volume 10, Winnipeg, MB, p. 114.
- 15 Carol W. (Muskeg Lake Cree Nation), Part 1, Public Volume 31, Saskatoon, SK, pp. 55-56.
- 16 Carol W. (Muskeg Lake Cree Nation), Part 1, Public Volume 31, Saskatoon, SK, p. 56.
- 17 Dr. Robyn Bourgeois (Cree), Part 3, Public Volume 17, St. John's, NFLD, p. 37. During her testimony, Dr. Bourgeois explained that this question is one she has adapted from an article by Sharene Razack called "Race, Space, and Prostitution: The Making of the Bourgeois Subject" in which Razack asks: "What is the source of the ideas that make it okay to abuse people involved in the sex trade?" (See Razack, "Race, Space, and Prostitution.")
- 18 Hankivsky, Cormier and de Merich, "Intersectionality," 3.
- 19 Crenshaw, "Demarginalizing the Intersection."
- 20 Hankivsky, Cormier and de Merich, "Intersectionality," 3.
- 21 Hancock, "When Multiplication," as cited in Hankivsky, Cormier, and de Merich, "Intersectionality," 3.
- 22 Dhamoon, "Considerations," as cited in Hankivsky, Cormier, and de Merich, "Intersectionality," p. 6.
- 23 Morris and Bunjun, "Using Intersectional Feminist Frameworks," 1.
- 24 See, for example, Browne and Fiske, "First Nations Women's Encounters" and Smye and Browne, "'Cultural Safety'."
- 25 Alaya M. (Sandy Bay Ojibway First Nation), Part 1, Public Volume 13, Winnipeg, MB, pp. 8-9.
- 26 Beverly Jacobs, quoted in University of Alberta Faculty of Law Blog, "Intersectional Marginalization."
- 27 Clark, "Perseverance, Determination and Resistance," 135-36.
- 28 Fanon, *Les Damnés de la terre*, 9-12.
- 29 Bourdieu, *Masculine Domination*, 23, 34-35, 83; Bourdieu and Thompson, *Language and Symbolic Power*, 239-43.



- 30 Duran, *Transforming the Soul Wound*.
- 31 Dr. Amy Bombay (Ojibway, Rainy River First Nations), Mixed Parts 2 & 3, Public Volume 10, Winnipeg, MB, p. 148.
- 32 Linklater, *Decolonizing Trauma Work*, 34.
- 33 “Multigenerational” trauma “points to the multiple types of trauma understood as current, ancestral, historical, individual or collective experiences” (Ibid., 23). “Intergenerational” trauma looks more to the way trauma is “passed from one generation to the next, behaviourally and observationally and through memory” (Ibid., p. 23).
- 34 Dr. Amy Bombay (Ojibway, Rainy River First Nations), Mixed Parts 2 & 3, Public Volume 10, Winnipeg, MB, p. 147.
- 35 Dr. Amy Bombay (Ojibway, Rainy River First Nations), Mixed Parts 2 & 3, Public Volume 10, Winnipeg, MB, p. 141.
- 36 Carol B. (Ermineskin Cree Nation), Part 1, Public Volume 20, Edmonton, AB, p. 75.
- 37 Dr. Amy Bombay (Ojibway, Rainy River First Nations), Mixed Parts 2 & 3, Public Volume 10, Winnipeg, MB, p. 158.
- 38 Eva P. (Alexis Nakota Sioux Nation), Part 1, Public Volume 31, Saskatoon, SK, p. 27.
- 39 Marlene J., Part 1, Public Volume 6, Smithers, BC, pp. 42-43.
- 40 Connie Greyeyes (Bigstone Cree Nation), Mixed Parts 2 & 3, Public Volume 6, Quebec City, QC. p. 50.
- 41 Connie Greyeyes (Bigstone Cree Nation), Mixed Parts 2 & 3, Public Volume 6, Quebec City, QC, p. 60.
- 42 Delores S. (Saulteaux, Yellow Quill First Nation), Part 1, Public Volume 26, Saskatoon, SK, p. 28.
- 43 For a thematic list of all previous recommendations made on this issue, see the “Master List of Previous Recommendations” at <http://www.mmiwg-ffada.ca/publications/>. For an overview of culturally relevant gender-based analysis, see Native Women’s Association of Canada, “Culturally Relevant.”
- 44 National Inquiry into Missing and Murdered Indigenous Women and Girls, *Interim Report*, p.13.
- 45 Fay Blaney (Xwémalkwu of the Coast Salish), Part 3, Public Volume 4, Quebec City, QC, p. 110.
- 46 Fay Blaney (Xwémalkwu of the Coast Salish), Part 3, Public Volume 4, Quebec City, QC, p. 135.
- 47 Dr. Barry Lavallee (First Nations/Métis), Part 3, Public Volume 9, Toronto, ON, pp. 62-63.





## Indigenous Recognitions of Power and Place

### Introduction: Women Are the Heart of Their Communities

*In the beginning, there was nothing but water, nothing but a wide, wide sea. The only people in the world were the animals that lived in and on water.*

*Then down from the sky world a woman fell, a divine person. Two loons flying over the water happened to look up and see her falling. Quickly they placed themselves beneath her and joined their bodies to make a cushion for her to rest upon. Thus they saved her from drowning.*

*While they held her, they cried with a loud voice to the other animals, asking their help. Now the cry of the loon can be heard at a great distance over water, and so the other creatures gathered quickly.*

*As soon as Great Turtle learned the reason for the call, he stepped forth from the council.*

*“Give her to me,” he said to the loons. “Put her on my back. My back is broad.”<sup>1</sup>*

Women are the heart of their Nations and communities.

Through countless testimonies to the National Inquiry, we heard how the absence of women, girls, and 2SLGBTQQIA people has a profound and ongoing impact on communities, and how their gifts, as shared in distinctive roles and responsibilities, are crucial to community wellness, to help communities thrive. As a whole, these roles and responsibilities are linked to various systems of Indigenous laws and rights that flow from them.



*First Nations woman at the annual Sun Dance ceremony at the Káinawa First Nation Reserve near Cardston, Alberta, 1953. Source: Library and Archives Canada/ National Film Board of Canada fonds/e010949128.*

These Indigenous laws and the roles, responsibilities, and rights they teach are distinct from the concept of Indigenous rights as they have been defined by the courts, particularly since 1982. As Tuma Young, Professor of Mi'kmaq Studies at Unama'ki College, explained in his testimony before the Inquiry, “Aboriginal law, as taught in law school, is really Canadian law as it applies to Indigenous people. It is not Indigenous law.”<sup>2</sup> In this section, we first consider how the testimonies offered to the National Inquiry serve as indicators of different visions of roles and responsibilities, and how the rights stemming from them can inform our priorities and our path forward.

Families, survivors, and other witnesses have gifted us their stories and truths throughout the Inquiry's Truth-Gathering Process. They echoed over and over again what the National Inquiry Grandmothers said at the very beginning: stay grounded in culture, which represents the strength of Indigenous women and of their communities, however defined. Dr. Janet Smylie, a Cree/Métis physician and Knowledge Keeper who spoke about strength-based approaches at the Inquiry's hearing in Iqaluit, quoted former National Chief Phil Fontaine when he said, “We have the answers. The answers lie in our communities.” She continued in her own words: “[The answers are] in our communities, in our stories, in our lived environments and in our blood memory. So we all know, as First Nations, Inuit, Métis, urban Indigenous people, what we need. We have it still.”<sup>3</sup>

Indigenous Peoples have always had their own concepts of roles and responsibilities, linked to the rights that women, girls, and 2SLGBTQQIA people hold within their communities or Nations. Dawnis Kennedy, whose traditional name is Minnawaanigogiizhigok, explained about all members of the community:



You know, every stage of life has a gift, has a purpose, has a role. You know, little babies, they bring joy to the world. Little kids, they have curiosity. They teach us about safety. You know, every single age group has a gift.... If we recognize all of those gifts and all of those responsibilities and all of those roles in every age group, then every child will have the kind of life that will allow them to share their gift of joy and to keep that, because it's meant for the world.<sup>4</sup>



*Inuk mother gives her child a kunik, or kiss, n.d. Source: Library and Archives Canada/Department of Indian Affairs and Northern Development fonds/e006609837.*

Because these responsibilities are relational and reciprocal, they tell us what people should be able to expect from others. They are also rooted in certain underlying values or principles within Indigenous laws and value systems that are shared across Indigenous communities, such as respect, reciprocity, and interconnectedness. Understanding how these values shape the roles and responsibilities of Indigenous women and 2SLGBTQIA people is particularly important because we can use these values to create healing encounters today. In addition, understanding the distinctions among Nations and communities in key areas is important in understanding that there is no one solution to implementing measures to promote safety and justice.

Each testimony we heard provided unique perspectives of roles and responsibilities in various Nations and communities, and, in doing so, demonstrated how women, girls, and 2SLGBTQIA people hold rights, within diverse Indigenous laws, related to culture, health, safety, and justice. These rights come from the knowledge and wisdom of distinct Nations and Peoples. In predominantly oral Indigenous traditions, this wisdom is most often shared through stories like the one that begins this chapter.



Just as the loons support Sky Woman as she falls from the sky, so, too, do the teachings offered within traditional stories support our work in transforming relationships that harm Indigenous women and girls into ones that recognize their power and place. As Law Foundation Chair of Aboriginal Justice and Governance at the University of Victoria Dr. Val Napoleon explained before the Inquiry:

We know that across Canada there are diverse legal orders and that people are adaptable.... Our ancestors, our relatives, were pragmatic in terms of ensuring that their children were able to survive in the world. And as Dr. Hadley Friedland has already said, all law is meaningful, it's messy, and it has to be in practice as well as in theory.<sup>5</sup>

This chapter will, first, articulate how Indigenous laws can serve as a foundation for a decolonizing strategy based in Indigenous ways of knowing and understanding relationships and social order. It will then outline how the values of respect, reciprocity, and interconnectedness can help connect principles across a diversity of Indigenous communities, as demonstrated in a variety of stories that are still used in teaching today. With the understanding of the contemporary importance of these principles, this chapter then examines the historical roles, responsibilities, and rights of women and gender-diverse people in their own terms, prior to colonization, as a way to argue for a new foundation to understanding the rights of Indigenous women, girls, and 2SLGBTQIA people: as rooted in relationships.

“[THE ANSWERS ARE] IN OUR COMMUNITIES, IN OUR STORIES, IN OUR LIVED ENVIRONMENTS AND IN OUR BLOOD MEMORY. SO WE ALL KNOW, AS FIRST NATIONS, INUIT, MÉTIS, URBAN INDIGENOUS PEOPLE, WHAT WE NEED. WE HAVE IT STILL.”

Dr. Janet Smylie

## Two-Eyed Seeing: Diverse Legal Orders and Inherent Indigenous Laws

In testimony before the National Inquiry, Tuma Young explained that, within his L'nu (Mi'kmaq) world view, the concept of two-eyed seeing is very important: “An issue has to be looked at from two different perspectives: the Western perspective and the Indigenous perspective, so that this provides the whole picture for whoever is trying to understand the particular issue.”<sup>6</sup>

In the context of our work at the Inquiry, this means grounding our analysis in Indigenous ways of knowing and of understanding, as shared with the Commissioners and with Canadians.



An important component of this work is understanding that there exist other legal orders in Canada, beyond those that most people know. Indigenous laws include principles that come from Indigenous ways of understanding the world. They come from relationships and understandings about how societies can function that include rights and responsibilities among people and between people and the world around us.

Relationships are the foundation of Indigenous law. As Val Napoleon explained, “It’s tools for social ordering; it’s problem-solving; and it’s the way that we resolve conflicts and we manage conflicts. And when our legal orders failed or we didn’t properly adhere to our own legal orders, we can look at our oral histories and see what happened in our societies during those times.”<sup>7</sup> In other words, as legal scholars Emily Snyder, Val Napoleon, and John Borrows explain, Indigenous law and Indigenous societies are linked, as a “specific set of ideas and practices aimed at generating the conditions for greater peace and order.”<sup>8</sup>

As they relate to the expression of rights, Indigenous laws and the ideas upon which they are based are also linked to the idea of inherent rights. They are inherent because they are not Western-based or state-centric. This means they can’t be taken away by provinces and territories, by the government of Canada, or by the United Nations.<sup>9</sup>

Inherent Indigenous law belongs to all Indigenous communities and Nations. As Dawnis Kennedy notes, a fundamental principle of Indigenous law is the idea that: “All peoples were given a language, all peoples were given a law, all peoples were given songs. All peoples were given gifts to live into the world, and those are gifts from spirit and they are necessary in the world and they are necessary in building good relationships with each other.”<sup>10</sup> Individually, too, “a fundamental precept of our law is that everyone has a place. We might not know that but everyone belongs. Everyone is here for a purpose. Everyone is here for a reason. Everyone matters as much as the next, a fundamental law.”<sup>11</sup>

**“AN ISSUE HAS TO BE LOOKED AT FROM TWO DIFFERENT PERSPECTIVES: THE WESTERN PERSPECTIVE AND THE INDIGENOUS PERSPECTIVE, SO THAT THIS PROVIDES THE WHOLE PICTURE FOR WHOEVER IS TRYING TO UNDERSTAND THE PARTICULAR ISSUE.”**

**Tuma Young**



# Indigenous Rights: Inherent and Inalienable

The idea that people have rights that are inherent and inalienable has a long history in Western political thought. European Enlightenment philosophers such as John Locke<sup>I</sup> and Jean-Jacques Rousseau<sup>II</sup> argued that human beings possess natural rights. These rights could not be granted or taken away by governments because they are intrinsic.

References to inherent and inalienable rights were included in important political manifestos in the 18th and 19th centuries. For example, the American *Declaration of Independence* (1776) asserted that it is “self-evident” that “all men are created equal, that they are endowed by their Creator with certain unalienable rights, that among these are life, liberty, and the pursuit of happiness.” The *Declaration of the Rights of Man and of the Citizen* (1789), issued during the French Revolution, likewise recognized that citizens held “natural, unalienable, and sacred rights” that governments must respect.

Today, the legal discourse of human rights is the most prominent expression of inherent and inalienable rights. The United Nations *Universal Declaration of Human Rights*, issued in 1948, is one of the most important human rights covenants in the world today. In its preamble, it asserts that “the recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice, and peace in the world.”<sup>III</sup>

However, despite the bold rhetoric in these proclamations, the rights referred to were denied to many people. Until relatively recently, most people living in Western society did not have access to basic civil liberties, especially women and racialized peoples.

There is also a long history of recognition that Indigenous Peoples possess unique rights. For example, the *Royal Proclamation of 1763* recognized that Indigenous Peoples in what is now Canada have rights to their lands and resources. However, governments have frequently failed to treat Indigenous rights as inherent and inalienable.

For example, the landmark decision of the Judicial Committee of the Privy Council in *St. Catharine's Milling and Lumber Co. v. The Queen* (1888) argued that Indigenous Peoples' land rights are not inherent but “dependent on the goodwill” of the Crown. This idea that Indigenous rights are contingent remained law in Canada until the precedent was overturned in the Supreme Court's ruling in *Calder v British Columbia* (1973). In *Calder*, the courts ruled that Aboriginal land rights exist independent of their recognition in British Canadian law. In other words, the court recognized that these rights are inherent.<sup>IV</sup>

Despite this ruling, there have been ongoing debates over whether all Indigenous rights should be understood as inherent. The 1982 *Constitution Act* recognized and affirmed Aboriginal rights. However, the Constitution did not define these rights and, instead, left definitions to a series of meetings among the prime minister, the premiers, and Indigenous leaders. These meetings resulted in a stalemate as Indigenous and Canadian leaders were unable to



agree on several important issues. One of the most contentious issues was the question as to whether Indigenous Peoples possess an inherent right to self-government.<sup>v</sup>

Canada has also failed to recognize that Indigenous rights are *inalienable*. From the very first recognition of Indigenous Peoples' rights in the 16th century, British and Canadian governments have sought to alienate (or "extinguish") Indigenous Peoples' inherent rights through Treaty and legislation. Most historic Treaties negotiated in Ontario and western Canada claim that the Indigenous signatories agreed to "cede" or "surrender" their rights (although the legitimacy of these clauses is highly dubious). Modern Treaties (also called "comprehensive land claim agreements") negotiated between 1975 and 1993 also contained a variant of the "surrender" clause. More recent land claim agreements do not contain language that explicitly surrenders rights.

Instead, these agreements have a "certainty" clause that states that the Treaty "exhaustively" lists the rights of the Indigenous signatories.<sup>vi</sup> Many Indigenous Peoples have argued that this "certainty" clause has the same legal effect as the old "surrender" clause, because it extinguishes all rights that are not included in the agreement.<sup>vii</sup>

Some Indigenous leaders have argued that taking a human rights approach to Indigenous rights may help resolve this problem.<sup>viii</sup> Because human rights are widely accepted to be inalienable, treating Indigenous rights as a subset of human rights may mean that the extinguishment of Indigenous rights is legally impossible. The full implementation of the *United Nations Declaration on the Rights of Indigenous Peoples* (2007) – which takes a human rights approach – would be an important step in this direction.

I Locke, *Second Treatise of Government*.

II Rousseau, *On the Social Contract*.

III United Nations, *Universal Declaration of Human Rights*.

IV Asch and Macklem, "Aboriginal Rights and Canadian Sovereignty."

V Ibid.

VI Kulchyski, "Trail to Tears."

VII Manuel and Derrickson, *Unsettling Canada*.

VIII Nunavut Tunngavik Incorporated, "A Submission to the Royal Commission on Aboriginal Peoples."



*The Grandmother Earth Dress is a traditional red jingle dress, created by the Ontario Native Women's Association (ONWA), and inspired by Jaime Black's REDress Project. The dress honours and acknowledges missing and murdered Indigenous women, girls, and 2SLGBTQQIA people, and serves as an item of healing for families. According to ONWA, the dress is meant for families to visualize their loved one in beautiful traditional regalia. See the blog at <http://mmiwontario.ca/index.php/blog/earth-dress>.*

These laws and principles respecting roles, responsibilities, and rights are drawn from various sources, including language. As Tuma Young explained, the L'nu language is verb-based; it is an action language in which pronouns are optional. For Young, the purpose of the language is to establish and maintain relationships among people, and between people and the world. Young said, "Well, here from the Mi'kmaw world view ... our principles come from our stories, our ceremonies, our songs, our languages, and our dances, you know, and ... most of our legal principles are there."<sup>12</sup>

Other Indigenous languages also contain embedded teachings about roles, responsibilities, and principles of law that are difficult to translate, due to the lack of reference concepts in non-Indigenous languages, as well as the differences in how ideas are constructed. For instance, the Anishinaabe language doesn't denote feminine or masculine pronouns; rather, things are characterized as animate or inanimate, as well as through the use of verbs, or action words. There are similarly complicated issues of translation regarding Cree teachings.

A key feature of the roles and responsibilities expressed during the course of the testimonies, both from Community Hearings and from Knowledge Keeper and Expert Hearings, was the idea that important principles about women's roles, traditionally and in a modern sense, are based on respect, reciprocity, and interconnectedness. These values may also be conceived as based in independence and interdependency.

**Respect** means honouring and respecting other living beings. Respect extends beyond humans to animals and other living elements in the world, and means acknowledging the contributions that each living thing makes to sustain life or to contribute to a good life, both individually and collectively.



**Reciprocity** is about give and take. When a relationship is reciprocal, both sides actively participate in giving what is needed and taking what is needed. Within many Indigenous world views, the principle of reciprocity isn't time-bound, because it exists not on a timeline but in a circle; everything is linked and connected. This means that in everything, there is an exchange of ideas, and one idea or gift leads to another. Social reciprocity is about obligations to other members of the group, and is connected to reciprocity with the environment and the land. It creates rights and obligations for people toward each other.

**Interconnectedness** is the idea that the rights of individuals and of the collective are connected to rights of the land, water, animals, spirits, and all living things, including other communities or Nations. Interconnectedness recognizes that everything and everyone has purpose and that each is worthy of respect and holds a place within the circle of life. These roles and responsibilities, as well as the principles of law within them, can be expressed in language, use of land, ceremony, and in relationships.

## Understanding How Laws Are Lived, in Community

Professor Jean Leclair, from the Faculty of Law at the University of Montréal, testified in Quebec City, pointing out, “For thousands of years, Aboriginal people had legal orders that worked very well, thank you. So how is it that for 150 years they would not be able to do it anymore?”<sup>13</sup> A key feature of understanding Indigenous laws is also understanding that these were important in a very practical way within the lives of community members.

Speaking of *Onaakonigewin*, or Anishinaabe law, Dawnis Kennedy noted:

Our law we carry in our hearts and we live into the world through the decisions that we make. That's how we live our law. But our law is not human-made. I'm glad it wasn't left up to us. Our law is a law of life and how life flows, and it's up to us as humankind to look at all of our relations to figure out that law, to know that law, to connect that law, to live that law.<sup>14</sup>

Examples of living the law can be found in many different places, including the natural world. Some family members and survivors told the National Inquiry about drawing legal principles from the animal world, from the rain, from the movement of river water, and from the cycles of the moon. In her presentation to the National Inquiry, Val Napoleon said: “Natural law is also a source of law and John Borrows gives examples of his mother watching butterflies and milkweed. And she would observe that there would be fewer butterflies if the ... land wasn't being taken care of. So she was drawing lessons about that.”<sup>15</sup>

Drawing from the lessons of the natural world, as well as from necessary rules about social order and organization, Indigenous laws served to promote safety and justice. Val Napoleon continued:



Indigenous law has to be accessible, it has to be understandable, and it has to be applicable. It can't just exist in people's talk. It has to be a part of how we manage our behaviour with one another... And when we look at oral histories or we look at stories, the different kinds of oral histories that people had, those formed a public memory. They formed legal precedent from which we can draw on to solve present-day problems.<sup>16</sup>

In many cases, obeying Indigenous laws was a matter of life and death. These laws were not crucial just in terms of cultural knowledge, but at a basic level of survival. This is especially evident within stories shared by Inuit, whose environment strongly dictated the importance of the laws. As Sandra Omik, legal counsel at Nunavut Tunngavik Inc., explained:

The people, the community, there were couples, children, and grandparents, a sister, brother, an Elder, grandfather, grandmother; they would help each other elaborately so that they survive. So it's the same thing. Every day, daily they would help each other and it's part of their society in the North to survive the day so they work together. They live in harmony... If something happens or if a terrible thing happens or if there is a problem they would – they would get closer and resolve it and just to try to survive, for survival if somebody is stingy or if somebody is hungry. And the same with their minds. With their minds there is also peace and that was very collaborative.<sup>17</sup>

Collaboration, planning for the future, and being prepared were not necessarily laws, according to Sandra Omik, but were principles that were always followed, because “if the plan was not followed, we could have famine. We could freeze to death. We could not have seal to heat our lamps and therefore freeze.”<sup>18</sup>

Laws were also important when dealing with behaviour that wasn't accepted by the community, including violence. Communities' and Nations' own stories, both traditional and oral histories, feature key moments of violence, as the next section of this chapter will show, where members were banished, punished, or otherwise held to account for violence inflicted on other members of the community.

As Snyder, Napoleon, and Borrows argue, the failure to acknowledge that violence did exist within Indigenous communities in the past, and that sexism also existed, is dangerous. It disempowers Indigenous societies' ability to deal with these issues by insisting they are all new and all flow from colonization. While a great deal of the violence has links within the history of colonization, the tendency to sanitize the past makes the existing resources in the area of Indigenous laws seem invisible and irrelevant. Snyder, Napoleon, and Borrows explain, “It is possible to work with the idea that colonialism has negatively impacted gender norms and is reliant on gendered violence, without necessarily having also to claim that gender relations prior to contact were perfect.”<sup>19</sup>



Indigenous laws recognize that society is dynamic, and that every person is an individual whose role is also to contribute to the community. As Elder Kunuk Muckpalook explained, “Not everyone was perfect but in the old days we had ... sayings that we had to live by that were the beliefs. We had customs to live by. We were asked to help our people. Those who were in need, our job was to help them.”<sup>20</sup> Despite the changing circumstances of life in the North, as Sandra Omik points out, these principles are still important today.<sup>21</sup> Dr. Hadley Friedland explains, “Rebuilding Indigenous laws is about rebuilding and strengthening conditions of peace, safety, dignity, and justice.”<sup>22</sup>



*Carolyn Kaye, Dene, carrying her son Selwyn, in a beaded baby belt, 1947. Source: Library and Archives Canada/Department of Indian Affairs and Northern Development fonds/a185627.*

This is why, in part, the conditions for peace, safety, dignity, and justice can be found in understanding some of these principles. Dawnis Kennedy states:

We need to know ourselves and who we are as Anishinaabe so that we can show *mino-bimaadiziwin* to all of our relatives in creation and the other sacred colours of humankind that life is about life. It is about life. And honouring one life is about honouring all life. Protecting one life is about protecting every life and all life.<sup>23</sup>

Indigenous laws, and the rights articulated within them, can also provide concrete paths forward for communities and for Nations. Val Napoleon argues, “The issue of missing and murdered Indigenous women and girls is not only a legal issue within Canadian law. It’s an issue within our different Indigenous legal orders. And the work of Indigenous law includes that of rebuilding



citizenries and rebuilding our lawfulness.”<sup>24</sup> This work includes understanding how Indigenous laws can serve to promote safety and justice, or, in other words, “ways that aren’t oppressive, ways that are inclusive, and ways that are anti-colonial.”<sup>25</sup>

The basis of Indigenous laws, and the roles, responsibilities, and rights that animate them, rest in these principles of respect, reciprocity, and interconnectedness, as lived in relationships. As Jean Leclair explains, “In Aboriginal law, the law is considered in a relational perspective that excludes the all or nothing, that recognizes that things change over time, that admits that the law is not an end point but a milestone on a path, [and] whether we know it or not, we are never alone.”<sup>26</sup>

In her evaluation of Indigenous law, Dawnis Kennedy noted:

Money is not necessary for life. Degrees are not necessary for life. Power is not necessary for life. Water is necessary for life. Our relatives are necessary for life. The spirit is necessary for life. Love is necessary for life. Respect is necessary for life. Honesty is necessary for life. Humility is necessary for life.... Courage is necessary for life.... Wisdom is necessary for life.<sup>27</sup>

## Stories as Rights, Stories as Medicine

Finding the wisdom and the teachings within Indigenous laws is a task beyond the scope of this report, and for which work is already underway.<sup>28</sup> At the same time, we believe that it is important to understand how Indigenous principles, as drawn from a small sample of stories from diverse communities and Nations, may provide a path for further research into how to promote safety in a decolonizing way. As some witnesses pointed out, the loss of these stories and teachings contributes to the loss of respect that women, girls, and 2SLGBTQQIA people face within their own communities, as well as in the non-Indigenous world.

**“REBUILDING INDIGENOUS LAWS IS ABOUT REBUILDING AND STRENGTHENING CONDITIONS OF PEACE, SAFETY, DIGNITY, AND JUSTICE.”**

**Dr. Hadley Friedland**

This examination is not about highlighting traditional gender roles, but about identifying the qualities that are absent from the lives of families and communities when Indigenous women, girls, and 2SLGBTQQIA people go missing. What are some of the important principles that their stories illustrate, and how can understanding characters through a gendered lens help to address the barriers facing Indigenous women, girls, and 2SLGBTQQIA people, particularly in their access to services that may help to enhance security and safety?



As many testimonies demonstrated, accessing adequate housing, food, employment, and opportunities within both community and urban settings can be complicated by assumptions that are made about Indigenous Peoples generally and women in particular. Stories can help ground the perceptions of Indigenous rights as historical and contemporary understandings about the relationships upon which traditional and contemporary roles and responsibilities of women depend. They help anchor the testimony that we have analyzed in a context that is relevant to witnesses, and that can help us understand how very far we have departed, as a society, in our understandings about women and girls.

For Dawnis Kennedy, regardless of their origin, stories also animate an understanding of power and place. As she explains, “Our stories are – oral history tells us, you know, there was other times that we almost lost all of who we were, some of it just all by ourselves. And the spirit loves us so much that they will always find a way to answer our request to find our way back to life.”<sup>29</sup>

In this next section, we will look at key stories from a diversity of First Nations, Inuit, and Métis Peoples as a way to demonstrate some general principles, articulated within the testimonies as well as within some stories, that can help to promote safety and justice in Indigenous terms. For Indigenous societies, the point is not whether or not the events in a story actually happened. First Nations, Métis, and Inuit societies rely on stories to illustrate lessons, values, and laws in a way everyone can understand. Indigenous stories teach local history and land-based science,<sup>30</sup> provide examples of how to live out traditional values in real life,<sup>31</sup> and act as case studies for law.<sup>32</sup> As Val Napoleon explains, “We have to make sure that our laws are accessible in this so that all of our members – women, children, people from different sexual orientations, and trans and so on – that all of us can see ourselves as mattering within that legal order.”<sup>33</sup>

Stories aren’t made this way without hard work and careful thought – both for the storyteller and the person listening. They may have a lesson, but they don’t come with a rule book. Val Napoleon and Hadley Friedland, who are using stories to explore Indigenous law, point out that stories are not “passively passed on by infallible elders in some immaculate ... form. Rather, stories are part of a serious public intellectual and interactive dialogue involving listeners and learners, elders and other storytellers – as they have been for generations.”<sup>34</sup>



# “Yamozha and His Beaver Wife” through a Dene Woman’s Perspective

Cindy A. originally came to the National Inquiry to speak about her grandmother, Mary Adele D., a strong Dene woman who was killed in a violent attack. However, Cindy also came to share the importance of reviving Dene laws to help address the crisis of missing and murdered women and girls: “We have our Indigenous laws, and we need to revive those, talk about them, teach them to our children and our families. Through colonization we have lost a lot of those teachings. People don’t understand what they mean, our Dene laws. And I think that needs to happen.”<sup>1</sup>

Cindy is Weledeh, a Yellowknives Dene Tlicho woman originally from Yellowknife, Northwest Territories. She is also a lawyer with a degree in Indigenous Law from the University of British Columbia. She advocates that as part of reviving Dene laws, we need to pay particular attention to Indigenous women’s stories. She offers a Dene woman’s perspective on the well-known story of “Yamozha and His Beaver Wife” as an example.

Yamozha (also known as Yamoria, the Lawmaker) is one of the most important figures in ancient Dene stories. He travelled widely when the world was new, killing giant monsters, making the land safe, and teaching the Dene their sacred laws.

At one time, everyone would have known these laws, which include sharing what you have, and helping and loving one another. Now, mostly due to assimilative policies like residential schools, many Dene people are missing these critical tools. “Some Dene people, they just implicitly practice our Indigenous laws, our Dene laws,” Cindy said.

They do share, they do care for other peoples, they do help, and they are respectful. But then, as we know, this Inquiry is here to tell the story of Indigenous women and girls. There’s a break in the laws. There’s a break in the traditions. Things are unbalanced, because if people followed these laws from Yamozha, then we’d not

need to be here speaking about it, because we’d all be around the campfire. We would be in the circle. You’d have men and women together, standing together.<sup>2</sup>

In the story Cindy shares, Yamozha asks a beaver woman to be his wife. She agrees, on the condition that he never let her feet get wet. He agrees as well, and for many years, they live happily together.

Then, one day, he breaks his promise. She leaves him and returns to her beaver form. This enrages Yamozha so much that he chases her across the land, kills and eats their beaver child, and eventually turns her into an island when she makes one last escape into the ocean.

Cindy points out that this story, and most other stories recorded by anthropologists and published in the Northwest Territories, are “men’s stories” that focus on the male perspective. She emphasizes the need to “widen our gaze”<sup>3</sup> and uncover more stories showing Indigenous women’s perspectives:

Because if you look at it with a critical eye, an Indigenous woman perspective, a Dene woman perspective, you’ll see that the stories condone violence, death, murder.... I would really like for our Indigenous women’s stories, our Indigenous laws as women come forward and be taught. And that those teachings, those teachings will help us live in the future.<sup>4</sup>



Cindy then offers her interpretation of “Yamozha and His Beaver Wife”:

If you look critically at it, Yamoria had a marriage contract, a marriage promise to his beaver wife. He broke that. He did not put the branches down for her. One of the roles that I understand Dene men have actually is for breaking trail. And to take care and protect your wife. He did not do that. He broke his marriage contract with her. So she had a right to leave. But when she stood up and said, no, you broke my promise, he became violent. He stalked her, chased her all over the country, all over Denendeh [Dene land]....

What is missing is the Indigenous and Dene teachings that go along with this, that would give context to the story and would inform about the teachings ... and the importance of the Dene laws. My view on this in part about this story is that Yamozha, besides being our law-maker for Dene people, he also was a man, a human man with failings.<sup>V</sup>

Cindy argues that looking at these stories with a critical eye does not mean we can't use Dene law to address violence against Indigenous women and girls. She uses the example of talking circles with Elders to address family violence. “The parties would be given traditional teachings to bring them back into harmony and balance,” she explains. “It's maybe by talking to an Elder and grandmothers and grandfathers that you learn the teachings that you're supposed to know, and then you'll realize the error of your ways and go on a right path.”<sup>VI</sup> Looking at stories, traditional teachings, and other sources of Indigenous law with a

critical eye to gender can actually lift up women and 2SLGBTQIA people facing violence today.

Cindy's example shows us what the ongoing work of law-making can look like for different Indigenous Peoples. This work is underway in many communities, but federal, provincial, and territorial governments rarely recognize that Indigenous Peoples have distinct legal systems. As Cindy said:

We should embrace our Indigenous laws, as we are Nations, and we have our own laws as Indigenous people. We were here first. This is our country, this is my land, and we should have that recognition. As we move towards self-government in land claims, Indigenous governments will have the right to pass their own laws. I'd like those laws to be informed by Indigenous teachings, our Dene laws. Because that will help guide us in a good way in the future.<sup>VII</sup>

Cindy closed her testimony on this subject by underscoring her call to uncover, revive, and share widely the stories of Indigenous women. “I would strongly encourage that we start telling our stories as women and girls,” Cindy said.

I'm very grateful to be here, and the Inquiry starting that process. We are telling our stories of trauma, but we have to move beyond the stories of trauma into stories that give us guidance and hope into the future. And it's by including not only the men in the circle, but the women and the girls, that that will happen. Then you'll have the community behind you, if you include everybody around the fire, and I encourage that.<sup>VIII</sup>

I Cindy A. (Dene), Part 1, Public Volume 43, Yellowknife, NWT, p. 54.

II Cindy A. (Dene), Part 1, Public Volume 43, Yellowknife, NWT, p. 58.

III Cindy A. (Dene), Part 1, Public Volume 43, Yellowknife, NWT, p. 64.

IV Cindy A. (Dene), Part 1, Public Volume 43, Yellowknife, NWT, pp.56, 66.

V Cindy A. (Dene), Part 1, Public Volume 43, Yellowknife, NWT, pp. 65, 66.

VI Cindy A. (Dene), Part 1, Public Volume 43, Yellowknife, NWT, pp. 70-71.

VII Cindy A. (Dene), Part 1, Public Volume 43, Yellowknife, NWT, p. 71.

VIII Cindy A. (Dene), Part 1, Public Volume 43, Yellowknife, NWT, p. 67.



This central idea – the notion that appeals to the past must be contextualized within the context of ongoing violence against Indigenous women and girls – is key, as well as the need for measures and teachings that affirm, rather than deny, rights. As Indigenous Studies scholar Emma LaRocque argues:

Culture is not immutable, and tradition cannot be expected to be always of value or relevant even in our times. As Native women, we are faced with very difficult and painful choices, but, nonetheless, we are challenged to change, create, and embrace “traditions” consistent with contemporary and international human rights standards.<sup>35</sup>

In some cases, appeals to what is “traditional” are still used to question women’s demands for a place in modern discussions about their own lives. As Canada Research Chair in Indigenous Relationships Kim Anderson asserts, any call to the concept of “tradition” must recognize that traditions are created within and adapted to a particular place and time, and do not exist in a vacuum: “As we begin to reclaim our ways, we must question how these traditions are framed, and whether they are empowering to us.”<sup>36</sup>

This is why, in our selection of stories, we include those that demonstrate harmful encounters and those that demonstrate healing ones, drawing on the strength and resilience of Indigenous women themselves.

A few comments on our interpretation of the stories is in order. We do not claim that these stories contain traditional teachings that are common to all Indigenous societies, and neither do we view tradition as static or unchanging. Our interpretation isn’t focused on identifying the lessons or morals intended by the storytellers. Instead, we use stories as illustrative metaphors to help explain the roles, responsibilities, and rights of Indigenous women, girls, and 2SLGBTQQIA people in their communities in a dynamic sense. Within this work, we have included stories featuring violence, understanding that these stories can show us how Indigenous Peoples resist violence and find important solutions to problems within their own communities and Nations.<sup>37</sup>

Like the languages and Peoples they reflect, these stories represent dynamic encounters between storyteller and listener, and offer important insights into respecting the rights of Indigenous women, girls, and 2SLGBTQQIA people as sacred.



## Indigenous Expressions of the Right to Culture, Health, Safety, and Justice

As the previous chapter outlines, the National Inquiry has heard testimony that connects to four broad categories of rights, and to women, girls, and 2SLGBTQQIA people as rights holders. In our analysis of Indigenous stories from across Canada, we identified several key areas in which rights are manifest for Indigenous women and 2SLGBTQQIA people: as teachers, leaders, healers, providers, and protectors. These labels aren't intended to trap people in static ideas about culture; they aren't labels at all. Instead, we acknowledge, as Snyder, Napoleon, and Borrows have pointed out, that "Indigenous women deserve the right to safety and bodily integrity simply because they are human."<sup>38</sup> We don't offer these stories to burden women, girls, and 2SLGBTQQIA people, either; we look to highlight ways in which their own strengths are brought forward in stories, and within the spectrum of Indigenous law, as ways to imagine decolonizing the path forward.

In addition, we believe that understanding some of these ideas can help in moving beyond the idea of missing and murdered Indigenous women and girls as being simple "victims," and beyond other labels that many people have rejected. As Eva P. shared about her loved one: "I don't like how they always talk about that substance abuse. She was much more than that. Misty was an amazing person. She was the organizer of our family, but she was also a leader back home in Alberta. She did a lot of great things."<sup>39</sup>

Rather, these roles – teachers, leaders, healers, providers, protectors, and so many others – are therefore brought forward as sites of power and of healing that were shared with the National Inquiry and that carry across diverse Indigenous groups, including First Nations, Métis, and Inuit. Toni C., survivor and family member, told us that what really helped her was "starting to know who I really am ... as a woman, as a First Nations woman – that I am a gift. And I do have gifts to offer."<sup>40</sup> It is for these reasons that we embrace the importance of stories in defining Indigenous rights and understanding what meaning they might hold in the context of addressing violence against Indigenous women, girls, and 2SLGBTQQIA people. In this case, stories offer both instruction and medicine, helping us to see the inherent Indigenous rights women hold and how we might ultimately achieve safety and justice for families.

We apply these ideas in nuanced ways that bring forward many of the elements that those who testified shared in relation to their loved ones. As Ann M. R. said:

Our people, our community want to heal, they want to learn their culture. They want to go on the land. That's where they want to be. That's where they want to heal.... Culture has to be lived. There is nothing that makes us happier than seeing our children dance. Nothing makes us happier than seeing our children sing. Nothing makes us happier than seeing our children speak and hearing them speak our language. Our parents are so proud. It brings us to life. And that's what we need is life and culture does that. Culture, culture, culture. I cannot emphasize that enough is culture.<sup>41</sup>



As Fay Blaney explained, “Our rights and responsibilities are really important to us as Indigenous Peoples. It’s not just about individual rights. It is about our responsibility to community.”<sup>42</sup> These stories illustrate rights as manifest in roles and responsibilities, to self and to community, that come together to create safety, or can offer solutions to enhance safety.

Women’s, girls’, and 2SLGBTQQIA people’s place in culture connects to stories about women and gender-diverse people as teachers and as leaders. Ann M. R. shared:

My mom lived on land and she would live at Simpson Creek, dry fish. Every summer when we came out of that prison camp [residential school], she was drying fish, making dry meat, making moose hide. I would sit in the little mosquito tent and read my True Confessions and my mom would be working very hard to feed me. And people would come on the highway and she taught us how to be generous. She gave. She gave fish. She gave dry meat.... They stopped for coffee, they stopped for tea. She’d feed them, she’d cook them bannock. That’s who we are as Dene. You don’t teach these things, you live these things.<sup>43</sup>

Within families and within communities, women and 2SLGBTQQIA people have held roles as mothers, grandmothers, and caregivers who work to educate future generations, and to preserve knowledge and traditions, alongside but distinctive of men. In many societies, women’s roles in governance roles as chiefs, Elders, clan mothers, and advisors help strengthen and maintain collective identity.

“OUR PEOPLE, OUR COMMUNITY WANT TO HEAL, THEY WANT TO LEARN THEIR CULTURE. THEY WANT TO GO ON THE LAND. THAT’S WHERE THEY WANT TO BE. THAT’S WHERE THEY WANT TO HEAL ... CULTURE HAS TO BE LIVED. THERE IS NOTHING THAT MAKES US HAPPIER THAN SEEING OUR CHILDREN DANCE. NOTHING MAKES US HAPPIER THAN SEEING OUR CHILDREN SING. NOTHING MAKES US HAPPIER THAN SEEING OUR CHILDREN SPEAK AND HEARING THEM SPEAK OUR LANGUAGE. OUR PARENTS ARE SO PROUD. IT BRINGS US TO LIFE. AND THAT’S WHAT WE NEED IS LIFE AND CULTURE DOES THAT. CULTURE, CULTURE, CULTURE. I CANNOT EMPHASIZE THAT ENOUGH IS CULTURE.”

Ann M. R.

For many of our witnesses, this connection to identity also offers protection and strength. It relates to some of the various roles that women, girls, and 2SLGBTQQIA people have with respect to security, within stories and in life, and also relates to their roles as providers and protectors. Women, girls, and 2SLGBTQQIA people contribute to a safe, secure community in many ways, including by providing physical necessities, by protecting those in need through the management of resources or their redistribution, and as defenders of the water, land, plants, and animals.

The National Inquiry’s Audrey Siegl shared the following about her work in Vancouver’s Downtown Eastside: “When we walk down through the Downtown Eastside just with the sage, just with the cedar, with a drum.... You see they’re dying for it, they’re starving for it, they don’t



know where to get it. There are a few people who go out and bring it, but it's not enough. Our connections to our ways, our teachings, our medicines ... we see time and time again ... those connections save *lives*."<sup>44</sup>

Evidenced by so much of our testimony, and through themes like culture, health, and security, women's, girls', and 2SLGBTQQIA people's right to justice connects to the key theme of protection, as illustrated in a number of stories and testimonies. Stories show us how women, girls, and 2SLGBTQQIA people fight to protect themselves and others from violence, either in a literal, physical sense, or from other forms of violence. Many women, girls, and 2SLGBTQQIA people in stories are also survivors who, in overcoming the trauma inflicted upon them, can condemn the violence they experienced and give strength to others who need it. In other stories, women, girls and 2SLGBTQQIA people take on the role of heroes – those who put themselves in danger to save others. In addition, the various roles of women in traditional justice systems in their communities, including in restorative justice work, are an important theme related to justice as a basic human right.



*Member of the National Inquiry's Grandmothers Circle and traditional medicine keeper Audrey Siegl speaks before those in attendance in Ottawa, Ontario.*

The importance that Indigenous women, girls, and 2SLGBTQQIA people place on upholding justice came forward in many of the testimonies. As medicine carrier Audrey Siegl shared, regarding her role in the National Inquiry, it is important to speak out and to articulate why this crisis matters:

Take it to The Hague, take it to the world courts. Push it. Don't stop with Canada. Stand and rise for every woman out there who is still marginalized, beaten, raped, murdered. For all the little girls who grow up witnessing the violence. For the girls the violence is normalized for the way it was normalized for us. You know ... what's normal for me should never be normal for another human being.<sup>45</sup>



*National Inquiry Grandmother Pénélope Guay speaks to those in attendance in Quebec City, Quebec.*

National Inquiry Grandmother Pénélope Guay explained, “It’s really important for Indigenous women to speak up. I tell myself the more they speak, the more they regain their strength. The more of us women who speak up, it’s strength. It also shows our place. We have to take it, this place.”<sup>46</sup>

These roles in teaching, in leadership, in health, in provision, and in protection are not mutually exclusive. They are fluid, interdependent, and interconnected. Women and 2SLGBTQQIA people may be leaders *and* healers, providers *and* protectors. They may take up different roles and responsibilities at different stages of life, and end up taking on them all.

What is most important, though, is that, like the human rights to which they are connected, these roles and responsibilities are indivisible. For example, Indigenous women’s right to health cannot be upheld without their culture and identity. Similarly, access to justice may be compromised in the absence of culturally appropriate victim services to support mental health or because of the lack of ability to file a complaint safely.

As a National Inquiry, our vision has always been to help build a foundation for Indigenous women, girls, and 2SLGBTQQIA people to reclaim their rights as Indigenous Peoples – to reclaim their “power and place.” This is based on a common principle we take to heart: “our women and girls are sacred.” This is not a place beyond human understanding, but a reflection of what every single life we heard about meant to those who testified. We use these stories to bring together some of these ideas, and some of why, to those families who shared their truths, these lives are sacred, and why there is such a void in the absence of loved ones.

These stories and some of the principles therein show us how the underlying principles of Indigenous laws across many communities – respect, reciprocity, and interconnectedness – shape the roles, responsibilities, and manifest rights of Indigenous women, girls, and 2SLGBTQQIA



people as humans, and as Indigenous people. This is important because we can use these values to create healing encounters, today.

Inuit, Métis, and First Nations Elders and Grandmothers have been teaching this truth for generations, but it has become more and more difficult to hear through the deafening noise of colonization. Instead, much more harmful stories of Indigenous women, girls, and 2SLGBTQQIA people have taken over. These stories devalue women and girls and reduce them to stereotypes, contributing directly to the violence they face.

Understanding why women and girls are sacred through various Indigenous perspectives is an important part of seeing Indigenous women, girls, and 2SLGBTQQIA people as rights holders. It is also a starting point to addressing some of the historical and contemporary negative encounters that incite violence or create harmful spaces for those who are so important. What roles and responsibilities do women, girls, and 2SLGBTQQIA people have? What happens to their communities when they're taken away? And how can understanding why women and girls are sacred help us understand how to create new, healing encounters, founded upon stories handed down over generations?

Women and girls are sacred; they carry their Peoples and their communities with them. Without them, whole communities suffer.

## The First Teachers

As we've discussed, stories show that Indigenous women's rights to culture and identity are rooted not only in basic human rights, but in the ways they lead their people forward. Rhonda M. explained:

When I think about all the grandmothers who have come ahead of me and those grandmothers that stand behind me and the grandmothers that stand in all the directions, I think that they're leaders and that, as leaders, as water carriers, as women that give birth to the next generations, that they all have those leadership qualities in them.<sup>47</sup>



*Cree woman on Charlton Island, James Bay, Northwest Territories, 1926. Source: Library and Archives Canada/National Photography collection/a096660.*



In some testimonies, many family members discussed the lessons they learned from their female family members, or the gap that was left when they were taken. As Grace T. shared about her mother: “She was so proud. She – she created me, and this is the person that I am because of her – articulate, beautiful, smart, educated, fearless – is because of her.”<sup>48</sup>

First Nations and Inuit stories of how the world began, or how people came to be, often show mothers and grandmothers in leadership roles.<sup>49</sup> These are powerful stories that show how women are instrumental in shaping the actions, beliefs, and values of their people’s culture, including their earliest relationship with water or land.

One of the most widely known Indigenous Creation stories is that of Sky Woman, or Awe(n)ha’i’ (“mature blossoms”). This is the Haudenosaunee (Iroquois) story of the pregnant woman who fell from the sky.<sup>50</sup> In this story, many animals of the world help cushion her fall, with the great Turtle giving her a place to land on his back. After she turns a tiny bit of mud into vast land all along the Turtle’s back, Sky Woman takes seeds from her hair and dances, sings, and drums the first plants and medicines into creation. She does this as an act of reciprocity, to show thanks to the animals who treated her with kindness and respect.

The fact that Sky Woman is pregnant can symbolize the critical role life-givers continue to play in shaping Nations. But Sky Woman also sets in motion, as Kim Anderson explains, “a creative process that results in the completion of our first mother, the earth,”<sup>51</sup> which creates a mother–child bond between people and the land. Sky Woman’s daughter, She Who Always Leads, then gifts the Haudenosaunee with their three staple foods: corn, beans, and squash.<sup>52</sup> These are critical formative encounters that tie the Haudenosaunee cultural identity firmly to the leadership of their women, beyond a simple “giver of life” biology, but within the context of complete provision for the world the people face.

Another origin story, this time from the Inuit world, is that of Nuliajuq, the Mother of the Sea Mammals. She is also known as Sedna, Unigumissuitung, and Avilayoq.<sup>53</sup> This story takes place when the world was very new, and people lived by eating rocks and dirt because there were no animals to eat.

In one version of the story, she is a young woman trapped in a bad marriage to a bird. When her father attempts to rescue her and bring her home, her bird husband causes large waves that threaten to capsize their boat. Fearing for his life, he throws his daughter into the sea. She tries to climb back into the boat, but her father, still fearful for his life, chops off her fingers.

In another version, she is an orphan girl who gets pushed into the sea. Her limbs are transformed into the sea mammals, and she becomes their keeper.



That wickedness turned her into a great spirit, the greatest of all spirits. She became Nuliajuq and made the animals that we hunt. Now everything comes from her – everything that people love or fear – food and clothes, hunger and bad hunting, abundance or lack of caribou, seals, meat, and blubber. Because of her, people have to forever think out all the taboos [prohibitions] that make life difficult. For now people can no longer live eating rocks and dirt. Now we depend on timid and cunning animals.<sup>54</sup>

Across different versions, Nuliajuq subsequently becomes the mother of the sea animals that form the basis of the Inuit diet. She lives under the sea, and, when angered, will withhold game from Inuit, causing hardship. As a result, Inuit went to great lengths to honour and show their respect for Nuliajuq and the animals that belong to her, lest they starve.<sup>55</sup>



*Naulaq Ledrew performs a traditional drum dance in Toronto, Ontario.*

The story of Nuliajuq is a challenging one, in that Nuliajuq survives many forms of violence or neglect before finding her place of leadership. Similarly, her gifts to the Inuit are mixed: the sea mammals provide food, clothing, and tools, but with these gifts come responsibilities – rules Inuit would traditionally follow to show Nuliajuq respect.

In this way, we can see this story as a powerful metaphor for the position many Indigenous women are in today: survivors of violence, but in the process of re-establishing themselves as respected leaders who have their own solutions to share, with the many rights and responsibilities that entails.



## Women in Leadership

Dawnis Kennedy shared:

I think one of the first things that I could share is that women are life-givers and from that flows so much. It is women who carry life, women who give life. Women are – it is upon women that all life depends. And for Anishinaabe Onaakonigewin, that carries many different consequences. You know, because women are the life-givers in our Nation it is the women who carry the water. It's our grandmother, the moon, who governs the water, but it's the women who carry the water and who work with the water, who work for the water. And so any decision that impacts the water or impacts life is a decision that requires women. And that's a huge consequence and that's a huge thing because that means that any decision that we make that will affect life, we must ask women.<sup>56</sup>

In many stories, women are also the bringers or keepers of sacred ceremonies.<sup>57</sup> Ceremonies are meant to strengthen people's relationship to the Creator, to each other, and to the natural world around them. They also help guide people through important transition points in their lives, and provide a way for communities to recognize each other's accomplishments. In these stories, such as the one of White Buffalo Calf Women, who brings the Sacred Pipe and the Sundance, women as leaders and as teachers are essential to an Indigenous People's identity as a people.<sup>58</sup>

Women in stories can also be seen to have important roles in negotiating rights for their communities through cross-cultural marriages between a human and a non-human being (such as an animal, plant, star, or other being from the natural world). Many women in First Nations, Inuit, and Métis stories become diplomats or ambassadors for their communities by marrying one of these non-human beings. In these roles, they either bring their people's knowledge to other cultures, or bring new skills back home – sometimes with great difficulty.

**“INUIT WOMEN LEADERS ARE ALL AROUND US. THEIR LEADERSHIP STARTS IN THE HOME, WITH THE MOTHERS AND GRANDMOTHERS, AND OF COURSE MANY INUIT WOMEN AND GIRLS VOLUNTEER THEIR TIME IN THE COMMUNITY.”**

**Okalik Egeesiak**

The Métis story “The Fiddle I Give” emphasizes the enduring power of the skills and knowledge of Indigenous mothers, while also recognizing the new gifts cultural exchanges can bring. In this story, a young man from the Red River Colony (also known as the Selkirk Settlement) sets out on a journey to find a cow with glowing horns (i.e., cattle). Along the way, he runs into three grandmothers, found in traditional tipis. The first grandmother offers him a tiny thimble with a kernel of corn and a pinch of pemmican, which, at first, he thinks will never fill him up.



His grandma gave him the thimble and said, “My grandson,” she said, “You eat. Eat this until you get full.” By gosh, he took that thimble and he emptied it in his mouth, chewed. By gosh, again that thing refilled, keep on refilling, all the time. When he got full, “Ah, grandma,” he said. “I’m full,” he said. “You’re full,” she said. “Yeah, I’m full.” He gave it to his grandma. Grandma took that little thimble and dumped it in her mouth. “It’s empty, empty.” Didn’t refill no more.<sup>59</sup>

The next morning, the first grandma gives him a flint to help him on his journey. The second grandmother gives him a rope, and the third, a fiddle. With all three items and the wisdom of the grandmothers, the hero succeeds in his quest.

In this story, the kernel of corn and pinch of pemmican offered represent the “unending and ever sustaining ... substance of Indigenous culture.”<sup>60</sup> It’s this nourishment, as well as the grandmothers’ knowledge, that ultimately saves his life. But this story also includes the fiddle, something that was originally a piece of European technology, but has now become associated with the Métis. The gifts that come from those connections, grounded in Indigenous matrilineal lines, are at the heart of the Métis identity.



*Mrs. Oman, a Métis cook with the Hudson’s Bay Company, pictures in the Northwest Territories, 1926. Source: Library and Archives Canada/ Department of Indian Affairs and Northern Development fonds/a099520.*



As these brief examples demonstrate, and as our testimony highlights, these and many other stories emphasize women's Indigenous rights and roles as cultural carriers of their communities and as the centre of their families. This provides the foundation for individual and group leadership across many Indigenous cultures. As Inuk leader Okalik Eegeesiak explains, "Inuit women leaders are all around us. Their leadership starts in the home, with the mothers and grandmothers, and of course many Inuit women and girls volunteer their time in the community."<sup>61</sup>

Métis women Audreen Hourie and Anne Carrière-Acco assert similar leadership roles: "Métis women, together with their spouses, always considered the well-being of the whole community.... A strong and healthy Métis community will always have women in decision-making roles."<sup>62</sup>

The inclusion of women in the direct or indirect leadership of their people is an important key-stone in the protection and promotion of safety and justice for Indigenous women and girls.

### **Women as Healers**

In many testimonies we heard, the inability to access adequate or culturally appropriate health services was a key cause of violence against women, girls and 2SLGBTQQIA people, particularly in more remote communities where women were transported to receive treatment into locations unfamiliar to them and, as a result, unsafe.

In many understandings within Indigenous storytelling, however, First Nations, Métis, and Inuit women are the healers themselves; without them, healing is placed in jeopardy in families, in communities, and in Nations. As Trudy S. shared,

My mother was a very beautiful lady.... She fought the system to bring back all the First Nation children that were adopted, and she reunited a lot of families together and brought their kids back to their biological family, and she had taken a lot of – she had 12 of us kids, but she took a lot of other kids in the house that didn't have family. So, she always had different kids that we called brother and sister, because she didn't want to see them put into foster homes, you know? She's a great lady, my late mom.<sup>63</sup>

One of the important roles that Indigenous women and gender-diverse people have most consistently played across Indigenous societies is in healing and medicine. This includes as "Indian doctors," midwives, medicine people, counsellors, and shamans. In these roles, healers generally care for all aspects of a person's health: physical, mental, spiritual, and emotional. Physical ailments are often understood as an outward symptom of a problem with any of these four aspects of self. This means that healers are not limited to addressing aches and pains, but also provide teachings and support to address what they understand to be the root of the disease itself.<sup>64</sup>



As we heard from Heiltsuk leader Joann Green:

Medicine gathering is such an important part of who we are.... We open our back door and we have our pharmacy. That's where we get all of our medicine, you can walk up in the bush and you can pick ... salal berry leaves, those are medicine. You can go up into the forest and you can get cedar bark, you go in there and you get the hemlock branches ... we're very rich. We're very rich.<sup>65</sup>

Stories like the Seneca story “How the Real People Got Medicine” show that Indigenous women have long been regarded as experts in this field.<sup>66</sup> In this story, Ha-wen-nee-yoh (the Great Spirit) takes pity on the Ongweh-onh-weh (Real People), who did not know how to heal sickness. He sends one of his messengers to take the form of a sick old man. He goes door to door, looking for someone who will take him in, but everyone refuses except one old woman of the Bear Clan, who “was kind to everyone, and always helped those who came to her in trouble.”<sup>67</sup> When she takes him in, he begins to instruct her on what kind of roots and bark to gather.

The woman did as he asked and she remembered what he had told her to gather for him. When she returned to her house, the old man told her how to prepare the things which she had brought, which she did. He said, “This is On-noh-qua-se (medicine)” and told her what illness it would cure.

The woman asked him to remain with her until he was well enough to travel again, and he agreed. The old man stayed many moons with the woman and during this time became ill many times. Each time, the illness was different, and each time the old man told the woman what to get that would cure the illness and how to prepare it. All these things the woman remembered.<sup>68</sup>

At the end of the story, the old man declares that the Bear Clan People will become the healers of the people in her honour, since she was the only person who would help.

This story is an example of Indigenous women’s historical and contemporary attachment to the land. Women in most First Nations and Métis societies worked most closely with plants, berries, and roots. For example, Naskapi men had some plant knowledge, but would acknowledge that “that knowledge belonged to women, and it was their authority to dispense and apply it.”<sup>69</sup>

**“MÉTIS WOMEN, TOGETHER WITH THEIR SPOUSES, ALWAYS CONSIDERED THE WELL-BEING OF THE WHOLE COMMUNITY.... A STRONG AND HEALTHY MÉTIS COMMUNITY WILL ALWAYS HAVE WOMEN IN DECISION-MAKING ROLES.”**

**Audreen Hourie and Anne Carrière-Acco**



In a modern context, women continue to work with medicines, and have important teachings to share with respect to how to recognize them, pick them, and use them – knowledge that is handed down from one generation to another, through the Elders. In the same way, the old woman learned to heal by working through each sickness one at a time, listening closely to her teacher. The answer to “What does this person need to be well?” isn’t always straightforward, and medicine sometimes requires careful problem solving through trial and error.

In societies where gender diversity was acknowledged or accepted, some Two-Spirit people had roles as medicine people or shamans, or had particular roles in ceremony. For example, Jeffrey McNeil-Seymour is a Two-Spirit Tk’emlupsemc man who shared as part of our hearing on colonial violence in Iqaluit. One matriarch told him, at the conclusion of a ceremony he held, that it was “people like him” who would take care of ceremony when women had their restrictions, or if someone else couldn’t take care of a calling. He said:

That was the first time that I heard anyone suggest to me that we had specific training or specific responsibilities in our communities, and particularly in Secwepemcul’ecw. So, we carried particular knowledge bases, and I think that that’s something important to document and to hold on tightly to, and to also ... bring that back to counter so many of our people either dying too early or taking their lives.<sup>70</sup>

As people have shared in our Truth-Gathering Process, one of the biggest challenges today for 2SLGBTQIA Indigenous people is finding a welcoming place to care for their spiritual health in community with others, when many events exclude gender-diverse people from participating in their chosen gender roles. However, Expert Witness Albert McLeod pointed out that there are historic accounts of Two-Spirit ceremonies, including the *Dance to the Berdash*, a painting by George Catlin from the 1830s. McLeod explains that “the warriors would acknowledge the trans female who was part of the community, and honour the trans woman for their contributions to the warrior society with regard to hunting and with regard to going to battle.”<sup>71</sup> At the time, McLeod explains, the painter Catlin said he hoped that the Dance to the Berdash would soon be eliminated from Indigenous society.

In Inuit society, the *angakkuq* was an important figure who exemplified a holistic understanding of physical and other forms of health. “Angakkuit,” a term often translated as “shamans” in English, were responsible for healing and mediating the relationship between Inuit, animals, and the weather. If someone fell ill, it might just as likely be because they had damaged their relationship with the land and spirits around them as due to a physical ailment, and repairing these relationships was key to bringing someone back to good health.<sup>72</sup>

While it wasn’t common for Inuit women to be angakkuit, it wasn’t unheard of.<sup>73</sup> William Ukumaaluk, of Amitturmiuk, shares about the angakkuq Arnatsiaq, who found her power after she refused to return to her former husband:



He then took his snow knife and strongly hit the bedding skins to scare her. But due to her [angakkuq] power, Arnatsiaq pushed the blow against him and he went out. In the morning, someone came to tell her: “The man who tried to scare you with his knife hit himself and is dead.” It was she who, through her magic power, had caused him to hit himself. ... Arnatsiaq received many gifts, as she healed many a sick person. She was a powerful [angakkuq].<sup>74</sup>

The National Inquiry’s testimonies reveal how one of the keys to healing is the requirement to respect the needs of Indigenous women, girls, and 2SLGBTQQIA people with respect to finding their own path toward personal and collective health. This can, in turn, influence the whole community. As Mi’kmaw Elder Miigam’agan shared:

We all know that when, when a mother, when a grandmother, when an auntie, when a sister is in, in a healthy and a secure setting and that she is not stressful and not in crisis, we can see immediately the influence and the shift of the children in the house. And the whole household shifts. So when she is feeling worthy, and that worthiness can only come from if you have a secure solid cultural foundation and our identity, a positive identity about ourselves, then we have a sense of self, a sense of pride.<sup>75</sup>

## Women as Providers

Families and survivors told us over and over again about the profound lack of security in their lives. This includes everything from poverty to food insecurity to personal safety. When they have advocated for themselves, their families, or their communities, many government authorities, Indian agents, and sometimes their own band councils or communities have ignored their needs. In fact, Indigenous women, girls, and 2SLGBTQQIA people have long had critical rights and responsibilities in creating safe communities by contributing to the provision and distribution of resources, creating social security nets, and through their special connections to water and land.



*First Nations women scraping and stretching deer hide, Northwest Territories, n.d. Source: Library and Archives Canada/ Department of the Interior fonds/a047987.*



In many communities, one of the most important responsibilities related to women is food production. Having a full store of food guards communities against hardship, which can come in many forms: illness, natural disaster, famine. Many Indigenous Peoples clearly understood the close ties women had to providing for their communities' socio-economic security. This comes out strongly in stories where the most important natural resource to that Indigenous society is conceptualized as female.

For the Tsimshian, the most sacred source of sustenance, both nutritional and spiritual, is oolichan oil. This is made from the fish that is the first major food source to arrive in the spring, ending the long and lean winter months – sometimes ending a famine. This sacred oil is portrayed as a woman in Tsimshian epic narratives.

Giant [Raven] camped at a certain place. He did not know how to cook his olachen. A woman came to the place where he had camped, and Giant spoke kindly to her, like a brother to his sister. Her name was Tsowatz. She was the Oil Woman, of dark complexion. Giant asked her, “Tell me, how shall I cook my olachen?”

[Oil Woman gives him detailed instructions that contain the proper protocol for respecting the oolichan fish.]

Thus spoke the Oil Woman to Giant, and Giant was glad to receive the instruction of Oil Woman. He took her gladly to be his sister.<sup>76</sup>

Raven treats Oil Woman with honour and respect, asking her to be his sister, in recognition of the great value she brings to the world.

Gathering and preparing food creates wealth for an entire community, and it can be redistributed as needed to make sure everyone survives. Several stories show that women often extended that social security net to people others had given up on.<sup>77</sup>

In stories, these people have usually consistently broken the rules or failed to contribute to the community. The community moves on to their next seasonal home and leaves the person who isn't contributing behind. But a grandmother or another woman will make the decision to leave that person a last little bit of resources, offering them a way back into the community if they're willing to take it. Using these resources, the people left behind are able to survive and learn the lessons they needed to learn to become a better person. They often then use their new skills to bring wealth and food to their communities. This shows that the women who shared their resources made the right decision. Not only does this save people's lives, it makes the whole community safer, too.

Women and girls also have distinct roles in providing for a community's security in their relationships with the natural elements. Some First Nations have conceptualized this responsibility as seeing women as “water keepers” and “land defenders.” The Métis/Anishinaabe story of the four spirits of the water illustrates this intimate connection with the source of all life.



I've been told that a long time ago, when water was first here ... four beings stepped forward – and I'm told that they were female – and they're the ones who said they would look after the different kinds of water. So one of them said [she] would look after the salt water, and one of them said [she] would look after the fresh water, and one of them said [she] would look after the fog, and one of them said [she] would look after the water our babies grow in. So those are things I really believe in, and that we have to acknowledge [and] ensure that those beings are honoured and thanked for stepping forward to look after those four types of water.<sup>78</sup>

These water keeper roles may be formal or informal, but they are essential. Some women are responsible for ceremonies on and with water.<sup>79</sup> Others speak in front of the United Nations on the rights of water, and its living spirit, which we need to protect.<sup>80</sup> Water is life – nothing can exist without it.

These stories of women as water keepers and land defenders are not universal to all Indigenous societies, but women from all Indigenous communities have filled these roles. For example, there are many Inuit women who have fought tirelessly for the land and water in Inuit Nunangat. Prominent examples include activist Sheila Watt-Cloutier's work on persistent organic pollutants and climate change, leader Mary Simon's protests of the militarization of Inuit Nunangat, organizer Joan Scottie's community organizing against uranium mining in Nunavut, and land protector Beatrice Hunter's resistance to the Muskrat Falls hydroelectric project.

At their heart, women's roles and responsibilities and related rights as providers are based on the principle of reciprocity. Indigenous women who hunt, snare, fish, and prepare the food for their families do so in a spirit of close relationship with these animals, who have given themselves up to feed people. In return, women treat their bones, hides, and other remains with utmost respect. In turn, within a community, women help govern the redistribution of resources to make sure everyone has enough. You never know when you or your family will be in need. Protecting the land and water is part of being in respectful relationship with them, but it also recognizes that our fates are bound up together, and Indigenous women in particular can suffer when these relationships are harmed.



## Women as Protectors

The final set of roles we will look at relates to Indigenous women's and gender-diverse people's responsibilities as protectors. In stories about these roles, women survive very difficult experiences of violence themselves, and they fight for their families and communities, even at great personal risk.

Stories show that even the people perceived as the “weakest,” or with the odds stacked highest against them, can succeed.

In the Nlaka'pamux (Interior Salish) story “Elk,” Elk kidnaps a woman, while she bathes in a river, to become his wife. But she is too smart for him, cleverly tricking him into giving her the clothes and moccasins she needs to escape.

After a while the girl felt cold, and said to herself, “I shall perish of cold.” Elk knew her thoughts, and said, “Here are some clothes: put them on.” ... Soon she said to herself, “My feet are cold” and the Elk gave her moccasins to put on. After running fast a day and a night, Elk began to slacken his pace.

Now the woman said to herself, “I will leave him.” So she broke off fir-branches as they passed along through the trees. These she placed on Elk's head, between his antlers. When she had thus disposed of a sufficient number of branches, she caught hold of the limb of a tree as they passed underneath, and swung herself up. Elk passed on, thinking that the girl was still there, for he felt the weight of the fir-branches between his antlers.<sup>81</sup>

She uses her wits to escape her pursuer several more times, before finally getting back home.

Other stories show women and gender-diverse people going to great lengths to protect others. In the Haida story “The One They Hand Along,” a young woman is kidnapped by the killer whale chief and taken to his home at the bottom of the ocean. Multiple members of her family go to rescue her. Before they leave, her two brothers, one of whom is a prepubescent boy, marry two female supernatural beings so that the beings can help them. These are Mouse Woman and a woman who is likely the mythical Xaalajaat, or Copper Woman.<sup>82</sup>

There are many aspects of Copper Woman's gendered presentation that support understanding her as a Two-Spirit, or gender-diverse, woman: she wears her hair short and wears copper armour, a traditional male dress. She is also described as someone who likes to do things “backwards.” And, of the two brothers, she allies herself with the brother who is still too young to be properly married.

While Mouse Woman takes charge at first, and leads the girl's family to the chief's house with the help of a supernatural needle, it is Copper Woman who turns the tide at the critical moment.



When the family confronts the headman's family under the sea, they begin to cower and lose faith.

Hwuuuuuuuuuuuuuu!  
The house quivered, they say,  
and the earth shook.  
Together they all shied away.  
No one looked upward.

But the youngest son's wife raised her head  
As the rest of them cowered, they say.  
She looked to the rear of the house,  
And she looked to the door.

"Raise yourselves up!  
Have you no power?"  
Those were her words.

The house quivered again,  
And the earth shook.

Hwuuuuuuuuuuuuuu!  
And again those in the house lowered their heads...

As she lifted her chin,  
Something powerful came to her,  
And their heads rose like the tide.  
"A powerful woman you are."<sup>83</sup>

Copper Woman's biggest gift to them was not a weapon, an item, or even secret knowledge. The gift she gave them was to remind them of the power they had all along. Like the inevitable return of the tide, their courage returned as well, and they were able to successfully negotiate their daughter's return.

Many Indigenous women continue to fill the role of protectors today. Gitksan researcher Dr. Cindy Blackstock's advocacy for the rights of Indigenous children, Inuit leader and activist Rosemary Kuptana's work to end the sexual abuse of Inuit children, and Métis scholar Emma LaRocque's activism to fight violence against Indigenous women are all examples of Indigenous women's work as protectors.



*Dr. Cindy Blackstock testifies at the National Inquiry's hearing on child welfare in Winnipeg, Manitoba.*

## Existing Systems of Relationship, Governance, and Identity

Women's, girls', and 2SLGBTQQIA people's disappearances or violent deaths have ripple effects that throw entire communities out of balance, and into further danger. This also takes away some of the people who are fighting hardest for change. Restoring the balance, in these kinds of encounters, means seeing the right to justice of women, girls, 2SLGBTQQIA people, and their loved ones as a fundamental right.

The examples shared are stories connected to the violence that women, girls, and 2SLGBTQQIA people face today through the process of colonization, but are connected also to the strength of women, girls, and 2SLGBTQQIA people. As Michele G. shared:

I'm facing a powerful tribe – another powerful tribe, and a vibrant culture with traditional institutions that are still intact, and I feel like it hits me like a wave. I feel like I shed tears and say, okay, Creator I've got it, I know what it's like to be an Indian because you just – these Nations are so beautiful and amazing.<sup>84</sup>

These stories are rooted in experience. Prior to colonization, the teachings, rights, roles, and responsibilities associated with culture, health, safety, and justice were also lived in a practical sense. As Val Napoleon shared in her testimony, "I do believe and it is my opinion that the foundational undermining of Indigenous legal traditions is connected to the undermining of Indigenous Peoples' humanity, and that is the bedrock of any genocide."<sup>85</sup>



While all Indigenous Peoples had unique and dynamic traditions that changed over time, in many groups, women maintained the right to live free from violence, or had recourse to justice. Their power and place were seen in the leadership of their communities, as articulations of their rights as Indigenous women and as human beings, living in community.

Scholar Paula Gunn Allen has pointed out, “Although our traditions are as diverse as the tribes who practice and live within them, they are all earth-based and wilderness centered; all are ... concerned with sacred or non-political power.”<sup>86</sup> In this section, we explore principles positioning women and 2SLGBTQQIA people as people of value, power, and place in their families and in communities. We engage in this work as a way to show that the principles in the context of Indigenous and human rights existed prior to the onset of devastating colonial processes. Kim Anderson asserts:

We should be aware that every Indigenous society had a sense of a woman’s power and position within the community.... It is also important to know that life was certainly not always good for all Native women. Yet what we shared was a common sense of power, a power that was not part of the European woman’s experience.<sup>87</sup>

The general principles outlined in the following section are not meant to romanticize or to fix First Nations, Inuit, and Métis in time or space. They are, however, a reflection of the need to focus on the lessons from the past – on establishing how communities were organized, and how women within them lived, governed, and protected themselves. In combination with traditional stories, these histories encourage us to consider how those principles might relate to the safety of Indigenous women, girls, and 2SLGBTQQIA people in the present, within the context of rights.

## **Influence of Women on Lands and Economies**

Kim Anderson has pointed out in her work that First Nations, from time immemorial, were land-based peoples, whose relationships with other people, and with the land, structured the common values that formed important principles for living. On the lands Jacques Cartier claimed for France, many distinct First Nations were already living in societies. Their origin stories tell of their existence on their lands since time immemorial, a history that was quickly discounted by the explorers who came. Europeans colonized First Nations through interference in existing systems of land use and stewardship, and in trying to sever First Nations’ connection to the land.

As was explained in the previous section, some creation stories emphasize that the first human being placed on the land was either a woman or a non-gendered person. However, many concrete manifestations of the idea of the first human – living on the land since time immemorial – existed in many First Nations. Because of this, understanding the principles of relationships between various First Nations and the lands upon which they lived is an important part of understanding the basis of rights rooted in both collectivity and individuality. In other words, women living on the lands upon which their ancestors had lived had rights as a result of the relationship of their people with the land, as well as a result of their individual relationship with the land as women and gender-diverse people.



The Aboriginal Justice Inquiry of Manitoba pointed out, “When Europeans came to the Americas they were considered outsiders.... Elders have told us that, in the eyes of the Creator, the Europeans as outsiders could not enjoy the same rights as the original inhabitants.”<sup>88</sup> For many First Nations, land represented a mother figure. As professor and lawyer Aimée Craft has explained in her study of Treaty 1, the view of the land as mother was also a part of the traditional governance structure of many communities, a structure that included women. In her study, she points to an Anishinaabe understanding of “Mother Earth – and Earth as a Mother.”<sup>89</sup> Craft, as quoted in an interview on Treaties and traditional governance, says this leads “to the understanding of the ability we have to share in the bounty of Earth, but not make decisions for the Earth and not to sell the Earth – but to live in relationship with it.”<sup>90</sup> The responsibility for her care and stewardship fell to the Nations already living on the land, with important implications for the roles of women.

On a concrete level, the time women spend gathering berries, digging for clams, setting traps, and gathering medicines gives them a different knowledge of the land from that of men. They were and are also deeply connected to the land: pollution and chemicals impact women’s reproductive abilities and rates of breastfeeding. Because they are also the most closely connected to caregiving for the most vulnerable populations (children and elderly people), they are the early warning system when something in the water or the land is threatened.<sup>91</sup>

In addition, although men and women had their own areas of work, this did not necessarily prevent them from working in each other’s domain. Many First Nations women hunted, trapped, and harvested, as well as performed the labour to turn these raw materials into things that were necessary to community life, as did Inuit and Métis women.<sup>92</sup> Knowledge of each other’s roles, for any gender, had important implications. As has been pointed out, “this knowledge allowed each gender to have respect for the work that was typically done by the other.”<sup>93</sup>

Women’s participation in economic labour and in land-based labour had important impacts on the influence of women in community life. In many First Nations societies, women were farmers – among the Hurons and Haudenosaunee especially – and were responsible for the distribution of food. Sto:lo writer Lee Maracle explains, “Goods coming into the village belonged to the women. It was determined what was essential to the survival of the nation, and then the excess was handed over to the men, to engage in trade.”<sup>94</sup> In Plains societies, because women made the tipis, the physical home and its contents belonged to them. If there was a separation or divorce in the family, the former husband acknowledged this by taking only his hunting gear with him.<sup>95</sup>



Front row, left to right: Assaajuq, Aasivak, Malaija, Akutuq and Sulugaalik, cutting whale fat at Pangnirtung, NWT, 1936. Qattuuq stands on the far left. Source: Library and Archives Canada/ Department of Indian Affairs and Northern Development fonds/a101931.

In some cases, gathering and farming (often considered women's work) were more important than hunting in terms of food security. A much larger portion of the diet of Indigenous Peoples in more southern climates comes from women, not men. In the Far North, sewing (also

considered women's work) was just as important to survival as the procurement of food. Moreover, many Indigenous women were highly skilled at men's jobs. Up to the present day, in some Inuit communities, women are among the most skilled and productive hunters. Inuk Elder, community organizer, and author Joan Scottie explained that she was raised to be a hunter: "My father taught me to hunt to survive. I was a tomboy and I didn't like doing women's stuff, such as sewing and staying in the *illu*; I was more interested in going out on the land."<sup>96</sup>

Many women were also actively involved in trade. Basketry, moccasins, and beautifully beaded clothing were all valuable trade items women sold directly to supplement the family income. Métis and Dene women would trade the furs they had trapped on their own traplines,<sup>97</sup> and when Haida men traded goods, they needed their wives' approval.<sup>98</sup> Mi'kmaq women (and sometimes their husbands and sons) made baskets to sell and trade.<sup>99</sup> In the 1950s, a group of Inuit women from Salluit, Nunavik, Quebec, formed a collective to sell their own soapstone carvings, based mostly on the themes of mothers and their children and Inuit women's work. They did this to help them survive after their families had been forced from their traditional lands.<sup>100</sup>

Colonization interfered heavily with these structures. Through the processes of "discovery" and the claiming of the land for European powers, the roles of women in relationship to the land were diminished and, in many cases, erased. Colonization sought to destroy the relationship among women and land and property, as it was understood in First Nations communities, and to replace this structure with a new, disempowering one that placed men firmly in charge of the resources that had, in various times, worked to keep women within their power and their place, and out of danger.



## **Influence of Women on Structures of Governance**

As the previous section demonstrated, many Indigenous stories show mothers and caregivers as the first leaders, who shape a people's identity as a Nation is born. Many Indigenous societies replicate those kinship principles in their governance structures: just as motherhood is a leadership role, leaders may take on mothering roles.<sup>101</sup> Colonization's interference in governance directly challenged the quality of the encounters that leaders foster with and between people from those based on respectful role modelling and persuasion (as in an Indigenous kinship relationship) to those based on enforceable authority (as in a more formal, structured hierarchy).

By way of example, First Nations in western Canada structured the Treaty encounters through a kinship relationship with Queen Victoria. This also made the arriving European settlers their brothers and sisters – the “red children” and “white children,” to be treated equally by their shared “Great Mother across the Salt Sea.”<sup>102</sup> Another example is in the Haida language. In Haida, the root word for “chief” or “headman” literally translates as “town mother.”<sup>103</sup> In highly decentralized Inuit governance, the connections to family, extended family, and community were and remain very important to group identities.<sup>104</sup> Kinship ties (both biological and non-biological, through customary adoption and naming traditions) were and still are important to creating a broader identity within a particular region.

In many communities, the role of women in decision making was not only related to their position as mothers or as relatives. As Anderson explains, “Native women were not traditionally excluded from decision making, as has been the case for women in western politics.”<sup>105</sup> While some of this inclusion was in the spirit of respect for all members of the community as well as being tied to kinship principles, women's roles in relation to land and to property – to community wellness overall – also predisposed them to leadership and to making decisions in the best interest of all. Many who testified shared their own stories of women's leadership in their communities, as well.

As we heard from Joann Green, who testified as part of the Heiltsuk Women's Community Perspectives Panel,

“Women are known to be the backbone of the community and play a large role in Heiltsuk leadership.... The omux are a society of women of high standing in the community who give advice to our Humas, our Chiefs. Their advice centres on maintaining the unity and well-being of the community, including advice on justice, family, and cultural practices.”<sup>106</sup>

Joseph Tanner, a white man adopted into an Anishinaabe family in the 1800s, said that his adoptive mother, Net-no-kwa, was a “principal chief” of the Ottawas.



Everything belonged to Net-no-kwa, and she had direction in all affairs of any moment... I have never met with an Indian, either man or woman, who had so much authority as Net-no-kwa. She could accomplish whatever she pleased, either with the traders or the Indians; probably in some measure, because she never attempted to do any thing which was not right and just.<sup>107</sup>

Some communities also had male and female chiefs, some of whom were hereditary. In Kim Anderson's interviews with 12 modern-day female chiefs, half of them explicitly tied their experience of being mothers to the experience of being chiefs. Chief Veronica Waboose, of Long Lac #58 First Nation, said, "It's like looking after your kids; you want them to be better and that's the way I think a lot of the women chiefs feel about the community members. Although they're not their kids, they're definitely looking to them for good leadership, to take them in a good direction."<sup>108</sup>

Even in communities with no direct or formal authority exercised by women, women were able to influence decision making through their relationships and relative influence. Within an Inuit camp, for example, there was usually an *isumataq*. This "camp boss" was often a middle-aged man who made decisions about when and where to hunt, travel, and move camps. At the same time, women then had authority over many aspects of camp life, and Elders of all genders were important advisors who were consulted before major decisions were made.<sup>109</sup>

Of course, early First Nations dealt with community and gendered violence – as in any society. No discussion about the principles of respect and connection can ignore the idea that, in every time and place, members of society are targeted for harm, either individual or collective. But violence, as many writers explain, was subject to strong taboos. For example, there are historical accounts of Plateau women punishing rapists in various ways. In one case, a man was handed over to a group of women who physically molested and humiliated him, before expelling him from the community.<sup>110</sup> Within some Plains communities, including Cree Nations, women could leave their partners if they were ever beaten, and the man could never again marry, because his assault on one woman was an assault on all. That person could also be banished or expelled.<sup>111</sup> While traditions vary, what they have in common is that the strict level of social control exercised by women through governance within their own communities meant that redress – and justice – could be found.

As this brief examination has demonstrated, the principles undergirding the inclusion of women in leadership and decision making foundationally are respect for her insight, role, and knowledge. While not all communities had formal positions for women, women contributed to governance in other ways, as well. Colonization sought to displace women from these roles and, in time, served to silence their leadership through the transformation of community structures, attitudes, and mechanisms for decision making, primarily through the *Indian Act*, the history of which is discussed in greater detail in Chapter 4. As this chapter will demonstrate, the silencing of women through various colonial measures is a contributor to the lack of safety and justice today.



## Centrality of Women in Culture

Kim Anderson asserts, “Western culture has typically not promoted, documented, or explored the culture(s) of its women.”<sup>112</sup> On the other hand, First Nations cultures have generally contextualized the existence of women in important and foundational ways. These cultural practices are manifest in languages, in ceremony, and in the understanding of women as beings of power and of place, who are instrumental to the literal and figurative lifeblood of their communities and families. These practices, beliefs, and ways of being were fundamentally misunderstood or deliberately ignored within the context of colonization, which sought to erase and eradicate the power of women and 2SLGBTQIA people.

In many First Nations, creation was often understood within the context of childbirth. Birthing traditions varied across Nations. Some Nations would, for example, bury the child’s placenta as a way to keep the child’s spirit connected to Mother Earth. As Ininiw Elder Sarah Garrioch has explained, youth should have “great respect for this gift of childbearing. I realize that it is our responsibility as grandmothers to teach our young women about this thing. That is what my grandmother used to tell me. That was what I was told. And today it is our turn to tell these to our young women.”<sup>113</sup>



*First Nations women with a baby in a cradleboard, Flying Post, Ontario, 1906.  
Source: Library and Archives Canada/National Photography collection/a059608.*



Prior to the interference of missionaries and, later, the state, many Indigenous women – both First Nations and Inuit – acted as midwives. The critical encounters involved in birth – between mother and child, and among the mother, child, and the midwife who guided the journey – were key to setting up a child’s life in a secure, loving, and connected way. This role was focused on many aspects of holistic health, for which women were responsible. As Janet Smylie, quoting Cherylee Bourgeois, explained:

Indigenous midwifery is not just about providing pre-natal care and attending births. Historically and currently, it’s about medicines to treat sick children, counselling people, including counselling people who were fighting. So, midwives in Métis communities were important interveners when we did have family violence. And, [they were] teachers of culture through storytelling. And, actually, not only did they attend birth, they also attended death and prepared bodies after death.<sup>114</sup>

As Pauktuutit, a national organization representing Inuit women, has documented, “Traditional childbirth practices were intrinsic to the Inuit way of life and crucial to maintaining the social fabric of Inuit communities.”<sup>115</sup> The participation of Inuit women, and other members of the family including grandparents, helped to bond the family unit, and the importance of the midwife, particularly in remote communities, can’t be overstated. In addition, the respect due to the person who had helped in the birth itself translated into practices later on – for instance, in the gifting of the child’s “first piece of sewing or the first animal hunted” to the midwife. The centralization of colonization, documented in further detail in Chapter 4, specifically threatened these important practices, and Inuit midwives could be threatened with legal action if they continued to practise.

Women’s connection to life and to Earth was manifest in other ways, as well. Specifically, both First Nations and, later, Métis women were often involved in the protocol and ceremony necessary to show respect for the animals being hunted, both before and after the hunt. For both First Nations and Métis, this knowledge was grounded in the traditions of their First Nations mothers and grandmothers, as well as, in the case of the Métis, in how these traditions were manifest within particular communities and geographies. Without this protocol, it was believed, the animals would refuse to allow themselves to be given to people for their food. Inuit women also held a special connection to the animals; for example, Iñupiat women in Alaska would carry out certain ceremonies to show the whales respect before and after the men went out to hunt them.<sup>116</sup>

Many Métis communities owed their existence to strong networks of female kinship, which encouraged people to live near their maternal relations. These were connections of which Métis, including leaders such as Charles Nolin and Louis Riel, were accurately aware. Apparent divisions within the community – Protestant vs. Catholic, French vs. English – were, in fact, overcome by bounds of a “web of blood relationships” that united the community around women and their Indigenous practices. Métis have always made sense of their place in the world through their kin connections – what has been called *wahkohtowin*. At the heart of these webs of relationships were the women and girls who helped to establish strong and vibrant communities grounded in their Indigenous knowledge and traditions.<sup>117</sup>



Women within Inuit societies also engaged in important and foundational cultural practices. Lighting the *qulliq* (oil lamp) is an example of an important Inuit women’s ceremony. Although it also serves the practical purposes of heating the *igluviq* (snow house), drying clothes, and cooking food, Inuk Elder Sarah Anala explained at our Knowledge Keeper panel in Moncton that “[Lighting the qulliq is] more a spiritual illumination that we pursue, and peace and harmony and balance amongst all of us.”<sup>118</sup> In addition, throat singing – the most complex human vocalization on earth – is a game or competition between Inuit women. As Becky Kilabuk, who throat-sang for the National Inquiry in Iqaluit, says, “You challenge each other. It keeps you sharp. It keeps you alive.”<sup>119</sup> It is also a different learning opportunity: because throat singing was almost lost, more young people are now learning and teaching it to their parents and Elders in return.



*Annie Bowkett tends the qulliq in Winnipeg, Manitoba.*

The link among cultural teachings, identity, and resilience was fractured through the process of colonization – but not broken. The fact that ceremonies, teachings, and languages do survive today is a testament to those women, those cultural carriers who, along with male, female, and gender-diverse Elders, continue to carry the ancestors as a potential path forward toward healing and safety.



## Completing the Circle: Alternative Understandings of Gender and Sexuality

Some First Nations also challenged European norms that understood gender as binary, or male and female only, and that understood sexuality as heterosexual, or between a woman and a man. In some cases, there was important fluidity and flexibility between the norms. Expert Witness Albert McLeod explains:

In pre-contact Indigenous cultures, gender and sexual diversity was generally embraced and not suppressed. This understanding continues today despite the impact of colonization. Some Two-Spirit men and trans women are aligned with their ancestral grandmothers in that they have feminine identities, interests and skill sets, they also desire and are attracted to men. . . . Some Two-Spirit women are aligned with their ancestral grandfathers and therefore follow masculine roles and pursuits. In most cases, Two-Spirit people have merged gender identities that fit into the Indigenous world view.<sup>120</sup>

As Kim Anderson explains, gender prior to colonization was understood within the context of fluidity; in some communities, it was considered that there were in fact four genders, rather than two. These included “man; woman; the two-spirit womanly males; and two-spirit manly females.”<sup>121</sup>

What’s more, McLeod – who often goes by “Auntie” – explained that the Anishinaabe principle of non-interference gave gender-diverse people the space to follow their own vision and path that the Creator gave them. For example, Ozawwendib was an Anishinaabe woman assigned male at birth, who began wearing women’s clothing and taking on women’s roles in her community early on. She was also a well-respected warrior. She had several husbands, and these marriages were treated no differently from other marriages.<sup>122</sup> In another example, in the matrilineal Kwa’kwala society, men would marry other men when there was no daughter in the family to carry on the family name and responsibilities, although it’s not clear if they then made a home together.<sup>123</sup> As witness Jeffrey McNeil-Seymour recalls Lee Maracle explaining, “There’s no homosexuality, there’s no heterosexuality. Before contact, there was just human sexuality.”<sup>124</sup>

For some First Nations, gender fluidity was based on the fact that gender was linked with their role in the community – a role that would be defined with time and experience. According to writer Jeannette Armstrong, of the Interior Salish Okanagan:

In the Okanagan, as in many Native tribes, the order of life learning is that you are born without sex and as a child, through learning, you move toward full capacity as either male or female. Only when appropriately prepared for the role do you become a man or woman. The natural progression into parenthood provides immense learning from each other, the love, compassion and cooperation necessary to maintain family and community. Finally as an elder you emerge as both male and female, a complete human, with all skills and capacities complete.<sup>125</sup>



Similarly, with reference to Algonquian societies, Kim Anderson writes that after menopause, older Algonquian women were considered “both genders” and could enter into men’s spaces.<sup>126</sup>

In some First Nations, gender bending was a way to ensure the survival of the clan, because it helped to address population imbalances between women and men, particularly in smaller communities. For instance, if there weren’t enough hunters, a woman or girl could take on that work, or vice versa, where men could take on the work traditionally done by women.

In Inuit societies, the division between genders was blurred by the role of names, as well as practically by the role a person took on. When an Inuk is born, they are usually given the atiq (name) of a deceased member of the community. The atiq, however, is more than just a name. The concept bears some similarities to the western concept of “soul.” Through the atiq, the child inherits tastes, personality, and social relationships from the deceased person. People will usually refer to the child with their kinship terms they used for the deceased. Naming in Inuit culture is therefore a form of reincarnation, whereby deceased members of the community “come back” in the child who is given their name.<sup>127</sup>

This relationship between names and identity could have implications for gender. Boys named after deceased women were initially raised as girls, while girls named after deceased men were initially treated as boys. This gender fluidity included being dressed in clothing and learning skills that were appropriate for the gender of their name, rather than their biological sex. At the onset of puberty, their clothing and labour would be realigned to be consistent with their biological sex.<sup>128</sup>

In whatever way Indigenous people understood their gender and sexuality, gender-diverse ancestors and people living today have valuable perspectives to share. As McNeil-Seymour shared, “As we know, culture isn’t static and it is constantly in motion, so we have to also evolve with that... I feel like us Two-Spirit people are here to bring back balance and to be the go-betweens in all of those traditional roles and identities that we have.”<sup>129</sup> McLeod similarly affirms: “And so for a Two-Spirit people, we come to that circle with our understanding of those teachings and our contribution. And so when we’re present, it means the whole circle is complete.”<sup>130</sup> For some witnesses, the importance of completing this circle means that 2SLGBTQIA people need to be welcomed once again into ceremony, to try to share more of these teachings with communities or community members who have been taught to reject gender fluidity through colonization and Christianity. This circle includes transgender people, to bring attention to the cases of violence that can be ignored when they are excluded.

**“INSTEAD OF SAYING, ‘WHAT ARE THE TRADITIONAL GENDER ROLES?’ AS IF THEY ALWAYS HAVE TO BE THAT WAY AND ALWAYS WERE UNCHANGING IN THE PAST, WE LOOK AT HOW DO OUR UNDERSTANDINGS ABOUT GENDER AND SEXUALITY TODAY SHAPE THE WAY THAT WE WORK WITH LAW AND SHAPE OUR LEGAL INTERPRETATIONS?”**

**Val Napoleon**



As a whole, the process of colonization fundamentally tried to alter women’s and 2SLGBTQQIA people’s identities and roles in their communities. Identity, as supported through language, storytelling, ceremony, and connection, underwent assault from all sides through the processes of colonization, including relocation, residential schools, and adoption, as well as the broader processes of isolating Indigenous people and restricting access to traditional territories, as will be explored in Chapter 4. The power and place accorded to women by virtue of their being women – a “recognition of being,” to borrow the title of Kim Anderson’s book – were challenged by encounters with colonizers who had little interest in according any privilege or protection to Indigenous women, girls, and 2SLGBTQQIA people.

## Conclusion: Finding Solutions through New Relationships

This chapter has outlined the principles of respect, reciprocity, and interconnectedness that are foundational to many systems of Indigenous law and that represent an important way of understanding various rights, as articulated in Indigenous terms. These roles, responsibilities, and related rights aren’t meant to trap Indigenous women, girls, or 2SLGBTQQIA people in any prescribed form of identity. As Val Napoleon shared, in her testimony before the National Inquiry, “Instead of saying, ‘What are the traditional gender roles?’ as if they always have to be that way and always were unchanging in the past, we look at how do our understandings about gender and sexuality today shape the way that we work with law and shape our legal interpretations?”<sup>131</sup>



*Young Inuk woman carrying an infant in her amauti, ca. 1947-1948.*

*Source: Library and Archives Canada/ Richard Harrington fonds/a147049*

*Credit: Richard Harrington.*

And, as Dawnis Kennedy expressed, “You know, I think that if women were taking up their role, we wouldn’t be worried about protecting women. We’d just be watching the women do their work protecting life.”<sup>132</sup>

Specifically, we hope to highlight a combination of stories and histories that demonstrate power and place for Indigenous women, girls, and 2SLGBTQQIA people, as represented in the National Inquiry’s own testimony and in the diverse landscape of Indigenous ways of knowing. Val Napoleon asserts:



Indigenous law hasn't gone anywhere in Canada. And it exists in the ways that people are trying to work in their communities, but that it's been undermined, and that the work before us all is to rebuild it, and that there are structured critical ways that we can do that, and that we have to put in the time and the mental work as well as emotional and spiritual work to do that, so that we don't idealize Indigenous law and so that it is capable of dealing with the realities that our communities are living with. Some of those communities are very dangerous places for women and girls.<sup>133</sup>

As we have illustrated, a fundamental element of safety rests in understanding the roles, responsibilities, and inherent rights conveyed by women and for women in their own terms. The Indigenous laws and human rights that contribute to the safety of Indigenous women, girls, and 2SLGBTQQIA people vary from group to group, but are represented in land, stories, ceremony, and world views that emphasize the importance of relationships among people and between people and their environments. These roles, responsibilities, and rights were both collective and individual. Professor Brenda Gunn explains, "When I think about collective governance in many Indigenous communities, how I understand it, it was never sacrificing individual identity or being or rights for the collective.... But, it was how the collective was responsible for protecting the individuals, and how the individual contributed and was part of the collective."<sup>134</sup>

As an Inquiry, we have operated on the premise that our women and girls are sacred, and that, in their absence, it is not only family members, but entire communities and Nations, who are placed at further risk and who lose irreplaceable pieces of themselves. This sacred dimension isn't otherworldly, or ungrounded. Rather, as our testimony shows, women as teachers, leaders, healers, providers and protectors were and remain indispensable parts of the equation to generating solutions for the crisis of missing and murdered Indigenous women and girls. As Audrey Siegl, a member of the National Inquiry's team, shared:

For our women ... for our young women, for our grandmothers, for our women who travel with us, who guide us, who love us, who share strength to do this heartbreaking work ... we are sacred because we exist. We are sacred because we have survived. We survived when many did not. We watch our women die every day here in Canada. I don't know when safety, peace and justice are going to come for us. Just know that we love you and that we are doing our best to honour and represent our women and our experiences. We are doing this hard and ugly and necessary work so others don't have to ... so they don't have to carry so much.

And, where we leave off with this work now, inevitably, some are going to have to pick it up and carry it on. I hope that it's easier for them. I hope that it's lighter for them.<sup>135</sup>

Respect, reciprocity, and interconnectedness – these principles can hold the keys toward understanding what was threatened through colonial encounters, and the transformational power for harm, or for health, of each and every person, process, and institution involved in the crisis of missing and murdered Indigenous women and girls.



In explaining why she chose to testify before the Inquiry, Dawnis Kennedy notes the contemporary importance of Indigenous law:

It is those who consider themselves the most powerful in modern society that also need our law, our Onaakonigewin, our knowledge about life and how to live a good life in harmony with each other and with all of our relations, not just humanity, with all our relatives: the plants, the animals, the stars, the birds, the fish, the winds, the spirit; our mother, the earth; our grandmother, the moon; our grandfather, the sun; all of our relatives in the universe. That is what our law teaches us, how to live life in relationship and how to ensure the continuation of life into the future seven generations ahead.<sup>136</sup>

In the historical Cree story “Gift of the Old Wives,” the old women of a community must stay behind and die at their enemies’ hands to keep the rest of their community safe. Before the chief eventually accepts this gift, he says, “But who will teach our children and our children’s children? ... Without your wisdom, how will our young people learn the Cree ways?”<sup>137</sup>

Stories are medicine.<sup>138</sup> As writers and scholars Leanne Simpson and Kiera Ladner explain, grandmothers and aunties tell us stories and keep us alive: “Warmth in our hearts and warmth in our bellies.”<sup>139</sup> Indigenous women, girls, and 2SLGBTQQIA people have stories of strength and resilience. They continue to pass on these teachings, by example or by story. They represent an irreplaceable facet of being part of, and of building, communities and Nations. Stories can also help us, as a society, find our way “home”<sup>140</sup> – and in doing so, create safer spaces and places for Indigenous women, girls, and 2SLGBTQQIA people.

“FOR OUR YOUNG WOMEN, FOR OUR GRANDMOTHERS, FOR OUR WOMEN WHO TRAVEL WITH US, WHO GUIDE US, WHO LOVE US, WHO SHARE STRENGTH TO DO THIS HEART-BREAKING WORK ... WE ARE SACRED BECAUSE WE EXIST. WE ARE SACRED BECAUSE WE HAVE SURVIVED. WE SURVIVED WHEN MANY DID NOT. WE WATCH OUR WOMEN DIE EVERY DAY HERE IN CANADA. I DON’T KNOW WHEN SAFETY, PEACE AND JUSTICE ARE GOING TO COME FOR US. JUST KNOW THAT WE LOVE YOU AND THAT WE ARE DOING OUR BEST TO HONOUR AND REPRESENT OUR WOMEN AND OUR EXPERIENCES.”

Audrey Siegl



## Notes

- 1 As cited in Monture, “Women’s Words,” 46; as appearing in Grant, *Our Bit of Truth*, 15.
- 2 Tuma Young (L’nu, Malagawatch First Nation), Part 3, Public Volume 1, Winnipeg, MB, p. 201.
- 3 Dr. Janet Smylie (Cree/Métis), Mixed Parts 2 & 3, Public Volume 2, Iqaluit, NU, p. 117.
- 4 Dawnis Kennedy (Minnawaanigogiiizhigok) (Anishinaabe), Part 3, Public Volume 2, Winnipeg, MB, p. 191.
- 5 Dr. Val Napoleon (Saulteau First Nation, Gitksan), Part 3, Public Volume 2, Winnipeg, MB, pp. 49-50.
- 6 Tuma Young (L’nu, Malagawatch First Nation), Part 3, Public Volume 1, Winnipeg, MB, p. 148.
- 7 Dr. Val Napoleon (Saulteau First Nation, Gitksan), Part 3, Public Volume 1, Winnipeg, MB, p. 87.
- 8 Snyder, Napoleon, and Borrows, “Gender and Violence,” 596.
- 9 Kulchyski, *Aboriginal Rights*.
- 10 Dawnis Kennedy (Minnawaanigogiiizhigok) (Anishinaabe), Part 3, Public Volume 2, Winnipeg, MB, p. 200.
- 11 Dawnis Kennedy (Minnawaanigogiiizhigok) (Anishinaabe), Part 3, Public Volume 2, Winnipeg, MB, pp. 190-191.
- 12 Tuma Young (L’nu, Malagawatch First Nation), Part 3, Public Volume 1, Winnipeg, MB, p. 157.
- 13 Translation ours. Jean Leclair, Part 3, Public Volume 6, Quebec City, QC, p. 175.
- 14 Dawnis Kennedy (Minnawaanigogiiizhigok) (Anishinaabe), Part 3, Public Volume 2, Winnipeg, MB, p. 174.
- 15 Dr. Val Napoleon (Saulteau First Nation and Gitksan), Part 3, Public Volume 1, Winnipeg, MB, p. 95. See also Borrows, *Canada’s Indigenous Constitution*.
- 16 Dr. Val Napoleon (Saulteau First Nation and Gitksan), Part 3, Public Volume 1, Winnipeg, MB, p. 80.
- 17 Sandra Omik (Inuit, Pond Inlet), Part 3, Public Volume 2, Winnipeg, MB, p. 116.
- 18 Sandra Omik (Inuit, Pond Inlet), Part 2, Public Volume 2, Winnipeg, MB, p. 118.
- 19 Snyder, Napoleon, and Borrows, “Gender and Violence,” 596–97, and 610.
- 20 Elder Kunuk Muckpalook (Inuit), Part 3, Public Volume 2, Winnipeg, MB, p. 120.
- 21 Sandra Omik (Inuit, Pond Inlet), Part 3, Public Volume 2, Winnipeg, MB.
- 22 Dr. Hadley Friedland, Part 3, Public Volume 1, Winnipeg, MB, p. 79.
- 23 Dawnis Kennedy (Minnawaanigogiiizhigok) (Anishinaabe), Part 3, Public Volume 2, Winnipeg, MB, p. 174.
- 24 Dr. Val Napoleon (Saulteau First Nation and Gitksan), Part 3, Public Volume 1, Winnipeg, MB, pp. 70-71.
- 25 Dr. Val Napoleon (Saulteau First Nation and Gitksan), Part 3, Public Volume 1, Winnipeg, MB, p. 112.
- 26 Translation ours. Jean Leclair, Part 3, Public Volume 6, Quebec City, QC, p. 218.
- 27 Dawnis Kennedy (Minnawaanigogiiizhigok) (Anishinaabe), Part 3, Public Volume 2, Winnipeg, MB, p. 170.
- 28 For examples, see Law Society of Canada, ed., *Indigenous Legal Traditions*; Napoleon, “Thinking About Indigenous Legal Orders”; and Borrows, “Eliminating Pre and Post-Contact Distinctions.”
- 29 Dawnis Kennedy (Minnawaanigogiiizhigok) (Anishinaabe), Part 3, Public Volume 2, Winnipeg, MB, p. 184.
- 30 Cruikshank, *Life Lived Like a Story*.
- 31 Whiteduck, “But It’s Our Story.”
- 32 Napoleon and Friedland, “An Inside Job.”
- 33 Dr. Val Napoleon (Saulteau First Nation and Gitksan), Part 3, Public Volume 1, Winnipeg, MB, p. 81.
- 34 Napoleon and Friedland, “An Inside Job,” 738.
- 35 LaRocque, cited in Anderson, *A Recognition of Being*, 36–37.
- 36 Anderson, *A Recognition of Being*, 37.



- 37 Many stories have been passed down orally for generations, while others have been recorded. The recording of these stories, especially historically, was often done by colonial European, often male, ethnographers who summarized stories or offered interpretations according to their own world views. Even just reading stories in English loses the nuance encoded in the original languages they are told in, and many stories and teachings are either fractured or lost. For this reason, we have prioritized stories told by Indigenous women and gender-diverse people themselves, in as close a translation as possible. It also wasn't possible to look at Indigenous women's roles and responsibilities Nation by Nation in the space we have, so we have chosen instead to draw broader conclusions and demonstrate with examples from different Indigenous societies. These stories are not intended to represent a pan-Indigenous set of beliefs, but to offer insight into some of the important principles they convey, which may vary from Nation to Nation, and from community to community.
- 38 Snyder, Napoleon, and Borrows, "Gender and Violence," 612.
- 39 Eva P. (Alexis Nakota Sioux Nation), Part 1, Public Volume 31, Saskatoon, SK, p. 23.
- 40 Toni C. (Cree), Part 1, Statement Volume 425, Onion Lake, SK, p. 7.
- 41 Ann M. R. (Kaska Dena), Part 1, Public Volume 3, Whitehorse, YT, p. 39.
- 42 Fay Blaney (Xwémalkwu of the Coast Salish), Part 3, Public Volume 5, Quebec City, QC, pp. 334-335.
- 43 Ann M. R. (Kaska Dena), Part 1, Public Volume 3, Whitehorse, YT, p. 38.
- 44 Interview with Bernie Williams and Audrey Siegl, September 30, 2018, by Kelsey Hutton, p. 66-67.
- 45 Interview with Bernie Williams and Audrey Siegl, September 30, 2018, by Kelsey Hutton, p. 46.
- 46 Translation ours. Interview with Pénélope Guay, September 30, 2018, by Annie Bergeron, p. 22.
- 47 Rhonda M. (Anishinaabe), Part 1, Public Volume 7, Smithers, BC, p. 26.
- 48 Grace T. (Eagle Clan, Tsimshian), Part 1, Public Volume 118, Vancouver, BC, p. 18.
- 49 Métis people who are of Anishinaabe or Cree origin may also demonstrate some adoption of these belief systems, though many Métis are also strongly affiliated with the Catholic or Protestant churches. See Chantal Fiola, *Rekindling the Sacred Fire*. Many Inuit would also hold largely Christian views of creation due to the history of their transition to Christianity in the late 19th century, but more recent ethnographies argue that Inuit incorporated ideas from Christianity into a broader Inuit cosmological framework. See Brody, *The Other Side of Eden* and Oosten, Laugrand, and Remie, "Perceptions of Decline."
- 50 Horn-Miller, "Distortion and Healing."
- 51 Anderson, "New Life Stirring," p. 13.
- 52 Horn-Miller, "Distortion and Healing."
- 53 Christopher, Flaherty, and McDermott, *Unikkaaqtuat*.
- 54 Ibid., 42-43.
- 55 Laugrand and Oosten, *The Sea Woman*. See also Bennett and Rowley, *Uqalurait*.
- 56 Dawnis Kennedy (Minnawaanigogizhigok) (Anishinaabe), Part 3, Public Volume 2, Winnipeg, MB, pp. 188-189.
- 57 There are also the Algonquian stories of the Woman Who Built the First Sweatlodge and of the Grandmother of Sacred Pipes; the Haida story of Cumulus Cloud Woman, who spreads tobacco seeds across Haida Gwaii, the medicine woman who calls to Sister Cedar and makes cedar every woman's sister; and the Tsimshian tell the story of the woman who gave men Devil's Club, a very important ceremonial herb.
- 58 Dooling, *The Sons of the Wind*; Hazen-Hammond, *Spider Woman's Web*.
- 59 Barkwell, Dorion, and Hourie, *Metis Legacy II*, 35.
- 60 Ibid., 38.
- 61 Donna Adams et al., *Inuit Leadership and Governance*, 43.
- 62 Barkwell, Dorion, and Hourie, *Metis Legacy II*, 58-59.
- 63 Trudy S. (Mowachaht/Muchalalt First Nation), Part 1, Public Volume 95, Vancouver, BC, p. 23.
- 64 Lee, "Defining Traditional Healing."
- 65 Joann Green (Heiltsuk), Part 1, Public Volume 90, Vancouver, BC, pp. 66-67.



- 66 Ha-yen-doh-nees, *Seneca Indian Stories*.
- 67 Ibid., 58.
- 68 Ibid., 58–59.
- 69 Lévesque, Geoffroy, and Polèse, “Naskapi Women,” 79.
- 70 Jeffrey McNeil-Seymour (Tk’emlups te Secwepemc/English), Mixed Parts 2 & 3, Public Volume 3, Iqaluit, NU, p. 225.
- 71 Albert McLeod (Nisichawayasihk Cree Nation/Métis community of Norway House), Part 3, Public Volume 8, Toronto, ON, p. 51.
- 72 Bennett and Rowley, *Uqalurait*. See also Aupilaarjuk et al, *Cosmology and Shamanism*.
- 73 Koperqualuk, “Puvirniturmiut Religious and Political Dynamics.”
- 74 Bennett and Rowley, *Uqalurait*, 180.
- 75 Elder Miigam’agan (Mi’kmaq), Part 1, Public Volume 44(a), Moncton, NB, p. 126.
- 76 Boas and Tate, *Tsimshian Mythology*, 66.
- 77 For an example, see the “Story of Kuxka’in” in Teit, *The Shuswap*.
- 78 Szack, “Keepers of the Water,” 69.
- 79 Szack, “Keepers of the Water.”
- 80 Johnson, “13-year-old.”
- 81 Teit, *Mythology of the Thompson Indians*, 363.
- 82 Bringhurst, *A Story as Sharp*.
- 83 Ibid., 93–94.
- 84 Michele G. (Musqueam), Part 1, Public Volume 84, Vancouver, BC, p. 79.
- 85 Dr. Val Napoleon (Saulteau First Nation and Gitksan), Part 3, Public Volume 2, Winnipeg, MB, pp. 97-98.
- 86 Allen, *The Sacred Hoop*, 78.
- 87 Anderson, *A Recognition of Being*, 57.
- 88 AJI, “Chapter 5: Aboriginal and Treaty Rights.”
- 89 As interviewed by Wiebe, “The Role of Indigenous Women.” See also Aimée Craft, *Breathing Life into the Stone Fort Treaty*.
- 90 Ibid.
- 91 Szack, “Keepers of the Water.”
- 92 Kermoal and Altamirano-Jiménez, *Living on the Land; Anderson, Life Stages and Native Women*; Bennett and Rowley, *Uqalurait*.
- 93 Anderson, *A Recognition of Being*, 59.
- 94 Ibid., 61.
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- 100 Wight, “Women and Art in Salluit”; Graburn, *Eskimos Without Igloos*; Roberts, *The Inuit Artists of Sugluk*.
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- 112 Anderson, *A Recognition of Being*, 30.
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- 114 Dr. Janet Smylie (Cree/Métis), Mixed Parts 2 & 3, Public Volume 2, Iqaluit, NU, p. 160.
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- 117 Macdougall, *One of the Family*. See also Macdougall, “The Myth of Metis Cultural Ambivalence.”



- 118 Elder Sarah Anala (Inuit, Labrador), Part 1, Public Volume 44(a), Moncton, NB, p. 2.
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- 120 Albert McLeod (Nisichawayasihk Cree Nation/Métis community of Norway House), Part 3, Public Volume 8, Toronto, ON, p. 57.
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- 126 Anderson, *Life Stages and Native Women*.
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- 135 Interview with Bernie Williams and Audrey Siegl, September 30, 2018, by Kelsey Hutton, p. 81.
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## Emphasizing Accountability through Human Rights Tools

### Introduction: Why Human Rights?

Indigenous stories and histories from First Nations, Métis, and Inuit lay out the principles of respect, reciprocity, and interconnectedness that are key to using principles of Indigenous law, as articulated by various groups, as a way to begin to decolonize Western-based notions of rights. This project also begins to dismantle some of the physical or ideological structures that have led to the promotion of violence against Indigenous Peoples generally, and Indigenous women, girls, and 2SLGBTQQIA people specifically.

We heard, in the context of these relationships, how the basic rights of Indigenous women, girls, and 2SLGBTQQIA people suffer from human rights abuses that manifest in the lack of services or poor quality of services received, and in the lack of protection available to Indigenous women, girls, and 2SLGBTQQIA people. We also heard of the urgent need for basic tools for accountability that will keep governments from perpetuating this crisis for many more generations.

Canada is signatory to a variety of human and Indigenous rights instruments, which represent standards it has agreed to uphold. As Expert Witness Timothy Argetsinger, executive political advisor with Inuit Tapiriit Kanatami (ITK), explained:

The human rights framework approach is important, linking Canada's solemn commitments and obligations to various human rights instruments, which implicate a number of obligations related to some of the basic needs ... such as housing, [the] right to food, safety, and then the larger issue of violence against women and girls and how gaps or failure to act on those obligations create vulnerability.<sup>1</sup>



Brenda Gunn, Métis Professor of Law at the University of Manitoba, agreed, arguing that using an international human rights-based approach could help identify which laws have failed to protect Indigenous women, girls, and 2SLGBTQQIA people, and which have, in some cases, contributed to the violence in their lives.<sup>2</sup> She said, “It can be used to address ... discriminatory practices and address some of the unjust distributions of power and begin to identify some of Canada’s actions that undercut human rights.”<sup>3</sup>

Understanding how various human rights instruments can help promote the rights of Indigenous women, girls, and 2SLGBTQQIA people is an important part of thinking about how to address the crisis of missing and murdered Indigenous women and girls. As Brenda Gunn testified, “If we want to fix, or address, or ‘reconcile’ – the word we use in Canada – what we need to do is start by realizing Indigenous Peoples’ rights. And that includes ... that this process of implementation is something to be done in the spirit of partnership and mutual respect.”<sup>4</sup>

Indigenous Peoples’ rights are human rights, in important ways. They are linked to human rights by virtue of being rights for all humans, on a basic level, but, as scholars Robyn Eversole, John-Andrew McNeish, and Alberto Cimadamore suggest, “Different cultural and national communities make the concept of human rights authentically their own in the process of analyzing their conditions and making their claims.”<sup>5</sup> If we consider how human rights principles emerge as already existing within Indigenous rights claims, the two concepts are complementary, linked, and importantly grounded in the lived experiences of those who experience injustice.

Specifically addressing women within the discourse of human rights, Brenda Gunn argued that a human rights approach

keeps Indigenous women’s needs at the centre and at the focus of the work. It does this in part by acknowledging Indigenous women and girls as rights holders. It promotes their agency and autonomy and allows for the process to consider the various different contexts and different ways in which women experience discrimination.<sup>6</sup>

At the same time, we maintain, there is a need to distinguish nuances between human and Indigenous rights, as a way to extend beyond the rights that should be protected by the state and towards those rights that must be upheld through new relationships and by confronting racism, discrimination, and stereotypes in all of the encounters and relationships that people testifying before the National Inquiry cited. As Gladys R. pointed out:

“We want a working relationship with the rest of society. This is our land. We want to have a good working relationship. We welcomed everybody in. And what are they doing to us? Our young mothers are going missing. Our young mothers are being murdered at an astronomical rate, more than any other race in this country.”<sup>7</sup>



Anti-violence scholar Andrea Smith points out that human rights can work for the process of decolonizing. She explains, “I contend that while the ultimate goal of Indigenous liberation is decolonization rather than human rights protection, the human rights framework can potentially be used as part of a strategy for decolonization.”<sup>8</sup> Decolonization using human rights instruments can work to increase safety for Indigenous women, girls, and 2SLGBTQQIA people, if those instruments are understood in relation to the basic principles articulated in the previous chapter: respect, reciprocity, and interconnectedness.

This chapter will, first, outline the contributions of a human rights approach, followed by a brief examination of many of the key international instruments that may serve to promote safety and justice for Indigenous women, girls, and 2SLGBTQQIA people. This chapter will then explore domestic rights instruments in Canada and principles established through the courts, before examining instances in which human and Indigenous rights approaches are conflicting. Ultimately, this chapter will argue that reconciling the need to respect individual and collective rights, as well as the unique needs of Indigenous women, girls, and 2SLGBTQQIA people in a variety of distinct Indigenous contexts, means respecting the urgent need for self-determined solutions as conceived, driven, and understood by those who are most targeted.

## The International Human Rights Context

In Canada, there exists a robust international human rights framework that deals with rights for all citizens, including Indigenous Peoples.<sup>9</sup> This section will focus on the international human rights instruments to which Canada has publicly committed in its protection of rights, and will include discussions of both human and Indigenous rights. These rights can help to ensure accountability in improving outcomes for First Nations, Métis, and Inuit within the context of missing and murdered Indigenous women, girls, and 2SLGBTQQIA people.

Throughout the testimony, the National Inquiry heard from witnesses who argued that contemporary human and Indigenous rights instruments can play a role in the discussion on the rights guaranteed in the areas of culture, health, security, and justice through the promotion of new policies and principles, and the genuine commitment of all levels of government to addressing the problem of violence and the violation of basic human rights, not only in words, but in actions. These instruments are also public commitments, which can be useful standards for assessing state action, or inaction, in key areas linked to promoting safety.

“WE WANT A WORKING RELATIONSHIP WITH THE REST OF SOCIETY. THIS IS OUR LAND. WE WANT TO HAVE A GOOD WORKING RELATIONSHIP. WE WELCOMED EVERYBODY IN. AND WHAT ARE THEY DOING TO US? OUR YOUNG MOTHERS ARE GOING MISSING. OUR YOUNG MOTHERS ARE BEING MURDERED AT AN ASTRONOMICAL RATE, MORE THAN ANY OTHER RACE IN THIS COUNTRY.”

Gladys R.



## **Hard and Soft Law: Assessing the Scope of Protections through International Human Rights**

International human rights instruments are treaties and other international documents relevant to international human rights law and the protection of human rights in general. They can be classified into two categories: declarations, adopted by bodies such as the United Nations General Assembly, which are considered “soft law” and are not strictly legally binding; and conventions, covenants, or international treaties, which are “hard law,” legally binding instruments concluded under international law.

Many of these instruments contain what are considered to be dual freedoms: they provide freedom from the state, when it doesn’t respect human rights; and freedom through the state, in the state’s ability to protect or promote these rights. For example, the right to adequate housing covers a right to be free from forced evictions carried out by state agents (freedom from the state), as well as a right to receive assistance to access adequate housing in certain situations (freedom through the state). While they are important pieces of the human rights framework, declarations don’t have binding power to compel states to respect the principles contained within them.

In terms of making sure that states meet their obligations, there does exist a variety of different mechanisms that can be called upon to assess where countries stand. The Office of the High Commissioner for Human Rights manages a variety of different human rights monitoring mechanisms in the United Nations (UN) system, including UN Charter-based bodies as well as bodies created under the international human rights treaties and made up of independent experts whose job it is to monitor how countries are complying with their obligations under the various covenants and treaties.

Charter bodies within the system include the Human Rights Council, which meets every year and is composed of 47 elected nation-states who are members of the UN. The council is tasked with preventing human rights abuses, as well as inequity and discrimination, and working to expose those who are committing the abuses. In addition, Special Procedures bodies also fall under the UN’s Charter-based bodies, and are often theme-specific or specific to human rights issues in a particular country. Special Procedures bodies are composed of volunteer experts, and include Special Rapporteurs or expert working groups who can examine, monitor, advise, and publicly report on human rights issues. The Universal Periodic Review is a Charter-based process involving a review of human rights records for all UN member states, where each state explains what it did to improve human rights issues in its own country. The Human Rights Council Complaints Procedure addresses communications submitted by individuals, by groups, or by non-governmental organizations who report being the targets of human rights violations.

In addition to its Charter-based bodies, the UN also has treaty bodies that monitor the implementation of core international human rights treaties and are made up of independent experts. Most conventions establish mechanisms to oversee their implementation, and to allow individuals or groups to take the state to an international complaints body, in order to enforce them. In some



cases, these mechanisms have relatively little power, and are often ignored by member states; in other cases, these mechanisms have great political and legal authority, and their decisions are almost always implemented. These mechanisms include human rights treaty bodies that monitor implementation of core treaties. They include:

- Human Rights Committee (HRC)
- Committee on Economic, Social and Cultural Rights (CESCR)
- Committee on the Elimination of Racial Discrimination (CERD)
- Committee on the Elimination of Discrimination Against Women (CEDAW)
- Committee Against Torture (CAT)
- Committee on the Rights of the Child (CRC)
- Committee on Migrant Workers (CMW)<sup>10</sup>
- Committee on Enforced Disappearances (CED)

In addition to these, there are other United Nations bodies working on the promotion and protection of human rights, including the General Assembly itself, the Third Committee of the General Assembly, the Economic and Social Council, and the International Court of Justice.<sup>11</sup> In addition, the United Nations' partners and agencies promote and protect human rights, working with the other human rights bodies listed in this section. These other agencies and partners include:

- United Nations High Commissioner for Refugees (UNHCR)
- Office for the Coordination of Humanitarian Affairs (OCHA)
- Inter-Agency Internal Displacement Division (IDD)
- International Labour Organization (ILO)
- World Health Organization (WHO)
- United Nations Educational, Scientific and Cultural Organization (UNESCO)
- Joint United Nations Programme on HIV/AIDS (UNAIDS)
- Inter-Agency Standing Committee (IASC)
- Department of Economic and Social Affairs (DESA)
- Commission on the Status of Women (CSW)
- Office of the Special Adviser on Gender Issues and the Advancement of Women (OSAGI)
- Division for the Advancement of Women (DAW)



- United Nations Population Fund (UNFPA)
- United Nations Children’s Fund (UNICEF)
- United Nations Entity for Gender Equality and the Empowerment of Women (UN-Women)
- United Nations Development Programme (UNDP)
- Food and Agriculture Organization of the United Nations (FAO)
- United Nations Human Settlements Programme (UN-HABITAT)
- United Nations Mine Action Service (UNMAS)

## **International Covenants**

Canada has ratified seven core international human rights instruments that are considered to be enforceable as covenants or conventions. These are relevant to the crisis of missing and murdered Indigenous women, girls, and 2SLGBTQQIA people. Each instrument has established a committee of experts to monitor implementation of its provisions by its States Parties, and Canada and other signatory states are required to report periodically on the fulfillment of their obligations under each.

*The International Convention on the Elimination of All Forms of Racial Discrimination* (ICERD) of 1966 was one of the first human rights treaties to be adopted by the United Nations. It formally took effect in 1969. Under the ICERD, racial discrimination is where a person or a group is treated differently from other people or groups because of their race, colour, descent, national origin, or ethnic origin, and this treatment impairs, or is intended to impair, their human rights and fundamental freedoms. For example, an act is racially discriminatory if a person is denied a service or employment because of their race or ethnicity, or when a law or policy impacts unfairly on a particular racial or ethnic group. The convention permits distinctions between citizens and non-citizens, but not between different groups of non-citizens. It asserts that all human rights in political, economic, social, cultural, and other fields of public life are to be ensured to everyone without racial discrimination.

The convention indicates that there is one type of act, called a “special measure,” that is not considered to be discriminatory even though it involves treating specific racial, ethnic, or national peoples or individuals differently. Special measures are programs that aim to ensure the adequate advancement of certain racial groups who require support to be able to enjoy their human rights and fundamental freedoms in full equality. Special measures aren’t only allowed by the convention; they’re required when needed for all groups to be able to enjoy their rights.



The *International Covenant on Civil and Political Rights* (ICCPR) is another of the earliest of these binding instruments. Adopted by the UN in 1966, it came into force on March 23, 1976, and is one of the two treaties that give legal force to the *Universal Declaration of Human Rights* (UDHR). The ICCPR rights are fundamental to enabling people to enjoy a broad range of human rights. Along with the *International Covenant on Economic, Social and Cultural Rights* (ICESCR) and the *Universal Declaration of Human Rights*, the ICCPR and its two Optional Protocols are collectively known as the *International Bill of Rights*.

At its core, the ICCPR recognizes the inherent dignity of each individual and undertakes to promote conditions within states to allow the enjoyment of civil and political rights. The unifying themes and values of the ICCPR are found in articles 2 and 3 and are based on the notion of non-discrimination and the fact that all individuals within the state should be able to enjoy full civil and political rights, regardless of background. Article 3 also ensures the equal right of both men and women to all civil and political rights set out in the ICCPR.

Rights protected under this instrument are very broad. As they relate to the safety of Indigenous women, girls, and 2SLGBTQQIA people, rights protected by the ICCPR include freedom from torture and other cruel, inhumane, or degrading treatment or punishment; the right to equitable treatment by the judicial process; the right to privacy, home, and family life; the right to marriage and the rights of children; the right to political participation; and the right to equality and non-discrimination.

Struggles for these rights are real and common for Indigenous women, girls, and 2SLGBTQQIA people. As Delores S. shared:

Families are fighting to get real investigations and real access to justice, [so] they had to become full-time advocates. That comes at a great cost, including self-care. When I got involved in Nadine's case, I did not understand the cost that I, myself, would have to – would have to pay. To invest my time, to invest my emotions, to invest everything at the expense of a system that is not taking our loved one seriously.<sup>12</sup>

Witnesses who shared with the Inquiry spoke to many of these rights being breached when they discussed a lack of response by authorities, the failure to be taken seriously or believed when they reported concerns or complaints, and discriminatory treatment within the judicial process.

The *International Covenant on Economic, Social and Cultural Rights* (ICESCR) places a further obligation on states in terms of the protection of the rights of the UDHR, and was passed in 1966 and enacted in 1976, along with the ICCPR. The covenant defines these rights as “those human rights relating to the workplace, social security, family life, participation in cultural life, and access to housing, food, water, health care and education.”<sup>13</sup>



Under its protections, states must commit to act to the extent of their ability to secure the exercise of the rights protected within it, including the adoption of all reasonable measures, including legislation, to secure the rights listed. It provides for the need for states to recognize that the protection of economic, social, and cultural rights is directly tied to foundational rights principles, such as cultural identity, health, security, and justice.

As the testimonies heard by the National Inquiry demonstrate, the denial of economic, social, and cultural rights can lead to violations of other human rights and the targeting of people who do not enjoy these rights.

As Virginia C. explained, of her loved one:

There is so much more of Mom’s story that could be told. Mom should not have had to endure this tragic end to her beautiful person. She had suffered so much already, extreme incidents of domestic violence over a span of 12 years in her first common-law marriage, extreme poverty, living in an isolated northern Saskatchewan Métis community, living mainly off the land and receiving only occasional subsistence vouchers from the DNR [Department of Natural Resources].<sup>14</sup>

For Indigenous women, girls, and 2SLGBTQQIA people, the denial of the right to housing or adequate health care can place people in even more vulnerable situations, making them targets for predators. Further, the failure to protect a woman’s or child’s right to adequate housing, for example, can make people stay in abusive situations, in order to avoid becoming homeless.

The *Convention on the Elimination of All Forms of Discrimination Against Women* (CEDAW) was adopted by the United Nations General Assembly in 1979 and entered into force on September 3, 1981, to protect women from all forms of discrimination. The convention was the culmination of more than 30 years of work by the United Nations Commission on the Status of Women, a body established in 1946 to monitor the situation of women and to promote women’s rights. In its introduction to the convention, the United Nations articulates the importance and spirit of the document: “The spirit of the Convention is rooted in the goals of the United Nations: to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women.”<sup>15</sup> The convention purports to present not only the meaning of “equality,” but also a plan for action by states to work to guarantee the rights within it.

“INDIGENOUS PEOPLE, AND IN PARTICULAR WOMEN, BATTLE SOCIAL MISCONCEPTIONS, STIGMA, STEREOTYPES, VIOLENCE, IN CANADA, JUST FOR BEING AN INDIGENOUS WOMAN. INDIGENOUS WOMEN ... ARE THE CARRIERS OF LIFE AND TEACHINGS MEANT TO BE PASSED ON TO THE NEXT GENERATION, AND THIS PIVOTAL ROLE HAS BEEN NEARLY DESTROYED BY THE COLONIAL ACTIONS OF CANADA ... AND THE CONTINUED ACTIVE DISENGAGEMENT OF THIS COUNTRY AT MANY LEVELS.”

Crystal F.



In its preamble, the convention explicitly acknowledges that “extensive discrimination against women continues to exist,” and emphasizes that such discrimination “violates the principles of equality of rights and respect for human dignity.” The convention defines discrimination against women as

any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.

In other words, it supports the idea of women as individual rights holders and as legal agents. It directs States Parties to take any action necessary, including implementing legislation and legal protections, for women to allow them to enjoy all of their rights.

Overall, the convention deals with civil rights and the legal status of women, as well as reproductive rights. It looks to affirm the rights of women as apart from the rights of men, understanding the history of the way in which women’s rights have often been tied to that of their husband or partner. The convention also insists that women’s role in having children shouldn’t be the basis for ongoing discrimination or exclusion. Finally, the convention deals with how some interpretations of traditional culture can serve to limit women’s rights, and how men have an important role to play in equality.

This convention has important implications for Indigenous women’s, girls’, and 2SLGBTQQIA people’s intersectional experiences of discrimination and oppression. As Crystal F. shared:

Indigenous people, and in particular women, battle social misconceptions, stigma, stereotypes, violence, in Canada, just for being an Indigenous woman. Indigenous women and girls ... are the carriers of life and teachings meant to be passed on to the next generation, and this pivotal role has been nearly destroyed by the colonial actions of Canada ... and the continued active disengagement of this country at many levels.<sup>16</sup>

The *Convention on the Rights of the Child* (UNCRC) entered into force on September 2, 1990. Parties to the UNCRC have committed to respecting the civil, political, economic, social, and cultural rights of children, regardless of origin, ethnicity, religion, or ability. In some ways, the UNCRC is a combination of the ICESCR and the ICCPR, along with the UDHR, oriented towards the protection of children. The UNCRC celebrates the family as an important unit for ensuring that the rights of children are respected and protected, and for ensuring healthy communities and societies. Its 54 articles place a duty on governments to meet children’s basic needs and help them reach their full potential.



Under this convention, the basic rights of children include the right to life, survival, and development; the right to protection from violence; the right to an education geared towards helping children realize their potential; the right to be raised by, or have a relationship with, biological parents; and the right to be listened to when they express opinions. In 2000, two Optional Protocols were added to the UNCRC. One asks governments to ensure that children under the age of 18 are not forcibly recruited into their armed forces, and the second calls on governments to stop child prostitution, child pornography, and the sale of children into slavery. A third Optional Protocol was added in 2011 that allows children whose rights have been violated to complain directly to the UN Committee on the Rights of the Child.

In the testimonies made to us, many families talked about how their children were targeted by a lack of basic respect for their rights, particularly within the context of child welfare. An increase in the number of completed and attempted suicides is one example that families pointed to as being linked to the separation of families. As Lorraine S. explained:

What I see happening is our kids are doing their own suicides now, or now they're killing each other because they don't have a connection, they don't have a bonding with somebody. They don't have a bonding with the grandparents anymore, with the parents, it's all disrupted.<sup>17</sup>

Canada ratified the *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* (CAT) in 1987. The CAT requires states to take all necessary measures to prevent and punish torture and cruel treatment. It bans torture in all circumstances, or the removal of people to different countries where there are grounds for thinking they might be tortured there. It also provides a detailed definition of torture and outlines how torture should be prevented and how torturers should be punished – some of which Indigenous advocates have said should apply to violence against Indigenous women and girls in Canada.

As Brenda Gunn testified:

There is some increasing recognition that gender-based violence against women in some circumstances may be considered torture.... The committee that oversees this convention has noted that Indigenous women in Canada experience disproportionately high levels of life-threatening forms of violence, spousal homicide, and enforced disappearances, and that Canada has failed to promptly and effectively investigate, prosecute, and punish perpetrators or provide adequate protection for victims.<sup>18</sup>

Dr. Dalee Sambo Dorough, Chair of the Inuit Circumpolar Council and former Chair of the United Nations Permanent Forum on Indigenous Issues, also noted in her testimony to the National Inquiry:

The effects of violence against women are similar to those who've experienced torture and cruel, inhumane, or degrading treatment or punishment. Powerlessness, post-traumatic stress disorder, physical deformity are just a few of the outcomes which these two groups actually share.<sup>19</sup>



Canada has also ratified the *Convention on the Prevention and Punishment of the Crime of Genocide* (PPCG), which was adopted by the United Nations General Assembly on December 9, 1948. The implications of the PPCG are explored more fully throughout Section 2, and in relation to the four key rights areas that family members and survivors discussed. Ultimately, all of the rights violations that the National Inquiry heard about were also related to what those who shared their stories perceived as a targeted war of genocide perpetuated against Indigenous Peoples.

In the words of Dalee Sambo Dorough, the sum of all conventions and declarations, and their status within customary international law as well as in concrete domestic legislation, means that these tools can do a great deal to increase the safety of Indigenous women, girls, and 2SLGBTQIA people. As she explains:

All of the human rights standards affirmed in the UN Declaration [on the Rights of Indigenous Peoples], and how they intersect with other international human rights treaties, actually does create a pathway towards justice for Indigenous Peoples, that this is one way to guarantee our access to justice in every possible context, whether it's land rights, self-government and self-determination, the right to health, the right to education, gender equality, non-discrimination – you name it.

## **International Declarations and Customary Law**

Many human rights declarations adopted by the UN have relevance to the rights of Indigenous women and 2SLGBTQIA people in Canada. Canada has agreed to support the declarations described below, even though the declarations themselves don't have specific binding powers forcing Canada to comply with the principles within them.

However, as some of our witnesses pointed out, even declarations otherwise considered to be “soft law” can, over time, obtain the status of customary international law. Customary international law applies directly to Canada as law, unless there is a specific piece of legislation that says that it won't, in certain areas, and declarations are directly enforceable. But, as Brenda Gunn pointed out, “What we do see the Supreme Court of Canada doing in multiple cases and in different ways is always striving to interpret Canadian law along and in line with Canada's international human rights obligations.”<sup>21</sup>

The technical rule is that for international human rights treaties, including covenants, to apply in Canada, the treaty must be transformed into an instrument of domestic law (a law of Canada). However, that is not always how they have been interpreted in the courts, including the Supreme Court. Brenda Gunn explained:

While we have these two categories, it's particularly important, I think, to note that when we're referring to human rights, particularly in the application in Canada, there's been a decreased emphasis on the type of instrument – is it hard law or soft law? But we see particularly Canadian courts far more concerned about the normative value of the various instruments.<sup>22</sup>



The Supreme Court has also pointed out that unimplemented treaties – those that haven't yet been enacted in domestic legislation – can, in fact, have legal effect in Canada.<sup>23</sup>

The *Universal Declaration of Human Rights* (UDHR) was adopted by the UN General Assembly on December 10, 1948. The creation of the United Nations signalled an important shift in global dynamics, with the international community vowing never to allow the atrocities of the Second World War to happen again.

The *Universal Declaration of Human Rights* establishes principles upon which all human rights instruments are based. These include foundational rights, such as the right to “life, liberty and security of person”<sup>24</sup> (Article 3), as well as rights pertaining to areas such as legal representation, identity, family, property, religion, opinion, assembly, security, education, and others. The rights outlined in the UDHR are given legal force by the *International Covenant on Civil and Political Rights* (ICCPR) and the *International Covenant on Economic, Social and Cultural Rights* (ICESCR).

“ALL OF THE HUMAN RIGHTS STANDARDS AFFIRMED IN THE UN DECLARATION [ON THE RIGHTS OF INDIGENOUS PEOPLES], AND HOW THEY INTERSECT WITH OTHER INTERNATIONAL HUMAN RIGHTS TREATIES, ACTUALLY DOES CREATE A PATHWAY TOWARDS JUSTICE FOR INDIGENOUS PEOPLES, THAT THIS IS ONE WAY TO GUARANTEE OUR ACCESS TO JUSTICE IN EVERY POSSIBLE CONTEXT, WHETHER IT'S LAND RIGHTS, SELF-GOVERNMENT AND SELF-DETERMINATION, THE RIGHT TO HEALTH, THE RIGHT TO EDUCATION, GENDER EQUALITY, NON-DISCRIMINATION – YOU NAME IT.”

Dalee Sambo Dorough

Because the ICCPR and the ICESCR are covenants, they are monitored. The ICCPR is monitored by the United Nations Human Rights Committee and the ICESCR is overseen by the Committee on Economic, Social and Cultural Rights. These committees are composed of experts who receive reports by States Parties on how rights are being implemented. In addition, there are Optional Protocols attached to the ICCPR and ICESCR that provide individuals with a complaints mechanism if they feel their rights under the covenants have been violated.

The *Declaration on the Elimination of Violence Against Women* (DEVAW) was adopted by the UN General Assembly in 1993. It lays out a widely accepted definition of “violence against women” as “any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life.”<sup>25</sup> The declaration sets out three categories of violence against women: violence by the state or government; violence against women occurring in society at large, which includes trafficking; and violence within the family unit. The declaration takes a long view, explaining that violence against women is rooted in the historically unequal power relations between women and men. It also defines “violence” as a social mechanism that serves to place and to keep women in a subordinate position compared with that of men, and therefore contributes to ongoing inequality.



The declaration urges member states of the United Nations to use the powers at their disposal to combat violence through legislation, as well as to work to provide better services to women who are victimized, and to prevent violence for the future. In Article 4(k), the DEVAW further directs states, specifically, to

promote research, collect data and compile statistics ... relating to the prevalence of different forms of violence against women and encourage research on the causes, nature, seriousness and consequences of violence against women and on the effectiveness of measures implemented to prevent and redress violence against women.<sup>26</sup>

The *United Nations Declaration on the Rights of Indigenous Peoples* (UNDRIP) was adopted by the UN General Assembly in 2007, with several notable objectors, including Canada. In 1982, the Economic and Social Council established the Working Group on Indigenous Populations with the mandate to develop a set of minimum standards that would protect Indigenous Peoples. The details of UNDRIP, as it has taken shape in debates within Canada and within the context of discussions regarding missing and murdered Indigenous women and girls, will be addressed in greater detail further within the chapter. UNDRIP is an important declaration overall. It proclaims a historic body of collective rights and human rights of Indigenous Peoples and individuals that specifically points to the legacies of colonization and dispossession as human rights issues. Its very first article “asserts the rights of both individuals and collectives to the full scope of protection for human rights and fundamental freedoms existing in other international human rights instruments, including international human rights law.”<sup>27</sup>

The declaration deals largely with the rights of Indigenous Peoples as they relate to culture, religion, and language, as well as economic, social, and political development and territory. Significantly, the declaration promotes the principle of self-determination without necessarily making comment on the foundation or legitimacy of colonizing nations themselves, who are positioned, within the declaration, as ensuring their own compliance with upholding these rights.

The *Vienna Declaration and Programme of Action* (VDPA) is a human rights declaration adopted by consensus at the World Conference on Human Rights on June 25, 1993, in Vienna, Austria. The creation of the position of United Nations High Commissioner for Human Rights was a result of this declaration, which reaffirmed the Universal Declaration of Human Rights and the United Nations Charter. Its preamble states:

The World Conference on Human Rights, considering that the promotion and protection of human rights is a matter of priority for the international community, and that the Conference affords a unique opportunity to carry out a comprehensive analysis of the international human rights system and of the machinery for the protection of human rights, in order to enhance and thus promote a fuller observance of those rights, in a just and balanced manner.<sup>28</sup>



The VDPA reaffirms human rights as a universal and relevant standard “for all peoples and all nations.”<sup>29</sup> It cites the ICCPR and the ICESCR and particularly relevant instruments to the achievement of this standard, and calls for increased investment in education about human rights principles. It cites all human rights as equally important, and makes specific mention of factors that may represent obstacles to attaining the enjoyment of human rights, including poverty, underdevelopment, and racism. In addition, the VDPA pays special attention to the need to address gender-based violence and ongoing discrimination. It maintains that this type of violence can be addressed through “national action and international cooperation in such fields as economic and social development, education, safe maternity and health care, and social support.”<sup>30</sup>

The *Beijing Declaration and Platform for Action* (BDPA) was the result of the 1995 Fourth World Conference on Women, reaffirming the VDPA’s assertion that the human rights of women and girls are inalienable, integral, and indivisible as part of the field of universal human rights. The *Beijing Platform* emphasizes the commonality of women’s experiences, urging states to become further involved in creating equality around the world. It is described as “an agenda for women’s empowerment”<sup>31</sup> that sets up a necessary partnership for long-term development of peoples around the world. Its many and broad recommendations deal with key issues such as poverty, education, health, environment, and women in positions of power and decision making.

## **Defining and Locating “Indigenous Rights” in Human Rights Law**

While many conventions and declarations do relate to the rights of Indigenous women, girls, and 2SLGBTQQIA people, they don’t necessarily specifically address the particular context of colonialism, its contemporary legacies, and its current form today. The need to address this kind of legacy is particularly what animated the development of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP). While the declaration has many critics, some also see it as an instrument of great potential for the future, one that might be grounded in Indigenous understandings about rights. As Brenda Gunn noted:

The UN Declaration grounds Indigenous Peoples’ inherent human rights in Indigenous Peoples’ own customs, laws and traditions. And so this instrument makes it really clear that when we’re talking about international human rights and the rights of Indigenous Peoples that we need to make specific reference to Indigenous Peoples’ laws.<sup>32</sup>

For decades, allies and activists have been working on the creation of an instrument devoted to Indigenous rights. While it is a declaration, not a convention, UNDRIP represents an important first step in recognizing and addressing the particularities of Indigenous Peoples’ rights, and how they might be protected.

The efforts to draft a specific instrument dealing with the protection of Indigenous Peoples worldwide date back over several decades.



In 1982, UN Special Rapporteur of the Subcommission on the Prevention of Discrimination and Protection of Minorities, José R. Martínez Cobo, released a study about the systemic discrimination faced by Indigenous Peoples worldwide. His findings were released as the “Study of the Problem of Discrimination against Indigenous Populations.” The UN Economic and Social Council created the Working Group on Indigenous Populations (WGIP), comprised of five independent experts as well as Indigenous advisors, in order to focus exclusively on Indigenous issues around the globe. It began to draft a declaration of Indigenous rights in 1985.

The draft declaration was subject to a series of reviews to assure UN member states that it remained consistent with established human rights, and did not contradict or override them. UNDRIP deals with many Indigenous rights, a consideration much debated during initial discussions. Many UN member states worried that accepting UNDRIP as drafted would undermine their own political autonomy. Of particular concern were the articles affirming Indigenous Peoples’ right to self-determination and their right to give or withhold consent to actions that may impact lands, territories, and natural resources. For countries with resource-rich economies and running large-scale development projects, in particular, the extent of this right, and of the protections for it, has generated concern.

However, many Indigenous representatives refused to change the draft, arguing that the document simply extended to Indigenous Peoples the rights already guaranteed to colonialists.<sup>33</sup> As human rights lawyer James Sákéj Youngblood Henderson observes, “[Member states] worried about the implications of Indigenous rights, refusing to acknowledge the privileges they had appropriated for themselves.”<sup>34</sup>

The WGIP’s final draft represented a compromise between UN member states and Indigenous representatives. In 2006, the draft was accepted by the UN Human Rights Council, and on September 13, 2007, the *Declaration on the Rights of Indigenous Peoples* was adopted by a majority of 144 states in favour, four votes against (Australia, Canada, New Zealand, and the United States), and 11 abstentions.<sup>35</sup> The four countries who voted against it share very similar colonial histories and, as a result, shared common concerns. Each nation argued that the level of autonomy recognized for Indigenous Peoples would undermine their own states, particularly in the context of land disputes and natural resources. Some governments claimed that UNDRIP might override existing human rights obligations, even though the document itself explicitly gives precedence to international human rights.

“THE UN DECLARATION GROUNDS INDIGENOUS PEOPLES’ INHERENT HUMAN RIGHTS IN INDIGENOUS PEOPLES’ OWN CUSTOMS, LAWS AND TRADITIONS. AND SO THIS INSTRUMENT MAKES IT REALLY CLEAR THAT WHEN WE’RE TALKING ABOUT INTERNATIONAL HUMAN RIGHTS AND THE RIGHTS OF INDIGENOUS PEOPLES THAT WE NEED TO MAKE SPECIFIC REFERENCE TO INDIGENOUS PEOPLES’ LAWS.”

Brenda Gunn



In its own refusal, Canada, represented by Chuck Strahl, then the minister of Indian Affairs, explained the government's reasoning: "By signing on, you default to this document by saying that the only rights in play here are the rights of First Nations. And, of course, in Canada, that's inconsistent with our Constitution."<sup>36</sup> Strahl further maintained that Canada already respects Indigenous rights, as laid down in the *Charter of Rights and Freedoms* and the Constitution, which, he said, reflects a much more tangible commitment than the "aspirational" UNDRIP.

Indigenous and human rights organizations and activists continued to lobby for Canada to sign UNDRIP, and in March 2010, Governor General Michaëlle Jean announced that the Canadian government "will take steps to endorse this aspirational document in a manner fully consistent with Canada's Constitution and laws."<sup>37</sup> Although it was progress, this did not represent an official change in position.

In November 2010, Canada announced it would officially support UNDRIP. While this move was celebrated by many people as a positive step forward, the continued use of qualifiers in official speeches left many others skeptical of Canada's true commitment. Canada suggested that its endorsement of UNDRIP would not change Canadian laws: "Although the Declaration is a non-legally binding document that does not reflect customary international law nor change Canadian laws, our endorsement gives us the opportunity to reiterate our commitment to continue working in partnership with Aboriginal peoples in creating a better Canada."<sup>38</sup>



*Brenda Gunn, Métis professor of law at the University of Manitoba.*

In May 2016, however, Canada formally announced its full support, and adopted plans to implement it in accordance to the Canadian Constitution.

The first of UNDRIP's 46 articles declares that "Indigenous Peoples have the right to the full enjoyment, as a collective or as individuals, of all

human rights and fundamental freedoms as recognized in the Charter of the United Nations, the Universal Declaration of Human Rights and international human rights law."<sup>39</sup> Significantly, in Article 3, UNDRIP also recognizes Indigenous Peoples' right to self-determination, which includes the right "to freely determine their political status and freely pursue their economic,



social and cultural development.”<sup>40</sup> Article 4 affirms Indigenous Peoples’ right “to autonomy or self-government in matters relating to their internal and local affairs,” and Article 5 protects their right “to maintain and strengthen their distinct political, legal, economic, social and cultural institutions.”<sup>41</sup> Article 26 states that “Indigenous Peoples have the right to the lands, territories and resources which they have traditionally owned, occupied or otherwise used or acquired,”<sup>42</sup> and it directs states to give legal recognition to these territories.

The declaration also guarantees the rights of Indigenous Peoples to enjoy and practise their cultures and customs, their religions, and their languages, and to develop and strengthen their economies and their social and political institutions. It states that Indigenous Peoples have the right to be free from discrimination, and the right to a nationality.

As it relates to the difficult conditions of economic and social marginalization that many of our witnesses cited, Article 21 posits that special measures should be taken to improve social and economic conditions, and that extra attention should be paid to the rights and means of Indigenous women and youth. Article 22 stresses that measures should be taken to guarantee the protection of Indigenous women and children against all forms of violence and discrimination. The declaration does not override the rights of Indigenous Peoples contained in their Treaties and agreements with individual states, and it commands these states to observe and enforce the agreements.

Women are referenced specifically in UNDRIP, but in only one clause. However, Brenda Gunn explains: “I think it’s important to highlight that even though the gender lens isn’t explicitly included throughout all of the articles, it is one of the interpretive approaches or the framework that we need to be using when looking at it.”<sup>44</sup>

Dalee Sambo Dorrough adds, regarding the declaration’s inclusion of individual and collective rights:

That was the most compelling argument, that the UN Declaration on the Rights of Indigenous Peoples has to create a balance between individual rights of women, Indigenous women, and the collective rights of Indigenous Peoples. And, at the end of the day, that’s the argument that won, and I think that it’s important – it’s an important moment in history that Indigenous women, based upon all of the experiences that they’ve had until that moment, compelled them to raise their voices against a pretty overwhelming and strong argument that we need our collective rights protected.<sup>45</sup>

Despite its important tenets, UNDRIP remains a declaration with no explicit enforcement mechanisms, other than those working groups and Rapporteurs devoted, thematically, to the monitoring of Indigenous rights. For this reason, there have been many critiques of UNDRIP as a document without any “teeth,” especially when it comes to the estimated 5,000 distinct Indigenous communities worldwide and the estimated 375 million people who live in them, each with their own cultural or religious institutions and forms of self-government, within diverse national contexts.



UNDRIP also problematically and foundationally still assumes the sovereignty of the nation-state. As scholar Duane Champagne points out, the nation-states still define who are Indigenous Peoples, and the denial of basic rights to identity is a cornerstone of eliminating populations – as the Canadian experience has demonstrated: “UNDRIP does not address indigenous political, cultural, and territorial claims on a government-to-government or culture-to-culture basis.”<sup>46</sup> Within the declaration, further, the colonizing state remains the protector and guarantor of Indigenous rights, a task for which it has not demonstrated its commitment in the past – and, arguably, still today. As National Inquiry Grandmother Bernie pointed out:

When we did those walks across Canada, we sat one day with the walkers and that. We went through the [United Nations Declaration on the Rights of Indigenous Peoples]. It took us a week to go through it, you know, for our study, little things, you know, at nighttime and that. We counted 17 violations against our women and children.... Seventeen violations, and yet nothing’s done.<sup>47</sup>

For these reasons, while UNDRIP is an invitation to participate in more inclusive multicultural nation-states and improve equality of access to economic opportunities, it should not be regarded as the “be all, end all” of Indigenous rights.

Despite its limitations, there is potential in the declaration, especially if it were to become customary international law. Even supporters of the declaration recognize that it is not the end of the journey towards realizing Indigenous and human rights. As Jean Leclair pointed out at the Inquiry’s hearing on human rights, “I think that we have to remind people of the importance of this Declaration, of the need to implement it. It will not produce social reality on its own, but it’s a great tool and we should not diminish its importance ... because that’s very normative too. These symbols are very powerful and they can bring change.”<sup>48</sup>

“THAT WAS THE MOST COMPELLING ARGUMENT, THAT THE UN DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLES HAS TO CREATE A BALANCE BETWEEN INDIVIDUAL RIGHTS OF WOMEN, INDIGENOUS WOMEN, AND THE COLLECTIVE RIGHTS OF INDIGENOUS PEOPLES. AND, AT THE END OF THE DAY, THAT’S THE ARGUMENT THAT WON, AND I THINK THAT IT’S IMPORTANT – IT’S AN IMPORTANT MOMENT IN HISTORY THAT INDIGENOUS WOMEN, BASED UPON ALL OF THE EXPERIENCES THAT THEY’VE HAD UNTIL THAT MOMENT, COMPELLED THEM TO RAISE THEIR VOICES AGAINST A PRETTY OVERWHELMING AND STRONG ARGUMENT THAT WE NEED OUR COLLECTIVE RIGHTS PROTECTED.”

Dalee Sambo Dorough



*Dr. Dalee Sambo Dorough testified before the National Inquiry in Quebec City, Quebec, on the subject of human and Indigenous rights. Credit: Marc Lester, Anchorage Daily News.*

## Applying International Human Rights Instruments to Ensure Accountability

In a practical sense, these binding conventions, and even non-binding declarations, can help Indigenous women hold governments to account by identifying both specific measures and broader obligations the state has to ensure the safety and security of Indigenous women, girls, and 2SLGBTQQIA people. These are obligations to which the state has agreed. Dalee Sambo Dorough pointed out:

All of these instruments came at the hands of and are the product of governments. They established and set their own expectations, and I think that's another important thing we have to remember.... Governments drafted these instruments, and they established their own expectations through consensus decision-making.<sup>49</sup>

As such, they can be useful tools in our efforts to address the crisis of violence against Indigenous women, girls, and 2SLGBTQQIA people. Notably, they provide a framework for the realization of the foundational rights upon which this report is based, and which are encapsulated in foundational stories related to the rights, roles, and responsibilities of Indigenous women and gender-diverse people, in their own terms.



As Dalee Sambo Dorough told the National Inquiry, the Special Rapporteur on Indigenous Peoples for the United Nations has pointed out that even though the declaration itself is not legally binding in the same way as a treaty might be, the declaration

reflects legal commitments that are related to the [UN] Charter, other treaty commitments, and customary international law.... It builds upon the general human rights obligations of states under the Charter and is grounded in fundamental human rights principles such as non-discrimination, self-determination, and cultural integrity that are incorporated into the widely ratified human rights treaties.... To that extent, the declaration reflects customary international law.<sup>50</sup>

These obligations are normative, in the sense that they are built by norms generally accepted by the international community. Normative obligations identified by witnesses for the National Inquiry included the concepts of universality and inalienability. In other words, all people are entitled to human rights, and those rights cannot be taken away. In addition, the understanding of indivisibility, interdependence, and interrelatedness of human rights supports the principles that human rights must be considered and deployed together to uphold the dignity of people. Of significance to the issue of violence against Indigenous women, girls, and 2SLGBTQQIA people, this means that all rights are interrelated and cannot be considered in isolation. Brenda Gunn pointed out:

We must look at the totality of human rights and human rights obligations so that we can't just look at civil and political rights, or look at economic, social, cultural rights, or we can't divorce the issues of the right to housing from the right to participate in public life; that all of these actually work together.<sup>51</sup>

She added: "Very rarely is there a state action that violates merely one article of one convention. The way in which human rights work together, they are so interconnected and to really understand the breadth and the depth of the obligation, you really want to look at them together."<sup>52</sup>

Viewing human rights as an indivisible whole also relates to two other important principles: non-discrimination and substantive equality. Although all people have the same human rights, these principles make the point that, as Brenda Gunn said, "this doesn't mean that everyone is treated the same."<sup>53</sup> International law, including UNDRIP, which Gunn cited in her testimony, makes it clear that states may have to take special measures to ensure that these rights are realized for every person, including Indigenous people. As Saskatchewan's Advocate for Children and Youth Corey O'Soup testified on the issue of health and educational supports, "We've been so far behind for so long that we need special measures in order to bring us just to the level of non-Indigenous kids in our provinces, in our country as well, you know."<sup>54</sup> International human rights



law also includes the need for participation and inclusion of Indigenous people in decision-making processes, though it does not define the extent of the right, necessarily, which has allowed states to try to circumvent this by saying that Indigenous Peoples' interests or rights are not engaged within an issue.



*Due to the shortage of houses in many First Nations communities, often inadequate structures like this are being used as homes. Pictured is a structure being used as a home in Attawapiskat, Ontario. Photo courtesy of MCC (Mennonite Central Committee) by Lyndsay Mollins Koene. No copyright infringement intended.*

Perhaps one of the strongest features of a human rights-based approach, as Brenda Gunn sees it, is that it takes these basic issues, related to safety, out of the realm of policy and into the realm of law. As she explained, using housing as an example:

This isn't just a policy issue that can be prioritized or not prioritized in any sort of budget, that every person has a right to an adequate house which includes a safe house, not being afraid of being evicted, that it's sort of adequate in condition, but also in the security of tenure to that placement.<sup>55</sup>

This approach places Indigenous women, girls, and 2SLGBTQIA people as rights holders, to whom Canada and other governments have obligations. While these rights may be articulated in services, the fact that they are rights places an onus on governments to look at these issues as beyond the level of simple policy making. Human rights instruments, Gunn argues, provide the ability to create a list of obligations that Canada is required to fulfill, and to detail the ways in which it has failed to act, or acted improperly, in fulfilling those obligations.<sup>56</sup>



“WE MUST LOOK AT THE TOTALITY OF HUMAN RIGHTS AND HUMAN RIGHTS OBLIGATIONS SO THAT WE CAN’T JUST LOOK AT CIVIL AND POLITICAL RIGHTS, OR LOOK AT ECONOMIC, SOCIAL, CULTURAL RIGHTS, OR WE CAN’T DIVORCE THE ISSUES OF THE RIGHT TO HOUSING FROM THE RIGHT TO PARTICIPATE IN PUBLIC LIFE; THAT ALL OF THESE ACTUALLY WORK TOGETHER.”

Brenda Gunn

## Domestic Rights Instruments in Canada

### *The Canadian Human Rights Act*

One of the ways that Canada has moved to adopt these rights in Canada is through the *Canadian Human Rights Act*. The Act is the product of translating some of these international instruments into domestic law. After the Second World War, the importance of introducing explicit human rights instruments, brought to light with the atrocities of the Holocaust, became evident. Following the formation of the United Nations in 1945 and the creation of the *Universal Declaration of Human Rights* in 1948, many countries started to look at what kind of legislation, at a domestic level, could be put in place to uphold the principles of this declaration.

The federal government didn’t lead the way, at least in Canada. Ontario passed the first legislation dedicated to anti-discrimination in 1944, and Saskatchewan followed with its own bill on civil rights in 1947. Notably, the Saskatchewan *Bill of Rights Act* protected civil liberties such as free speech, freedom of assembly, freedom of religion, freedom of association, and due process, while also prohibiting discrimination on the basis of race, religion, and national origin. Over a decade later, federal legislators enacted the *Canadian Bill of Rights* in 1960, which applied to the federal government and which protected freedom of speech, freedom of religion, and equality rights, among others. This was a limited piece of legislation: it didn’t apply to private industry or to provincial governments, and never became an important tool for the protection of human rights in Canada.<sup>57</sup>

During the same period, provinces also worked on strengthening their own human rights instruments. In 1962, Ontario passed the *Human Rights Code* as a consolidation of other laws, as well as created the Ontario Human Rights Commission with the mandate to prevent human rights abuses and to educate the public about human rights across the province. As the Canadian Human Rights Commission explains:

“In the years that followed, other jurisdictions across the country introduced similar pieces of legislation. This cross-Canada development coincided with the growing prominence of social movements, which sought to advance issues such as racial justice and women’s rights at home and abroad.”<sup>58</sup>



In 1977 and within the context of the United Nations member states' acceptance of both the ICCPR and ICESCR, Parliament passed the *Canadian Human Rights Act*. The Act applies only to people who work for or receive services from the federal government, to First Nations, and to federally regulated private companies.

As the history of the issue shows, each province and territory in Canada has its own human rights legislation that applies to provincially and territorially related services and areas of jurisdiction, like schools, hospitals, or employment. This can be confusing. While the federal government has responsibility for “Indians, and lands reserved for Indians”<sup>59</sup> under section 91(24) of the Canadian Constitution, many of the service areas where Indigenous people told us they faced violence or discrimination were actually areas of service provided by provinces or territories, but funded by the federal government.

The *Canadian Human Rights Act* prohibited discrimination on the basis of recognized grounds of discrimination such as race, religion, and national origin, but also broke some new ground, including standards regarding sex, ethnic origin, age, marital status, physical disability, and pardoned conviction. The *Canadian Human Rights Act* also provided for the creation of two human rights bodies: the Canadian Human Rights Commission and the Human Rights Tribunal Panel, the latter created in 1985. It was renamed the Canadian Human Rights Tribunal in 1998.

In 1996, the Act was amended to include sexual orientation as a prohibited grounds of discrimination, and then amended to include gender identity or expression in 2017. Until 2013, the Act also contained clauses prohibiting hate speech, which it defined as “any matter that is likely to expose a person or persons to hatred or contempt by reason of the fact that that person or those persons are identifiable on the basis of a prohibited ground of discrimination.”<sup>60</sup> But, after challenges to this provision and the publicity around it, this section was repealed in 2013.

In its current form, the Act lays out 13 prohibited grounds of discrimination: “race, national or ethnic origin, colour, religion, age, sex, sexual orientation, gender identity or expression, marital status, family status, genetic characteristics, disability and conviction for an offence for which a pardon has been granted or in respect of which a record suspension has been ordered.”<sup>61</sup>

The Act also addresses discrimination, harassment, and the issue of bona fide justifications (another way of saying that determining human rights complaints under the Act can't create “undue hardship” on the employer or provider of services). It prohibits discrimination in the workplace, in employment application processes, in job advertisements, and in the provision of goods and services. The Act also prohibits, but does not define, harassment.



Alongside the Act, provinces and territories all have their own human rights legislation, which offer protection from discrimination and/or harassment in many of the same areas as the *Canadian Human Rights Act*, and in the following areas of protection:

<p><b>Alberta</b> Human Rights Act – 1966</p>	<ul style="list-style-type: none"> <li>• Statements, publications, notices, signs, symbols, emblems or other representations that are published, issued, displayed before the public</li> <li>• Goods, services, accommodation or facilities customarily available to the public</li> <li>• Tenancy</li> <li>• Employment practices, employment applications or advertisements</li> <li>• Membership in trade unions, employers’ organizations or occupational associations</li> </ul>
<p><b>British Columbia</b> Human Rights Code – 1973</p>	<ul style="list-style-type: none"> <li>• Employment</li> <li>• Membership in trade unions and occupational or professional associations</li> <li>• Services and facilities that are customarily available to the public</li> <li>• Purchase of property</li> <li>• Tenancy</li> <li>• Hate propaganda</li> </ul>
<p><b>Manitoba</b> Human Rights Code – 1987 (replaced Human Rights Act 1970)</p>	<ul style="list-style-type: none"> <li>• Employment</li> <li>• Housing</li> <li>• Accommodation</li> <li>• The provision of services or contracts, and signs and notices</li> </ul>
<p><b>New Brunswick</b> Human Rights Act – 1967</p>	<ul style="list-style-type: none"> <li>• Employment</li> <li>• Housing</li> <li>• Public service sectors, which can include: schools, stores, motels, hospitals, police, and most government services</li> <li>• Publicity</li> <li>• Certain associations</li> </ul>
<p><b>Newfoundland and Labrador</b> Human Rights Act – 1971</p>	<ul style="list-style-type: none"> <li>• Employment</li> <li>• Membership in a trade union</li> <li>• Provisions of goods and services</li> <li>• Commercial and residential rentals</li> <li>• Publications</li> <li>• Contracts</li> <li>• Protects equal pay for the same or similar work</li> <li>• Association with persons who are identified by one of the prohibited grounds</li> </ul>
<p><b>Northwest Territories</b> Human Rights Act – 2004</p>	<ul style="list-style-type: none"> <li>• Employment</li> <li>• Membership in a professional organization, worker’s association or trade union</li> <li>• Access to public services such as health care and education, and to facilities such as stores and restaurants</li> <li>• Tenancy or leasing a business space</li> <li>• Published material such as newspapers, magazines, signs or advertisements</li> </ul>



<p><b>Nova Scotia</b> Human Rights Act – 1967</p>	<ul style="list-style-type: none"> <li>• Employment</li> <li>• Housing or accommodation</li> <li>• Services and facilities</li> <li>• Purchase or sale of property</li> <li>• Volunteer public service</li> <li>• Publishing, broadcasting or advertising</li> <li>• Membership in a professional, business or trade association, or employers' or employees' organizations</li> </ul>
<p><b>Nunavut</b> Human Rights Act – 2003</p>	<ul style="list-style-type: none"> <li>• Employment</li> <li>• Obtaining or maintaining a membership in an employee organization</li> <li>• Accessing goods, services, facilities or contracts available to the general public</li> <li>• Renting or attempting to rent any residential or commercial building</li> <li>• Publishing or displaying information or written material</li> </ul>
<p><b>Ontario</b> Human Rights Code – 1962</p>	<ul style="list-style-type: none"> <li>• Accommodation (housing)</li> <li>• Contracts</li> <li>• Employment</li> <li>• Goods, services and facilities</li> <li>• Membership in unions, trade or professional associations</li> </ul>
<p><b>Prince Edward Island</b> Human Rights Act – 1968</p>	<ul style="list-style-type: none"> <li>• All aspects of employment</li> <li>• Leasing, purchasing or selling property</li> <li>• Offering accommodations, services or facilities to the public</li> <li>• Membership in professional, business or trade associations, employer or employee organizations</li> <li>• Publishing, broadcasting and advertising</li> <li>• Volunteering</li> </ul>
<p><b>Quebec</b> Charter of Human Rights and Freedoms – 1975</p>	<ul style="list-style-type: none"> <li>• Employment (includes hiring and pre-hiring, working conditions, professional training, promotion or transfer, lay-off, suspension or dismissal)</li> <li>• Housing (includes leasing of an apartment, occupancy of rented premises)</li> <li>• Public services, public transport and public places (includes businesses, restaurants and hotels, parks, camp sites, caravan sites and schools and churches)</li> <li>• Juridical acts (includes contracts, collective agreements, wills, insurance or pensions contracts, social benefit plans, retirement, pension or insurance plans, public pension or public insurance plans)</li> </ul>
<p><b>Saskatchewan</b> Human Rights Code – 1979</p>	<ul style="list-style-type: none"> <li>• Employment or occupation</li> <li>• Education</li> <li>• Housing</li> <li>• Publications</li> <li>• Public services (restaurants, stores, hotels, government services, etc.)</li> <li>• Contracts or purchase of property</li> <li>• Professional associations or trade unions</li> </ul>
<p><b>Yukon</b> Human Rights Act – 1987</p>	<ul style="list-style-type: none"> <li>• Employment and any aspect of employment</li> <li>• Receiving goods and services</li> <li>• Housing, leasing or renting</li> <li>• Membership in or representation by trade unions or professional associations</li> <li>• Public contracts</li> </ul>



## Engaging the *Canadian Human Rights Act* to Defend Indigenous Rights

The *Canadian Human Rights Act* has been used successfully in many cases, including a recent and significant case specific to First Nations communities known as the landmark *First Nations Child and Family Caring Society of Canada v. Canada* decision, decided in 2016.

In this case, the First Nations Child and Family Caring Society of Canada successfully argued that the Canadian government's provision of child and family services to First Nations on-reserve and in Yukon constituted discrimination by failing to provide the same level of services that exist elsewhere in Canada. In short, under its constitutional obligations, the federal government funds a number of services that are delivered by First Nations or, in some cases, by the provinces or territories. In Yukon, this includes child and family services on-reserve delivered by First Nations. The federal government's rules require that First Nations child welfare agencies use the provincial or territorial child welfare laws, and that is a primary condition of receiving funding. The case demonstrated the comparatively low level of funding for First Nations child welfare agencies: its own records show that provincial and territorial services are funded at an amount between two to four times greater than First Nations services. This means that for every child in care, First Nations have much less to work with – for every dollar spent on provincial or territorial services, only a fraction is spent on First Nations.<sup>62</sup>

The case engaged the concept of Jordan's Principle, named in memory of Jordan River Anderson, a Cree boy from Norway House Cree Nation who spent years of his short life in hospital while the federal government and provinces argued over who would pay for his services. Born with multiple disabilities, he was hospitalized from his birth, in 1999, and died in hospital in 2005. Jordan's Principle "aims to ensure First Nations children can access ALL public services normally available to other children on the same terms."<sup>63</sup> This can include cases where the waiting list is too long for a given service, allowing children to access the service in the private sector, instead. Jordan's Principle is not limited to medical needs, but covers all First Nations on- and off- reserve for all public services. In short, if a child has a need in areas such as health, social services, and education, Jordan's Principle works to cover the cost of the services required.

While the definition of Jordan's Principle as passed in the Canadian Parliament only specifically mentioned First Nations children, the First Nations Child and Family Caring Society of Canada insists that the government should respect the *Canadian Human Rights Act*, which prevents discrimination on the basis of race and ethnic or national origin, therefore making the principle applicable to Inuit and Métis children, as well.

Despite this, the government's narrow definition for the application of Jordan's Principle had the effect of disqualifying most children for services anyway, therefore limiting the federal government's obligation. In 2013, the Federal Court rejected the federal government's approach, and, in 2016, the Canadian Human Rights Tribunal found it to be outright discrimination. It ordered the federal government to stop its discrimination immediately, and to report on its progress in doing so. The tribunal's four-part decision also went further, pointing out that beyond ending the discrimination immediately, the government should also engage in reform to address some of the



The Spirit Bear Plan is an initiative by the First Nations Child & Family Caring Society of Canada that calls on the Canadian government to adopt the following actions:

**CANADA** to immediately comply with all rulings by the Canadian Human Rights Tribunal ordering it to immediately cease its discriminatory funding of First Nations child and family services. The order further requires Canada to fully and properly implement Jordan's Principle ([www.jordansprinciple.ca](http://www.jordansprinciple.ca)).

**PARLIAMENT** to ask the Parliamentary Budget Officer to publicly cost out the shortfalls in all federally funded public services provided to First Nations children, youth and families (education, health, water, child welfare, etc.) and propose solutions to fix it.

**GOVERNMENT** to consult with First Nations to co-create a holistic Spirit Bear Plan to end all of the inequalities (with dates and confirmed investments) in a short period of time sensitive to children's best interests, development and distinct community needs.

**GOVERNMENT DEPARTMENTS** providing services to First Nations children and families to undergo a thorough and independent 360° evaluation to identify any ongoing discriminatory ideologies, policies or practices and address them. These evaluations must be publicly available.

**ALL PUBLIC SERVANTS** including those at a senior level, to receive mandatory training to identify and address government ideology, policies and practices that fetter the implementation of the Truth and Reconciliation Commission's Calls to Action.<sup>1</sup>



*Dr. Cindy Blackstock and Spirit Bear. Used with permission courtesy of the First Nations Child and Family Caring Society.*

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<sup>1</sup> <https://fncaringsociety.com/spirit-bear-plan>. Accessed January 5, 2019.

structural factors that feed these inequalities. In addition, the tribunal required longer term and deeper reforms, as well as ordered compensation for those children who have been harmed by the government's conduct.<sup>64</sup>

In 2017, the tribunal issued an order that clarified that Jordan's Principle is not restricted to First Nations children with disabilities but to all First Nations children, and is intended to ensure that there are no gaps in government services. Further, the order specified that the government should pay for the service without delay, in reflection of its history of litigation in order to avoid the expense. The Order also specifically referenced how Jordan's Principle could be applied to avoid red tape and delays due to interjurisdictional squabbles between levels of government, or between government departments, when there was any debate over who should bear the cost.



According to many experts, this has profound implications in other service areas, including, potentially, education. It also reveals the extent to which governments will go in order to limit their obligations. Within the crisis of violence against Indigenous women, girls, and 2SLGBTQQIA people, then, this case is illustrative of how human rights approaches can bring the government to act on its obligations; but that those most affected must also be watchful and ensure that the principles of these instruments are applied in a good way, in a full way, to realize those principles. It also shows how, potentially, the government's own human rights obligations, according to rules it has set for itself, may, in fact, be grounds to pursue human rights-based complaints regarding its failure to properly ensure the safety of Indigenous women, girls, and 2SLGBTQQIA people, through both immediate and long-term measures aimed at addressing some of the structural inequalities that target them.

While this case, and others like it in the future, have tremendous potential for engaging the government to properly honour its commitments and responsibilities to all people living in Canada, it is not without limitations. For instance, launching a complaint within the *Canadian Human Rights Act* is complicated. First, the Canadian Human Rights Commission evaluates the extent to which the person making the complaint has tried to resolve the dispute in any other way. The legislation also allows only a 12-month window from when the discrimination happens to filing a complaint, which means that, in many cases, the eligibility period may have expired. This means that whether or not the situation engendering the complaint actually happened, no formal complaint can be made.<sup>65</sup>

In addition, until 2008, complaints against the federal government about decisions or actions arising from or pursuant to the *Indian Act* were not allowed under section 67. As family member Wendy L. shared:

Before ... if I wanted to go and file a Canadian human rights complaint because of what was happening to me, or my mother, or other women, or other people [because of the *Indian Act*], there was no ability for me to do that.... So, again, it's just this constant obstacles that are put in our place that are – we're constantly being blocked, and challenged, and stopped. And we don't automatically have the same rights and freedoms as all other Canadians, we just don't.<sup>66</sup>

This provision was changed in 2008, but served to limit the access of Indigenous women, girls, and 2SLGBTQQIA people to a complaint mechanism that might have helped to address some of the systemic problems brought on by the Act's provisions for over 30 years. The 2008 provision immediately applied to decisions and actions of the federal government but was delayed for three years with respect to First Nations, including band councils and related agencies, for things like denying housing or other services on any of the prohibited grounds.



For many Indigenous people, the process of launching human rights complaints remains intimidating. As Viola Thomas said:

Because what I find for a lot of our people who are ostracized is that they don't ever feel comfortable or confident enough to file human rights complaint because they're – they're fearful of what will happen if it happens to be a member who is on chief and council or if it's a member who is in a power position at the Band Office and ... they don't want it to affect their benefits, so, therefore, many of our people are silenced ... to be able to take action because of that imbalance of power within our communities and how sexism is really played out.<sup>67</sup>

In addition, as Viola shared:

I think there is some real major challenges within current human rights law, whether it's federal or provincial jurisdictions of human rights. They individualize human rights. They do not have a – a real systemic approach to addressing collective human rights violations of Indigenous Peoples, which are multiple. It could be as a child, it could be as a woman, it could be as a Two-Spirited, but you have to tick off the one box. Oh, today, am I going file a complaint as a woman or as a Two-Spirited? I have to choose one over the other. So it seems to me that that in itself, of human rights law polarizes our collective human rights issues as Indigenous Peoples. And it's also compounded by the historic eradication of our distinctive roles as Indigenous women within our communities of whatever Nation that we come from.<sup>68</sup>

The Canadian Human Rights Commission demonstrates some awareness of the need for a particular approach to the issues regarding Indigenous communities. As it says in its public materials:

Human rights decisions involving First Nations need to recognize Aboriginal and Treaty rights. For complaints about a First Nation government or service organization, the Commission and the Tribunal can consider the customary law of the First Nation. They need to balance collective and individual rights from a First Nation perspective, while respecting gender equality.<sup>69</sup>

In addition, the Canadian Human Rights Commission has also acknowledged, with important implications for Indigenous Peoples, that treating everyone the same does not automatically result in equality. This question is about substantive equality. When substantive, or meaningful, equality is lacking, corrective measures can and should be taken – these are principles in human rights, Indigenous rights, and customary international law. As the Human Rights Commission points out, “Aboriginal people should expect to be treated equally with other people. But equality does not always mean treating everyone the same.”<sup>70</sup>



## The Canadian Constitution and the *Charter of Rights*

In Canada and within a legal setting, those identified as Aboriginal peoples under the Constitution – First Nations, Métis, and Inuit – have looked to three primary sources in defining their rights: the Royal Proclamation of 1763 (as well as Treaties that have since followed), the common law as defined in Canadian courts, and international law.<sup>71</sup> Part of the way that Canada also deals with issues regarding Indigenous rights is embedded within the Canadian Constitution, in existence since 1867 and patriated in 1982.

Under the Canadian Constitution, “Indians, and Lands reserved for the Indians” falls under section 91(24) and under exclusive federal authority. Section 91 outlines the powers of the federal government as a whole, and section 92 delineates the areas reserved for the provinces to legislate. As the courts have pointed out, these are not watertight compartments, particularly when it comes to Indigenous Peoples in Canada, who receive many services in crucial areas such as health and education from provincial service providers, while being funded through Ottawa. In part, the iteration of powers under the *Constitution Act*, or, as it was known in 1867, the *British North America Act*, flows from the historical recognition of the relationship between Indigenous Peoples and the Crown. Specifically, this idea is also represented in the Royal Proclamation of 1763, which predated the *British North America Act*, and which said that the Crown, or British government, was responsible for protecting the lands of First Nations people, and ensuring their welfare and protection.

Until 1982, section 91(24) was the only articulation of the presence of Indigenous Peoples anywhere in Canada’s Constitution. And, when Pierre Elliot Trudeau took steps to patriate the Constitution to Canada in 1982, he had no intention of adding any more references. However, the addition of the *Canadian Charter of Rights and Freedoms* engaged many Indigenous organizations who fought for the inclusion and protection of collective Indigenous and Treaty rights. Part of the motivation behind the effort to entrench Aboriginal rights within the Constitution was the idea that any transfer of power from Britain, which still held constitutional authority in Canada, might jeopardize Aboriginal rights – at least the few that were recognized at the time. In addition, the fact that any rights held by First Nations, Métis, and Inuit were subject to extinguishment through legislation meant that there were few protections for the limited rights that had been gained by that time. Indigenous organizations felt that securing constitutional protection for their rights was the most sensible and safe route to make sure they wouldn’t lose any ground that had been gained so far.

“HUMAN RIGHTS DECISIONS INVOLVING FIRST NATIONS NEED TO RECOGNIZE ABORIGINAL AND TREATY RIGHTS. FOR COMPLAINTS ABOUT A FIRST NATION GOVERNMENT OR SERVICE ORGANIZATION, THE COMMISSION AND THE TRIBUNAL CAN CONSIDER THE CUSTOMARY LAW OF THE FIRST NATION. THEY NEED TO BALANCE COLLECTIVE AND INDIVIDUAL RIGHTS FROM A FIRST NATION PERSPECTIVE, WHILE RESPECTING GENDER EQUALITY.”

The Canadian Human Rights Commission



As a result of this resistance, the government acquiesced and included a section that “recognizes and affirms” Aboriginal and Treaty rights. As a result of lengthy campaigns by Indigenous women, the 1983 Constitutional Conference also agreed to amend the Constitution and add a clause declaring that Aboriginal and Treaty rights are “guaranteed equally to male and female persons.” However, aside from this new commitment to gender equality, little progress was made towards defining “Aboriginal rights.” Subsequent conferences throughout the 1980s likewise ended without agreement on the matter.



*Her Majesty Queen Elizabeth II with Prime Minister The Rt. Hon. Pierre Elliott Trudeau signing the Proclamation of the Constitution Act, 1982. © Government of Canada. Reproduced with the permission of Library and Archives Canada (2019). Source: Library and Archives Canada/National Archives of Canada fonds/a141503.*

As it was finally assented to, section 25 of the *Constitution Act* guarantees that no rights and freedoms within the Charter should be interpreted as taking away from any Aboriginal rights or Treaty rights flowing from the Royal Proclamation of 1763 and from land claims agreements. Section 35 affirms existing Aboriginal and Treaty rights for “Indians,” Métis, and Inuit, and specifies that “Treaty rights” include rights now existing in land claims agreements, or those that might be acquired in the future. Subsection 4 of this clause expressly guarantees these rights equally to male and to female persons.

In 1990, the Supreme Court of Canada (SCC) held, in *Sparrow*, that the federal government’s power under section 91(24) must be read together with section 35(1). Section 35(1) places obligations upon the federal government “to act in a fiduciary relationship with respect to aboriginal peoples” within a framework that is “trust-like, rather than adversarial.” However, while the Constitution recognized these Aboriginal and Treaty rights, it did not define them. Instead, it committed to holding a constitutional conference involving the prime minister, the provincial premiers, and Indigenous leaders to define the rights protected by the Constitution through the domestic courts.



As it has evolved, Canadian jurisprudence has articulated important legal doctrines, especially with regards to Aboriginal title, but also related to other Indigenous rights. These include the *sui generis* rights, the Honour of the Crown, and fiduciary duty. These legal principles, and the overall narrative they share, is dominated by the idea that the Rule of Law – the idea that even the Crown is subject to its own laws – must prevail when attempting to *reconcile* the pre-existence of Indigenous Nations and their legal and cultural systems with the assumed sovereignty of British settler society.<sup>72</sup>

### **Sui Generis – A Unique Relationship**

The Latin term *sui generis* (“of its own kind”) is used to characterize something that is unique. Within Aboriginal law as defined in the Supreme Court, judges apply this idea to point out the differences between Indigenous rights to property and the rights that come from the non-Indigenous common law. As lawyer Bruce Ziff explains, the idea of *sui generis* recognizes

pre-existing property rights of Aboriginal communities. Since sovereignty works only as a potential trump over prior claims, the previous landholders, the Aboriginal peoples of what is now Canada, retain their property until these are taken away by legitimate state action. Indeed, current Canadian law recognizes land rights that were in existence before colonial acquisition.<sup>73</sup>

This means that Aboriginal and Treaty rights are set aside from other rights to acknowledge that they are unique; and, even though domestic law interpretation is paramount here, international law also recognizes the *sui generis* nature of Aboriginal title and many related rights. These rights don’t depend on non-Indigenous principles. Instead, the Supreme Court has established that even if inherent Aboriginal rights have never been affirmed by British or Canadian legislation, they are still constitutionally valid.<sup>74</sup>



# The James Bay and Northern Quebec Agreement and Economic Security

The James Bay and Northern Quebec Agreement (JBNQA) is the first “modern” Treaty in Canada. It was signed in 1975 by the Government of Canada, the Government of Quebec, and the Cree and Inuit of northern Quebec. Both Inuit and Cree sacrificed a great deal in exchange for promises of self-determination and community development. However, because federal and provincial governments failed to properly implement the agreement, it would be almost three decades before Cree in northern Quebec began to enjoy substantial community development on their terms. Failure to honour the commitments in the JBNQA in a timely manner exacerbated many of the problems behind the crisis of violence against Indigenous women in Quebec, including poverty, trauma, and access to government services.

Negotiations for the JBNQA were sparked by a conflict over hydroelectric development. In 1971, Quebec Premier Robert Bourassa announced a proposal for the James Bay Hydroelectric Project, a multi-stage mega-project that called for dams and reservoirs on all of the major river systems flowing into James Bay. Cree and Inuit groups resolved to stop the project. Because they were not consulted on the project, they were in no position to benefit from it, and it would have significant negative effects on their communities. When the Quebec government ignored Indigenous opposition, the Cree and Inuit took legal action to stop the project. However, the Cree and Inuit were under an enormous amount of pressure to reach a negotiated agreement with government. Construction of the project continued during legal proceedings, effectively compromising the ability of Indigenous groups to stop the project.<sup>i</sup>

In the agreement, the Cree and Inuit agreed to a scaled-down hydroelectric project on the La Grande River system, one that flooded vast swaths of Cree territory and damaged Cree waters. The agreement contained the now-infamous “extinguishment clause”

that claimed to extinguish Aboriginal rights to land in northern Quebec. In exchange, both groups received a one-time cash payment, as well as government commitments to community, economic, and political development in northern Quebec.<sup>ii</sup>

Both federal and provincial governments were reluctant to honour their commitments under the agreement. There were immediate disputes over which order of government should be funding community infrastructure and health services. While Canada and Quebec bickered, Cree communities were left without proper housing, public sanitation infrastructure, clean drinking water, and health services. Government inaction led to numerous lawsuits. The Cree reached an out-of-court settlement with the federal government in 1982. However, a change in government in 1984 resulted in major funding cuts to services in Cree communities, leading to further litigation.<sup>iii</sup>

In the late 1980s, Quebec announced its intentions to expand the James Bay project into the Great Whale River system. Because of the negative impacts they



***The James Bay and Northern Quebec Agreement was signed at a late-night ceremony in Quebec City on Nov. '11, 1975, by Inuit leaders Charlie Watt and Zebedee Nungak, then-Quebec Premier Robert Bourassa, and late Cree Chief Billy Diamond (far right).  
Source: Nunatsiaq News***

had already experienced from development on the La Grande River, as well as the failure of government to honour the JBNQA, the Cree sought to stop the project with a combination of court actions and public campaigns. Their campaign was successful and the Quebec government cancelled the project in 1994.<sup>IV</sup>

Tensions between the Cree and the Government of Quebec continued into the late 1990s. By 2000, the Cree had initiated more than 30 lawsuits, alleging that the governments of Quebec and Canada had breached the JBNQA.<sup>V</sup> Major conflicts in the late 1990s included disputes over logging and further hydroelectric development.<sup>VI</sup>

With northern hydroelectric development at a standstill, and numerous issues related to the JBNQA before the courts, the Government of Quebec was under considerable pressure to negotiate with the Cree. In 2002, the Grand Council of the Crees and the Government of Quebec signed the Agreement Respecting a New Relationship Between the Cree Nation and the Government of Quebec (popularly known as the *Paix des Braves* or “Peace of the Braves”). This massive out-of-court settlement has been celebrated by Cree leaders as a breakthrough in honouring the spirit and intent of the JBNQA. For example, as former director of Quebec and international relations for the Grand Council of the Crees (Eeyou Istchee) of James Bay, Romeo Saganash wrote: “We believe that *Paix des Braves* ... is an agreement based upon the significant recognition of the rights of Indigenous Peoples to benefit meaningfully on a nation-to-nation basis from the natural resources and wealth of their own traditional lands.”<sup>VII</sup>

While recent settlements like the *Paix des Braves* have resulted in improved service delivery and a more equitable sharing of the revenues produced by extractive industries, it took decades of litigation and public campaigning to have these commitments honoured. In the meantime, Cree communities paid the price with high levels of poverty, insufficient social services, and unresolved intergenerational trauma. The government’s failure to uphold its Treaty promises to the Cree have therefore exacerbated the problem of violence against Indigenous women, girls, and 2SLGBTQIA people.

- I Feit, “Hunting and the Quest.”
- II Morantz, “Aboriginal Land Claims.”
- III Grand Council of the Crees, “Episode 2: Delivering the Promise.”
- IV Feit, “Hunting and the Quest.”
- V Tehan et al., “Sharing Lands and Resources,” in *Settling with Indigenous People*.
- VI Grand Council of the Crees, “Episode 3: We Rise up!”
- VII Saganash, “The *Paix de Braves*,” 205.



## Honour of the Crown

Related to the idea of the unique nature of Aboriginal rights is the idea of the Honour of the Crown. In 1967, the Nisga'a Tribal Council brought an action to the British Columbia Supreme Court. Frank Calder and others (including the Nisga'a Tribal Council, Gitlakdamix Indian Band, Canyon City Indian Band, Laxgalts'ap [Greenville] Band, and Kincolith Indian Band) sought recognition of their Aboriginal title, comprising over 2,590 square kilometres (1,000 square miles) in northwestern British Columbia. The BC Supreme Court and the Court of Appeal rejected the Nisga'a claim. In response, the Nisga'a took their case to the Supreme Court of Canada, where it was finally decided in 1973.

While the Nisga'a did not technically win the case in the Supreme Court of Canada, the decision that was issued, named the *Calder* decision, broke new ground. The three justices who did affirm the Nisga'a's Aboriginal title maintained that Aboriginal title had existed at the time of the Royal Proclamation of 1763, before colonial law was imposed. As Justices Hall, Spence, and Laskin wrote: "The proposition accepted by the Courts below that after conquest or discovery the native peoples have no rights at all except those subsequently granted or recognized by the conqueror or discoverer was wholly wrong."<sup>75</sup>

In this decision, the Supreme Court of Canada indicated that "in dealings between the government [that is, the "Crown"] and aboriginals the honour of the Crown is at stake."<sup>76</sup> Further, the Court noted, "The mandate to act with honour was brought to life the very instant that sovereignty over native people was asserted."<sup>77</sup> In other words, in claiming sovereignty over Indigenous Peoples, the nation-state also creates a duty to act honourably in all of the ways that it deals with them.

Thus, the legal notion of Honour of the Crown came into focus in Canadian Aboriginal law through *Calder*, and continued to be applied and refined in litigation that followed. Despite being a "split" decision, *Calder* marked a significant change in the relationship between the Crown and Indigenous Peoples in Canada, leading to negotiations that culminated in 1998, creating British Columbia's first modern Treaty, *The Nisga'a Final Agreement Act*.<sup>78</sup>

The Honour of the Crown applies to the interpretation of legislation and to the application of Treaties.

"THE MANDATE TO ACT WITH HONOUR WAS BROUGHT TO LIFE THE VERY INSTANT THAT SOVEREIGNTY OVER NATIVE PEOPLE WAS ASSERTED."

The Supreme Court of Canada



# Claiming Métis Rights: The “Forgotten People” Demand Recognition

For many Métis, the decades spent as the “forgotten people” include the fight to be recognized both as Aboriginal people, under the Constitution, as well as specific challenges related to rights that mean services and access for many Métis women, girls, and 2SLGBTQIA people long denied due to their identity.

The question of Métis rights was first put before the Supreme Court of Canada in the Powley case, decided in 2003. In 1993, Steve and Roddy Powley had killed a moose near Sault Ste. Marie, Ontario, without a licence, claiming that their right to hunt for food was protected by the *Constitution Act*, 1982, under section 35. In its decision, the Supreme Court ruled unanimously that Métis people who were members of a Métis community had the protected right to hunt for food under section 35. The Court found that the “test for Métis practices should focus on identifying those practices, customs and traditions that are integral to the Métis community’s distinctive existence and relationship to the land.”<sup>ii</sup> While the right was limited to Sault Ste. Marie and neighbouring areas, the case set an important precedent for understanding Métis rights within section 35. It also set out the “Powley test,” as it is known today, which is used to define Métis rights, in the same way as the *Van der Peet* test is used to define those rights applying to First Nations:

To sum it up, the characterization of the right must take into account the perspective of Métis people claiming the right; reflect the actual pattern of exercise of Métis hunting prior to effective control; characterize the practice in accordance with the highly mobile way of life of the Métis of the Northwest; give legal force to Métis people’s traditional relationship to the land they

lived on, used and occupied; and reconcile the hunting rights of Métis of the Northwest in a way that provides the basis for a just and lasting settlement of their Aboriginal claims.<sup>ii</sup>

The next challenge before the SCC of significance to the Métis was in the *MMF v the Queen* decision of 2013.<sup>iii</sup> The case concerned the fact that after Confederation, the first government of Canada engaged in attempts to manage the distribution of Métis lands, as a part of Manitoba’s entry into Confederation under the *Manitoba Act*, 1870. In that Act, Canada agreed to grant 1.4 million acres of land to the Métis children (section 31 of the *Manitoba Act*) and to recognize existing landholdings (section 32 of the *Manitoba Act*). The Canadian government began the process of implementing section 31 in early 1871. Although the land was set aside, a series of errors, delays, and mismanagement of the process interfered with dividing the land.<sup>iv</sup>

The Métis, represented by the Manitoba Metis Federation and several interested individuals, sought a declaration “that a provision of the *Manitoba Act* – given constitutional authority by the *Constitution Act*, 1871 – was not implemented in accordance with the honour of the Crown.”<sup>v</sup> In this case, the Métis were not seeking compensation or restoration of the lands. They were seeking only a declaration setting out that the government had not fulfilled its obligations ho-



nourably, with the express purpose of assisting them in their ongoing negotiations with the government of Canada.<sup>vi</sup>

The Supreme Court of Canada delivered a split decision (5:2), and held that the “federal Crown failed to implement the [Métis] land grant provision set out in s. 31 of the *Manitoba Act, 1870* in accordance with the honour of the Crown.”<sup>vii</sup>

The obligations of the government to both Métis and non-Status people were also addressed in the Daniels decision of 2016, whose impacts are not yet fully known.<sup>viii</sup> In the case, appellants sought three declarations: (1) that Métis and non-Status Indians are “Indians” under section 91(24) of the *Constitution Act, 1867*; (2) that the federal Crown owes a fiduciary duty to Métis and non-Status Indians; and (3) that Métis and non-Status Indians have the right to be consulted and negotiated with.

In its decision, the Supreme Court of Canada granted the first declaration: Métis and non-Status Indians are “Indians” under section 91(24). The Court did not grant the second and third declarations because the specific duty to negotiate exists when Aboriginal rights are engaged. Métis rights are not engaged by inclusion in section 91(24) but are engaged when they have a credible or established section 35 right. For this reason, the Court maintained that there was no need for the declaration because the rights already exist in law.<sup>ix</sup>

Under this decision, the federal government will need to work on defining its obligations to non-Status people – those robbed of Status by the *Indian Act*, explored in the next chapter – as well as consider how its honour and its duty are engaged with respect to those groups for whom it has not traditionally accepted responsibility.

- I *R. v. Powley*, 2003 SCC 43, at para 37 [Powley].
- II Teillet, *Métis Law in Canada*, 2-25.
- III *Manitoba Métis Federation Inc. v Canada (Attorney General)* 2013 SCC 14 [MMF].
- IV *Ibid.*, at headnotes.
- V *Ibid.*, para 136.
- VI *Ibid.*, at para 136–37.
- VII *Ibid.*, at headnotes.
- VIII *Daniels v Canada (Indian Affairs and Northern Development)* 2016 SCC 12 [Daniels].
- IX *Ibid.*, para 56.



## Fiduciary Duty

The principle of “fiduciary duty” is also key in understanding how the courts have defined Aboriginal rights that are constitutionally protected. It comes from the common law.

A fiduciary is someone who is trusted to manage and protect property or money. The relationship of a fiduciary is one in which that person is obligated to act in the other person’s interests. The duties of a fiduciary include to act with “the utmost of loyalty to [its] principal” and in the “best interests” of the principal or beneficiary.<sup>79</sup> It exists, and applies to Aboriginal Peoples in Canada, as a result of the important economic duties and social history between Indigenous Peoples and the state, as well as the idea of the “peculiar vulnerability of the beneficiary to the fiduciary.”<sup>80</sup> The concept of fiduciary duty isn’t fixed, and elements of the relationship evolve over time.

Sui generis (the unique nature of rights), the Honour of the Crown, and fiduciary duty are all inseparably linked, and have appeared in case law revolving mostly around title and resource rights – at least in Canada. At the same time, there is a growing recognition within the legal community that these concepts may apply to other areas, with lawyers working in the area of corporate law, for instance, considering how fiduciary duty may bind corporations with certain duties to employees. Considering how principles such as these can also engage governments in the protection of the rights of Indigenous women, girls, and 2SLGBTQQIA people, along with international covenants, declarations, and domestic human rights instruments, can present an important new way to look at the potential legal paths towards justice.

## Indigenous Rights and Human Rights: A Complicated Relationship

While there is potential in all international and national human rights instruments to help end violence against Indigenous women, girls, and 2SLGBTQQIA people, the National Inquiry maintains that it is important to consider both Indigenous and human rights as representative of linked, but distinct, ideas. This is important, because the solutions pursued must not harm Indigenous women by violating some rights while trying to uphold others. For example, debates about Indigenous rights in the 1960s show how appeals to human rights have been used to justify the violation of Indigenous rights. The opposite is also true: in some cases, appeals to Indigenous rights, specifically in the case of gender, have been used to justify the violation of the human rights of Indigenous women.

In the first case, in 1969, Pierre Elliott Trudeau’s Liberal government released a White Paper proposing to dismantle Indian Affairs. In the Canadian legislature, a policy paper is called a “White Paper.” For many Indigenous Peoples, the term ironically implies a reference to racial politics and the non-Indigenous majority.<sup>81</sup>



The White Paper proposed eliminating Indigenous Peoples' collective rights in the name of "equality." The federal government's intention, as described in the White Paper, was to achieve equality among all Canadians by eliminating "Indian" as a distinct legal status and by regarding Indigenous Peoples simply as citizens with the same rights, opportunities, and responsibilities as other Canadians. In keeping with Trudeau's vision of a "just society," the government proposed to repeal legislation that it considered discriminatory, or that would place any one group above any other – regardless of the foundation upon which each group then stood. The White Paper stated that removing these kinds of distinctions would "enable the Indian people to be free – free to develop Indian cultures in an environment of legal, social and economic equality with other Canadians."<sup>82</sup>

To achieve its goal, the White Paper proposed to eliminate Indian Status, dissolve the Department of Indian Affairs within five years, abolish the *Indian Act*, convert reserve land to private property that could be sold by the band or its members, transfer responsibility for Indian Affairs from the federal government to the provinces, and integrate services provided to First Nations into those provided to other Canadian citizens. In addition, the government proposed funding for economic development and the appointment of a commissioner to address outstanding land claims and gradually terminate existing Treaties.<sup>83</sup>

Though the White Paper acknowledged the social inequality of Indigenous Peoples in Canada and, to a lesser degree, the history of poor federal policy choices, many First Nations people viewed the new policy statement as the culmination of Canada's long-standing goal to assimilate "Indians" into mainstream Canadian society rather than recognize their unique rights as the original inhabitants of this land.

Trudeau's political philosophy was based on the idea of one Canada, and linked to his rejection of Quebec nationalism. Speaking in 1969, he argued:

We won't recognize aboriginal rights. We can go on adding bricks of discrimination around the ghetto in which Indians live, and at the same time helping them preserve certain cultural traits and certain ancestral rights. Or we can say you are at a cross roads – the time is now to decide whether the Indians will be a race apart in Canada, or whether they will be Canadians of full status.... Indians should become Canadians as all other Canadians. This is the only basis on which I see our society can develop as equals. But aboriginal rights, this really means saying, "We were here before you. You came and cheated us, by giving us some worthless things in return for vast expanses of land, and we want to reopen this question. We want you to preserve our aboriginal rights and to restore them to us." And our answer – our answer is "no." – We can't recognize aboriginal rights because no society can be built on historical "might-have-beens."<sup>84</sup>

The legislative and policy changes proposed in the White Paper were not implemented.



First Nations across Canada responded to the document with spirited and ceaseless resistance. Harold Cardinal's *Unjust Society* – the book's title is a play on Trudeau's idea of the "just society" – called the policy proposal "a thinly disguised programme of extermination through assimilation. For the Indian to survive, says the government in effect, he must become a good little brown white man."<sup>85</sup> In 1970, Cardinal and the Indian Association of Alberta published another rejection, *Citizens Plus*, which became known as the "Red Paper" and which drew from Cardinal's *Unjust Society* arguments. The Union of British Columbia Indian Chiefs issued its own document, "A Declaration of Indian Rights: The B.C. Indian Position Paper," or "Brown Paper," of 1970, which rejected the 1969 White Paper's proposals and asserted that Indigenous Peoples continued to hold Indigenous title to the land.<sup>86</sup>

The debate over the White Paper illustrates the tension that can exist between universal human rights and particular Indigenous rights. Although Trudeau explained that he saw individual human rights as basic, rather than substantive, equality as a way to move forward, this approach ignored the important collective nature of Indigenous rights, and the ways in which the rights, opportunities, and security of Indigenous Peoples were historically, and in many respects still are, tied to land.

The opposite has also occurred in Canadian history, where appeals to Indigenous rights have also been used to dismiss Indigenous women's human rights.

In the early 1970s, Jeannette Corbiere Lavell and Yvonne Bédard's cases were heard in the Supreme Court of Canada. Lavell charged that the *Indian Act's* subsection 12(1)(b) violated the *Canadian Bill of Rights* of 1960, because of discrimination on the grounds of sex. Bédard had attempted to return to live on-reserve with her children after separating from her husband, and was ordered by the band to sell her property within one year, as she had lost her Status by marrying a non-Indian in 1964 and could no longer live on-reserve.

For the male-dominated leadership within the National Indian Brotherhood (NIB), the precursor to the Assembly of First Nations (AFN), the threat that the case posed to invalidate the entire *Indian Act* and, with it, the way to access Treaty rights and Aboriginal rights, was too great. The NIB intervened in the case, siding with the Government of Canada and against Lavell and Bedard, drawing the women into a "lengthy, bitter confrontation over the nature of 'Indian rights' and 'women's rights,' asserting that women's rights must not be obtained at the expense of self-government powers."<sup>87</sup> The Supreme Court ruled against Lavell and Bedard in 1973. In the decision, however, Justice Bora Laskin deemed this "statutory excommunication."<sup>88</sup>

Later, in the constitutional debates of the 1980s, the Assembly of First Nations argued that the *Charter of Rights and Freedoms* should not apply to Indigenous governments, because its individualistic conception of human rights was at odds with the collective rights of Indigenous Peoples.<sup>89</sup> This led to a political backlash from Indigenous women, represented by the Native Women's Association of Canada (NWAC). NWAC insisted that the Charter, or other similar mechanisms to protect Indigenous women's rights to gender equality, be applied to Indigenous governments. NWAC, and the Indigenous women it represents, were looking to human rights to protect them from discrimination and violence in their communities.<sup>90</sup>



Later, in 1981, Sandra Lovelace, along with other women from the Tobique First Nation, took the issue to the United Nations Human Rights Committee in *Lovelace v. Canada*. Internationally, the United Nations ruled in Lovelace’s favour, stating that Canada was in violation of the *International Covenant on Civil and Political Rights*.<sup>91</sup>

## Conclusion: Understanding the Need for Self-Determined Solutions

As these examples demonstrate, a one-dimensional approach to rights can serve to perpetuate violence. Indigenous women’s rights include both individual human rights and collective Indigenous rights – with overlap between these two categories, where collective rights are also human rights and Indigenous rights also belong to individuals. As a result, solutions do not rest only within human or within Indigenous rights instruments, and neither do they rest only in governments. Addressing violence against Indigenous women, girls, and 2SLGBTQQIA people requires new solutions as conceived, driven, and managed by those affected. This is why it is important to stress that the realization of these rights, both within Indigenous contexts and within the framework of human rights, requires self-determined solutions. As Brenda Gunn told the National Inquiry, “It’s really important that we realize that in order to fully realize all rights and self-determination, that they all need to work together and that they’re on the same field with that same end goal.”<sup>92</sup> In short, she says, “self-determination is really a starting point for the realization of human rights.”<sup>93</sup> Dalee Sambo Dorough agreed: “[Self-determination] is required in order for Indigenous Peoples, either individually or collectively, to benefit from the exercise of the right of self-determination of Indigenous Peoples.”<sup>94</sup>

Within the Truth-Gathering Process, many people testified about the need to consider context, and to promote self-determined solutions appropriate for each Nation or community, according to their own standards and needs. As Brenda Gunn testified, a national, step-by-step process is not appropriate to apply to all. A good plan would account for the diversity among Nations, creating frameworks and steps to ensure that implementation is appropriate to specific regions and issues. In addressing the challenges of *Indian Act* band governance, or self-government agreements among other Indigenous Peoples, which will be explored in the next chapter, some witnesses also suggested that human rights standards should also be operational within communities and for Indigenous governments, urging those governments to take the initiative on adopting legislation reflective of these instruments. Brenda Gunn explained: “We may need to have moments where we also reflect to make sure that our own legal traditions are upholding current standards of international human rights law in a way that’s appropriate for our traditions.”<sup>95</sup>

Jean Leclair considers it essential that Indigenous governments undertake the adoption of human rights principles, founded upon their own Indigenous laws, particularly with respect to UNDRIP: “For many of them, federal and provincial law suffers from a lack of legitimacy. But since the declaration is the product of their own collaboration, they can certainly be inspired by it. They are governments, after all.”<sup>96</sup>



Through the respect for these instruments, including both collective and individual rights, Indigenous women, girls, and 2SLGBTQQIA people can work to hold all governments accountable for the measures they are taking, or are not taking, to address the crisis of violence.

But, as the testimonies before the National Inquiry assert, the state itself can't guarantee the safety of all Indigenous women, girls, and 2SLGBTQQIA people. However, it can enact and enforce laws and put greater emphasis on catching perpetrators; contribute to changing the perspective of those who would see the lives of Indigenous women, girls, and 2SLGBTQQIA people as somehow of less value than the lives of non-Indigenous people; and refine its own values and service standards to honour Indigenous women, girls, and 2SLGBTQQIA people. Halie B. pointed out:

I'm a lawyer. I'm educated. I speak to huge conferences of people about child protection, about Gladue, about prisoners' rights, about Aboriginal offenders, about the structural racism and systemic racism that our people have suffered, and the laws, and policies, and practices that have impacted our people over multiple generations.... And, I couldn't even get an RCMP officer to listen to me with any dignity and pride. And, I understood even more profoundly the racism that my mother experienced throughout her life, from the '50s to now, to today.<sup>97</sup>

Barriers to rights happen in the everyday situations that women, girls, and 2SLGBTQQIA face in trying to obtain services and to get help. For this reason, changes must go beyond law, towards new relationships. As Anni P. said:

It's all about building relationships, you know? Our family systems have been fractured, so I got to learn how to build relationships again with my family. Healthy relationships. And, I have to learn how to build relationships with non-Indigenous people.... It's all about building relationships. And so, we heal in our Indigenous community, and then the non-Indigenous community is learning the truth, and then how do we come together? How can we come together in a healthy and safe way to start to build relationships, to start to heal all those lies that all sides have been told about each other? We need to heal of that.<sup>98</sup>

**“[SELF-DETERMINATION] IS REQUIRED IN ORDER FOR INDIGENOUS PEOPLES, EITHER INDIVIDUALLY OR COLLECTIVELY, TO BENEFIT FROM THE EXERCISE OF THE RIGHT OF SELF-DETERMINATION OF INDIGENOUS PEOPLES.”**

**Dalee Sambo Dorough**



*Chief Commissioner Buller addresses the group in Ottawa, Ontario.*

Examples that emerged through the testimonies included how changing the way that the health system interacts with Indigenous Peoples could contribute to safety by creating a new level of comfort in communication that could improve outcomes both at the individual and institutional levels – as driven by Indigenous Peoples. Improving the way that the child welfare system deals with Indigenous families, or transforming the way it operates, could help keep more families together and ultimately improve safety – as understood by Indigenous people. Training law enforcement personnel who need it to understand Indigenous realities and perspectives could help improve access to, and trust in, the police, so that Indigenous women, girls, and 2SLGBTQQIA people in danger feel they have somewhere to go. In short, states must uphold their obligations, but the people acting within these parameters must also create new relationships from the ground up.

“I’M A LAWYER. I’M EDUCATED. I SPEAK TO HUGE CONFERENCES OF PEOPLE ABOUT CHILD PROTECTION, ABOUT GLADUE, ABOUT PRISONERS’ RIGHTS, ABOUT ABORIGINAL OFFENDERS, ABOUT THE STRUCTURAL RACISM AND SYSTEMIC RACISM THAT OUR PEOPLE HAVE SUFFERED, AND THE LAWS, AND POLICIES, AND PRACTICES THAT HAVE IMPACTED OUR PEOPLE OVER MULTIPLE GENERATIONS.... AND, I COULDN’T EVEN GET AN RCMP OFFICER TO LISTEN TO ME WITH ANY DIGNITY AND PRIDE. AND, I UNDERSTOOD EVEN MORE PROFOUNDLY THE RACISM THAT MY MOTHER EXPERIENCED THROUGHOUT HER LIFE, FROM THE ’50S TO NOW, TO TODAY.”

Halie B.



Human rights frameworks, as interpreted within the spirit and context of Indigenous laws, are important tools to begin to change the conversation about Indigenous roles, responsibilities, rights, and, ultimately, self-determination. In this, we all have a role to play. We can restructure our own relationships and transform our own encounters, all the while contributing to the protection and restoration of Indigenous women's and gender-diverse people's power and place through respect for Indigenous laws and principles, and human and Indigenous rights. When Indigenous and human rights are respected fully, then Indigenous women and girls will be safer. We can transform encounters that endanger women, girls, and 2SLGBTQQIA people into ones that can protect them.

Understanding the context of Indigenous and human rights is also important in understanding the roots of violence against Indigenous women, girls, and 2SLGBTQQIA people – a crisis that is not, as some might suggest, a recent phenomenon, but that is centuries in the making. The next chapter will begin to tell a different story of colonization, one that understands that all Indigenous Peoples were and are affected by colonization, but that the experience of Indigenous women, girls, and gender-diverse people were distinct, with important implications into the present.

To look forward, we must first look back.



## Notes

- 1 Timothy Argetsinger (Inupiaq), Part 3, Public Volume 5, Quebec City, QC, p. 173.
- 2 Brenda Gunn (Métis), Part 3, Public Volume 6, Quebec City, QC, p. 10.
- 3 Brenda Gunn (Métis), Part 3, Public Volume 6, Quebec City, QC, p. 11.
- 4 Brenda Gunn (Métis), Part 3, Public Volume 6, Quebec City, QC, p. 55.
- 5 Eversole, McNeish, and Cimadamor, cited in Green, *Indivisible*, 4.
- 6 Brenda Gunn (Métis), Part 3, Public Volume 6, Quebec City, QC, p. 11.
- 7 Gladys R. (Gitksan/Wet'suwet'en), Part 1, Public Volume 4, Smithers, BC, p. 154.
- 8 Smith, "Human Rights and Decolonization," 83.
- 9 Relevant declaratory instruments to which Canada is party include the foundational *United Nations Declaration on Human Rights*; the *Vienna Declaration and Programme of Action*; the *Declaration on the Elimination of Violence Against Women*; the *Beijing Declaration and Platform for Action*; and the *United Nations Declaration on the Rights of Indigenous Peoples*. Conventions that Canada has ratified include the *Convention on the Prevention and Punishment of the Crime of Genocide*, in 1948, the *International Covenant on Civil and Political Rights* and its related Optional Protocol, both ratified in 1976; the *International Covenant on Economic, Social and Cultural Rights*, ratified in 1976, and its related Optional Protocol, ratified in 1984; the *Convention on the Elimination of All Forms of Discrimination Against Women*, ratified in 1980 and 1981, and its Optional Protocol, ratified in 2002; the *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, ratified by Canada in 1985 and in 1987; the *Convention on the Rights of the Child*, ratified in 1990 and 1991, and its Optional Protocol, ratified in 2000 and 2002; and the *International Convention on the Elimination of All Forms of Racial Discrimination*, ratified in 1966 and in 1971.
- 10 United Nations, "United Nations Human Rights System."
- 11 Office of the High Commissioner for Human Rights, "Other United Nations Bodies."
- 12 Delores S. (Saulteaux, Yellow Quill First Nation), Part 1, Public Volume 26, Saskatoon, SK, p. 27.
- 13 Office of the High Commissioner for Human Rights, "Frequently Asked Questions."
- 14 Virginia C. (Métis), Part 1, Statement Volume 117, Saskatoon, SK, p. 26.
- 15 Office of the High Commissioner for Human Rights, "Convention on the Elimination of All Forms of Discrimination against Women."
- 16 Crystal F. (Yellow Quill First Nation) Part 1, Public Volume 28, Saskatoon, SK, p. 43.
- 17 Lorraine S. (Thunderchild First Nation and Mosquito First Nation), Part 1, Statement Volume 112, Saskatoon, SK, p. 36.
- 18 Brenda Gunn (Métis), Part 3, Public Volume 6, Quebec City, QC, p. 43.
- 19 Dr. Dalee Sambo Dorough (Inuit, Alaska), Part 3, Public Volume 6, Quebec City, QC, p. 266.
- 20 Dr. Dalee Sambo Dorough (Inuit, Alaska), Part 3, Public Volume 6, Quebec City, QC, p. 254.
- 21 Brenda Gunn (Métis), Part 3, Public Volume 6, Quebec City, QC, p. 14.
- 22 Brenda Gunn (Métis), Part 3, Public Volume 6, Quebec City, QC, p. 13.
- 23 See *Baker v. Canada (Minister of Citizenship and Immigration)* [1999] 2 SCR 817.
- 24 United Nations, *Universal Declaration of Human Rights*.
- 25 United Nations General Assembly, Resolution 48/104, Article 1.
- 26 *Ibid.*, Article 4(k).
- 27 United Nations General Assembly, Resolution 66/290.
- 28 Office of the High Commissioner for Human Rights, "Vienna Declaration."
- 29 *Ibid.*
- 30 *Ibid.*
- 31 United Nations, *Beijing Declaration*.
- 32 Brenda Gunn (Métis), Part 3, Public Volume 6, Quebec City, QC, p. 39.



- 33 Henderson, *Indigenous Diplomacy*, 70.
- 34 Ibid.
- 35 The abstentions were: Azerbaijan, Bangladesh, Bhutan, Burundi, Colombia, Georgia, Kenya, Nigeria, the Russian Federation, Samoa, and Ukraine.
- 36 Khandaker, “Canada adopts UN Declaration.”
- 37 Indigenous Foundations, “UN Declaration on the Rights.”
- 38 Canada, “Canada, Indigenous and Northern Affairs Canada, Canada’s Statement of Support.”
- 39 United Nations General Assembly, Resolution 61/295.
- 40 Ibid.
- 41 Ibid.
- 42 Ibid.
- 43 Ibid.
- 44 Brenda Gunn (Métis), Part 3, Public Volume 6, Quebec City, QC, p. 40.
- 45 Dr. Dalee Sambo Dorough (Inuit, Alaska), Part 3, Public Volume 6, Quebec City, QC, pp. 300-301.
- 46 Champagne, “Human, Civil and Indigenous Rights,” 11.
- 47 Bernie W. (Haida/Nuu-chah-nulth/Coast Salish), Part 1, Public Volume 115, Vancouver, BC, p. 32.
- 48 Translation ours. Jean Leclair, Part 3, Public Volume 6, Quebec City, QC, p. 222.
- 49 Dr. Dalee Sambo Dorough (Inuit, Alaska), Part 3, Public Volume 6, Quebec City, QC, p. 272.
- 50 Dr. Dalee Sambo Dorough (Inuit, Alaska), Part 3, Public Volume 6, Quebec City, QC, p. 257.
- 51 Brenda Gunn (Métis), Part 3, Public Volume 6, Quebec City, QC, p. 16.
- 52 Brenda Gunn (Métis), Part 3, Public Volume 6, Quebec City, QC, p. 49.
- 53 Brenda Gunn (Métis), Part 3, Public Volume 6, Quebec City, QC, p. 16.
- 54 Corey O’Soup (Métis/First Nations, from the Key First Nation), Part 3, Public Volume 6, Quebec City, QC, pp. 114-115.
- 55 Brenda Gunn (Métis), Part 3, Public Volume 6, Quebec City, QC, p. 20.
- 56 Brenda Gunn (Métis), Part 3, Public Volume 6, Quebec City, QC.
- 57 McConnell, “Canadian Bill of Rights.”
- 58 Ibid.
- 59 *The Constitution Act*, 1867, 30 & 31 Vict, c 3.
- 60 *Canadian Human Rights Act*, R.S.C., 1985, c. H-6, version of Section 13 from 2002-12-31 to 2014-06-25.
- 61 *Canadian Human Rights Act*.
- 62 First Nations Child and Family Caring Society of Canada, “Canadian Human Rights Tribunal Decisions.”
- 63 Ibid.
- 64 2016 CHRT 2, File No.: T1340, 7008, *First Nations Child and Family Caring Society of Canada v. Canada*, 2016 CHRT 2, File No.: T1340, 7008. For a useful timeline of the case and all related documents, see First Nations Child and Family Caring Society, “Jordan’s Timeline,” <https://fncaringociety.com/jordans-timeline>.
- 65 The commission may extend the deadline in extenuating circumstances. This is, however, the exception rather than the rule.
- 66 Wendy L. (Squamish Nation), Part 1, Statement Volume 370, Richmond, BC, pp. 20-21.
- 67 Viola Thomas (Kamloops Tk’emlups te Secwepemc), Part 1, Public Volume 104, Vancouver, BC, p. 14.
- 68 Viola Thomas (Kamloops Tk’emlups te Secwepemc), Part 1, Public Volume 104, Vancouver, BC, pp. 7-8.
- 69 Canadian Human Rights Commission, *Now a Matter of Rights*.
- 70 Canadian Human Rights Commission, *Your Guide to Understanding the Canadian Human Rights Act*, 1.
- 71 Henderson and Bell, “Rights of Indigenous Peoples.” The term “Aboriginal” is used in this section to reflect the wording of the Canadian Constitution, which protects ““Aboriginal and Treaty rights.” “Aboriginal” is also the term used within the Constitution that refers to First Nations, Métis, and Inuit people.
- 72 See Justice Ian Binnie in *Mikisew Cree First Nation v. Canada* (Minister of Canadian Heritage).
- 73 Ziff, *Principles of Property Law*, 73.
- 74 Henderson, “Interpreting Sui Generis.”
- 75 Ibid.



- 76 See *R. v. Marshall* [1999] 3 SCR 456 at paras 49-52.
- 77 *Mitchell v. M.N.R.* 2001 SCC 33, 2001 SCR 911 at para 9.
- 78 *Nisga'a Final Agreement Act*, RSBC 1999, c2c 2.
- 79 *Guerin v. The Queen* [1984] 2 SCR 335, p. 337.
- 80 *Ibid.*, 942, with reference to Frankel, "Fiduciary Law."
- 81 Lagace and Sinclair, "The White Paper, 1969."
- 82 Canada, Indigenous and Northern Affairs Canada, "Statement of the Government of Canada on Indian Policy."
- 83 *Ibid.*
- 84 Prime Minister Pierre Trudeau, speaking to the Liberal Association of Vancouver, Seaforth Armories, Vancouver, 1969. "Transcript of the Prime Minister's Remarks at the Vancouver Liberal Association Dinner," Seaforth Armories, Vancouver, BC, 1969, 11-12. [http://publications.gc.ca/collections/collection\\_2018/aan-inac/R32-429-1969-eng.pdf](http://publications.gc.ca/collections/collection_2018/aan-inac/R32-429-1969-eng.pdf)
- 85 Cardinal, *The Unjust Society*, 1.
- 86 Lagace and Sinclair, "The White Paper, 1969."
- 87 Shaw, "Creating/Negotiating Interstices," 176.
- 88 *Attorney General of Canada v. Lavell, Isaac et al. v. Bédard*, 1974 SCR 1386.
- 89 Rafoss, "The Application of the Canadian Charter," 17-18. See also Romanow, Leeson and Whyte, *Canada – Notwithstanding*.
- 90 For a more detailed account of NWAC's views, including those related to Bill C-31, see NWAC, "Aboriginal Women's Rights are Human Rights."
- 91 Conn, "Sandra Lovelace Nicholas."
- 92 Brenda Gunn (Métis), Part 3, Public Volume 6, Quebec City, QC, p. 52.
- 93 Brenda Gunn (Métis), Part 3, Public Volume 6, Quebec City, QC, p. 57.
- 94 Dr. Dalee Sambo Dorrough (Inuit, Alaska), Part 3, Public Volume 6, Quebec City, QC, p. 259.
- 95 Brenda Gunn (Métis), Part 3, Public Volume 6, Quebec City, QC, p. 73.
- 96 Translation ours. Jean Leclair, Part 3, Public Volume 6, Quebec City, QC, p. 173.
- 97 Halie B. (Namgis/Kwa'kwa'kawakw/Tlingit/Scottish), Part 1, Public Volume 111(a), Vancouver, BC, p. 33.
- 98 Anni P. (Cree), Part 1, Public Volume 80, Vancouver, BC, pp. 30-31.





## Colonization as Gendered Oppression

### Introduction: The Context of Colonization for Indigenous Women, Girls, and 2SLGBTQQIA People

For many of those who spoke about experiences of violence in their own lives or the lives of their loved ones, an essential and ultimately empowering part of making meaning and of healing came with learning about the broader historical forces and policies that shaped their individual experiences. For many people, the shame and secrecy that colonialism bred among Indigenous families meant that talking about their own personal histories never took place. Even less well-known or talked about is the way that these historical forces shaped the lives of women, girls, and 2SLGBTQQIA people in distinct ways that ultimately are at the root of the crisis of missing and murdered Indigenous women, girls, and 2SLGBTQQIA people today.

As Chief Judy Wilson, of the Secwépemc Nation, explained, the heart of addressing the crisis today begins with “lifting the veil”:

The statement from our family today and our experience of how our sister was murdered at a young age is one of many thousands and thousands of stories across Canada. The National Inquiry is a hearing, is only a fraction of these survivor and family stories. There are many voices that will remain unheard, sadly. Our family will continue to advocate and support the many issues our women and girls continue to experience. Regrettably, change will only come by lifting the veil of colonialism and our recognition of our people's title and rights, so that we can reaffirm our identities and our way of life.<sup>1</sup>



In this section, we provide a brief overview of some of the historical events and contexts that are at the root of violence against Indigenous women, girls, and 2SLGBTQQIA people. We identify a number of factors as foundational in the ongoing violation of cultural, health, security, and justice-related rights. But the violation of these rights also has deep historical roots.

In the area of culture, for instance, some of the most egregious rights violations include the early logic of discovery and the assertion of Canadian sovereignty, the regulation of Indigenous identities and governance, and the attempt to assimilate Indigenous Peoples in the context of residential schools and, later on, within the Sixties Scoop and child welfare systems.

In the area of health, the impact of colonization in northern communities is particularly important, as it is connected to relocations and the lack of food security. Other examples include forced sterilization, lack of access to mental health services and addictions treatment, and overall interference with existing Indigenous health systems.

Within the context of the right to security, a basic lack of opportunity in areas such as education, employment, and the failure to provide a basic standard of living are rooted, in particular, in colonial interventions in ways of life and in removal from ancestral or home lands.

In the area of justice, persistent harmful beliefs, as rooted in colonization regarding Indigenous women and girls, and the policing of them through legislation and through law enforcement, have important implications for justice – or the lack thereof – that we see today.

The gendered lens we apply to these contexts is important; while Indigenous men and boys suffered enormously under colonization, with respect to land and governance in particular, Indigenous women, girls, and 2SLGBTQQIA people were impacted in distinct, though related, ways. As Kwagiulth (Kwakwaka'wakw) scholar Sarah Hunt explains:

Colonialism relies on the widespread dehumanization of all Indigenous people – our children, two-spirits, men and women – so colonial violence could be understood to impact all of us at the level of our denied humanity. Yet this dehumanization is felt most acutely in the bodies of Indigenous girls, women, two-spirit and transgender people, as physical and sexual violence against us continues to be accepted as normal.<sup>2</sup>

In addition, the distinct and intersectional experiences of women and girls in remote and urban centres, or from First Nations, Inuit, or Métis perspectives, are an important part of examining the gendered history of colonization. From policies oriented toward assimilation of First Nations through the *Indian Act* and the residential school system, to those targeting Métis families through the denial of key services and rights, the structures and institutions of colonization set up the crisis of missing and murdered Indigenous women, girls, and 2SLGBTQQIA people we understand today. In the case of Inuit communities, the relatively later arrival of colonization to Inuit Nunangat continues to leave important scars on communities and on families who were often forcibly relocated from their lands and targeted by the residential school system as well, within a relatively recent time period. How different systems of oppression impacted different



groups of Indigenous women, girls, and 2SLGBTQQIA people with respect to their basic human and inherent Indigenous rights is an important part of many of the life stories we heard within the National Inquiry, particularly those dealing with the root cause of intergenerational trauma. This trauma is enforced by the lack of basic economic, social, and political rights, by the lack of institutional will for change – then and now – and by the failure to recognize the expertise and capacity of women in their own lives in historical and contemporary perspective.

In short, the history of colonization is gendered, and must be considered in relation to the crisis of missing and murdered Indigenous women and girls as a series of encounters that has ultimately rendered Indigenous women, girls, and 2SLGBTQQIA people as targets. This chapter does not provide an exhaustive account of colonization; rather, it seeks to reposition the experiences of women, girls, and 2SLGBTQQIA people within the larger context of colonization to argue that the very structures and attitudes that inspired historical abuses of human and Indigenous rights continue today. As a result, the ongoing crisis of violence against Indigenous women, girls, and 2SLGBTQQIA people is a crisis centuries in the making, and continues into the present.

## Understanding Colonization as a Structure

“Colonization” refers to the processes by which Indigenous Peoples were dispossessed of their lands and resources, subjected to external control, and targeted for assimilation and, in some cases, extermination. As defined by Mohawk scholar Gerald Taiaiake Alfred, colonialism represents the process of building a new reality for Europeans and Indigenous Peoples in North America, through the development of institutions and policies toward Indigenous Peoples by European imperial or settler governments. This involved both actual policies and legislation, as well as the creation of larger religious and secular justifications, or reasons, for enacting them.<sup>3</sup> It also includes policies, practices, and institutions that targeted Indigenous people, and women in particular, in ways that knowingly discriminated against them. The processes of colonization – its very structure, as this chapter will explore – live on and are replicated in the present, through different means.

Within the First Nations context, for instance, this meant identifying who was and was not considered an “Indian” – which involved the process of excluding Métis from Treaties and from the services – albeit meagre – provided to First Nations.<sup>4</sup> Within an Inuit context, this also included the process of assigning numbered tags to Inuit in order to keep track of people, and renaming them to make it easier for government officials to monitor them, therefore denying important naming traditions.<sup>5</sup> Broadly seen, colonial processes were often set up around what genocide scholar Patrick Wolfe has called “the organizing grammar of race.”<sup>6</sup> In other words, only by categorizing Indigenous Peoples through legislation and other means could colonial forces begin to control them, as well as to dispossess them. As Wolfe maintains, “Settler colonizers come to stay: invasion is a structure, not an event.”<sup>7</sup>



*In Windy River, Northwest Territories, a government official takes census information from Inuit families. © Government of Canada. Reproduced with the permission of Library and Archives Canada (2019). Source: Library and Archives Canada/Department of Indian Affairs and Northern Development fonds/a102695.*

The structures of colonialism are important to begin to identify, especially as they relate to the issue of violence against Indigenous women, girls, and 2SLGBTQQIA people. On the one hand, they include the idea of categorizing people, as described above. They also include processes related to the supervision and containment of people, such as those seen in moving people to reserves or to centralized communities. But, on the other hand, structures of colonialism also dehumanize people – reducing individuals to stereotypes to make them less than human and therefore easier to dismiss. Other physical dimensions include segregating people to eliminate the bloodline or genetic strain, and the practices associated with physically removing markers of identity, such as in cutting hair, changing clothing style, or removing or impeding important skills like trapping, hunting, or other practices that would allow people to maintain their way of life.

Colonial structures go beyond the physical, though, and also include assaults on ways of knowing and understanding. This includes, for example, the targeted elimination of Indigenous languages; the dehumanization of Indigenous Peoples and especially women as animals, or as without worth, through rape and sexualized violence; and the removal of structures that determine identity or ways of organizing society that are specific to Indigenous Peoples and that help ensure the life of the community. As Françoise R. shared:

My parents, the fact that they've been through this is like ... it's like they do not have a life inside of them. It's like they're ... they've been treated like animals. That's how they treated my parents: "We have the right to take your children as we want." They are taken to the boarding school and then taken to the hospital. You know, it's them who decided. It's not up to them to decide. We have lives. My parents have feelings and then they have emotions, and then I want there to be justice to that.<sup>8</sup>

These structures also impact alternative constructions of gender, the survival of ceremonies and cultural practices, and the education of the younger generation.



As these brief examples show, and as this chapter will develop, the structures of settler colonialism engage in the destruction of existing cultures and peoples, both physically and structurally, and seek to replace existing structures with their own. Violent colonial encounters were not one-off events, but were part of a larger strategy of conquest. In Canada, this process meant undermining the position of Indigenous women, girls, and gender-diverse people, in particular, as well as impacting whole communities, including men and boys, in an attempt to eradicate, replace, and destroy Indigenous Peoples and cultures.

This point is important because it provides links with the present and still-existing structures that contribute to targeting Indigenous women, girls, and 2SLGBTQQIA people. These aren't just things that happened in the past. Viewing colonization as a structure means that we can't dismiss events as parts of the past, or as elements of someone else's history. If viewed as a structure, these colonial pieces aren't things people can just "get over," because many of these ideas – these structures – still exist. We see them in the failure to properly consult with Indigenous groups over environmental or land issues, or in the lack of services in remote communities. We see these structures at play in interactions women, girls, and 2SLGBTQQIA people have with justice systems or with child welfare. We see these structures in the ongoing poverty and lack of resources for addressing violence. Seeing colonization as a structure makes plain the connections between structures of the past – both physical and ideological – and the structures of today. Through this lens, we can see how these structures still play a role in controlling which services people can access and which laws communities can make, and in creating conditions that are unsafe.

Combatting these structures requires understanding the foundation upon which they have been built, and an understanding of who built them and why. Viewing settler colonialism as a structure includes many different events – all created under the same destructive logic. In short, as Wolfe says, "settler colonialism destroys to replace."<sup>9</sup> Where colonizers sought to create a new nation in North America, they first set out to destroy the old ones that were already here.

As we heard in testimony from Robert C.:

Canada is quite uncomfortable with the word "genocide." But genocide is what has happened in Canada and the United States for First Nations people. What else can you call it when you attack and diminish a people based upon their colour of their skin, their language, their traditions, remove them from their lands, target their children, break up the family? How is that not genocide? And that's the uncomfortable truth that Canada, I believe, is on the cusp of coming to terms with. And it's going to take a lot of uncomfortable dialogue to get there.<sup>10</sup>

As a structural process, and under its various systems, colonization targeted whole communities through policies designed to undermine and challenge what people knew and who they were. Contrary to the rights and responsibilities illustrated in the stories and testimonies we heard, the impacts of colonization historically, and of continued colonial attitudes, structures, and systems today, directly contribute to the rights violations of Indigenous women, girls, and 2SLGBTQQIA people.



## The Logic of Discovery: Early European Exploration among First Nations and Impacts on Gender Relations

In the 16th century, “explorers” commissioned by European states arrived in what is now Canada to claim newly “discovered” lands for their benefactors, with the purpose of drawing out its resources for their funders in Europe. They were looking for resources – loot – and hoped to find them in the Americas. While the term “explorer” may suggest a kind of harmless searching or wandering, these voyages were anything but that. Instead, they set the stage for a full-scale assault on Indigenous Nations and communities that has lasted nearly 500 years.

During these early encounters between explorers and Indigenous Peoples, it was not uncommon for explorers to kidnap Indigenous people, including Indigenous women and children, and forcibly take them back to Europe as objects of curiosity or as evidence of newly “discovered” lands. This was part of categorizing people as “exotic” or as “primitive” in ways that dehumanized them as objects to be examined. For example, although a permanent colonizing presence in the North wasn’t established until the mid-19th century, Martin Frobisher kidnapped an Inuit man, woman, and child and brought them to England in 1577, where they soon succumbed to disease and injuries.<sup>11</sup>

In what would later become the province of Quebec, between 1534 and 1542, Jacques Cartier made three separate voyages across the Atlantic Ocean to claim the land he found for King Francis of France. Samuel de Champlain followed in suit for the French, establishing Port-Royal by 1605. British explorers came, too, but failed to establish a permanent settlement in North America by the start of the 17th century.

“CANADA IS QUITE UNCOMFORTABLE WITH THE WORD ‘GENOCIDE.’ BUT GENOCIDE IS WHAT HAS HAPPENED IN CANADA AND THE UNITED STATES FOR FIRST NATIONS PEOPLE. WHAT ELSE CAN YOU CALL IT WHEN YOU ATTACK AND DIMINISH A PEOPLE BASED UPON THEIR COLOUR OF THEIR SKIN, THEIR LANGUAGE, THEIR TRADITIONS, REMOVE THEM FROM THEIR LANDS, TARGET THEIR CHILDREN, BREAK UP THE FAMILY? HOW IS THAT NOT GENOCIDE? AND THAT’S THE UNCOMFORTABLE TRUTH THAT CANADA, I BELIEVE, IS ON THE CUSP OF COMING TO TERMS WITH. AND IT’S GOING TO TAKE A LOT OF UNCOMFORTABLE DIALOGUE TO GET THERE.”

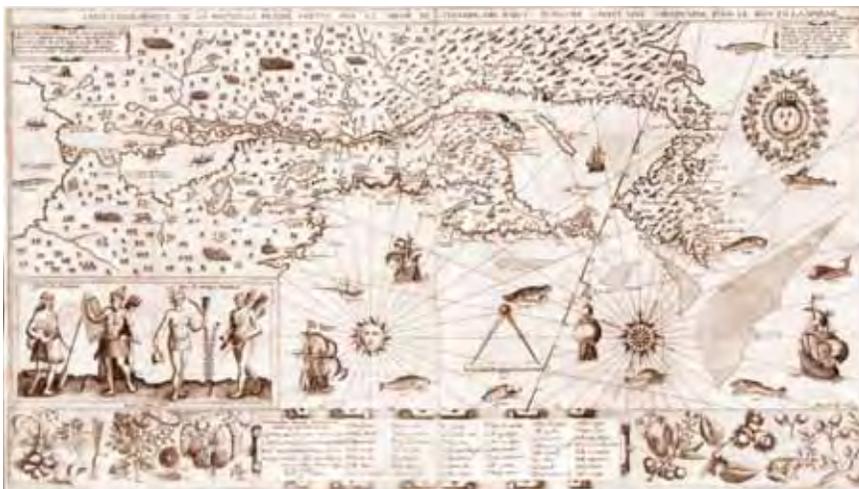
Robert C.

Early on, some First Nations, including both men and women, assisted the newcomers, but not without qualification. The concept among First Nations of land stewardship, and the notion of rights conveyed by virtue of a relationship with the Creator, was very different from land tenure in Europe at this time. Principles governing land use and occupancy among First Nations were robust, complex, and concrete. They were very different, however, from how land ownership, or tenure, was perceived in Europe. In Cartier’s home country of France, for instance, the feudal system set rigid structures for the distribution of land in return for rent or services. Within this



system, landowners became very powerful, living from the labour of their tenants. With the help of the church, whose hierarchical or top-down structure in some ways mirrored that of the feudal order, social order was maintained through a system of those who had, and those who had not.

Europe's own stories were full of tales of the conquering of other peoples, within the context of the expansion of the Holy Roman Empire, beginning in the ninth century. In order to be able to lay claim or ownership to newly "discovered" land, European explorers used a legal doctrine called *terra nullius* – meaning "nobody's land" or "empty land," discounting those whom they found there already as mere "barbarians" or "savages," like those they believed had been defeated on the European continent before that.



*French colonist Samuel de Champlain's first detailed map of the territory he claimed for New France, 1612.*

Even though Canadian law has held that the *terra nullius* doctrine never applied in Canada,<sup>12</sup> the legal argument was required: at that time, it was against international law to occupy a territory if it was already occupied by other peoples or nations. Wolfe argues:

Through all the diversity among the theorists of discovery, a constant theme is the clear distinction between dominion, which inhered in European sovereigns alone, and natives' right of occupancy, also expressed in terms of possession or usufruct, which entitled natives to pragmatic use (understood as hunting and gathering rather than agriculture) of a territory Europeans had discovered. The distinction between dominion and occupancy illuminates the settler-colonial project's reliance in the elimination of native societies.<sup>13</sup>

In simpler terms, European explorers made various claims that bolstered their desired control of the land, including the idea that Indigenous Peoples living on the lands were simply using them, but not occupying them, within the context of a European view of title. These claims were supported by European kings and queens, whose ideas about their own divine appointments created a partnership between church and state, which worked hand in hand within the project of colonization.



This argument about so-called empty lands, along with the Papal Bull “Inter Caetera,” issued by Pope Alexander VI on May 4, 1493, provided even more justification for aggressive colonization. This Bull, popularly known as the “Doctrine of Discovery,” stated that any land not inhabited by Christians could be “discovered” and claimed by Christian rulers. It claimed ownership over all of it, regardless of the claims of those already living there, based on the idea that they were “barbarians.” The Bull further decreed that barbarian nations should be overthrown and Christianity spread everywhere. Such ethnocentric views centred Christianity as the cornerstone of humanity, so that to be without a Christian god was to be considered less than human.<sup>14</sup>

Explorers also retained these religious ideas. For example, Samuel de Champlain, who, in 1608, established a fortress at what is now Quebec City, described Indigenous people as “savages” or “barbarians.” He commented further: “I believe that they would quickly be brought round to being good Christians, if their lands were colonized.”<sup>15</sup> In the eyes of European colonizers, this was enough of a justification to declare terra nullius and, within the Doctrine of Discovery, to engage in an aggressive policy of colonization that included the exploitation of resources for international trade and the eventual deployment of European settlers to occupy the newly claimed lands.

Europeans also used colonization to seize the power of pre-emption, which said that: “Through being the first European to visit and properly claim a given territory, a discoverer acquired the right, on behalf of his sovereign and *vis-à-vis* other Europeans who came after him, to buy land from the natives.”<sup>16</sup> Simply, it meant that Indigenous Peoples could deal only with the Crown that had, at any given time, claimed sovereignty over discovered territory, which left very little room for appeal or justice in that respect. This directly went against the right of those communities to determine their own futures, based on their rights to the lands, and was one of the first steps in establishing the structures of colonial violence linked with denying culture, health, security, and justice.

## A Religious Enterprise: Early Colonization among First Nations and Métis

Claiming land for European monarchs was also tied to the practice of claiming souls for God. In the case of Christianity, and, in particular, early Catholicism, core beliefs brought to communities by missionaries challenged Indigenous notions of gender and relationships between men, women and gender-diverse people, as well as their leadership, as well as women’s leadership within communities. They directly impacted the rights to culture, as well as associated political and social rights as enjoyed by women and gender-diverse people within their communities prior to colonization.



The content of Christianity itself during this period, with specific reference to women, generated even more dangerous encounters. Early Christian ideals included explicit gendered violence that placed women squarely in separate and lesser spheres. For example, Jesuit missionaries in the 17th century laid the foundation for how Europeans would encounter traditional female Indigenous medical practices. In the eyes of the Jesuits, both male and female healers were seen as evil and corrupt. In 1632, Paul Le Jeune wrote that it was “strange that the Savages have so much faith in these charlatans! I do not know why falsehood is worshipped more than truth.”<sup>17</sup> For Le Jeune and other Jesuits, these sorcerers and sorceresses represented the work of the devil.<sup>18</sup> In 1635, Jean de Brébeuf described one such female healer as performing the work of the devil through pyromancy and other superstitions.<sup>19</sup> Similarly, Paul Ragueneau, in 1646, described a female healer as deceitful in her attempts to take advantage of a mother whose son was an invalid. In his account, though the mother was tempted, her faith gave her resolve to resist the “sorceress.”<sup>20</sup>



*Mr. and Mrs. Dam, Moravian missionaries, in Hopedale, Labrador, 1886. Source: Library and Archives Canada/Newfoundland and Labrador album of photographs by Simeon H. Parsons/a139015.*

Conversion thus went hand in hand with displacing the traditional role of women healers and replacing Indigenous medicine practices with European medical knowledge. The descriptions offered by Jesuits like Le Jeune were based primarily in the stark differences between how women lived in Europe as compared with the Indigenous societies they would encounter in North America. Briefly summarized, the role of women in Europe in the late 16th century and well into the 19th century was one of subjugation. The Catholic Church interpreted the Bible as saying that the first human created was a man, Adam, and that Adam was made in the image of God, implying that God was a man as well. Woman was created second, to be a partner to man. Eve was made from Adam’s rib, and in this way owed her very existence to a man. Furthermore, Eve was first to eat the fruit from the Garden of Eden, which created the Christian doctrine of “original sin.” As the *Malleus Maleficarum*, regarded as the standard book on witchcraft, first published in 1487, asserted:



All wickedness is but little to the wickedness of a woman.... What else is woman but a foe to friendship, an unescapable punishment, a necessary evil, a natural temptation, a desirable calamity, domestic danger, a delectable detriment, an evil nature, painted with fair colours.... When a woman thinks alone, she thinks evil.... Women are by nature the instruments of Satan – they are by nature carnal, a structural defect rooted in the original creation.<sup>21</sup>

In Europe, these foundational principles were already used to justify the oppression of women in a variety of ways. For instance, European women could not own property because they were actually considered property – belonging first to their fathers and eventually to their husbands. A woman’s virginity (as modelled by the Virgin Mary) was an indicator of her honour, and should a woman be accused of not being “pure,” her punishment could be as severe as death. This was true even if her virginity was compromised by rape.<sup>22</sup>

The imposition of patriarchal European values meant that exerting control and dominance over Indigenous women was an important aspect of colonization. The freedom and self-determination exercised by Indigenous women was seen as contrary to Christian values and a “great obstacle to the faith of Jesus Christ.”<sup>23</sup>

In order to fully execute the goal of assimilation, colonization required that Indigenous women’s roles be devalued not only in the colonies, but also within First Nations themselves. As a part of their mission and work, then, many missionaries often undertook projects to teach First Nations societies how to treat their women as they “should,” according to European ways. There is evidence that Jesuit priests held public gatherings to teach Indigenous men how to beat Indigenous women and children.<sup>24</sup> Some accounts tell of women being “deprived of food, humiliated, tied to posts in the centre of the village and publicly whipped,”<sup>25</sup> and various priests cast women’s roles as midwives and healers as “evil and superstitious.”<sup>26</sup>

The impact of these early missionaries was to work both externally, in their communications abroad, and internally, within communities, to devalue and dehumanize women who had, to that point, represented central parts of how community life operated and how order was maintained.



## The Early Colonial Context of Violence against Gender-Diverse People

In addition to different and harmful ideas about the roles of women, early Christianity vehemently rejected alternative conceptions of gender, or alternative gender relationships. Yet, in many First Nations societies, these existed along a continuum, or as part of a much larger circle of identity. As Sto:lo writer Lee Maracle writes,

For a very long time prior to the colonial and postcolonial periods (this little blip on the trajectory of our history), Indigenous peoples brought into being and practiced a social organization that viewed gender in the same continuum, with the same sense of circularity and integral interrelations which we attached to everything in life... However, there is also a reality among all humanity, that for various, quite intimate reasons, sometimes an individual does not strictly adhere to this thing called man or woman; they feel neither completely, yet are made of both, and maybe something more.<sup>27</sup>

Maracle characterizes this alternative gender identity as a gift from the grandmothers, whether from birth or by revelation. Maracle also directly cites the length of colonial contact and the length of the imposition of the church, as well as proximity to non-Indigenous settlements, as reasons why gender-diverse people were driven “underground,” even within communities’ own understandings of themselves.<sup>28</sup>

Within the historical context, those considered to hold special gifts were dismissed and reduced by observers – mostly explorers and anthropologists – as “berdaches,” drawing from the Persian *bardaj*, a “slave,” especially a boy slave kept for sexual purposes. The use – or misuse, as is more accurate – of this term is important, because it represents a limited understanding of gender – a simple two-sided conception – that fails to capture all of the different identities that existed within some First Nations. In many communities, these individuals were accepted into the gender roles that they manifested, including in building their own family relationships and entering into marriage, and were celebrated for these gifts. This identity was who you were in a larger sense, and not limited to sexual preference.<sup>29</sup>

Those deemed “berdaches” were similarly dismissed and rejected by religious authorities – perhaps partially because of the influence they showed, as in the case of women in matrilineal and matrilocal communities. The belief that there were only two genders – therefore erasing an entire spectrum of people who had lived in communities since time immemorial – was racist, colonial, and incredibly harmful. As Jesuit Joseph Francois Lafitau saw it, in commenting on gender relations observed among First Nations people between 1711 and 1717, “If there were women with manly courage who prided themselves upon the profession of warrior, which seems to become men alone, there were also men cowardly enough to live as women... They believe they are honoured by debasing themselves to all of women's occupations; they never marry.”<sup>30</sup> As Jacques Marquette, working in Lower Canada in the mid- to late 17th century, commented,



I know not through what superstition some Illinois, as well as some Nadouessi, while still young, assume the garb of women, and retain it throughout their lives. There is some mystery in this, for they never marry and glory in demeaning themselves to do everything that the women do. They go to war, however, but can use only clubs, and not bows and arrows, which are the weapons proper to men. They are present at all the juggleries, and at the solemn dances in honor of the Calumet; at these they sing, but must not dance. They are summoned to the Councils, and nothing can be decided without their advice. Finally, through their profession of leading an Extraordinary life, they pass for Manitous, – That is to say, for Spirits, – or persons of Consequence.<sup>31</sup>

In particular, missionaries denounced people demonstrating non-binary gendered identities, including, later, within residential or mission schools, where those in charge punished children for inappropriate gender behaviour. As it became more and more dangerous, and even illegal under the prosecution of the crime of “buggery,” to show these characteristics, and due to government and missionary intervention, many families intervened to prevent their own members from showing them, or because they had converted themselves.

Canada itself admitted in its own LGBTQ formal apology:

Since arriving on these shores, settlers to this land brought with them foreign standards of right and wrong – of acceptable and unacceptable behaviour.... They brought rigid gender norms – norms that manifested in homophobia and transphobia. Norms that saw the near-destruction of Indigenous LGBTQ and two-spirit identities. People who were once revered for their identities found themselves shamed for who they were. They were rejected and left vulnerable to violence.<sup>32</sup>

As Cree Two-Spirit advocate Harlan Pruden notes, efforts to raise awareness and understanding around these issues today are “part of remembering and reclaiming our place of honour, respect and dignity for our two-spirit relatives back with their respective nations. We have to do that education.”<sup>33</sup> As Pruden notes, in Cree there are no pronouns like “he” or “she”; this is reflective of many Indigenous languages, where the determinative aspect of gender pronouns is not a historic feature.

“FOR A VERY LONG TIME PRIOR TO THE COLONIAL AND POSTCOLONIAL PERIODS (THIS LITTLE BLIP ON THE TRAJECTORY OF OUR HISTORY), INDIGENOUS PEOPLES BROUGHT INTO BEING AND PRACTICED A SOCIAL ORGANIZATION THAT VIEWED GENDER IN THE SAME CONTINUUM, WITH THE SAME SENSE OF CIRCULARITY AND INTEGRAL INTERRELATIONS WHICH WE ATTACHED TO EVERYTHING IN LIFE .... HOWEVER, THERE IS ALSO A REALITY AMONG ALL HUMANITY, THAT FOR VARIOUS, QUITE INTIMATE REASONS, SOMETIMES AN INDIVIDUAL DOES NOT STRICTLY ADHERE TO THIS THING CALLED MAN OR WOMAN; THEY FEEL NEITHER COMPLETELY, YET ARE MADE OF BOTH, AND MAYBE SOMETHING MORE.”

Lee Maracle



## Complex Relationships in Fur Trade Country

The colonization of what would become Canada didn't happen only for religious purposes, however, and missionaries' access to communities was enabled by the development of trade, as well. As scholar Taiaiake Alfred maintains, the processes of colonization were inseparable from those of mercantile capitalism, and industrial capitalism later on. And, as he observes, capitalist growth and expansion depends on the dispossession of Indigenous lands.<sup>34</sup> In other words, the economy that developed in Canada was dependent on removing Indigenous Peoples from their lands.

In 1670, King Charles II of England granted the Hudson's Bay Company exclusive trading rights over a huge part of the continent, which required the labour of First Nations living on the territory as trappers, hunters, guides, and as providers for the various trading forts and posts. By the end of the 17th century, the demand for the broad-rimmed beaver hat, made from beaver pelts, fundamentally changed the trading landscape in Canada.

In this respect, it was also not lost on early colonizers that building alliances with First Nations was an essential part of settlement. In his work, historian Richard White discusses the "middle ground" from 1650 to 1815 as a period and a place of mutual accommodation, in the *pays d'en haut* of the Great Lakes region. His work demonstrates how encounters among Algonquian-speaking First Nations, French, British, and Americans were forged within the context of a weak state authority and a fairly even distribution of power relationships – economic and military – that helped to ensure roughly equitable relations and respect among groups.<sup>35</sup>

Within White's "middle ground," the encounters between First Nations women and European men were important. First Nations women were not unaccustomed to being ambassadors, translators, representatives, and diplomats for their own Nations. For their home communities, they could be symbols of friendship and alliance. These women were key to building strong trade relationships.



*Indigenous women packing out on Camsell portage, Northwest Territories, 1926. Source: Library and Archives Canada/Natural Resources Canada fonds/a020008.*



First Nations women, along with Métis women, whose roles will be explored further on in this chapter, had several important roles in the trade. They literally supplied the trade and worked as traders themselves. First Nations women were active in day-to-day tasks such as producing food, clothing, and staples like wild rice and maple syrup, and in snaring game. Many First Nations women also worked as traders themselves, working with their husbands or on their own. Nonetheless, despite the contributions First Nations women made to ensuring the health and well-being of settlers, a similar willingness to respect and value this wisdom of First Nations women was not being built into or reflected in the institutions and relationships taking shape during this period. In fact, as Cree grassroots organizer and scholar Michelle Good explains, some First Nations women were held hostage as ransom and used as sex slaves within the trade, in a male-dominated and resource-dependent economy.<sup>36</sup>



*Gwichya Gwich'in woman preparing caribou hide, Tsiigehtchic, Northwest Territories, ca. 1921. Source: Library and Archives Canada/Department of Indian Affairs and Northern Development fonds/a102639.*

As trade became entrenched into the economy for many First Nations, one of the ways in which First Nations women became involved was marriage. Within the context of both trade and religion, and because the first explorers and settlers were predominantly crews of men, marriages of fur traders to First Nations women were seen as a viable method of diplomacy, and First Nations women, whose responsibilities might include care for her family or community, could also find the arrangement to be of value. The church approved of these marriages “as long as brides first converted to Catholicism.”<sup>37</sup>

European expectations of marriage were different from those already existing in First Nations communities. Both marriages by choice and arranged marriages existed in First Nations communities, whose traditions were diverse. In some Nations, polygamy was acceptable. In others, marriage was relatively easy to end. In others still, marriage was mostly an economic arrangement divorced from rules about fidelity, which meant that partners were free to engage in models of relationships that met their needs. In Plains society, for example, and as historian Sarah Carter explains, marriages were much more flexible: “People could be either monogamous or polygamous, and the choice was theirs. The ease with which divorce was acquired precluded



coercion... Once married either party could terminate a marriage.”<sup>38</sup> As a general rule, however, and as part of a family unit, Indigenous women were interdependent, retaining autonomy as individuals within the unit.<sup>39</sup> Carter notes that among the Huron, in particular, an overwhelming commitment to individual freedom meant no expectation to “obey” the husband, as in the Christian tradition.<sup>40</sup>

As they developed in fur-trade country, and in the wake of the 1670 charter, the quality and longevity of marriages – especially those not sanctioned by the church – varied across time and space. These were known as marriages “*à la façon du pays*,” and they blended Indigenous and European traditions. Although these marriages were not as confining as the church-sanctioned marriages that came later, many European husbands came with expectations of a monogamous and Christian-inspired relationship that was difficult for First Nations women to leave, but which many men left at will, rendering their country wives vulnerable. This was especially true within the shifting policies of the Hudson’s Bay Company (HBC) and of the North West Company (NWC). The HBC actively discouraged women from the forts, without much success, from the 1740s to the 1760s. Still, HBC traders continued to marry First Nations women, and some even married several. On the other hand, within the NWC, marriage was encouraged, and could in fact be used as a tool to keep traders renewing their contracts to stay close to wives and children. By 1806, though, the policy had worked too well: since the NWC fed and clothed employees’ families, and competition was reaching a pitch, it declared that NWC employees should not marry First Nations women.

Before priests sanctioned marriages in the Northwest, beginning in 1818, marriages *à la façon du pays* had important implications for women, especially in terms of setting out treatment different from those that would be afforded in traditional European marriages. From the perspective of traders themselves, the impermanence of their posting often led to the idea of marriages as temporary arrangements. Daniel Williams Harmon, a NWC trader, described his acceptance of a new “country wife” in the following way:

In case we can live in harmony together, my intentions are now to keep her as long as I remain in this uncivilized part of the world, but when I return to my native land shall endeavor to place her into the hands of some good honest Man, with whom she can pass the remainder of her Days in this Country much more agreeable, than it would be possible for her to do, were she to be taken down into the civilized world, where she would be a stranger to the People, their manners, customs and Language.<sup>41</sup>

These marriages, in some respects, also worried officials and missionaries. Colonizers reconceived these sorts of arrangements, in time, as representing a real threat to women themselves, and used this to justify the establishment of increasingly restrictive definitions of marriage. For women, this could serve to separate them from the safety offered by their own kinship systems, through patriarchal conceptions of marriage.



## For Queen and Country: Shifting First Nations Experiences within the Context of Canada

As the early history of exploration and trade demonstrates, while First Nations and Métis Peoples, along with Inuit, share some common experiences of colonization, it is important to distinguish the experiences of each group within its own historical context. This is because the same laws, policies, and regulations were not applied to each group, although the overarching logic of assimilation and destruction inherent in colonization was common to all groups.

The transition from colonies to country changed how colonial authorities would manage First Nations people, and women in particular, because destroying existing Nations was a precursor to forming new ones. In this project, women were an important focus through a variety of measures designed to reduce and eventually eliminate First Nations.

In 1867, Canada established itself as a nation through the enactment of a constitution called the *British North America Act*.<sup>42</sup> Confederation federally united the British North American colonies of Nova Scotia, New Brunswick, and the Province of Canada to form the Dominion of Canada as a new country. At its creation in 1867, the Dominion of Canada included four provinces: Nova Scotia, New Brunswick, Quebec, and Ontario. Between then and 1999, six more provinces and three territories joined Confederation.

As explained briefly in a previous chapter, within the new Confederation, the responsibility for “Indians and lands reserved for Indians” was delegated to the federal government in section 91(24) of the *Constitution Act, 1867*. If it had been at all unclear prior to Confederation, it was now constitutionally entrenched that Indians were considered wards of the Canadian state.



*First Nations men receive their Treaty annuity, 1930. Source: Library and Archives Canada/Canadian National Railway Company fonds/e010861493.*



# Understanding the True Spirit and Intent of Treaty Relationships

While not all First Nations in Canada have historical treaties with the Government of Canada, those who do have long insisted that the way that Treaties are interpreted today are not in accordance with the intent and the spirit of the agreements as they were made. The connection to the tragedy of missing and murdered Indigenous women, girls, and 2SLGBTQIA people lies in the way that Treaty provisions intended to secure a good, safe and healthy way of life for future generations. Instead, they have been interpreted so narrowly that they have served to further dispossess First Nations, and to place their membership in further jeopardy. Understanding the true spirit and intent of historical Treaties, then, is an important way to see First Nations women, girls, and 2SLGBTQIA people as rights holders whose ancestors sought to protect them through the true spirit and intent of Treaty.

According to Anishinaabe Elder Harry Bone, understanding the original spirit and intent of Treaty includes understanding who First Nations were at the time Treaties were negotiated, and the relationships these First Nations had to settlers and to the land.<sup>1</sup> Elder Bone of the Keeseekoowenin Ojibway First Nation in Manitoba argues that First Nations are “the first owners and occupants of the land; they protect their languages, beliefs, and teachings and honour the Creator. Treaties are part of the first law — the constitution of First Nations — that involves the idea of entering into peaceful arrangements with newcomers on an equal, nation-to-nation basis.”<sup>11</sup> The idea of protecting languages, beliefs and teachings is not a static idea, stuck at a historical point in time; instead, protecting these vitally important resources is a project that is dynamic, and that is about today and about the future, as well.

The original spirit and intent of Treaties is not rooted in some unknowable past; it is actually concrete, in many agreements that First Nations made with each other, prior to European contact. For instance, the Dish with One Spoon Treaty, negotiated between the Anishinaabe and the Haudenosaunee, was an agree-

ment about sharing resources and making sure the “dish” – the land – would always provide for both parties, for generations to come. It was an agreement about sharing the land, and taking care of it – and in turn, through the values of reciprocity, respect and interconnectedness – the land would also take care of the people. These dynamic agreements weren’t set for a year, or several years – they represented principles that would be re-articulated, re-understood, and respected from one generation to the next.

When the historical Treaties between the Crown and First Nations were negotiated, this kind of relationship is what First Nations sought. The act of making Treaty was an act of accepting these new people – as Nihiyaw (Cree) legal scholar Harold Johnson calls them, *kiciwamanawak*, or cousins – who became new relatives through Treaty. The obligations on new relatives and around kinship were based on protection, care, and mutual aid. As Johnson explains, “no one thought you would try to take everything for yourselves, and that we would have to beg for leftovers.... The Treaties that gave your family the right to occupy this territory were also an opportunity for you to learn how to live in this territory.”<sup>111</sup>



When Treaty rights are interpreted narrowly, these rights are not respected in the way signatories intended. Extinguishing rights means taking them away, or surrendering them, but many First Nations who signed Treaty insist that a surrender was never intended. All courts have recognized the power of Parliament to extinguish Aboriginal rights and title up to 1982, and while this hasn't been done, it remains a looming threat. The Supreme Court has not ruled out extinguishment after 1982, despite section 35 of the *Constitution Act*.<sup>IV</sup> In some cases, it has also held that that delay in bringing a court action is sufficient to defeat a claim to Aboriginal title.<sup>V</sup> Aboriginal rights to hunt and fish have also been limited by constitutional amendment, federal legislation, and in some instances by provincial laws.<sup>VI</sup>

The true spirit and intent of Treaties, for those Nations who signed them, is not about limits; it is about the possibility that lies within them for framing a new relationship based in mutual aid, respect, and a good life for future generations. This is the obligation that continues to First Nations as rights holders. If properly interpreted, Treaties can also support the obligations of governments to implement measures to address violence against Indigenous women, girls, and 2SLGBTQIA people.

As Johnson explains, "To get to the future, we need a vision, then we must imagine the steps we must take to get to that vision.... We cannot ignore our vision because it seems utopian, too grand, unachievable. Neither can we refuse to take the first steps because they are too small, too inconsequential.... We will both be part of whatever future we create, kiciwamanawak."<sup>VII</sup>



***Governor General Vanier paying Treaty money to Indigenous Peoples at Cold Lake, Alberta, 1961.***  
***Source: Library and Archives Canada/National Film Board of Canada fonds/e010976122.***

I Treaty Relations Commission of Manitoba, "Let's Talk Treaty, Episode 2: The Spirit and Intent of Treaties with Elder Harry Bone."

II Duhamel, "Gakina Gidagwi'igoomin Anishinaabewiyang."

III Johnson, *Two Families*, p. 21.

IV Beaudoin, "Delgamuukw Case"; *Delgamuukw v. British Columbia*, [1997] 3 SCR 1010.

V *Ontario (Attorney General) v. Bear Island Foundation*, [1991] 2 SCR 570; *Blueberry River Indian Band v. Canada (Department of Indian Affairs and Northern Development)*, [1995] 4 SCR 344.

VI See, for example, *R. v. Sparrow*, [1990] 1 SCR 1075.

VII Johnson, *Two Families*, p. 85.



The justification for this status of wardship was pursued by officials on many fronts, using some of the problems they themselves had prompted to blame First Nations for their own hardship. In reality, the reasons were both administrative and economic. Under the Royal Proclamation of 1763, the government was duty-bound to respect Aboriginal title through the making of Treaty, and having various First Nations groups scattered across a huge expanse was seen as an administrative and financial burden. In other ways, though, a changing way of life for many First Nations meant that the government thought they would soon disappear. On the Plains, for instance, the elimination of the bison contributed to poverty and to dispossession, due to the reliance of many groups on its trade and products. While the reliance on bison was not static or uniform across all Plains groups, its position as a primary source of livelihood, and its uses in almost all realms of life including food, lodging, clothing, and the like, meant that the loss of this resource would have grave consequences, including on the health and lifespan of First Nations in these areas.<sup>43</sup> The killing of bison in mass numbers also fed a growing focus on building an agrarian or farming economy, which required the removal of the bison, the people who depended on it, and the redivision of the land.<sup>44</sup> As survivor Paula P. told the National Inquiry:

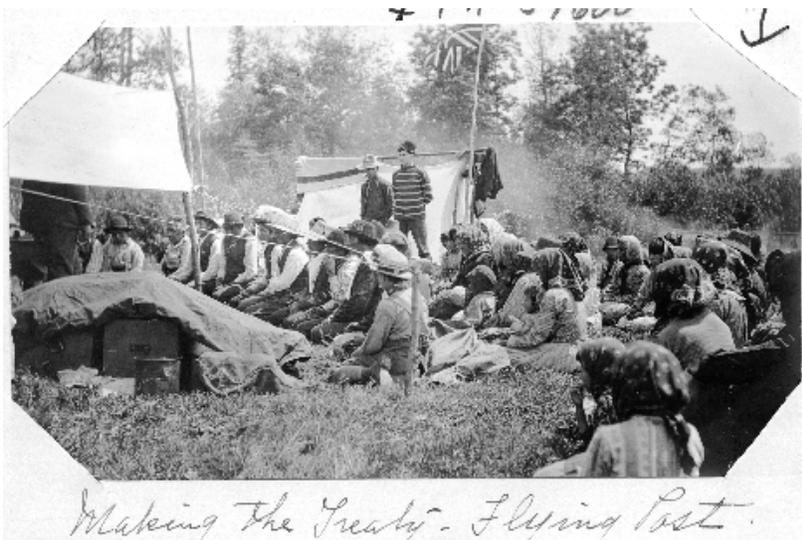
Us First Nations carry pain ... the land was taken away from us, our way of life. We used to follow the buffalo, and the buffalo was taken. We can no longer just go nomadically around because of the fences that were put up. We had freedom to go whenever we wanted on Turtle Island, and they took that away.<sup>45</sup>

Encouraging immigration through policies directed by the federal government was one way that First Nations were displaced from their lands. Settlement and railway building went hand in hand within the larger project of nation building. For instance, the promise of a railway had been a guarantee that pushed British Columbia to join Confederation in 1871. Between 1896 and 1914, the federal government, led by Minister of Immigration Clifford Sifton, also marketed the land under the slogan “The Last Best West!” and took out full-page ads in the United States and parts of Europe to attract farming immigrants.<sup>46</sup>

To clear the land for these projects, the government was bound by the Crown’s promise, contained in the 1763 Royal Proclamation, which had established the need to make Treaty with First Nations to deal with their pre-existing title to the lands. There were some pre-Confederation Treaties dealing with land, notably the Robinson Treaties, signed by the Crown and First Nations around Lake Superior in 1850, which represented huge tracts of land much larger than those covered by the 27 signed between 1764 and 1836 in Upper Canada.<sup>47</sup> The Robinson Treaties laid the groundwork for the Numbered Treaties, signed as a way to open up lands for settlement, particularly on the Prairies.



Eleven numbered Treaties were negotiated in western Canada between 1871 and 1921. According to government, these Treaties extinguished Indigenous ownership of land. However, like their cousins in southern Ontario, Indigenous Nations in western Canada maintain that they agreed to share, not sell, their lands. Moreover, the rights contained in these Treaties are disputed, in large part because government negotiators made oral promises that were not always reflected in written versions. Generally, the Numbered Treaties included rights to hunting/fishing, reserve lands, annual cash payments, education, and, in some cases, health care. The federal government ceased these particular Treaty negotiations in 1921, so that most of British Columbia, the Northern Territories, Quebec, and the Maritimes was not covered by these historic agreements.



*Community members gather to negotiate Treaty in Flying Post, Ontario, 1906.  
Source: Library and Archives Canada/National Photography collection/e003894500.*

These have been interpreted narrowly by government. For instance, the five-dollar annuity promised in early agreements continues to be paid at five dollars every year. But First Nations insist this is not in keeping with the spirit and intent of the Treaties, which were meant to provide security and a future in uncertain and changing times, and were promises of mutual aid and respect. Recently, signatories representing descendants of the Robinson Huron Treaty, whose annuities were set at four dollars over 140 years ago, have won a court case against the federal and provincial governments to reopen negotiations.<sup>48</sup>

“US FIRST NATIONS CARRY PAIN ... THE LAND WAS TAKEN AWAY FROM US, OUR WAY OF LIFE. WE USED TO FOLLOW THE BUFFALO, AND THE BUFFALO WAS TAKEN. WE CAN NO LONGER JUST GO NOMADICALLY AROUND BECAUSE OF THE FENCES THAT WERE PUT UP. WE HAD FREEDOM TO GO WHENEVER WE WANTED ON TURTLE ISLAND, AND THEY TOOK THAT AWAY.”

Paula P.



Within our Truth-Gathering Process, one witness explained how the failure to respect Treaty rights can contribute to a lack of safety for First Nations communities, particularly women. As Cheryl M. explained,

Unfortunately ... in the Mi'kmaq territory, the failure of the Government of Canada to implement the 1999 Supreme Court of Canada decision of Marshall to allow access to fishery resources, especially for women, Mi'kmaw women, is one such example of historic and continued denial of economic opportunities. The denial of our resources and our rights in this country keeps Aboriginal women and Peoples in poverty. We are worth less over and over again because of governments' policies, laws, and inaction.<sup>49</sup>

Overall, the government pursued Treaties when and where it needed to, based on a combination of policies geared toward industrial development (for example, railroads) as well as agriculture (for example, needs of immigrant settlers). In many cases, Treaty negotiations were opened after pressure from the bands, who had heard about these agreements in other communities. This resulted in government's pursuing Treaties with certain First Nations, while ignoring others.

In this context, colonial management became geared toward removing First Nations and Métis from their lands to make way for settlement and to ensure segregation. Building on the history of the fur trade and trade relationships, policy makers began to insist on even greater separation between Europeans and First Nations, and new modes of control were implemented to further separate Indigenous Peoples by perceived racial or cultural groupings. They included laws and policies targeting First Nations and Métis people, enforced by a close relationship between administrative and judicial forces. Both First Nations and Métis were particular targets of early colonial policing, and women in particular.

### **The *Indian Act*: A Tool of Exclusion for First Nations Women, Girls, and 2SLGBTQQIA People**

Early pre-Confederation legislation included *An Act to Encourage the Gradual Civilization of Indian Tribes* of 1857, the *Management of Indian Lands and Properties Act* of 1860, and the *Gradual Enfranchisement Act* of 1869. The first, *An Act to Encourage the Gradual Civilization of Indian Tribes*, was a way to extend British citizenship to those people the government considered to be "Indians." Conditions of citizenship included being male, over the age of 21, literate in English or French, free of debt, and of good moral character. Successful applicants would receive 20 hectares of reserve land in individual freehold, taken from the band's communal allotment, but would be required to surrender their "Indian Status."<sup>50</sup> *The Management of Indian Lands and Properties Act* transferred responsibility for Indian lands from the British colonial office to the Province of Canada, and transferred all authority for Indians and lands reserved for Indians to the Chief Superintendent, in a move that failed to account for the direct relationship between the



“IN THE MI’KMAQ TERRITORY, THE FAILURE OF THE GOVERNMENT OF CANADA TO IMPLEMENT THE 1999 SUPREME COURT OF CANADA DECISION OF MARSHALL TO ALLOW ACCESS TO FISHERY RESOURCES, ESPECIALLY FOR WOMEN, MI’KMAW WOMEN, IS ONE SUCH EXAMPLE OF HISTORIC AND CONTINUED DENIAL OF ECONOMIC OPPORTUNITIES. THE DENIAL OF OUR RESOURCES AND OUR RIGHTS IN THIS COUNTRY KEEPS ABORIGINAL WOMEN AND PEOPLES IN POVERTY. WE ARE WORTH LESS OVER AND OVER AGAIN BECAUSE OF GOVERNMENTS’ POLICIES, LAWS AND INACTION.”

Cheryl M.

Crown and Indigenous Peoples as guaranteed by the Royal Proclamation of 1763.<sup>51</sup> *The Gradual Enfranchisement Act* of 1869 was a reaction to the almost complete failure of 1857’s *Gradual Civilization Act*, and aimed to speed up assimilation. This Act restricted the definition of who was to be considered “Indian” and established the elective band council system that sought to replace existing First Nations governance systems.<sup>52</sup>

Upon Confederation in 1867, the *Constitution Act* included section 91(24), which would empower the federal government to enact its most comprehensive Indian legislation to date. *An Act to amend and consolidate the laws respecting Indians* – commonly known as the *Indian Act*<sup>53</sup> – would have lasting, sweeping effects on Indigenous Peoples for generations to come. And, like the pre-Confederation legislation before it, the *Indian Act* legislated differential treatment for women in ways that were clearly sexist and demeaning.

The 1876 *Indian Act* included the 1851 definition of “Indian” that had become tied to a male bloodline, even though many Nations traced lineage through the mother, or through both bloodlines. Its definition of “Indian” maintained that the Status of an Indian woman depended on the Status of her husband. So, if her husband was an Indian, she would maintain her Indian Status. If her husband was enfranchised (or was a Canadian subject), she, too, would become a Canadian subject. At the same time, if a non-Indigenous woman married a Status Indian man, she would acquire Indian Status. These laws ensured that encounters between First Nations women and “Canadians” resulted in dramatically reducing the number of people for whom the government claimed responsibility.

For those who became “non-Status” through this process, the dangers of being expelled from their communities often compounded existing dangers. As a result of this legislation and its application over a century, there is today a vast number of people in Canada (roughly one-third of First Nations) who are considered to be “non-Status” and who have deep ties to their historic communities and Indigenous identities, or, conversely, who may have been alienated from them through the deliberate actions of the state. In many of these cases, “Status” varies within the same family, regardless of the family tree. This issue, and contemporary developments related to it, are explored in a later chapter.



Although early legislation was presented as being for the “protection of the Indians,” the underlying belief that Indigenous Peoples were in need of protection from the very states that were oppressing them is both patronizing and paternalistic. Furthermore, the legislating of “Indian lands” implies that Indigenous Peoples did not always have access to *all* of the land in the colonies. This acted to normalize a system of segregation that eventually became formalized as reserves. In addition, these first early laws defined who was or wasn’t considered Indian. The act of defining the identity of individuals and Peoples was a gross demonstration of colonial power that completely ignored inherent Indigenous rights to self-determination.

The *Indian Act* also undermined women and girls, and placed them into dangerous situations. For instance, the Act’s Status provisions, otherwise known as the “disenfranchisement provisions,” evicted a woman and her children from her community, forcing her to commute or essentially sell off her rights if she married a man who did not also hold Status under the *Indian Act*. Even if a woman did marry a First Nations man with Status in another band, she was automatically transferred, along with all of her children, to the husband’s band list. White women who married First Nations men, by contrast, would be able to marry into the band.

If a First Nations woman with Status did choose to leave her community for marriage to an outsider, her annuities for life could be commuted into a one-time \$50 payment, whereby she would lose all rights to her share of community lands and resources and, under the law, be considered non-Indian.

It is not difficult to see a similarity between these experiences and those of Indigenous women today who are forced to leave their community with no money or resources. The economic and social marginalization that the National Inquiry heard clearly about as a root cause of violence in the lives of Indigenous women and girls today is the inevitable next step and reality of early colonial policies of control, such as the *Indian Act*, that set out to target Indigenous women by limiting their social and economic independence.

As Elder Miigam'agan pointed out, the Status provisions within the *Indian Act*, and the rules around them that persist to this day, were the equivalent of “banishing” women – a traditional form of capital punishment that opened them up to many other forms of abuse.

When we deny a woman and her children through the *Indian Act* legislation, you are banishing, we are banishing our family members. When you look at that in our language and in our understanding, that banishment is equivalent to capital punishment ... when you banish a person they cease to exist. And in 1985, '86 I stood next to my sister who, at the age of 17, married a non-Native man and ... we stood in front of the Chief and Council, and witnessed by community members in Esgenoopetitj village, and they said that my sister and my aunts ceased to exist. They were not recognized in my community.

And so when you disregard a person, a human being, and they cease to exist, that opens the door for the rest of the people to violate those individuals. So we’re back to square one where the women and their children are not entitled to the same quality of life, same identity. And they’re ... susceptible to all the forms of acts that’s been enacted on them.<sup>53</sup>



In addition to expelling women and their children from communities, the *Indian Act*, along with Treaty agreements, set out reserves for band members only. The *Indian Act* granted government administrators a great deal of power with respect to the reserve lands allotted, as evident in its definition of the term “reserves”:<sup>54</sup>

Reserves are held by Her Majesty for the use and benefit of the respective bands for which they were set apart, and subject to this Act and to the terms of any treaty or surrender, the Governor in Council may determine whether any purpose for which lands in a reserve area are used or are to be used is for the use and benefit of the band.<sup>55</sup>

Further, the Act and its successive amendments – most notably the *Oliver Act* of 1911 – set out ways in which land allotted under the reserve system could be clawed back. The *Oliver Act*, for instance, allowed municipalities and companies to expropriate portions of reserves, without surrender, for roads, railways, and other public works, and it was also further amended to allow for an entire reserve to be moved away from a municipality if that was deemed “expedient.”

While officials frequently stated the system was created to encourage First Nations settlement and agriculture, many reserves were located on the poorest agricultural lands, contributing to economic jeopardy for the entire community and especially for women, who were largely placed on the sidelines within a peasant farming context. For women, the imposition of these kinds of agrarian policies contributed to their devaluation at an economic level, where the work they used to perform within the community to contribute to the economic health of the group was placed in jeopardy by the gendered norms of the farming system. In other words, the work women performed prior to being forced onto reserves, either with medicines, on the land, or within the context of trade, was directly threatened under the gendered assumptions of the *Indian Act* and of the reserve system.<sup>56</sup>

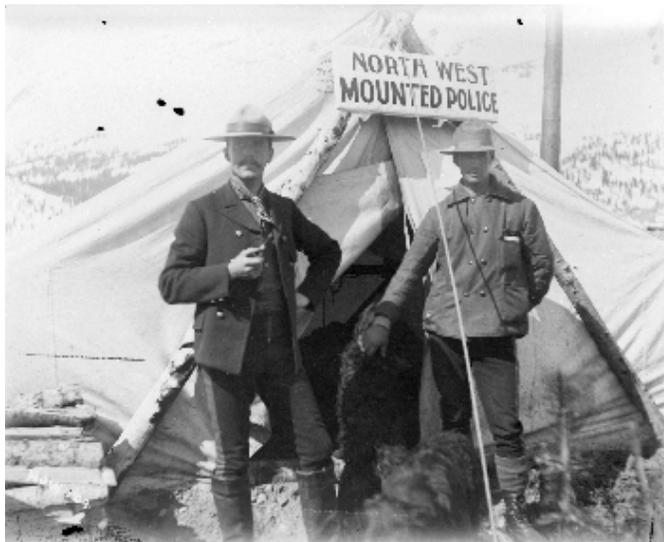
In addition, some reserves were created entirely outside of the First Nation’s traditional territories, placing in jeopardy the work of community members on those traditional lands according to their way of life. The restructuring of homelands and lifestyles often separated communities from each other, disrupting clans, houses, and familial systems that had promoted safety and community well-being for generations. Homes within reserves became nuclear ones, where extended families were encouraged to split up and to live in their own homes.

The *Indian Act* was enforced on two levels, by both police and Indian agents appointed to each reserve to oversee the policies and procedures of the Department of Indian Affairs. As the fur trade wound down in the early 19th century, the control and policing of First Nations and Métis women within the colonies became even more closely bound within the structures of the church and of the state, and the development of policing in what would become Canada took its lead from developments in other parts of the British Empire during the 18th and 19th centuries.<sup>57</sup> Indian agents varied in their views and practices, as documented by several historians,<sup>58</sup> but worked to enforce a system that was racist, patriarchal, and controlling – a primary tool of domination, dispossession, and genocide within First Nations communities.



## A System of Total Control: Policing First Nations and Métis

Policing was established as another institution – like marriage – that worked to exert colonial control over Indigenous women and gender-diverse people through negatively transforming relationships between the genders, by intervening in intimate aspects of women’s lives, by enabling sexual abuse, and through the implementation and perpetuation of beliefs and policies at the root of the crisis of missing and murdered Indigenous women and girls. The physical and social re-organization of communities represents violence, both historic and ongoing, against Indigenous women, girls, and 2SLGBTQQIA people.



*Northwest Mounted Police pose outside of their tent in 1898. Location unknown. Source: Library and Archives Canada/ Henry Joseph Woodside fonds/a016083.*

As historian Greg Marquis explains, early British administrators saw a parallel in Canada with Irish society, as being harsh and rebellious and desperately in need of a strong police presence.<sup>59</sup> It was this model – that of the Royal Irish Constabulary – that was brought to the Northwest Territories after the federal government acquired Rupert’s Land from the Hudson’s Bay Company in 1870.<sup>60</sup> The land in Canada presented an important challenge to established ways of enforcing law and order with its lesser concentrations of populations. Toward this end, the North-West Mounted Police (NWMP) was a pan-Canadian police force, established in 1873 by Prime Minister Sir John A. Macdonald, to maintain order in these newly acquired lands – and to clear those still inhabited by Indigenous Peoples. It combined military, police, and judicial functions.

By the 1880s, the NWMP became even more involved in policing First Nations women, as attitudes had begun to harden toward Indigenous Peoples on the Prairies in particular. Sarah Carter explains, “Whereas before then they were regarded as ‘nuisances’ but relatively harmless, afterwards they were depicted as a distinct threat to the property and lives of white settlers.”<sup>61</sup> A new influx of settlement, coupled with the federal government’s desire to build a fruitful agricultural basin in the Prairies, meant renewed calls for segregation of both First Nations and Métis women.



First Nations women, in particular, were cast by government and by society as a menace to the emerging non-Indigenous community.<sup>62</sup> Métis women, whose distinctive experiences are discussed later in the chapter, also fared poorly – after the Red River and the North-West resistance movements, the Métis as a whole came to be viewed as a dangerous element. Like First Nations women, they were described as a threat to public security through accusations regarding their own health and contagion, and alleged sexual promiscuity.<sup>63</sup>

Indian agents and police actively pursued the regulation of movement for Indigenous women, girls, and gender-diverse people, particularly in the wake of the 1886 panic over the idea of “Traffic in Indian Girls.”<sup>64</sup> When newspapers ran an article raising concerns over the trafficking of Indigenous girls, police blamed First Nations men for running an active racket on young women rather than investigate the crime. The police then used racist fears around “mixing races” to further drive a wedge between First Nations and European settlers.

In addition, police began to more actively enforce the prostitution clauses within the *Indian Act*, criminalizing First Nations women and girls. John A. Macdonald is on record as having said, “The depravity existing among the Indian women ... is greatly to be deplored. They repair, on arriving at years of puberty to the white centres and enter into lives of prostitution.”<sup>65</sup> Despite little to no evidence that Indigenous women were engaging in the sex trade more frequently than other women, the *Indian Act* was amended to directly criminalize Indigenous women and those who kept or frequented a “wigwam”<sup>66</sup> to purchase sex. The consolidation of the *Criminal Code* in 1892 further made it easier to convict First Nations women of the crime of prostitution.<sup>67</sup> This is because prior to 1892, the Dominion of Canada did not have its own consolidated criminal code, and prostitution laws were unevenly enforced. The laws governing prostitution were inherited from the English common law, although several provinces had passed statutes to criminalize the keeping of bawdy houses. In many places, prostitution was commonly dealt with under the crime of vagrancy. For many people, the belief was that because prostitution couldn’t be stamped out, it had to be tolerated. But, as a reflection of a focus on contagious disease, of “social purity” campaigns, and of the focus on Indigenous women as disruptive elements, the situation changed. After 1892, armed with the *Criminal Code*, as well as the realities of a growing population in growing settlements, the application of the law was made much clearer and more efficient.<sup>68</sup>

For First Nations people of all genders, the NWMP also enforced the illegal pass system, which required all First Nations people to obtain a pass from their farm instructor or Indian agent before leaving the reserve. As one witness, Rande C., described of enforcement during this period:

I think about the early stories from that time when my gran said chiefs [were] dragged out of their homes and thrown on the ground and forced to shovel, like, pig shit and stuff like that, and beat, and RCMPs ... just like, standing around every day waiting for them to even just say one word in our language so they could beat them and throw them and haul them to jail or whatever. You know, never allowed to leave the reserve, never allowed to shop in the same stores, never allowed to do anything. And my gran said that was her reality of her whole life growing up.<sup>69</sup>



Among other reasons, the pass system was partially justified by those who enforced it as the need to prevent the loitering of Indigenous women as threats to public safety.

If First Nations people were found in local towns without a valid pass, they could summarily be arrested and sent back to their reserves. But for many, including women, sometimes even worse repercussions followed. Reports from Battleford, Saskatchewan, in 1886 described the case of a woman who had refused to leave town. In response, the officers had taken her to their barracks and cut off some of her hair. The action apparently had important consequences. Two years later, the *Saskatchewan Herald* reported, “During the early part of the week the Mounted Police ordered out of town a number of squaws who had come in from time to time and settled here. The promise to take them to the barracks and cut off their hair had a wonderful effect in hastening their movements.”<sup>70</sup> Some women did work in towns in various jobs, as well as in prostitution, but the threat of physical harm and violence upon their bodies had the impact of driving many away.

As historian and health scholar Dr. James Daschuk has argued, the Canadian state’s growing presence on the Plains, in concert with a variety of measures as part of the effort to manage First Nations “as economically as possible,” including withholding rations and cutting off vaccinations, left many women with little choice in terms of trying to secure income to feed, clothe, and protect their families.<sup>71</sup>

### **“A Hindrance to the Advancement of Men”: The Hypersexualization of Indigenous Women**

As a whole, these policies and laws endorsed the idea that settler encounters with Indigenous women should be viewed as suspicious and potentially immoral. They inscribed into Canadian law the objectification of Indigenous women as hypersexual and criminal, such as within the amendments to the *Criminal Code*. In addition, these stereotypes were often recorded in the House of Commons Sessional Papers, such as this one, in 1909:

The women, here, as on nearly every reserve, are a hindrance to the advancement of the men. No sooner do the men earn some money than the women want to go and visit their relations on some other reserve, or else give a feast or dance to their friends.... The majority of (the women) are discontented, dirty, lazy and slovenly.<sup>72</sup>

In applying these stereotypes, late 19th-century settlers tended to blame First Nations people themselves for their economic difficulties, instead of poorly designed policies of assimilation such as agricultural programs and the confinement of First Nations on reserves. For instance, Indian agents and other instructors blamed the failure of agricultural reserves on the laziness of the people doing the work, rather than on the quality of the tools, the soil, or the instruction. First Nations women living on-reserve often had their mothering skills called into question, as well as their hygienic habits, by farm instructors or other outsiders to the community.<sup>73</sup>



Blaming communities or family members was one of the many ways that police misconduct was ignored in the Northwest. Officers frequently attended community dances or gatherings, and many who engaged in relationships, consensual or non-consensual, insisted that the NWMP needed to promote an image of aggressive masculinity and virility.<sup>74</sup> However, the question of police impropriety had been raised by government officials early on in regards to officers of the NWMP. In 1878, David Laird, Lieutenant-Governor for the Northwest Territories, had written to NWMP Commissioner James Macleod regarding some allegations against officers:

I fear from what reports are brought me, that some of your officers at Fort Walsh are making rather free with the women around there. It is to be hoped that the good name of the Force will not be hurt through too open indulgence of that kind. And I sincerely hope that Indian women will not be treated in a way that hereafter may give trouble.<sup>75</sup>

Within the year, further accusations were made against police at Fort Macleod for “seducing squaws,” among other acts.<sup>76</sup>

As a whole, these stereotypes called upon the images of the so-called squaw-drudge and were used as justification for the invasion of lands and Nations.<sup>77</sup> As Carter points out, these negative stereotypes also served to justify the behaviour of those who would mistreat Indigenous women and girls, as well as to justify the policies deployed against them.<sup>78</sup> The images were deliberately promoted in the late 1800s. As a result, many responses to accusations by police, or by other non-Indigenous settlers, stressed that the injustices suffered were largely “due to the character of Aboriginal women, who behaved in an abandoned and wanton manner and, in their own society, were accustomed to being treated with contempt and to being bought and sold as commodities.”<sup>79</sup> In turn, these beliefs and discriminatory stereotypes relieved officials, police, and non-Indigenous settlers of all blame – or at least of any crime. Within this belief system, First Nations women and girls were targeted because they failed to live up to a normative standard that imposed non-Indigenous beliefs and expectations about women that came from very patriarchal and oppressive societies in Europe.

These expectations also served to discount allegations of violence or wrong-doing by the police or by settlers. A former member of the NWMP and editor of the *Macleod Gazette* pointed out in 1886: “Nothing is said about the fact that many of these women were prostitutes before they went to live with the white man, and that in the majority of cases the overtures for this so-called immorality come from the woman or Indians themselves.”<sup>80</sup> He was responding to accusations by a local missionary about white men living with, then abandoning, Indigenous women, and urging the formal Christian sanction of these marriages. The editor’s response to the situation spoke to a context within which white men were presented as bewitched and helpless victims of Indigenous women and girls themselves, and Plains Indigenous societies were characterized as guilty of human trafficking and worse, because of their supposed disregard for their own community members.



The following year, in 1880, Manitoba Member of Parliament (MP) Joseph Royal asserted that members of the NWMP were behaving with “disgraceful immorality” throughout the West, through early human trafficking of Indigenous women. In 1886, Liberal MP Malcolm Cameron delivered a speech in which he accused Indian agents and other agents of the government of acting to “humiliate, to lower, to degrade and debase the virgin daughters of the wards of the nation.”<sup>81</sup> He also mused about why over 45% of officers within the NWMP were being treated for venereal disease.<sup>82</sup> His comments echoed those of many others who accused the NWMP and its officers of abusing their authority. However, as Sarah Carter explains, in many of these cases, the NWMP were, in fact, policing themselves, and allegations of police misbehaviour against their own members were often dismissed.<sup>83</sup>

Within formal allegations of police misconduct, there are few existing records in which First Nations women attempted to lay charges against officers for offences such as assault or rape. As Carter points out, in these cases, “the claims seem to have been dismissed as efforts to discredit or blackmail.”<sup>84</sup>

The efficacy of police enforcement to prevent crimes against Indigenous women was also questionable. For instance, a *Manitoba Free Press* article from 1876 describes a case of rape in the village of Fort Macleod by a local trader. The article reports, “Though the Mounted Police were brought to the house by the cries of the Indian woman subjected to the outrage, the non-commissioned officer with them hesitated to break in the door to seize the offender.”<sup>85</sup>

The 1888 murder of Mrs. Only Kill, described as a member of the Blood Tribe, was dismissed. The accused, Constable Alfred Symonds of the NWMP detachment at Stand Off, Alberta, was tried for giving Mrs. Only Kill a lethal dose of iodine. It was reported that she had also eaten some sour beans on the same day. Mrs. Only Kill died on Wednesday morning, but her body was not discovered or examined until Friday. By then, the heat had severely compromised the investigation and the body was too decomposed to conduct a proper post-mortem. The initial investigation decided that either the beans or the iodine had ultimately killed her, but Symonds was tried anyway. His supervisor, Superintendent P. R. Neale, informed superiors that he did not believe any jury in the West would convict Symonds.<sup>86</sup> They never got the chance. Appearing in August 1888 before the former commissioner of the NWMP, James F. Macleod, the Crown prosecutor made application not to prosecute, and it was granted. Symonds was immediately released.

Another case, in 1889, brought to light public attitudes toward Indigenous women in more urban centres. The Cree victim, identified only as “Rosalie,” had been working as a prostitute in Calgary and described as “only a squaw.”<sup>87</sup> The accused in her brutal murder, William “Jumbo” Fisk, was described by the prosecutor as a “genial, accomodating and upright young man”<sup>88</sup> from an upstanding family. Rosalie, a baptized Catholic, was refused burial in the mission graveyard because of her time spent in prostitution.



Fisk was supported by the vast majority of residents and by the popular press. He confessed to the crime and turned himself in, yet was found not guilty by the all-white jury. To his credit, the judge, Charles Rouleau, refused the jury's verdict and promptly ordered a retrial, giving specific instructions to that jury to forget the victim's race. At the second trial, Fisk was convicted of manslaughter and sentenced to 14 years' hard labour. This was better than expected: the judge, who wanted him to be sentenced for life, had received correspondence written by elected officials and people of influence urging him to convey a lighter sentence.

It is difficult to assess the extent of First Nations women's views on policing or police forces at this time, but, as Métis scholar and activist Howard Adams has explained:

Indians suffered brutality under the Mounties, who frequently paraded through native settlements in order to intimidate the people and remind the natives they had to "stay in their place." ... The Mounties were not ambassadors of goodwill or uniformed men sent to protect Indians; they were the colonizer's occupational forces and hence the oppressors of Indians and Métis.<sup>89</sup>

This connects with what we heard in our testimonies. As Audrey Siegl expressed, "Safety and justice and peace are just words to us. Since its inception, we've never been safe in 'Canada.' The RCMP was created to quash the Indian rebellions. The police were created to protect and serve the colonial state."<sup>90</sup>

The early tone set by the nature and extent of the policing of Indigenous women, including abuse by the police, continues to permeate modern encounters with a deep sense of suspicion and distrust.



*A Strawberry Ceremony for missing and murdered Indigenous women and girls takes place outside Toronto police headquarters, February 2015. Credit: R. Jeanette Martin.*



## The Indian Residential School System: A Theatre of Abuse

A key piece of enforcing segregation and of promoting assimilation was the participation of First Nations, Métis and Inuit children in the Indian residential school system between 1883 and 1996. Throughout the testimonies offered to the National Inquiry, attendance within the school system, as well as the intergenerational trauma of family members who may have attended, was a key driver in the contributing causes to the crisis of violence against Indigenous women, girls, and 2SLGBTQIA people.



*Morley Indian Residential School and McDougall orphanage wards in Morley, Alberta, ca. 1890-1895. Source: Library and Archives Canada/David Ewens collection/a182269.*

Although residential schools were not a mandated part of the *Indian Act* until the 1880s, when officials threatened parents who failed to send their children to the schools with fines or jail time, the practice of “educating” Indigenous children began as early as the 1600s.<sup>91</sup> In addition, before attendance was mandated through the Act, Indian agents on reserves, as well as police forces, delivered children to the church-run schools by applying pressure in the form of withholding rations or supplies, threatening members of the family, or straight-up seizure without consent.<sup>92</sup> In a letter dated July 24, 1935, Indian agent, N. P. L’Heureux instructs a store clerk in Saddle Lake, Alberta, to have an Indigenous man’s monthly ration “cut off entirely,” since he had taken his children out of residential school. The Indian agent explained that the ration would be restored once the man, J. B. Gambler, brought his children back to the residential school in Wabasca, and presented his “amends” to the principal and magistrate there.<sup>93</sup>

“SAFETY AND JUSTICE AND PEACE ARE JUST WORDS TO US. SINCE ITS INCEPTION, WE’VE NEVER BEEN SAFE IN ‘CANADA.’ THE RCMP WAS CREATED TO QUASH THE INDIAN REBELLIONS. THE POLICE WERE CREATED TO PROTECT AND SERVE THE COLONIAL STATE.”

Audrey Siegl



# Understanding Indian Residential Schools in Quebec

Due to Quebec's unique socio-historical and political context, the history of Indian residential schools there has significant differences from that in the rest of Canada. One of the main distinctions is that the residential schools were established later than in the rest of the country. In Quebec, with the exception of two institutions, all opened their doors in the 1950s, coinciding with the period of their gradual closure in the rest of Canada.<sup>i</sup>

In Quebec, reserves were created in several waves, so that in some cases, the settlement of First Nations populations was later than elsewhere in the country. At the start of 20th century, most First Nations families were living in seasonal settlements and pursuing a traditional way of life.<sup>ii</sup> Few First Nations were enrolled in school, and those who were chose among mission schools, day schools, and sometimes Indian residential schools outside of Quebec.<sup>iii</sup> In fact, the province of Quebec had long ignored the changes to the Indian Act that made school attendance of First Nations children mandatory. In Quebec, school attendance for all children between the ages of six and 14 became compulsory only in 1943, whereas these laws were already in place in many other provinces in Canada in the early 20th century.

The residential schools of Quebec, with the exception of two that were led by the Anglican Church, were led mainly by the Oblates of Mary Immaculate. According to the Indian Residential Schools Settlement Agreement, there were six residential schools and two non-denominational homes in Quebec, as well as four non-denominational federal homes for Inuit. A significant number of First Nations children also attended residential schools outside Quebec, including in Ontario and in Nova Scotia.<sup>iv</sup> The boarding school of Pointe-Bleue<sup>v</sup> was the last to close in 1991.<sup>vi</sup> Approximately 13,000 children attended the

10 Indian residential schools and federal homes in Quebec.<sup>vii</sup>

In comparison with the rest of Canada, there are few studies centring on the realities of residential school experiences in Quebec. As in the rest of Canada, residential schools had the purpose of “civilizing,” through rudimentary education, First Nations children. However, the Christianizing impulse that animated many of the schools in the rest of Canada wasn't as big a priority in Quebec, since most Indigenous children had already converted to Catholicism or Anglicanism by the time they opened. The teaching of French (for Catholic boarding schools) and English (for Anglican boarding schools) as well as the learning of the morals, values, and customs of Quebec society remained important goals,<sup>viii</sup> however, conveyed in Eurocentric terms.

Although the educational project of the Oblates did not necessarily seek to eradicate Indigenous identity in First Nations children, the children still encountered various stereotypes that did not correspond to their cultural realities. Within the schools, the traditional lifestyle of their parents was often denigrated in favour of the values of Quebec, as articulated by the religious orders. Many First Nations people returned to their own communities after being in residential schools, rather than integrate into Quebec's non-Indigenous society.<sup>ix</sup>



From the perspective of intergenerational trauma, the Quebec experience of residential schools is similar to that in the rest of Canada, but in fewer and more recent generations, given the timing of the residential schools' lifespan there. Given their relatively recent closures as a whole, at least two generations of residential school survivors are still alive, so these traumas are palpable within the communities.

We can't ignore the importance of the French language learned by many First Nations people in Quebec, which has served, in some cases, to erect language barriers to promoting solidarity with other First Nations across Canada. While this is not universally the case, the particular voices of francophone First Nations survivors from Quebec are heard in a very limited way, nationally. This reality means that more research is needed to better understand the context of these particular experiences.



***Pointe-Bleue opened in 1960, and was the last of Quebec's residential schools to close, in 1991. The institution's relatively short life span reflects the reality in much of Quebec, where residential schools were established much later than in the rest of Canada.***  
***No copyright infringement intended.***

- I Bousquet, "L'histoire scolaire des Autochtones du Québec : un chantier à défricher," 117–23.
- II Bousquet, "L'histoire scolaire."
- III Ibid.
- IV Ibid.
- V Pointe-Bleue is known today as the community of Mashteuiatsh.
- VI Truth and Reconciliation Commission of Canada, *Summary Report*; see also Bousquet, "Êtres libres ou sauvages à civiliser?"
- VII There is some dispute regarding the number of schools operating in Quebec; see Bousquet, "Le projet des pensionnats autochtones du Québec."
- VIII Bousquet, "Le projet des pensionnats."
- IX Ibid.



Various incarnations of policies regarding “Indian” education exist in government records, and detailed descriptions and reports about the history and daily life at residential schools have been documented in the *Final Report* of the Truth and Reconciliation Commission. A gendered analysis here is not meant to discount the experiences of Indigenous boys and men or to imply that those experiences were any less impactful; the intent is to understand the specific ways in which the residential school system participated in the larger structures of imposing Western gender roles. The connection between residential school experiences and the internalization of abuse will also be addressed more specifically as it appears within our testimonies, in the contemporary discussions of gendered violence.

This brief examination also demonstrates the ways in which the lives of men and boys within communities were brought to bear on women, girls, and 2SLGBTQQIA people in legacies of abuse and shame that have directly contributed to the violence experienced by those who testified before us and by their loved ones.

The residential school system in Canada was a devastating, blunt tool aimed at assimilating the most vulnerable people in Indigenous Nations: the children. We examine the specific effects on women and girls, and 2SLGBTQQIA people in order to better understand how they have become the target of disproportionate violence today.

Although eventually legislated and funded by Canada, residential schools were initially run primarily by Christian churches, including the Anglican, Presbyterian, Methodist, and Catholic churches. Catholic orders such as the Jesuits and the Missionary Oblates of Mary Immaculate had a long history of working closely with British authorities to maintain social order,<sup>94</sup> and Protestant churches were often seen as supporting an Anglo-Canadian hierarchy.<sup>95</sup> In 1931, over half of all residential schools in Canada were administered by Catholic orders (55%). The next largest was the Church of England, which operated just over a quarter of all schools (26.25%). The United Church ran 16.25%, and the Presbyterian Church operated 2.5%.<sup>96</sup>



*Children and a nun in a classroom at Cross Lake Indian Residential School, Cross Lake, Manitoba, 1940. Source: Library and Archives Canada/ Department of Indian Affairs and Northern Development fonds/ e011080274.*



Because federally funded residential schools operated on a per capita basis, from 1869, residential schools received an amount per child enrolled. It was therefore in the school's best interest to keep its roster full. Toward this aim, child apprehension for the purposes of residential schooling was an important part of the jobs of Indian agents and of police, which placed countless girls and gender-diverse children in danger and caused indescribable harm to their mothers.

The doctrines of Christianity were central to the curriculum of the schools, guiding not only what was taught, but also the manner in which it was taught. Like the first early attempts of colonial religious conversion, Christian dogma reinforced a patriarchal system that envisioned God as male and women as a secondary creation meant to keep the company of men. The education of girls was focused mostly on domestic duties: cleaning, sewing, gardening, and cooking.<sup>97</sup> While boys might be encouraged to continue school until they were 16 or older, girls were often encouraged to leave school early to participate in domestic “apprenticeships.”<sup>98</sup> Even after spending many years at residential schools, students would learn that they had obtained little more than an elementary education.<sup>99</sup> This result failed to equip all students for jobs beyond any kind of low-level employment; for women, it ensured that their choices would be limited to working within the home, or to few and low-paying opportunities in the outside world, after they were released from the schools.



*Female children are taught to sew at residential school in Resolution, Northwest Territories, n.d. Source: Library and Archives Canada/Department of the Interior fonds/a043181.*

Overwhelmingly, schools were separated by the sexes – boys and girls had different dormitories, entrances, classes, chores, recesses, and playgrounds. This separation had many effects. Families were separated – brothers, sisters, and male and female cousins were forbidden from interacting with each other. Not only were children taken from their parents, extended families, and communities to attend school, but they were then forbidden from finding comfort with their relatives of other genders while they were there. This practice was completely foreign to Indigenous children's experiences at home, and it undermined the development of basic skills for maintaining healthy multigendered relationships.



In addition, residential schools also entrenched the Christian and Western gender binary for gender-diverse students. There is little documentation about the experience of queer or Two-Spirit people in residential schools, but homosexuality was considered a sin by the churches and would have been punished. In particular, the concepts of “sin” and “Hell” were used to shame and coerce all students, but had particularly poignant effects on Two-Spirit students.

As Expert Witness Albert McLeod explained in his testimony:

The inherited homophobia and transphobia in these churches has resulted in the continuing silencing, shaming and alienation of Two-Spirit people. The fact that some of this church staff were secretly sexually abusing the children created another level of silencing and shame that has lasted for generations.... [In] the last 150 years generally in Canadian society, the existence of queer settler people [and] queer Indigenous people has ultimately been erased within this construction of Christianity and how government saw itself as patriarchal.<sup>100</sup>

Children were also denied the spiritual and cultural teachings that would have traditionally accompanied their coming of age and would have emphasized the importance of respectful relationships and encounters. By denying children these essential community encounters, residential school robbed them of their right to find a meaningful place in their communities and in the world. For example, instead of being taught by loving mothers, aunties, and grandmothers about the power of women’s bodies, girls at school became scared and ashamed when they experienced their first menstruation: “I told one of the older girls, ‘Sister is gonna really spank me now.’ I said, ‘I don’t know, I must have cut myself down there because I’m bleeding now. My pyjamas is full of blood, and my sheets, and I was so scared. I thought this time they’re gonna kill me.’”<sup>101</sup>

In this example, the importance of what some First Nations know as “moon time” – a time of purification, of great power, connectivity, and strength – was reduced to something dirty and shameful.

The natural sexual curiosity that accompanies puberty was also shunned by Christian dogma, and the staff at schools accused and punished female students for being “boy crazy”<sup>102</sup> if they were caught talking to boys. Former students spoke about not having a basic understanding of their own bodies and not knowing “the facts of life.”<sup>103</sup>

Despite the intentional repression of students’ sexuality, an astounding hypocrisy and tragic reality of residential schools was the rampant sexual abuse that took place. Students were victimized not only by staff and clergy, but also by other students. The abuse of girls by women and of boys by men contributed to a sentiment of homophobia and to the association of same-sex relationships with pedophilia and abuse. A culture of silence and helplessness further entrenched widespread self-hatred and shame. Many of the families and survivors we heard from pointed to these early



inculcations of shame and worthlessness as something that normalized violence for the rest of their lives. Some of them directly connected the abuse they experienced in these schools to the sexual violence they experienced later in life. As Elaine D. remembered:

The priest in the school was making us, my sister and I, go into this canteen and touch his penis for candy. So when I didn't want to because I didn't want it to smell, then my sister would take over. It was like – it was like they set pace for myself to know what to do when I was ten years old and on the highway hitchhiking that when the men would pick me up, Caucasian men, and want to have sex with me, well, eventually I learned to ask for money or food or lodging or something because this is what the priest had taught us in this little store at the residential school. “You do this to me, I'll give you that.” So it set the pace for our life.<sup>104</sup>

There is another devastating effect of residential school connected to missing and murdered women. After Indigenous women went missing or were murdered, their children were much more likely to be sent to residential or foster care than the children of non-Indigenous women, creating even more trauma and abuse as a result. As Shaun L., whose mother was murdered, explains:

In 1970 my mom, Jane [D.], was violently taken from her five children and the outcomes were devastating for us. We were 2, 4, 6, 8, and 10 years old. My grandparents were forced, under threat of jail, to send my three oldest siblings to residential school at Lower Post. My brother Terry and I were in foster care.

The theory behind interfering with our family was it was for the best interests of the child. Was it best for my siblings and I to endure years of separation and isolation? Collectively we have experienced the following: mental health issues, alcoholism, drug addiction, homelessness, limited education, family violence, fetal alcohol spectrum children, children in care, a sense of dislocation, criminal activity, shortened lifespan, suicidal ideations and attempts, jail and prison time, chronic illness, limited social connections, limited employment opportunities, sexual abuse, physical abuse, mental abuse, emotional abuse, loss of traditional knowledge, loss of language, loss of culture, loss of history.

How is having five people endure that list in the best interests of them?<sup>105</sup>

Many survivors kept their experiences of abuse a secret from their friends and families. Not only were children expected to cope with the violent removal from their homes and the breakdown of familial relationships when they were forcefully sent away, but they later emerged from residential schools further alienated from their communities because of the pain and stigma of abuse. For many, the opportunity and capacity to rebuild those relationships were placed in jeopardy.



As Rande C., raised by grandparents and an aunt after the murder of his mother, said:

My grandpa did [drink], he drank a lot. And it was to the point where I was actually the one who would go get him beer. And I liked doing it because I got to sit with him.... And it would get into the evening at times where he would start talking about residential school and the abuse that he suffered and went through.... And I never seen my grandpa cry until one time that he said, you know, he would wake up in the morning and they were forced to eat their porridge with maggots. And they were forced. And they were hit and they were whipped every day.

And he could hear his friends getting dragged out in the hallways at night and raped throughout the evenings. And he said, you know, it was hard seeing his friends in the morning all bruised and sitting there trembling, crying.<sup>106</sup>

The difficulty in forging connections within a space of trauma, as well as shame, is an experience documented by many of the witnesses who appeared before the National Inquiry.

### **Forced Sterilization**

In the eyes of the colonizer, the long-standing, misguided, and racist view of First Nations and Métis women as promiscuous, un-Christian, and uncivilized justified the policy of eugenics. Indeed, sterilization was viewed as a way to eventually eliminate the Indigenous population entirely. Emily Murphy, a settler suffragette who became the first female magistrate court judge in Canada, wrote about the intended effects of sterilization.

One hardly knows whether to take the Indian as a problem, a nuisance, or a possibility.... Regarding his future we may give ourselves little uneasiness. This question is solving itself. A few years hence there will be no Indians. They will exist for posterity only in waxwork figures and in a few scant pages of history.<sup>107</sup>

In addition to trying to assimilate First Nations through residential schools, governments also took other active measures to eliminate them physically, in accordance with self-serving pseudo-scientific principles of the time. The word “eugenics” was coined in the late 19th century to describe a philosophy that believed in selective breeding in order to rid the human population of “undesirable qualities” that were passed on from one generation to the next.<sup>108</sup>

Policies of sterilization came to exist in Canada under the banner of public health in the 1920s. Alberta’s 1928 *Sexual Sterilization Act* created a Eugenics Board empowered to recommend sterilization as a condition for release from a mental health institution, targeted at those considered “mentally defective.” An amendment in 1937 permitted the sterilization of “mental defectives” without their consent.



As sociology professor Dr. Dominique Clément explains, “Between 1928 and 1972, the Alberta Eugenics Board approved 99 percent of its 4,785 cases. Over time, increasing numbers of its decisions involved people who did not give their consent.”<sup>109</sup> The Act was clearly biased, says Clément, against young adults, women, and First Nations and Métis.<sup>110</sup> The people targeted for sterilization were labelled “feeble-minded” or “mentally defective.”<sup>111</sup> Although, on its face, the Act and its amendment applied to both the male and female sexes and did not explicitly target “Indians,” their effects were disproportionately visited on women and Indigenous Peoples. For example, in Alberta, First Nations women were the most likely to be sterilized, in relation to their per capita population in the province.<sup>112</sup>

Although only Alberta and British Columbia passed formal legislation regarding sterilization, it was practised across the country. Both official provincial sterilization acts were repealed in 1972 (Alberta) and 1973 (British Columbia). However, Indigenous women across the country tell stories of “coerced sterilization” that continues even today.<sup>113</sup> For example, although Saskatchewan never officially legislated sterilization, the province is nevertheless facing a class action lawsuit on behalf of Indigenous women who have provided evidence that they were sterilized without consent.<sup>114</sup>

The forced sterilization of women represents directed state violence against Indigenous women, and contributes to the dehumanization and objectification of Indigenous women, girls, and 2SLGBTQQIA people.



# Indian Hospitals and Social Dislocation

During the 20th century, Canada also developed a segregated system of health care in the form of Indian hospitals for many First Nations women, girls, and 2SLGBTQIA people, as well as Inuit, many of whom were removed from their communities in the name of public health. While there is no single experience of Indian hospitals in Canada, the common features of some experiences, including fear, boredom, and physical and psychological harm, are linked to the crisis of missing and murdered women, girls, and 2SLGBTQIA people. In our testimonies, many witnesses spoke about the challenges of medical relocation and about the questions left unanswered when mothers, aunties, sisters, or children were removed, and never returned.

The system of Indian hospitals arose from missionary efforts to provide at least a basic level of hospital care on some reserves in the late 1800s and early 1900s. These hospitals were part of the assimilation project and part of missionary efforts to stamp out Indigenous ways of healing, especially when those healers were women.

Indian hospitals focused on biomedicine – that is, on non-Indigenous medicine. By the 1930s, though, the need for more concentrated care arose because of fears about tuberculosis spreading to non-Indigenous

communities. Dr. David Stewart, superintendent of the Ninette sanatorium in Manitoba, asserted that reserves were not “disease-tight compartments” and that tuberculosis spread in non-Indigenous communities through Indigenous trade goods. Further, he characterized First Nations as careless and ignorant, and as “soaked with tuberculosis.”<sup>1</sup> As a result of Dr. Stewart’s and others’ anxieties, including those from communities near First Nations reserves, these hospitals and facilities were intended to address the threat to public health and to provide “limited care to a dying race.”<sup>11</sup>



*Dr. Peter Bryce was Chief Medical Officer for the federal government starting in 1904. In 1907, he raised a number of issues related to the deadly conditions of residential schools and, in 1922, after leaving the public service, published *The Story of a National Crime: An Appeal for Justice to the Indians of Canada*, documenting the government’s role in the crisis and its refusal to act on his previous reports. Source: Library and Archives Canada/National Film Board of Canada fonds/e002265633.*



Canada had 22 Indian hospitals by 1960, operated by the Indian Health Service. Most were not in ideal condition, having been erected in borrowed facilities and abandoned military installations, like in North Battleford in Saskatchewan, Miller Bay near Prince Rupert in British Columbia, and Nanaimo on Vancouver Island, also in British Columbia. They operated at approximately half the cost of care as non-Indian hospitals.

Hospital staff saw themselves largely as agents of progress. As Brooke Claxton, minister of National Health and Welfare, put it in 1946:

Neither law nor treaty impose an obligation on the Dominion government to establish a health service for the Indians and Eskimos ... however, for humanitarian reasons and as very necessary protection to the rest of the population of Canada, it is essential to do everything possible to stamp out disease at its source, wherever it may be within the confines of the country.<sup>iii</sup>

The idea that Indian hospitals, administered by the Indian Health Service within the new department of National Health and Welfare and not by Indian Affairs, were agents of humanity and progress was, for many First Nations, simply an articulation of a Treaty promise made decades prior. But for non-Indigenous communities, the hospitals served as reassurance that their own access to modern medical care need not be shared with Indigenous patients.<sup>iv</sup>

Some communities wanted the facilities. The Siksika, for instance, established the Blackfoot Hospital on its reserve with funds from the sale of some reserve lands to provide in-community care, on the condition that Indigenous healers and midwives be allowed to attend patients, alongside other forms of care offered there. Historian Maureen Lux points out, “Many communities saw nothing necessarily incompatible in incorporating Western biomedicine into their indigenous healing practices. Indeed, medical plurality is the norm in much of the world.”<sup>v</sup> In many of these places, First Nations workers – though underpaid and often poorly treated by non-Indigenous staff – provided some level



*A child undergoes physiotherapy at Charles Camsell Hospital in Edmonton Alberta, 1958.*  
*Source: Library and Archives Canada/National Film Board of Canada fonds/a111429.*

of comfort to patients by acting as interpreters and speaking the patient’s language.<sup>vi</sup> The hospital built by the Siksika in the 1920s became a target for government takeover in the 1940s and 1950s, partially due to its policies, which included generous visiting hours and the ability of Elders or children to accompany ill parents to the hospital and stay with them.<sup>vii</sup>

For many First Nations who were transferred between residential schools and Indian hospitals – and there were many, due to the poor conditions in many residential schools that fed disease – Indian hospitals felt a lot like residential school, in both impact and structure. For instance, Minnie Freeman, a former patient and later, employee, notes the experience of a child patient at the St. Boniface Hospital in 1957 who had completely forgotten his language and would be



unable to communicate with his own family upon returning home.<sup>viii</sup> The National Inquiry also heard similar stories, including this one from Lina G.:

I was put in the hospital. And my leg was swollen right up, and I was hospitalized because – I think they had to operate on my leg, but I don't even know if I have – if I have my two kidneys. I think I just have only one, because I got to go [to the] washroom, and I was put in Shaw Council Hospital for operation when I was young. In five years of being in Fort Smith school, I come back here in 1970s not knowing any Dogrib language. I lost it in the hospital, being put in the hospital in Fort Smith and lost my language, but I fought to get it back.<sup>ix</sup>

Others noted systems for keeping patients “in line,” including special privileges that could be withdrawn in cases of non-cooperation, or, as a former nurse who worked at Camsell Indian Hospital in the 1950s described it, “despairing resignation” not unlike the residential school experience.<sup>x</sup>

Extended absences from home, especially at any distance from their community, also left many patients to worry about the impact on loved ones. These fears were compounded by fears of arrest, if treatment was refused or abandoned: in 1951, the *Indian Act's* section 72(1) was amended to allow for warrants to be issued for “compulsory treatment of venereal disease and tuberculosis, including detention in a sanatorium, and the compulsory return of patients who left against medical advice.”<sup>xi</sup> Further regulations in 1953 also provided for this measure if a province was deemed unable or unwilling to take appropriate action.<sup>xii</sup> That it was the Royal Canadian Mounted Police (RCMP) who served the warrants further contributed to the relationship of distrust and animosity that already existed due to their other involvement in communities, particularly in the context of residential schools and of policing women.

In 1946, a patient dubbed “George Hamilton” left the Dynevor Indian Hospital in Manitoba to attend to family matters. When he didn't return, a warrant was issued and local RCMP arrested him to bring him back. The family he had gone to tend to had no other source



*Girls gather in their dormitory at Shingwauk Residential School, n.d. © Government of Canada. Reproduced with the permission of Library and Archives Canada (2019). Source: Library and Archives Canada/Department of Indian Affairs and Northern Development fonds/a185528.*

of support, but, as Lux reports, only after his two children had died did the Department of Indian Affairs arrange for a monthly ration and wood supply to ensure the rest of the family wouldn't perish while “Hamilton” was in treatment.<sup>xiii</sup> This particular situation was not the same for everyone, but RCMP records demonstrate that the enforcement provision for compulsory medical care was one they attended to, especially in Manitoba, for sentences generally of one year.<sup>xiv</sup>

In 1952, for example, two Inuuk women walked out of the Parc Savard Hospital in Quebec City in February, dressed only in their bathrobes and slippers. Parc Savard was known by the Health Service as a rat- and mouse-infested hospital with crumbling infrastructure and limited medical care. The women were quickly returned to the hospital, but, as Maureen Lux points out, for the women, who had been at Parc Savard for four years without interpretation services,



"it is not clear where [they] hoped to go ... but they could be forgiven for thinking they would be better off elsewhere."<sup>xv</sup>

Among Inuit, the annual patrol ship known as "Matavik," or "where you strip," also inspired fear and uncertainty. Inuit were treated like cattle as they moved through the various stages of examination, only to be marked with a serial number on their hand that indicated which tests they had undergone. Without proper interpretation, those marked with "TB" on their hand often had no idea why they were being evacuated to the South, with no chance to say goodbye.<sup>xvi</sup>

At the hospital, as former patient and interpreter Minnie Aodla Freeman recounts, "it was very sad to see

all these Inuit. Some had children in the North from whom they had not heard since they arrived. So many worries..."<sup>xvii</sup> In addition, the lack of interpretation or cultural understanding on behalf of southern medical staff was often used against Inuit patients. Minnie said that, as she waited for weeks for treatment, "my culture told me not to ask, that in this situation I might cause the people who were taking care of me to alter their behavior completely, that I should accept what was happening and not force the hands that held my destiny. I figured they would tell me when they were ready."<sup>xviii</sup> This type of reaction was used by medical staff as representing consent, and led to many instances where patients were treated without understanding why, or where procedures were performed to which they would not necessarily have agreed.<sup>xix</sup>

I As chronicled in Lux, *Separate Beds*, 9.

II Ibid., 18.

III Ibid., 47.

IV Ibid., 4.

V Ibid., 5.

VI Ibid., 4.

VII Ibid., 139.

VIII Ibid., 119.

IX Lina G. (Dene Nation, Fort Rae Behchokò), Part 1, Statement Volume 197, Yellowknife, NWT, pp. 2-3.

X Lux, *Separate Beds*, 109.

XI Cited in *ibid.*, 45.

XII Ibid., 116.

XIII Ibid., 114.

XIV Ibid.

XV Ibid., 115-16.

XVI Ibid., 99-100.

XVII Cited in *ibid.*, 72.

XVIII Ibid., 111.

XIX Ibid., 111.



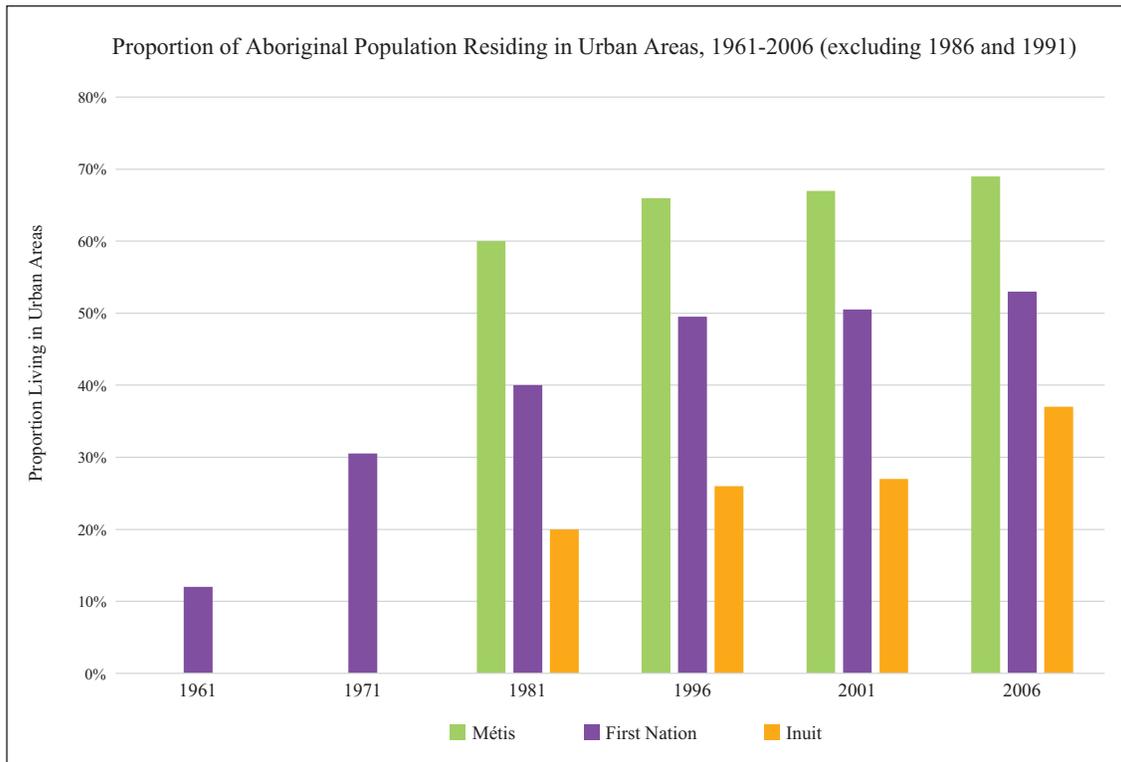
## Urbanization and Criminalization

The relocation of Indigenous women to cities can be understood in the context of the harsh encounters with the Canadian state that resulted in dire social, economic, and political realities. The establishment of reserves in the 19th century and the forced relocation to lands that were unfit for agriculture, combined with a pass system that limited traditional hunting and harvesting practices, contributed to impoverished conditions and a reliance on state welfare.

The populations of several urban areas posted increases of over 50% between 1951 and 1961, and by 1971, seven urban areas had more than 2,000 Indigenous residents. These cities included Winnipeg (4,940), Edmonton (4,260), Montreal (3,215), Vancouver (3,000), Toronto (2,990), Regina (2,860), and Calgary (2,265).<sup>115</sup> In a study of patterns between 1961 and 2006, Mary Jane Norris and Steward Clatworthy note that between 1961 and 2006, Canada's urban Indigenous population increased from 13% to 51%.<sup>116</sup> However, as their report notes, "Contrary to popular belief, which claims that reserves are emptying to the benefit of cities, the net migration rates of registered Indians on reserves were always positive, which means that the number of in-migrants exceeded the number of out-migrants." While the net migration rates of Status First Nations people living in metropolitan areas varied between the 1960s and the 2000s, their study asserts that "migration cannot be the sole explanation to the growth of First Nations in metropolitan areas."<sup>117</sup> Increases must be understood within the context of what they term "ethnic mobility," or the reclaiming or restoration of Indigenous ties, as well as natural increases in populations among Indigenous people in key urban areas. It is also linked to the restoration of Indian Status under Bill C-31 in 1985, which resulted in a dramatic increase in the off-reserve population. For instance, the off-reserve population increased from 147,424 in 1987 to 256,505 in 1996 alone.<sup>118</sup>



*Women and children of Brunswick House First Nation at the feast during the Treaty 9 payment ceremony at the Hudson's Bay Company Post called New Brunswick House, Ontario. Source: Library and Archives Canada/National Photography collection/a059589.*



This is not to suggest, however, that the identity and connection of these relocatees were any less “authentic,” as scholars Evelyn Peters and Chris Andersen point out. Rather, as Peters and Andersen argue:

A focus on (non-urban) tribal homelands as the source of urban Indigenous identities also ignores the ways many urban Indigenous people have created organizations and communities across cultural and tribal groupings.... Viewing non-urban tribal communities as the primary influence on Indigenous peoples’ lives in cities misses the complex ways in and through which Indigenous peoples selectively interact with urban societies to create meaningful lives in cities.<sup>119</sup>

Regardless of the source of increase, and as family members' and survivors' testimonies demonstrated, the breakdown of familial relationships caused by residential schools and enfranchisement policies meant that Indigenous women could find themselves alienated from their home communities, sometimes as single parents and sole providers for their children. In some of these cases, cities provided economic opportunities that were not available on reserves. Indigenous women did create new lives in cities – but were not always faced with the opportunities they may have been promised.

As First Nations women began seeking employment in Canadian cities, they were met with many challenges. They were often hundreds of kilometres from their homes and social support systems, navigating racist barriers deeply embedded in urban services and experiences. While it



is true that these factors affected both Indigenous men and women who moved to urban centres, sexism in the mid-20th century played a particular role in women’s experiences. As historian Mary Jane McCallum states:

Native women workers, like all women workers, were subject to common understandings about space which determined that the city – and thus also working in cities – was “bad” for women. Also, Native women worked in occupational fields such as domestic service that were racialized and gendered in a variety of ways. However, labour was also part of a colonial apparatus meant to, among other things, extinguish Aboriginal title and status. In regards to Aboriginal women, employment has been popularly paired with notions of cultural decline and integration.<sup>120</sup>

It was common practice that Indigenous women were paid less for their labour than their non-Indigenous counterparts, and their living conditions directly contributed to placing them in harm’s way.



*In the Home Economics class at the Central School on the St. Regis Reserve, Lucy Benedict (left) and Dorothy Bush learn how to knit. © Government of Canada. Reproduced with the permission of Library and Archives Canada (2019). Source: Library and Archives Canada/Department of Indian Affairs and Northern Development fonds/e010788128.*

As historians Heidi Bohaker and Franca Iacovetta explore, Canada created specific programs to encourage the relocation of Indigenous people to cities in an effort to assimilate and integrate Indigenous people into Canadian society, which varied in success in enticing people to relocate.<sup>121</sup> Specifically, these programs included vocational training for adults and education for children. The Indian Placement and Relocation Program, for instance, was run by the Department of Indian Affairs beginning in 1957, and built on the goals of the state for full integration. The program was extended to men as well, but in different fields. In general, it promoted “social” and “vocational” adjustment in professions like hairdressing, for instance, or clerical support.<sup>122</sup>

Regardless of the programs’ actual rates of success, “success stories” were often features in the branch’s periodical, the *Indian News*, where stories like “Miss Hoff Proves Valuable Clerk” or “Domestic Services Proves Useful Step” celebrated those who had relocated.<sup>123</sup> These stories were celebrations of a perceived anomaly between where Indigenous women “should” be, and



*Indigenous women work in a crab canning factory in Masset, B.C., sometime between 1930 and 1960. Library and Archives Canada/Department of Employment and Immigration fonds/e011051620.*

where they were. As historian Mary Jane McCallum noted, “In many ways, Native women workers styling hair in beauty parlours or moving through the ranks of the nursing profession exist as ‘unexpected labour,’ revealing not their incapacity to be hairdressers or nurses, but the broader assumptions

about Indianness that make Indian hairdressers and nurses seem so anomalous.”<sup>124</sup>

On the heels of these kinds of programs, as well as relocation incentives, relocation was also prompted by the relative lack of services available in many communities, or by women looking for a new start. As Rande C. shared:

When I think about everything, I think about misplacement. For us as Aboriginal people, it’s about misplacement. We were stripped of everything that we know. We’ve been misplaced this entire time. Urban settings such as the Eastside where my mom ended up, it’s because she was misplaced, identity stripped away from her, everything, the essence of who we are as Aboriginal people taken.<sup>125</sup>

As a result of low-paying work, many women were forced into specific neighbourhoods that were targeted and overpoliced because they were inhabited by Indigenous people. It naturally followed that urban Indigenous people were disproportionately harassed and profiled by police and the justice system. Nuisance and zoning laws created ghettos in specific areas of cities,<sup>126</sup> and normalized a public perception of Indigenous people and communities as criminal and dangerous.<sup>127</sup> Building on the criminalization of Indigenous women and 2SLGBTQQA people through the NWMP and the *Indian Act*, as well as the *Criminal Code*, these “zones” contributed – and still contribute – to the criminalization of Indigenous populations. As the United Nations Permanent Forum on Indigenous Issues noted in April 2018, in many countries, both physical violence and legal prosecution are used against Indigenous people to criminalize them, particularly in reference to those defending land and water rights, but also as related to the protection of families and communities.<sup>128</sup>



*Indigenous women graduate from the practical nursing program at the Vancouver Vocational Institute. Here, they are pictured with Mr. Ratcliffe, an Indian Affairs Branch employee. © Government of Canada. Reproduced with the permission of Library and Archives Canada (2019). Source: Library and Archives Canada/Department of Indian Affairs and Northern Development fonds/e007140515.*

The naturalization of some spaces as violent contributed to the devaluation of the lives of the people who inhabited those spaces.<sup>129</sup> That is, there was (and still is) a presumption that people who live in these spaces should not be surprised when violence occurs in their neighbourhood or when they are victims of violence. This kind of victim blaming ignores the complicated history of colonization that has consistently relegated Indigenous people to the margins of society. However, this logic is often used to justify the overrepresentation of Indigenous people in the justice system. It is also used to minimize the impact of crimes committed against Indigenous women, girls, and 2SLGBTQQIA people, by reducing their identities to criminalized labels (for example, “prostitute,” “runaway,” “addict”). These labels focus on individuals and the violence they face, instead of focusing on the systems that perpetuate danger and represent larger violations of the rights of Indigenous women, girls, and 2SLGBTQQIA people.

“WHEN I THINK ABOUT EVERYTHING, I THINK ABOUT MISPLACEMENT. FOR US AS ABORIGINAL PEOPLE, IT’S ABOUT MISPLACEMENT. WE WERE STRIPPED OF EVERYTHING THAT WE KNOW. WE’VE BEEN MISPLACED THIS ENTIRE TIME. URBAN SETTINGS SUCH AS THE EASTSIDE WHERE MY MOM ENDED UP, IT’S BECAUSE SHE WAS MISPLACED, IDENTITY STRIPPED AWAY FROM HER, EVERYTHING, THE ESSENCE OF WHO WE ARE AS ABORIGINAL PEOPLE TAKEN.”

Rande C.

Their movements to and from the city, on the one hand, mark their self-identification with their birthplaces despite their settlement in urban areas, suggesting that the development in cities is not altogether disconnected from communities in rural areas. On the other hand, high mobility reflects a push-pull effect or “conflict with the city,” whereby movement is due in part to the numerous challenges they face, such as securing their cultural identity, finding culturally appropriate services, facing discrimination and violence, and acquiring stable housing. These issues lead to a constant daily restructuring of their lives that can lead others to target them for violence.



# First Nations Relocations: The Case of Eskasoni

The Royal Commission on Aboriginal Peoples (RCAP) identified two different types of relocations imposed on Indigenous communities in the post-Confederation period: administrative and development-related. As the RCAP report explains, administrative relocations were intended to facilitate government access to and control of Indigenous communities. The second type, development relocations, were often carried out as a way to open up land for settler agriculture, therefore displacing those who lived there.

In Nova Scotia in the 1940s, the government undertook a centralization process – a relocation – of several Mi'kmaq communities to Eskasoni, in an effort “to cut the administrative costs of government services to Aboriginal people.”<sup>i</sup> As relocatee Blaire Paul said, “Racism is discrimination. Racism is assimilation. Racism is centralization. Racism is telling the person where to live, what language you have to speak, and this is how you’re going to live.”<sup>ii</sup>

In Nova Scotia, the Mi'kmaq had formed 40 smaller reserves by the mid-20th century. The growing dependence on wage labour within the whole of the Canadian economy disrupted the way of life of the Mi'kmaq, like many others, and made life financially precarious in many cases. The Great Depression also impacted these communities, and many residents turned to the federal government for help. As RCAP explains, “As the cost of supporting the Mi'kmaq began to rise, Indian Affairs looked for ways to reduce expenditures;”<sup>iii</sup> eventually finding a solution in a report by a local Indian agent, written in 1941, who recommended centralizing the Mi'kmaq into two larger communities: Eskasoni, on Cape Breton Island; and Shubenacadie, on mainland Nova Scotia. The agent felt that regrouping people in larger communities would improve their economic lot, reduce costs for the government, and encourage more efficient administration of services to the Mi'kmaq.

Eskasoni was already a reserve at this time. First charted by the Surveyor General of Cape Breton in

1832, there were few families living there at that time. In 1834, Eskasoni became a reserve including about 2,800 acres (1,133 hectares) of land.<sup>iv</sup>

The government began centralizing people to Eskasoni in 1942. Between 1942 and 1949, 2,100 Mi'kmaq were “pressured to relocate to Eskasoni or to Shubenacadie.”<sup>v</sup> Further, and as RCAP points out, “relocation affected the life of the Mi'kmaq in Nova Scotia more than any other post-Confederation event, and its social, economic, and political effects are still felt today.”<sup>vi</sup> The government convinced the Grand Chief to sign a letter in support of the plan. The government took this letter as evidence of relocation, despite the fact that interviews conducted with residents later on clearly demonstrated how the community had not been properly consulted, and had not consented to the moves.<sup>vii</sup>

For relocatees, conditions at Eskasoni and at Shubenacadie were overcrowded and, in many cases, unsafe. In addition, although the Department of Indian Affairs had promised benefits such as new jobs, homes, and better schooling for the children, along with medical services and other opportunities, this was not what many people found, due in large part to simply not having enough space or resources in place for them.<sup>viii</sup> For example, “flawed construction plans, incompetent supervision and delayed supplies of materials resulted in only ten houses being built on each reserve by 1944.”<sup>ix</sup> What is worse, those people who wanted to return to their home communities after being relocated sometimes



couldn't: the community's own history documents that "Indian Agents would often destroy Native homes once they had been relocated to Eskasoni."<sup>x</sup>

Conditions at Eskasoni were dire. As Marie Battiste describes, many families lived in overcrowded situations, including her. Her parents moved in with her mother's cousin, and the two families, combined, had eight children. Two or three families living in one house created issues because many of the homes were built only as shells, without insulation or any interiors.<sup>xi</sup>

The economies of scale envisioned at Eskasoni didn't materialize, and efforts to expand agriculture were stymied by poor decisions on the part of officials, who, for instance, replaced cows with goats that ate the fruit trees, and sprinkled the potatoes with kerosene to keep people from eating them.<sup>xii</sup>

For women who had worked to manage their small-scale but successful farms prior to relocation, or who had participated in seasonal berry harvesting in Maine, the relocation also placed them in a vulnerable position. Dependent on their partner's wage labour, or on government assistance, many women were forced into unsafe situations created by government intervention.

Today, Eskasoni continues to face problems. In 2017, APTN National News ran a story featuring Kiara Denny Julian, 18 at the time, who reported how a passerby in a truck harassed and scared her on her way home from work. Fellow Eskasoni resident Sasha Doucette explained that these incidents were not uncommon, and hoped the Royal Canadian Mounted Police would take them more seriously. She said, "I just don't know what is being done about them. They are trying their best to pick up little girls and lord knows what they want them for."<sup>xiii</sup> A recent rise in drug and sex trafficking in the community was cited as a possible reason for the harassment.

Eskasoni also struggles with housing, which places many women in precarious situations. In 2017, Suzanne Patles, a Mi'kmaw anti-fracking activist and member of Eskasoni First Nation, was evicted from the apartment she had lived in for over 11 years,



*A Mi'kmaw family is pictured in Elmsdale, Nova Scotia, 1891. Source: Library and Archives Canada/Natural Resources Canada fonds/ a039851.*

along with her partner and three children. Though the landlord explained that the eviction was linked to a noise complaint, Patles said she never got any warning. In addition, Patles was not able to obtain any official or written reason for the eviction. She explained how the eviction would have serious impacts for both her and her children: "I'm an indigenous woman who is being ostracized from my community because I have nowhere to go.... One of my kids is in the [Mi'kmaq] immersion program; a program that is not offered anywhere else in the entire world."<sup>xiv</sup> Ultimately, Patles had to leave her oldest children with her siblings so that they wouldn't be ripped from a community they knew and loved so much.

Youth suicide has also been a problem at Eskasoni, as in many communities. In 2010, the *Cape Breton Post* reported that there had been four confirmed suicides and another five drug- and alcohol-related deaths from 2008 to early 2010, based on the statistics available. But band administrators added that the actual numbers might be much higher, based on the number of deaths ruled accidental. Maxine Stevens, then the communications officer for Eskasoni, explained:



“When something like this happens in the community, it doesn't only affect a family, it affects everybody around that family as well because it's such a close-knit community. Everybody knows everyone.”<sup>xv</sup> The deaths were prevalent mostly among young people in their late teenage years until their early 30s, with a reported average age at Eskasoni of 21. Jaime Battiste commented, “I'd say it's more frequent than car accidents. It's either overdose or suicide. That's the norm in the community, unfortunately.”<sup>xvi</sup>

At the time, the unemployment rate in Eskasoni was 25%, and no crisis shelter existed. The community received capital funds to build the facility, but it did not receive any operational funds – meaning that while the community might be able to build the shelter, it could not pay anyone to work there or to operate it. In 2018, the *Chronicle Herald* reported two suicides in two weeks at Eskasoni.

The income levels for residents remain among the lowest average in the province.<sup>xvii</sup> In addition, the 2016 “Report Card on Child and Family Poverty in Nova Scotia” reported that the poverty rate for

children in Eskasoni was as high as 75.6%.<sup>xviii</sup> As Eskasoni resident Elizabeth Marshall explained, “I'm not shocked. I see the unemployment here, I see the poverty, I see the people coming to ask for help. I don't like to talk about these things because it's painful to see people suffering.” She added that many people in Eskasoni, including herself, were surviving on welfare – a reflection of the poor planning behind centralization that took people from more secure circumstances, in many cases. As Marshall noted, “You see the malnutrition. You see children in poor health. For my culture, where we always had an overabundance of food and where we share an abundance of food, it's very strange that we have to be so poor.”<sup>xix</sup>

As this case study has shown, many of the challenges engendered by centralization continue to haunt communities like Eskasoni today, and directly contribute to placing Indigenous women, girls, and 2SLGBTQIA people in danger in these communities. But the issues go beyond interpersonal violence to engage colonization, institutional inaction, and ongoing social, economic, and political marginalization that reinforces, rather than addresses, these barriers to basic human rights.

I RCAP, *Looking Forward Looking Back*, 397–98.

II Ibid., 400.

III Ibid., 401.

IV Eskasoni Mi'kmaw Nation, “History.”

V RCAP, *Looking Forward Looking Back*, 401.

VI Ibid.

VII Ibid., 402.

VIII Eskasoni Mi'kmaw Nation, “History.”

IX RCAP, *Looking Forward Looking Back*, 402.

X Eskasoni Mi'kmaw Nation, “History.”

XI Marie Battiste, quoted in Richardson, *People of Terra Nullius*, 67-68. Also cited in RCAP, *Looking Forward Looking Back*, 403.

XII RCAP, *Looking Forward Looking Back*, 403.

XIII Moore, “Precious ones.”

XIV Roach, “Prominent Mi'kmaq warrior evicted.”

XV Pottie, “Eskasoni struggling.”

XVI Ibid.

XVII Census Profile, 2016 Census, Eskasoni 3, Indian Reserve (Census subdivision), Nova Scotia.

XVIII Frank, “2016 Report Card,” 12-13.

XIX Palmett and Tattrie, “Child poverty numbers.”



## The Sixties Scoop and Child Welfare Policies in the First Nations Context

In the 1950s and 1960s, the higher visibility of Indigenous poverty in urban centres, coupled with the growth of the social sciences as a professional field, resulted in new child welfare policies directed at both First Nations and Métis women. However, these were also rooted in the same colonial, racist philosophies that were aimed at dismantling Indigenous relationships, families, and communities. As the residential school system waned, at least outside Quebec and the North, government measures aimed at the apprehension of First Nations and Métis children shifted to child welfare – with many of the same results.



*Alice Semple, Alfred Greenland (in tub), with Ruth and Georgina Greenland, take a walk in Aklavik, Northwest Territories, 1956. © Library and Archives Canada. Reproduced with the permission of Library and Archives Canada. Source: Library and Archives Canada/Rosemary Gilliat Eaton fonds/e010869059.*

The 1951 amendments to the *Indian Act* included a new section that allowed for provincial laws of general application to apply to Indians. As a result, intergovernmental agreements were signed to allow for the provision of education and child welfare by the provinces. Suddenly, the numbers of Indigenous children in care increased as much as 50-fold, and soon Indigenous children represented a third of all children in care.<sup>130</sup>

The increase of children in care was motivated by several factors, including the closures of several residential schools during this period. The child welfare system quickly became a new way of stealing children, based on assumptions about Indigenous women as unfit mothers – including those who were seeking help in fleeing from violence in their own communities. In addition, state-imposed poverty due to underdevelopment on reserves, in education and in employment services, meant that many families – and women in particular – were stigmatized, not as a result of their own actions, but of those structural factors that bound them in impossible situations.



*An unidentified Indigenous woman is pictured in her home with her child in Fort Smith, Northwest Territories, 1947. Source: Library and Archives Canada/Department of Indian Affairs and Northern Development fonds/e010750216.*

The Sixties Scoop, as it is known now, marks a period from the late 1950s until 1990 during which, it is estimated, more than 20,000 Indigenous children were taken from their mothers, families, and communities.<sup>131</sup> During this time, children were apprehended by the thousands, swiftly, and with little to no regard for culture (both in assessing children’s situations and in their placement with non-Indigenous families) and no regard for the children’s well-being, or the well-being of their families and communities. The process of apprehending children varied across jurisdictions. Some mothers were told their baby was stillborn,<sup>132</sup> some were coerced into signing adoption papers while medicated.<sup>133</sup> As we heard in many testimonies, Indigenous mothers were convinced or tricked into believing that the welfare of their newborn babies was better managed by the Canadian state.

In Saskatchewan, the process was formalized into programs such as the Adopt Indian Métis program, from 1967 to 1969, as a targeted program to increase adoptions of First Nations and Métis children already overrepresented in the child welfare system. Initially funded by the Government of Canada’s Department of Health and Welfare – which had, in the 1940s, expressed strong opinions regarding the need for Indigenous Peoples to assimilate – it included advertisements of First Nations and Métis children “on television, radio and newspapers across southeastern Saskatchewan [that] would induce families to investigate transracial adoption.”<sup>134</sup> The program ignored underlying social and economic factors contributing to the inflated number of children in care, and, instead, placed blame on Indigenous families as failing to provide loving homes.<sup>135</sup>

Many adoptees were told that their families no longer wanted them. Bonnie F. testified:

I recently received a file from child welfare, and I have been researching myself and trying to make sense of the whole ordeal. I am still dealing with some of the issues I endured during this time. I was saddened to read about my mother fighting for me in a letter she wrote to get me back. On the other hand, I was so happy she did because the



letters proved her love for me after all these years I had been told that she hated me and that she wanted me dead. I grew up fearing a monster and having my nightmares in my younger years. My foster home completely brainwashed me that my mother was truly evil and wanted to kill me, and I believed them.<sup>136</sup>

In this case, Bonnie also became subject to years of abuse within the foster home environment that served to continued to impact her later in life.

In tandem with the residential school system, the child welfare system, therefore, became a site of assimilation and colonization by forcibly removing children from their homes and placing them with non-Indigenous families. Foster and adoptive families were consistently found out-of-province, and often out-of-country. Out-of-province or out-of-country adoptions made it extremely challenging for adoptees to be repatriated by their families and communities.



*A nurse's aide feeds a baby at the Aklavik Anglican Hospital in Aklavik, Northwest Territories, n.d. © Library and Archives Canada. Reproduced with the permission of Library and Archives Canada. Source: Library and Archives Canada/Rosemary Gilliat Eatofonds/e010799871.*

Many of our testimonies cite the direct connection between the Sixties Scoop and child apprehension and the violence they suffered as Indigenous women, girls, and 2SLGBTQQIA people. As Cynthia C. shared about herself and her siblings, “We were all part of the Sixties Scoop, so after suffering abuse in foster homes, we all ran away and grew up on the streets, the same streets our mother grew up on.”<sup>137</sup> A form of violence in itself, as well as leading to more violence, these systems caused many of our witnesses to lose loved ones – both historically and today. As Shaun L. explained:

The Sixties Scoop hurt my brother Terry and me. When it takes almost 50 years to heal by someone else’s actions, that’s a steep price. To start living and enjoying life at 50 years of age, it’s a bit of a rip-off.... I don’t have any stories of my mom and me. I don’t have any sense of her in my life. There is a gap inside [me] that nothing will fill. I think it is meant for her love.<sup>138</sup>



The events surrounding the Sixties Scoop and its effects are much less documented in Quebec than in the rest of Canada because of Quebec's different socio-political context. Indian residential schools began to open in Quebec around the same time that the Sixties Scoop gained momentum in the rest of Canada. Moreover, religious authorities still present in First Nations communities held considerable power within the context of child welfare, and, until the early 1970s, several hospitals were also administered by religious orders.<sup>139</sup> In addition, the deployment of child welfare and protection services came slightly later, with the *Loi sur la protection de la jeunesse* coming into force in 1979.<sup>140</sup>

As a result of a combination of these factors, the Sixties Scoop was administered differently in Quebec, and in much closer cooperation with representatives of the church, in communities and in hospitals. Hospitals also denied parents the opportunity to see their children and to recover their bodies if they were told they had passed away, and some families have never even received a death certificate.<sup>141</sup>

As in the rest of Canada, the Sixties Scoop as manifested in Quebec has led to an overrepresentation of First Nations children in child welfare systems. Indeed, when the *Loi sur la protection de la jeunesse* came into force in 1979, 6% of children in provincial care were First Nations while they represented only 0.7% of children of Quebec.<sup>142</sup> This overrepresentation has worsened over time, and, as of 2016, stood at 17%, according to the 2016 census. While the rate is still lower than in the rest of Canada, proportionally it is high, as it is all over the country.

## Colonial Encounter: Distinctive Métis Experiences

Métis experiences in the context of colonization share much in common with those of First Nations, with some notable exceptions. Linked through marriage to their First Nations parentage, the Métis arose during the fur trade, when Métis women and girls suffered their own experiences that were both similar, and distinctive, to those of their First Nations relatives. Primarily, the distinctiveness of Métis experiences concerns the lack of services and supports offered to Métis populations, as well as concerted efforts to separate them from First Nations relatives through the apparatus of the state. In addition, the history of colonization has further generated a hierarchy of identity, resulting in conflicts within the Métis community and drawing attention away from the ongoing marginalization that Métis women, girls, and 2SLGBTQIA people face.

### **Métis Women, the Fur Trade, and Early Settlement Life**

Historians Sylvia Van Kirk and Jennifer Brown have explored how the process of becoming a distinct Nation was, for Métis, structured around women's roles in the fur trade. Throughout the 17th and 18th centuries, as the fur trade expanded across central and western North America, many unions were formed between European traders and Indigenous women. The children born to these encounters were often raised with cultural knowledge of both their Indigenous and



European parents, but it was the kin connections of their mothers that led to the emergence of distinct Métis communities, and eventually a distinct Métis Nation, which coalesced at Red River and other points in the Northwest.

Métis women were present in the fur trade, which was a social and cultural system with women at its very core. Like First Nations women, Métis women produced trade goods such as clothing, which included their beaded designs. They also produced other staples such as pemmican. Pemmican was a form of dried meat that was easy to transport and an important source of protein. The labour of Métis women was essential to pemmican production and, by extension, the profitability of the fur trade overall, as well as the viability of distinct Métis communities such as Red River. Métis women would travel between the trading posts in Red River and the bison hunting grounds on the open prairie, performing critical labour in pursuit of the hunt. While Métis bison hunting brigades were organized around male captains, the role of women, as wives but also as partners, was recognized and valued.<sup>143</sup>



*Métis people pictured with red river carts on the prairie, ca. 1872-1873. Source: Library and Archives Canada/National Photography collection/e011156506.*

Métis women eventually replaced First Nations women as fur traders' wives, due to their fathers' tendency to educate them in the European way and as a direct result of the NWC policy that banned marriage to First Nations women for its employees as of 1806. Still, within the context of "country marriages," Métis women remained vulnerable.

As more European women began to come to Canada, husbands could simply abandon their country marriages, and many did, as in the case of Governor George Simpson, governor of the Hudson's Bay Company at the height of its power. Simpson fathered thirteen children with at least eight different women, many of whom were Indigenous.<sup>144</sup> Betsy Sinclair, a Métis woman, was given to an accountant within the company, whom Simpson promoted. He also had children with Margaret (Marguerite) Taylor, a Métis woman, whom he left shortly thereafter to marry Frances Ramsay Simpson, a European cousin who arrived in Red River in 1830. He failed to notify Margaret Taylor of his new marriage to Frances, or to make any arrangements for his sons by



her, George Stewart and John Mackenzie. Frances, George Simpson's new wife, was the harbinger of things to come. After 1830, more European women started to arrive in the Northwest, and the social status of Métis women as wives declined, leaving them vulnerable to abandonment and poverty.<sup>145</sup> However, European women remained a small minority in the Northwest until the 1880s and were mostly concentrated at Red River.

As Métis communities such as those at Red River developed unique social and political cultures, they faced constant pressure from European institutions, such as the HBC and Christian churches, to conform to patriarchal land tenure and economic systems, as well as social relations. As the power of the Canadian state formed and increased during the 19th century, friction arose between this European paternalistic world view and the traditional practices of Métis rooted in their maternal knowledge. The imposition of a Euro-Canadian system of race and gender happened in different places at different times. People at Red River had a longer and more direct connection to European institutions than those further west.

The first clergy arrived in 1818, and the HBC had established itself at Fort Garry in 1822. By 1820, Catholic and Protestant churches had been established at Red River. As Métis were increasingly settled into agricultural communities, often centred on a Christian parish, the clergy exerted more influence over their lives and restricted the influence of Métis women. Christian doctrine was instrumental in forcing Métis women into roles defined by gendered European expectations. Church fathers saw the husband as the head of the family and expected women to adhere to masculine authority. Catholic priests, in particular, related women to biblical Eve and constructed a view of them as naturally sinful.<sup>146</sup>

These gendered ideas would have a negative impact on the position of women in Métis society.<sup>147</sup> In this world view, the position of women was domestic: they belonged in the home and in a marriage. Priests often counselled women to remain subservient in a marriage, no matter the conditions of the marriage, including abusive relationships.<sup>148</sup> The emphasis on masculine authority, as well as the racist attitudes associated with their First Nations or Métis mothers, led many Métis families to assert the "male" heritage of their European ancestors and to hide the origins of their Indigenous grandmothers.<sup>149</sup>

In part, colonial perspectives regarding the danger posed by Métis women were often wrapped up in fears of miscegenation, or "race mixing," overall, and were related to the idea of hiding one's heritage. Colonial authorities, particularly after 1840, used the fears surrounding miscegenation and mixed marriages to promote a higher degree of segregation, or separation, between First Nations and surrounding non-Indigenous communities, as well as between Métis settlements and non-Indigenous communities.<sup>150</sup>

As Sarah Carter explains, miscegenation in this context, as well as in other colonial contexts, was seen as an important source of degenerative behaviour and moral decay, and a threat to a model Euro-normative way of life. Practically speaking, and in reference to the Métis, "Race-mixing also potentially jeopardized Euro-Canadian efforts to acquire Indigenous land," as seen in the *Manitoba Act* of 1870 and in the scrip commissions' works, examined in greater detail later in this chapter.<sup>151</sup> For some people, it also contributed to generations of shame and guilt about their identity.



## Displacement and Danger: Métis Resistance and Government Assault

During the 19th century, the Canadian government twice violently confronted Métis societies on the Prairies to impose its own racial and gendered world view, as well as to remove them from their lands.

As the Canadian state developed and expanded its authority in the wake of Confederation in 1867, it sought to acquire new lands to populate with European immigrants. In 1869, Canada bought Rupert's Land from the HBC, a transaction conducted without the consultation of Indigenous Peoples who inhabited the territory. Concerned about recognition of their title to land, the Métis, led by Louis Riel, established a provisional government and demanded Canada address their concerns. While the actual Métis Resistance of 1869 resulted in little direct conflict, the arrival of Canadian soldiers in 1870 at Red River introduced a new era for Métis and Canadian relations, one defined by lies and violence. The Canadian soldiers sent to Red River to oversee the new province of Manitoba's admission to Confederation were bent on abusing and harassing the Métis population, and drunken soldiers targeted Métis women with insults and abuse.<sup>152</sup>

In reaction to this abuse, in 1870, many Métis families simply moved further west to join other communities in what would become Saskatchewan and Alberta. The reprieve these families sought from Canadian intervention proved to be short-lived as the government continued encroaching into Métis territories.



*A Métis family stands in front of a log house in Buffalo Narrows, Saskatchewan, ca. 1900. Source: Library and Archives Canada/ Department of the Interior fonds/a044552.*

In 1885, Louis Riel returned from exile to lead another resistance against increasing Canadian domination. As historians like Jesse Thistle have demonstrated, Métis women were not silent at this moment. Instead, they were at the heart of the resistance.<sup>153</sup> Thistle's own ancestor, Marianne Morrisette, was present during the Battle of Batoche and assisted Métis forces. She would have



died from Canadian artillery fire had Riel not intervened.<sup>154</sup> Others, including Marguerite Caron and Josephite Tourond, actively participated in military planning and coordination of the resistance.<sup>155</sup> The violence perpetrated against the Métis both during the battle and in its aftermath would stay with women such as Morrissette for their entire lives.<sup>156</sup>

For many Métis families, the violence of Canadian military intervention created a distrust of Canadian institutions, and also increased prejudice against Métis.<sup>157</sup> Defeat, and the subsequent destitution, had the result of legitimizing sexist Canadian perceptions of Métis women and dehumanizing them further.<sup>158</sup> The memories of this violence and the perceptions within Canadian society have led to intergenerational trauma that has negatively affected many Métis women and their families.



*A group of Métis and First Nations prisoners are photographed during the North-West resistance, 1885. Source: Library and Archives Canada/Gilbert Bagnani collection/a118760k.*

## **The Gendered Dimensions of Métis Scrip**

These violent dispersals would be codified into the process of scrip commissions, which had implications for all Métis and for Métis women specifically. Métis scrip, which lasted from 1870 to 1924, was created by the federal government as a way to extinguish the Aboriginal title of Métis communities throughout the Northwest.<sup>159</sup> Scrip came in the form of a federally issued document that entitled the recipient to either land or a cash payment, usually in the form of 80 to 240 acres, or \$20 to \$240.<sup>160</sup> Scrip commissions were set up to treat only with the Métis of Manitoba. However, as Canada pushed further into the Prairies, it became apparent that it would have to deal with Métis living throughout the region.

Even though women could apply for scrip, it was often issued in the name of their father or a brother if they were not married. Those in marriages were not viewed by Canada as heads of households and were thus dependent on their husbands in this patriarchal system. Scrip thus became a means to corral Métis women into easily controlled bureaucratic categories, such as wives without full property rights, that defined identity and gender expectations.<sup>161</sup>



Historians have shown how the process of assigning scrip was intentionally prolonged and unnecessarily complex.<sup>162</sup> The federal government also frequently and unilaterally changed the rules of scrip regulations.<sup>163</sup> Ultimately, these rule changes, as well as government delays in implementing scrip proceedings, meant that most of the land promised to the Métis ended up in the hands of speculators who then sold the land to new immigrants.<sup>164</sup> Instead of providing a solid economic foundation for the Métis, the scrip commissions further eroded Métis rights, destabilized communities, and pushed Métis families further into poverty and marginalization.<sup>165</sup>

Despite these challenges, the life of Mary Norris provides an example of how Métis women used scrip in times of constraint.<sup>166</sup> A prominent fur-trade figure, Norris had married an important European trader. However, as the fur trade diminished, she was cast out by her husband, leaving her with few options. Scrip became a vehicle for Norris to survive (albeit meagerly) in difficult circumstances.

Many Métis women also used the distinctions between the *Indian Act* and Métis scrip to survive in a changing world, since they were able to use both identities. While Métis women found scrip a useful category to navigate, the Canadian state became increasingly concerned with women “taking advantage” of the system.<sup>167</sup> Canada was especially concerned with those who, walking the sometimes permeable line between Métis and First Nations, applied for scrip while in Treaty. Many of those whom the government targeted for dispossession from scrip, labelling them as frauds or as leechers, were women who had married non-Status (both Métis and white) men and had lost their Status. One of the main goals of Canadian settler colonialism was to fully diverge Métis and First Nations communities.<sup>168</sup> Scholars have shown how groups such as the Edmonton Stragglers – “women who received treaty annuity but left for scrip” – were predominantly targeted by these administrative categorizations.<sup>169</sup> This “stragglers’ list” specifically targeted mixed-race women to police the boundaries of racial categories in Canada.<sup>170</sup> Scrip thus became a mechanism to enforce racial and gender boundaries on Métis women, while simultaneously severing Métis families from their lands.

## Métis Girls and Residential Schools

Like thousands of First Nations, many Métis also attended residential schools or day schools designated for “Indians.” In some cases, the failure of their parents to pay property tax (as so-called squatters, in Métis settlements adjacent or near to reserves) disqualified Métis children from attending regular school. In other cases, the fact that Métis settlements had been created near reserve communities meant that Métis students would also attend Indian residential schools. As Métis historian Tricia Logan says, because schools were funded per student,

Métis children were used to manipulate this per capita system and secure more funding for schools with low attendance. Métis children were the first to be removed or added to attendance lists in order for churches to increase their schools’ attendance and therefore access more funding from the federal government.<sup>171</sup>



Logan points out that school officials arguing to accept more Métis students reminded the federal governments that “such schools were established not to meet treaty obligations towards Indians, but as a means of preventing, in the public interest, a race of wild men growing up whose hands would be against all men and all men’s hands against them.”<sup>172</sup>

In attempt to save money, the Department of Indian Affairs created a three-tiered social class hierarchy of “half-breeds,” to determine which ones should be prioritized to attend residential school. In general, the more “Indian” children looked visually, and the more closely their families were “living an Indian mode of life,” the more likely it was that they would be accepted into residential school.<sup>173</sup>

Residential school staff contributed to further divisions between Métis children and between Métis and other First Nations children. Some nuns openly favoured the “better” Métis (from families with money) over the “poor” Métis (who lived off the land). In another example, Elaine D. shared how having European ancestry, along with Indigenous ancestry, made her a target for the teachers at her residential school.

Because I was Métis, in their school, I should know a little more because I have white blood in me. So when I got in trouble, they would use me as – as an example and I would have to kneel in front of the classroom on my knees at age six, seven, and balance books and they would put three books on my hands and the teacher would slam his – his yardstick on the desk and I would shake and my ears would hurt and then I would cry and I’d tell him I need to go pee and all he would do is put the yardstick under my hand and tell me my hands are unbalanced. So I need to go pee and I need to go poo and he wouldn’t let me, so I would just kneel in front of the class in my feces and in my urine all day. All day I was an example.<sup>174</sup>

Métis children also suffered significant shame and abuse. Some Métis children were called “*le chien*,” meaning “dog” or “mutt.” These students remember “being spoken to, fed, and disciplined as dogs.”<sup>175</sup> Elaine D. recalled:

First, we went to the [day] residential school and every day we were beaten. When recess came, all of us four little Métis kids would run and hide in any crevice we could find. I got caught – like, I don’t know about my sister, but when I got caught, the boys would molest me. They’d pinch my nipples, knee me in the crotch, pull my pants down. All I know is a lot of times I had wet panties and it wasn’t from peeing myself. So the boys would do whatever they wanted.<sup>176</sup>

After the children left residential school, Indian agents were tasked with writing follow-up reports on the former students. Logan writes, “Female students were reported as doing well if they were married to a white man and doing poorly if they were married to a Métis man.”<sup>177</sup> As many Métis Elders and community members who survived residential school shared with Logan, Métis students felt as though they were outsiders, and were taught to judge each other and internalize their oppression.<sup>178</sup>



## Métis Economic and Political Marginalization

Even before the financial crash known as the Great Depression, many Métis women and their families were living in poverty on the margins of Canadian society. Despite all the issues with scrip, it had served as a source of much-needed cash for Métis women and their families during hard times.

After 1924, the federal government ended the work of scrip commissions, as it felt it had adequately dealt with Métis Aboriginal title. Since Métis were not covered by the *Indian Act*, the federal government believed it had no further obligations with respect to Métis rights. This belief was further engrained as Canada began to transfer jurisdiction over lands and resources in the three prairie provinces to their respective governments. The federal government thought that any remaining responsibility to the Métis would pass to the provinces with rights to lands. However, Alberta, Saskatchewan, and Manitoba refused to accept that they inherited any responsibility for the Métis, especially if it entailed an additional financial burden.<sup>179</sup>

During the lean years of the Great Depression, both levels of government would take any opportunity to reduce their budgets.<sup>180</sup> In the political negotiations over what would become the *Natural Resources Act*,<sup>181</sup> which transferred responsibility to the provinces, the Métis became a convenient group to ignore. It was at this time that the Métis became lost in the gap between federal and provincial governments. Both levels of government were still aware of the plight of Métis, but neither wanted to take responsibility for the financial obligations. This neglect structured the relationship Canadian governments had with Métis women, girls, and 2SLGBTQQIA people. As Métis were further marginalized, their communities were increasingly targeted by alcohol dealers who preyed on poverty and misery,<sup>182</sup> conditions that exacerbated the abuse of women and girls.<sup>183</sup>

“FIRST, WE WENT TO THE [DAY] RESIDENTIAL SCHOOL AND EVERY DAY WE WERE BEATEN. WHEN RECESS CAME, ALL OF US FOUR LITTLE MÉTIS KIDS WOULD RUN AND HIDE IN ANY CREVICE WE COULD FIND. I GOT CAUGHT – LIKE, I DON’T KNOW ABOUT MY SISTER, BUT WHEN I GOT CAUGHT, THE BOYS WOULD MOLEST ME. THEY’D PINCH MY NIPPLES, KNEE ME IN THE CROTCH, PULL MY PANTS DOWN. ALL I KNOW IS A LOT OF TIMES I HAD WET PANTIES AND IT WASN’T FROM PEEING MYSELF. SO THE BOYS WOULD DO WHATEVER THEY WANTED.”

Elaine D.

By the 1950s and 1960s, many Métis were living either on the urban fringes of cities in what were condemned as shantytowns, such as Rooster Town in Winnipeg,<sup>184</sup> or in rural communities along government road allotments known as “road allowances.” Those living in the marginal spaces at the edge of Canadian society became known as the “Road Allowance People.” Road allowance communities were established by Métis in the aftermath of the failure of many families to receive their lands guaranteed by the *Manitoba Act*, as well as within the context of the



persecution of the Métis after 1885. They were set up on road allowances, lands claimed by the government for future public works – roads – where Métis were considered squatters. Many communities were destroyed by the RCMP – in fact, some Métis Elders vividly recall the day their community was burned to the ground, and when people escaped with little more than the clothes on their backs.

For those communities not destroyed in this way, life was still hard, particularly when government intervened with schemes designed by non-Métis to address Métis realities. This life is most vividly documented by Métis author, playwright, broadcaster, filmmaker, and Elder Maria Campbell in her 1976 memoir, *Halfbreed*. Campbell's story recounts how her family and her community circled further into poverty as the Co-operative Commonwealth Federation (CCF) government of Saskatchewan attempted to solve the "Métis problem" through social reform. The poverty that many Métis lived in – especially the southern Saskatchewan Métis, who were more visible than those in the more remote northern communities – was viewed by North America's first socialist government as a public issue that could be solved through social planning. Building off a previous Liberal experiment at Green Lake, the CCF, under Tommy Douglas, elected in 1944, set up several Métis colonies, which were designed as model farms in which Métis heads of families would learn skills to maintain a modern farm under the supervision of white instructors. These colonies were seen as a rehabilitation scheme inspired by Christian humanitarianism, and, as such, would be closely managed in conjunction with the Catholic Church. Each colony would maintain a school, which functioned as a means to integrate Métis into the modern workforce.



*Ronnie and Frank Cardinal of Rooster Town, Manitoba, get ready to walk a full mile to get a can of water, 1951. University of Manitoba Archives & Special Collections, Winnipeg Tribune fonds, PC 18 (A1981-012), Box 59, Folder 5784, Item 3.*



However, by the 1960s, the colony scheme had failed, partially because many Métis found them to be “alienating and unworkable,” but also because many people within the government continued to blame the Métis for their own poverty. Despite the professed intentions of the CCF, many officials continued to view the Métis within racial stereotypes that affected the expectations of the project. These officials saw continued Métis failure to integrate into mainstream Canadian society as due to an inherent flaw of the Métis character, and not due to the failures of government social planning. The solutions that Tommy Douglas’s government attempted did not consider a Métis perspective, and amounted to little more than a high-handed attempt to restructure Métis life according to Canadian racial and gender expectations.<sup>185</sup>

The social, political, and economic marginalization of Métis women and girls created circumstances in which police mistrust and, in some cases, police abuse, took place. Maria Campbell’s original version of *Halfbreed* included a description of a critical incident in Campbell’s life. As she described it, at the age of 14, RCMP arrived at her home to question her family about poaching. During this visit, Campbell was dragged by an RCMP officer into her grandmother’s bedroom and raped. As she recounts, her grandmother found her and helped her to cover it up, insisting that she not tell her father:

She told me not to tell Daddy what had happened, that if he knew he would kill those Mounties for sure and be hung and we would all be placed in an orphanage. She said that no one ever believed Halfbreeds in court; they would say that I had been fooling around with some boys and tried to blame the Mounties instead.<sup>186</sup>

Many Métis women living in smaller communities, like First Nations women, migrated to different Canadian centres, looking for better futures. As Maria Campbell describes of her arrival to Vancouver:

The city was beyond my wildest imagination! It seemed to go on without end. As we drove along in the cab, I pressed my face against the window and drank in everything around me.... The people all looked rich and well-fed. The store windows were full of beautiful displays, lots of food, clothes, and all the things a person could possibly need to be happy.<sup>187</sup>

Yet, this is not the outcome of Campbell’s story, and her hopes for the city were soon replaced by the need to engage in the sex industry as a means for survival and to provide for herself and her children.

As this example demonstrates, the promise of the city wasn’t necessarily what many Métis women encountered, and the anonymity and size of urban centres could often lead to the exploitation of Métis women, girls, and 2SLGBTQIA people. The resulting isolation, from both family and community, could result in a greater likelihood of violence, without access to certain services or supports that would have been provided by programs oriented toward urban First Nations women.



## Métis People, the Sixties Scoop, and Child Welfare Today

As was explained within the context of First Nations experiences, the “Sixties Scoop” refers to the wholesale removal of children from their families, beginning in the 1960s and up to 1990. The ongoing apprehension of Métis children within the child welfare system today also contributes to violence against Métis women, girls, and 2SLGBTQQIA people.

In Logan's report, “A Métis Perspective on Reconciliation,” Michif Elder Rita Flamand said this about the removal of Métis children from their communities during the Sixties Scoop:

“That’s the time when they started picking up kids later on, when the lake started to dry up and there was no fish in the lake, the people were starting to have a real hard time in the community and that’s when they took the kids. They should have helped the parents to keep the kids ... they just took the kids and didn’t help the people.”<sup>188</sup>

Métis children were not reliably identified as Métis, which means we can only guess at how many Métis children were part of the Sixties Scoop. More importantly, many Métis children may not even be aware of their heritage. This is a problem that continues today, since Métis children adopted out may not be properly identified as Métis, or private adoption agencies without cultural safety planning may allow adoptive families to “mask” the child’s Métis heritage.<sup>189</sup>

Manitoba, the “homeland of the Métis,” was the last province to put an end to out-of-country adoptions during the Sixties Scoop.<sup>190</sup> However, due to intense lobbying on the part of the Manitoba Metis Federation (MMF), the Manitoba government put a moratorium on out-of-province placements in 1982.<sup>191</sup> The MMF increased its advocacy work on Métis control of child welfare in the following decades, and Manitoba is currently now the only province to have a designated Métis Child and Family Services Authority.<sup>192</sup>

Despite this progress, the numbers don’t lie. The loss of children within a system that is supposed to be protecting them is an ongoing source of violence against Indigenous women and girls, including the Métis. Elaine D. shared how this has had long-lasting impacts for her and her children.

I’m part of the foster care for the Sixties Scoop and part of the residential school. I’m part of the healing process.... [My kids] didn’t understand. They didn’t know my story. I tell my story so that my grandkids will understand, yeah. I want people to understand that wounds – open wounds, they – they don’t heal, they just get scars. And believe me, I’ve got enough of my scars, not only on my outside, but in my spirit, in my heart, in my soul.<sup>193</sup>

In 1989, the Métis National Council published a national briefing paper that gave voice to what so many Métis families had known all along: that provincial child welfare staff had “little sensitivity to Métis culture or values.”<sup>194</sup> As historians Lawrence Barkwell, Lyle Longclaws, and David Chartrand argue:



The result is that a disproportionate number of Métis children are being taken into care, many for no other reason than the real-life Métis situation of living in poverty and overcrowded conditions.... Poverty has never been an acceptable reason for depriving children of their natural parents and their place in the extended family. The fact that the practice is so prevalent in Métis communities suggests the degree to which the Métis are a devalued people as well as the degree to which provincial family and child welfare institutions and Métis society are alienated from each other.<sup>195</sup>

Federal and provincial governments' long history of denying the existence of Métis rights and marginalizing Métis families has made it harder for Métis governments to gain control over child welfare. Métis child and welfare services are generally funded by the province or territory, as opposed to being federally funded, although, as Métis scholars Jeannine Carrière and Catherine Richardson explain, "Métis children continue to receive strikingly low levels of funding for child welfare and family service."<sup>196</sup>

Most provincial and territorial child welfare legislation includes some kind of directive to include Indigenous Peoples in cases involving Indigenous children. But the vast majority fail to name or propose a way to work with the Métis, relying instead on the overarching term of "Aboriginal" or "Indian." For example, the most common Indigenous provision in child welfare legislation is the requirement to notify an "Aboriginal" band of court hearings involving "Aboriginal" children. However, there is no equivalent given for Métis.<sup>197</sup>

"I'M PART OF THE FOSTER CARE FOR THE SIXTIES SCOOP AND PART OF THE RESIDENTIAL SCHOOL. I'M PART OF THE HEALING PROCESS.... [MY KIDS] DIDN'T UNDERSTAND. THEY DIDN'T KNOW MY STORY. I TELL MY STORY SO THAT MY GRANDKIDS WILL UNDERSTAND, YEAH. I WANT PEOPLE TO UNDERSTAND THAT WOUNDS – OPEN WOUNDS, THEY – THEY DON'T HEAL, THEY JUST GET SCARS. AND BELIEVE ME, I'VE GOT ENOUGH OF MY SCARS, NOT ONLY ON MY OUTSIDE, BUT IN MY SPIRIT, IN MY HEART, IN MY SOUL."

Elaine D.

## Colonial Encounter: Distinctive Inuit Experiences

### First Encounters with *Qallunaat*

While Inuit women, girls, and 2SLGBTQQIA people share some similar experiences of colonization with other Indigenous Peoples, there are also many differences. For Inuit, important distinctions in time and place are a key feature of their distinguishing experiences of violence.

As Director of Social Development Hagar Idlout-Sudlovenick recounted at the National Inquiry's hearing in Iqaluit, the arrival of the *Qallunaat* (white Europeans) was an important and irreparable imposition in the North.

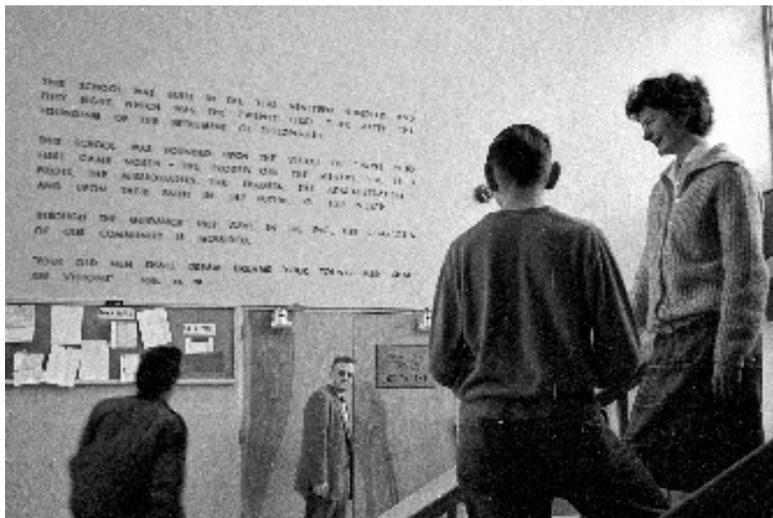


When Qallunaat first arrived to the North, they were very scary, such as RCMPs.... When they tell people, Inuit people, to do this and that, we had to – we had no choice but to say yes, and that’s from being scared, fear.... They came into the communities as if they were higher than Inuit, and Inuit feared these Qallunaats.<sup>198</sup>

Inuit first interacted extensively with European whalers and fishermen, whom they called “Qallunaat.” Labrador Inuit encountered fishers and whalers relatively early in the colonization process (as early as the 16th century). In other regions of Inuit Nunangat, however, Inuit did not interact with whalers until the second half of the 19th century.<sup>199</sup>

Over time, whalers began to hire Inuit to do various jobs, including working on whaling crews and provisioning whalers with meat and clothing. By the late 19th century, bowhead whale stocks had declined substantially, depriving Inuit of a resource that had been a cornerstone for some communities. As a result, in the early 20th century, commercial whalers stopped visiting most areas of Inuit Nunangat.<sup>200</sup>

The decline of commercial whaling coincided with the expansion of the fur trade into Inuit Nunangat. Driven by a jump in the market value of Arctic fox furs, the Hudson’s Bay Company expanded its network of trading posts into the Arctic in the early 20th century. In the 1920s and 1930s, rival companies and independent traders also established operations in the region. These posts also hosted American military personnel, missionaries, and a variety of traders. Over time, Inuit became dependent on the goods supplied by fur traders. This dependency was an important factor in the power Qallunaat would later hold over Inuit.<sup>201</sup>



*This wall inscription appears at a school in the Northwest Territories, 1959, citing the vision of “those who first came north,” including prospectors, miners, missionaries, and others – without mentioning those who were already there, or the way they were displaced. Source: Library and Archives Canada/National Film Board of Canada fonds/e011177356.*

## Sexual Encounters and Exploitation with the Qallunaat

Canada’s claims of sovereignty within the Arctic provided the grounds for the introduction of a Canadian justice system, and laid the foundation for the role that the Royal Northwest Mounted Police, and later the RCMP, would play in Inuit Nunangat in the early 20th century, by applying



Canadian laws in the Arctic territory. Their responsibilities were broader than other police postings. In addition to law enforcement, they were required to gather census information and aid Inuit in emergency situations. The RCMP played an important role in establishing the Canadian state's authority over Inuit society and its claims of Arctic sovereignty over Inuit Nunangat.<sup>202</sup>

These early colonial encounters in Inuit Nunangat resulted in many sexual relationships between Qallunaat men and Inuit women. Historian W. Gillies Ross documented significant “sexual liaisons” between Inuit women and Qallunaat whalers and police officers. For example, between 1897 and 1911, over 60% of recorded Inuit births near Cape Fullerton harbour were attributed to Qallunaat fathers.<sup>203</sup>

Many of these relationships were no doubt consensual, and some were probably driven by the sexual desires of Inuit women. Historian Dorothy Eber documents the relationship between American whaling Captain George Comer and Nivisinaaq (an Inuk woman and community leader known as “Shoofly” to the whalers). According to Eber, the relationship between the two was “both warm and enduring.”<sup>204</sup> Both Inuit oral history and Comer’s journals record that he cared deeply for her well-being and, after the whaling era ended, regularly sent her gifts until her death.

In other cases, however, the dynamics were very different. In some circumstances, Inuit women may have consented to their liaisons with Qallunaat men and may have even initiated them. However, this does not mean that they were not being taken advantage of, and neither does it mean that they did not suffer negative repercussions with regards to their social, emotional, and physical health. For example, the Qikiqtani Truth Commission<sup>205</sup> found that relationships between Inuit women and RCMP officers frequently “resulted in both anguish for the women and lingering hurt for children who never met their fathers and were physically different than others in their community.”<sup>206</sup>



*A group of Inuit women are photographed in front of the RCMP detachment in Frobisher Bay, Northwest Territories, ca. 1950. © Government of Canada. Reproduced with the permission of Library and Archives Canada (2019). Source: Library and Archives Canada/ Department of Health fonds/e004665194.*



In many instances, the liaisons between Qallunaat men and Inuit women were clearly coercive and abusive. The Qikiqtani Truth Commission found that “some RCMP used their position of authority to coerce Inuit women into sexual acts.”<sup>207</sup> Rhoda Akpaliapik Karetak, an Elder from the Arviat area, recounted the historic sexual abuse of Inuit women by the RCMP in a documentary film.

Some RCMP officers used to beat and rape us women. They took us into another room and locked the door. I was beaten and raped but had no one to turn to. We didn’t know they weren’t supposed to act like that. Even if we had been informed of our rights, as Inuit we couldn’t speak up. Years later, looking back, I would get very angry.<sup>208</sup>

July Papatsie told the Qikiqtani Truth Commission that a similar dynamic existed in the Qikiqtani region.

With that much power they could do anything they wanted to do.... The RCMP could do anything they wanted with any woman that was living up north. Anything. Now that woman who was forced sexually by this officer cannot talk back, has nowhere to go and complain. Her husband knows but cannot do anything, is powerless.<sup>209</sup>

“SOME RCMP OFFICERS USED TO BEAT AND RAPE US WOMEN. THEY TOOK US INTO ANOTHER ROOM AND LOCKED THE DOOR. I WAS BEATEN AND RAPED BUT HAD NO ONE TO TURN TO. WE DIDN’T KNOW THEY WEREN’T SUPPOSED TO ACT LIKE THAT. EVEN IF WE HAD BEEN INFORMED OF OUR RIGHTS, AS INUIT WE COULDN’T SPEAK UP. YEARS LATER, LOOKING BACK, I WOULD GET VERY ANGRY.”

Rhoda Akpaliapik Karetak

## Imposing Christianity among Inuit

Christian missionaries also established a permanent presence in Inuit Nunangat in the early 20th century. By the 1930s, most Inuit had become members of various Christian churches.<sup>210</sup> Missions disrupted the relationship between Inuit men and women. Inuk scholar Lisa Koperqualuk explained that the transition to Christianity resulted in a decline in Inuit women leaders in Nunavik, because Anglican missionaries did not recognize women’s leadership. As she explains, “In the early days, it was not unheard of to have Inuit women *angakkuit* and leaders, though it was limited. When a new era of Christianity began in the early 20th century however, it shut the door on women.”<sup>211</sup> Therefore, the church helped impose patriarchal gender relations on Inuit society, as it had previously done in many First Nations.

Medical care was often tied into a narrative of conversion. Sarah Stringer, a nurse at Herschel Island in 1897, wrote of how she hoped that the successes of Western medicine could convince Inuit to give up their traditional practices.<sup>212</sup> In the eyes of missionaries, those Inuit who became Christian were often more willing to abandon traditional medical practices in favour of Western medicine.



Reverend David Marsh described such a process in his account of how his wife, Winifred, convinced a converted Inuit woman, Caroline Gibbons, to give birth using Western practices. Marsh recounted how Winifred's first task was to displace the traditional Padlimiut women healers and deny them access to the pregnant woman, so as to remove their influence. This encounter was framed in language that emphasized the dangers of traditional practices and the authority of Western medical practitioners.<sup>213</sup>



*An Inuk man speaks with two missionaries, 1953. Source: Library and Archives Canada/Department of Indian Affairs and Northern Development fonds/e010674338.*

## Government Interventions and the Assimilation of the Inuit

Prior to 1940, the Canadian state had maintained a *laissez-faire* (or “hands off”) approach to Inuit. The federal government initially decided not to apply to Inuit the assimilatory practices that were fundamental to the colonization of First Nations, like the *Indian Act*. While government provided “relief” to destitute Inuit groups that had become dependent on the fur trade in the 1920s and 1930s, its policy was that Inuit were best left as hunters and trappers living “on the land.”<sup>214</sup>

This approach began to change during World War Two in the interests of defense,<sup>215</sup> as the state intervened in Inuit society in increasingly intensive ways. The motivations and goals of these interventions changed over time. However, they share many common features. As Inuit politician Mary Simon wrote:

In the period leading up to the 1960s and 1970s, the relationship between the Europeans and Inuit was a grossly one-sided one. We Inuit suffered a steady loss of control over our ability to make decisions – decisions for ourselves and for the lands and waters that have sustained us for thousands of years. We became a colonized people. We were pushed to the margins of political and economic and social power in Inuit Nunangat.



The low points of this one-sided relationship were experienced in the period when entire family camps were wiped out by measles, when Inuit households were coerced into relocating thousands of miles in order to serve agendas developed elsewhere, and when Inuit children were taken away to residential schools.<sup>216</sup>

Inuit usually felt that they had no choice but to go along with the plans developed by government officials. For example, a report by the Qikiqtani Truth Commission explained that Inuit felt they were unable to say “no” when Qallunaat officials told them to send their children away to boarding schools.

Years after dealing with the trauma of being sent away for school at age 7, Jeannie Mike recalled for the [Qikiqtani Truth Commission] a confrontation with her mother. Looking at her own children at seven years old, Jeannie stated she felt compelled to ask her mother, “how could you let me go?” In response, her mother replied, “When Qallunaat asked for something there [was] no choice of refusal.”<sup>217</sup>

The power imbalance that had developed made it difficult, if not impossible, for most Inuit to refuse instructions from government officials. Inuk author and politician Sheila Watt-Cloutier explains that this power relation caused Inuit to view Qallunaat with a type of fear and apprehension that Inuit call *ilira*.<sup>218</sup> This power relationship that made it difficult for Inuit to refuse orders from Qallunaat underwrote all government activities in Inuit Nunangat in the 1940s, 1950s, and 1960s.



# Working with Qallunat: the RCMP Special Constable Program in the Arctic

For the first 70 years of its operations in the Arctic, the Royal Canadian Mounted Police (RCMP) was wholly dependent on Inuit special constables. A report by the Qikiqtani Truth Commission explained how RCMP officers from the South relied on Inuit who filled these roles.

The capacity of RCMP to communicate with Inuit and to survive in Arctic conditions required help from Inuit, both as employees and simply as neighbours providing support in times of need. All regular police detachments were staffed by at least one Inuk employee, normally serving with his wife and children. Beginning in 1936 and continuing until at least 1970, patrol reports submitted to Ottawa officially referred to Inuit staff as “special constables,” an official rank and employment status within the RCMP. Men sent north with the RCMP often received no special training on northern survival, navigation, or travelling; on patrol, they were entirely reliant on Inuit special constables who hunted food for qimmiit [sled dogs], built iglus, navigated, and translated.<sup>1</sup>

The Qikiqtani Truth Commission found that the RCMP also benefited from the unpaid labour of special constables’ families.

The families of the Inuit special constables also offered considerable and invaluable assistance to the RCMP, often without compensation. Women would make and mend the trail clothing, do household chores, and prepare meals. Children were expected to help with the detachment chores.<sup>11</sup>



*Inuk Special Constable Minkyoo of the Twin Glacier Detachment of the RCMP erects the building for the post at Alexandra Fjord, Nunavut, 1953. Source: Library and Archives Canada/National Film Board of Canada fonds/a137757.*



However, despite playing an integral role in the RCMP's Arctic operations, special constables were not given the opportunity to advance a career in the police service.

There is little evidence that the RCMP anticipated that special constables might eventually choose to become full RCMP officers. Inuit staff members were not offered any training or duties that might have led to better pay or new positions. The RCMP's use of qimmiit was essentially finished in 1969; as soon as the RCMP no longer needed Inuit to help them travel by dog team, Inuit special constables were largely assigned to the role of interpreter.<sup>III</sup>

According to Inuk historian Deborah Kigjugalik Webster, neither did the RCMP recognize the role of Inuit special constables. In many books about the Arctic written by former RCMP officers, "We'd find reference to Eskimo guide, or Eskimo interpreter – when they were actually a special constable – and there were no names attached."<sup>IV</sup>



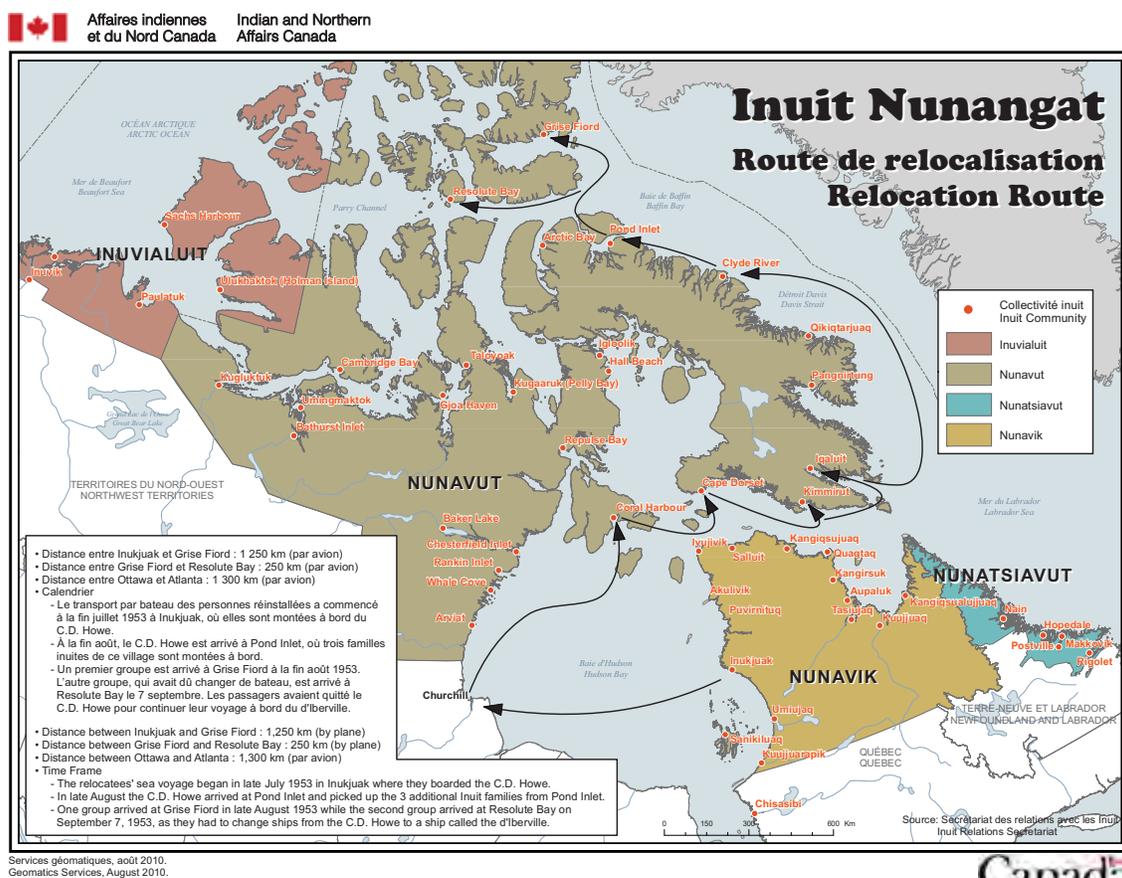
*Two Inuit special RCMP constables, (from left) Simone and Mosesee, attaching the standard to Governor General Massey's dog sled, Iqaluit, Nunavut, 1956. Source: Library and Archives Canada/National Film Board of Canada fonds/e002265633.*

I Okiqṭani Truth Commission, *Paliisikkut*, 22.  
II Ibid.  
III Ibid., 23.  
IV Zeinicker, "Northern researcher digs."



## Forced Relocations and the Slaughter of the Sled Dogs

Relocations are one of the most notorious government interventions from this period, with important social and economic implications for communities. Between 1940 and 1970, the government of Canada relocated many groups of Inuit, as well as some First Nations. Some Inuit groups were relocated repeatedly. Early relocations involving Inuit from Ennadai Lake (1949, 1957, 1958) and Nunavik (1953, 1958) were intended to reduce Inuit reliance on government assistance after the collapse of the fur trade. Later relocations were intended to centralize Inuit into permanent settlements to improve the efficiency of delivering social services.<sup>219</sup> The government of Newfoundland and Labrador also relocated several groups of Labrador Inuit to reduce the cost of service delivery.<sup>220</sup>



These relocations are now notorious for the social costs and disruptions they caused. It is now well documented that many of these relocations were poorly planned and caused significant hardship for the Inuit involved – in some cases, famine. Some families were divided, causing significant emotional pain. Further, as we explain below, the movement into centralized, permanent communities was deeply traumatic for some Inuit.<sup>221</sup>



Other disruptions also have had lasting impact. In addition to relocation, the killing of Inuit sled dogs is perhaps the most controversial of the interventions in this period. In the 1950s and 1960s, large numbers of Inuit sled dogs were shot by RCMP and federal government officials in the Qikiqtani (Baffin Island) and Nunavik regions.<sup>222</sup> As a result, many Inuit lost their dog teams and were forced to move into the permanent communities that had been established by Quallunaat. In Quebec, the Makivik Corporation and the Quebec government commissioned a retired Superior Court judge to head an inquiry into the killing of Inuit sled dogs in Nunavik. His final report in 2009 concluded that Nunavik society had “suffered damaging consequences from the actions, attitudes and mistakes of bureaucrats, agents and representatives of the two governments, who killed at least 1,000 dogs in Nunavik during the 1950s and 1960s.” Sled dogs were not just animals that Inuit had for leisure – they were essential to preserving a certain way of life. Their slaughter dramatically impacted the ability of Inuit to live on the land and to pursue their traditional lifestyles, and contributed to even greater social disruption and dependence on wage labour, driving changes in social relationships and economic well-being for Inuit families, and for Inuit women, girls, and 2SLGBTQIA people.



*Inuit children and their dogs, a necessary source of life and livelihood, in Clyde River, Northwest Territories, 1943. Source: Library and Archives Canada/Department of Indian Affairs and Northern Development fonds/a102208.*

## Residential Schools and Hostels among the Inuit

Beginning in the late 1950s, the government of Canada made formal schooling compulsory for Inuit children. Some Inuit were sent to church-operated residential schools while others attended day schools operated by the federal government. Although Inuit children attending day schools could technically go home to their parents for the evenings and weekends, in many cases, their parents remained on the land. As such, day schools still required most Inuit children to live in boarding homes, or hostels, and therefore involved the painful and traumatic separation of children from their parents.<sup>223</sup> In *Saqiyuq: Stories from the Lives of Three Inuit Women*, Rhoda Kaujak Katsak recalls how painful it was to be separated from her parents while attending a federal day school.



I remember that first Christmas that my parents came for the holidays, I remember having a really difficult time. I was enjoying myself because my parents were there, being with them and staying with them, but when they were ready to go back to the camp, that was heartbreaking for me. I was crying and crying. I remember my father was sitting upright on a chair and I was kneeling at his knees, crying and crying into his lap. I stayed like that for hours and hours. I was crying and begging him to let me go with him, but he couldn't do anything. Even if he had wanted to he couldn't do anything. At that time I was really mad at him for not taking me home with him. Later I realized that we had to be in school. He had no choice. The Qallunaat authorities in the settlement said so, and there was nothing he could do.<sup>224</sup>

Residential and day schools also exposed many students to abuse, and contributed to the erosion of Inuit traditional knowledge.<sup>225</sup> As Inuk residential school survivor Annie B. told the National Inquiry, “My mother, she couldn't talk to me because I was English. We only had to communicate with our fingers. Communicating with my fingers, with my birth mother.”<sup>226</sup>



*Inuit children in front of the Roman Catholic Mission school in Aklavik, Northwest Territories, 1928. © Government of Canada. Reproduced with the permission of Library and Archives Canada (2019). Source: Library and Archives Canada/ Department of Indian Affairs and Northern Development fonds/e006609805.*

The residential schools and hostels were also a vehicle for child apprehension. In the times prior to government intervention, many Inuit had practised custom adoption, in which children were openly adopted by their relatives (which also took place, in varying degrees, within First Nations communities). Among other things, it was a way of coping with changing circumstances, but in the 1960s, the government intervened in those systems, as well. Within Inuit communities, the practice of custom adoption helped take care of Inuit children and ensure that they were raised within culturally safe environments. Custom adoptions among Inuit could take place in times of difficulty such as sickness, food scarcity, or the death of biological parents, and were a way to ensure that camps had functional distributions of population to ensure the continuation of kinship bonds.



*Children pictured on the S.S. Distributor, being taken to Mission school at Fort Providence, Northwest Territories, 1928. Source: Library and Archives Canada/Department of Indian Affairs and Northern Development fonds/a101061.*

In 1961, the Child Welfare Ordinance imposed a new rule: Inuit must have home assessments prior to adopting, and submit documentation to Ottawa within 30 days of the adoption. This meant that an absence of “qualified” homes could increase the number of Inuit students enrolled in government-run institutions.

While they were not representative of the majority, some officials rejected the ordinance, arguing that custom adoption systems had been practised in Inuit Nunangat for generations, and were working well. Justice John Howard Sissons, who presided

over the first legally registered Inuit custom adoption in 1961, argued that the newly imposed rules of the ordinance trampled on Inuit rights and kinship systems, as well as imposed barriers on Inuit who wished to adopt. The barriers were based on geography and access to postal services, since the documents had to be mailed. Language barriers were a further impediment to following these official new rules. In Sissons’s petition for the adoption of a child named “Kitty” by a



*Students attending class at the Arviat Federal hostel in Nunavut, n.d. Source: Library and Archives Canada/Donald Benjamin Marsh fonds/e007914491.*



well-respected couple, Qiatsuk and Nuna Noah, he argued that custom adoption “is good and has stood the test of many centuries and these people should not be forced to abandon it, and it should be recognized by the Court.”<sup>227</sup> Sissons was successful, and he continued to register hundreds of custom adoptions in what is now Nunavut and Inuvialuit.



*A representative from the Department of Indian Affairs speaks to two Inuit women about pablen, 1948.*

*Source: Library and Archives Canada/Department of Indian Affairs and Northern Development fonds/a167631.*

As in other parts of Canada, though, the number of children in the state system grew. Today, according to the Director of Youth Protection in Nunavik, since 2017, one in three Inuit youth in Nunavik have come into contact with child protection services. Workers handle an average of 45 files, compared to 18 per intervention worker, meaning that resources and capacity may be stretched thin.<sup>228</sup>

“I REMEMBER THAT FIRST CHRISTMAS THAT MY PARENTS CAME FOR THE HOLIDAYS, I REMEMBER HAVING A REALLY DIFFICULT TIME. I WAS ENJOYING MYSELF BECAUSE MY PARENTS WERE THERE, BEING WITH THEM AND STAYING WITH THEM, BUT WHEN THEY WERE READY TO GO BACK TO THE CAMP, THAT WAS HEARTBREAKING FOR ME. I WAS CRYING AND CRYING. I REMEMBER MY FATHER WAS SITTING UPRIGHT ON A CHAIR AND I WAS KNEELING AT HIS KNEES, CRYING AND CRYING INTO HIS LAP. I STAYED LIKE THAT FOR HOURS AND HOURS. I WAS CRYING AND BEGGING HIM TO LET ME GO WITH HIM, BUT HE COULDN’T DO ANYTHING. EVEN IF HE HAD WANTED TO HE COULDN’T DO ANYTHING. AT THAT TIME I WAS REALLY MAD AT HIM FOR NOT TAKING ME HOME WITH HIM. LATER I REALIZED THAT WE HAD TO BE IN SCHOOL. HE HAD NO CHOICE. THE QALLUNAAT AUTHORITIES IN THE SETTLEMENT SAID SO, AND THERE WAS NOTHING HE COULD DO.”

Rhoda Akpaliapik Karetak



## Medical Relocation among Inuit

The government also began to take greater responsibility for the delivery of health care to Inuit after 1940. Like other interventions, the delivery of government health care was an aspect of colonization. The government response to tuberculosis epidemics is an especially notorious example of how Inuit experienced health care delivery as an externally imposed system that caused extreme social suffering. Beginning in 1950, a patrol vessel called the *C.D. Howe* (which, as discussed earlier, Inuit knew simply as “Matavik,” or “where you strip”) would visit coastal Inuit camps each summer to administer health care. Inuit infected with tuberculosis were sent to sanatoria in the South, where they were separated from family members for extended periods (sometimes years).<sup>229</sup> Inuk filmmaker and former Commissioner of Nunavut Ann Meekitjuk Hanson explained that the patrol vessel quickly became notorious among Inuit.

The *CD Howe* inspired fear. Pure fear. If you had tuberculosis or any other sickness, they would keep you aboard and take you away. You hardly had time to say goodbye to your family, if they happened to be on board with you, and you didn’t know where you were being taken. On top of that, you would have to sail around the Arctic for about three months, until the ship finished doing its rounds of the communities and left for the South. That ship is still talked about by the Elders today.<sup>230</sup>

These medical relocations resulted in many Inuit women going missing from their families. For example, in her testimony before the National Inquiry, Micah A. explained that her grandmother had been taken for tuberculosis treatment and never returned: “My mother’s mother, before I was born, she was sent down south because of tuberculosis to a sanatorium. And she passed away down there and she was buried in Winnipeg. We couldn’t find her for a long time and [she] never came back home.”<sup>231</sup>



*Qaqqagtunaaq, an Inuk woman, looks out at the C.D. Howe, anchored in Pangnirtung Fjord, n.d.*  
Source: Library and Archives Canada/National Film Board of Canada fonds/a166461.



*Colatah, age 2, is examined aboard the C.D. Howe by a doctor of the medical survey party on patrol in the Eastern Arctic, n.d. Source: Library and Archives Canada/National Film Board of Canada fonds/e005477090.*

The introduction of Western health care is an example of how colonization was gendered, because of the way it intervened in aspects of life that are most intimate for Inuit women, such as childbirth. By removing pregnant Inuit women from their community and sending them to hospitals to give birth, the government disrupted the transmission of Inuit women's knowledge about midwifery.<sup>232</sup> This process also caused considerable emotional pain for Inuit women. In *Saqiyuq*, Elder Apphia Agalakti Awa describes the emotional difficulty involved in being sent away to a hospital to deliver her baby.

That time I was pregnant and I had to be sent out for delivery, it was summertime and I went down to Iqaluit to deliver my baby. I had never delivered in Iqaluit before. All of my other children, I delivered them all on the land, in our sod-house or in igluviak or tents.

I had trouble with my pregnancy that time, and the Qallunaat said I had to be sent out. It was with Ida. She was my last baby I gave birth to and I had to be sent out with her. My daughter Joanna, she was only five years old when I left, and Phillip and Salomie were just babies, little babies. We went by boat to the plane and I remember looking out the plane window. I remember staring out the window at my children, watching Martha carrying Phillip in her amautik and Oopah carrying Salomie in her amautik. I felt so horrible leaving my little ones behind, leaving them all alone. It was August and the ice was all gone. I had tears in my eyes when I was leaving our camp and my children, my little children. I was so sad. It was the beginning of August when I left. I didn't get back to our camp with Ida until January.



When I got to Iqaluit it took me four days in the hospital to deliver. The nurses put me on my back to deliver, so I couldn't deliver. I had so much trouble with that one! Before, whenever I was delivering, I did it sitting up, and usually my husband was with me. It took me four days to deliver my last one. When I delivered on the land, my husband would be with me, holding my hand, helping me. I was used to that, so I couldn't deliver in the hospital. Once you have delivered by yourself or with a friend or your husband, that is the only way that you can deliver. I was in labour in the hospital, but I couldn't deliver, because my husband wasn't with me.<sup>233</sup>

The introduction of government health care also resulted in the sterilization of some Inuit women. A report by the Qikiqtani Truth Commission notes that there is significant controversy over whether Inuit had consented to this practice. As the Qikiqtani Truth Commission reported, Roman Catholic priests called attention to the issue, which received national coverage. Father Lechat estimated that 23% of women in Igloolik had been sterilized, and similar procedures were performed at the hospital in Iqaluit. The QTC reported, "Barry Gunn, a former regional administrator in Iqaluit, claimed women agreed to the sterilization procedures and signed forms to that effect. However, due to language issues, they may not have realized what they were agreeing to."<sup>234</sup>

"THE *CD HOWE* INSPIRED FEAR. PURE FEAR. IF YOU HAD TUBERCULOSIS OR ANY OTHER SICKNESS, THEY WOULD KEEP YOU ABOARD AND TAKE YOU AWAY. YOU HARDLY HAD TIME TO SAY GOODBYE TO YOUR FAMILY, IF THEY HAPPENED TO BE ON BOARD WITH YOU, AND YOU DIDN'T KNOW WHERE YOU WERE BEING TAKEN. ON TOP OF THAT, YOU WOULD HAVE TO SAIL AROUND THE ARCTIC FOR ABOUT THREE MONTHS, UNTIL THE SHIP FINISHED DOING ITS ROUNDS OF THE COMMUNITIES AND LEFT FOR THE SOUTH. THAT SHIP IS STILL TALKED ABOUT BY THE ELDERS TODAY."

Ann Meekitjuk Hanson

## Centralization and Social Trauma

Because of these interventions, by the early 1970s, most Inuit had moved into the permanent settlements established by Qallunaat, some by choice and some by coercion.<sup>235</sup> In any case, the move from Inuit camps to Qallunaat-controlled towns brought massive changes to Inuit economic, political, and social life. It caused a drastic reduction in Inuit autonomy and self-determination, because government power was more firmly established in the settlements than in the camps.<sup>236</sup>

The move also caused a decline in Inuit systems of leadership and authority, as traditional methods of social control lost their effectiveness, and political and religious dynamics changed.<sup>237</sup> Hanson explained that the move from camps is a root cause of many of the social problems Inuit communities are confronting today.



When Inuit lived on the land, we lived in small groups consisting of about three to five families. That size of a group is easy to look after. Social order is easier to maintain, so there are fewer social problems. But when we moved into bigger communities and began living with so many other people, it caused a lot of confusion. I saw once-powerful hunters and leaders becoming poor. They were now in a wage-economy, where you work for an employer and get paid for it; hunting and gathering on the land were no longer valued as full-time work.

When we lived on the land, we always had one leader who pretty much looked after everybody. When we moved in to Frobisher Bay and other communities, we no longer knew who our leaders were. There were Hudson's Bay Company managers, RCMP officers, the clergy, and government agents. We weren't used to having so many leaders in one place. On top of that, they were all Qallunaat. The absence of Inuit leadership caused a lot of social problems. Suddenly, there was more gossiping, cheating, stealing, adultery, alcohol, and that sort of thing.<sup>238</sup>

The government's interventions into Inuit society also caused a great deal of emotional pain for many Inuit. As Sheila Watt-Cloutier explained, these interventions were extremely traumatic, and impacted the way many men treated the women around them when "the shame, the guilt, the loss of integrity and pride was turned inward and festered as anger and resentment."<sup>239</sup>

This trauma was then transmitted from one generation to the next. As one generation struggled to cope with their traumatic experiences, younger generations were exposed to traumatic experiences of their own (through "adverse childhood experiences").<sup>240</sup> A report by Pauktuutit Inuit Women of Canada explained how this intergenerational trauma is passed on through cycles of violence.

The current high levels of violence and abuse in the Inuit context can be traced back to two main 'roots'. 1) loss of culture and tradition; and 2) loss of control over individual and collective destiny. This history leads to psychological trauma, the breakdown of families, alcohol and drug addictions and increased feelings of powerlessness. Fear, mistrust, abuse and denial result, creating a cycle of abuse in which individuals can be both victim and abuser – a cycle that repeats itself with each new generation.<sup>241</sup>

The trauma that was caused by government interventions in the 1940s, 1950s, and 1960s is thus the root cause of a great deal of the violence Inuit women are exposed to today. As we explain in Section 2 of this report, the majority of murdered Inuit women were killed by their spouses. As such, domestic violence and the unresolved trauma that lies behind it are fundamental causes of the murder of Inuit women.<sup>242</sup> As family member Sarah N. explained:

If a woman has been injured, she's not going to lead the life she wants to. As long as she doesn't seek healing methods or ways to get better, her life will not have direction. This begins from the start. This begins as far back as the residential school days. There's that influence. And, those behaviours are repeated into the next generation. Even if they don't



want to do that, it's what they've learned. The pain and the damage to the common sense is lost. And, that behaviour continues. And, this is the result. These are the results of pain being experienced.<sup>243</sup>

In 1996, the Royal Commission on Aboriginal Peoples identified “healing from trauma” as a priority to address these social problems.<sup>244</sup> Elder Rhoda Akpaliapik Karetak points out:

Inuit have not had much time to reflect on what happened to them over the last 100 years and to examine the hurt that Inuit experienced when their lifestyle suddenly changed. Their self-esteem and mental health were really affected, and Inuit have not yet tried to reflect on this or to really understand it. If Inuit Elders and parents do not have an opportunity to reveal their unsolved issues to someone who is able to help, it is hard to find answers for these unresolved issues stemming from colonization. In the past, Inuit could go to their Elders or shaman to help them deal with issues, but since the colonization of Inuit, the way Inuit deal with unresolved issues is not being practiced anymore.<sup>245</sup>

As such, in addition to being a root cause of violence against Inuit women, colonization has also impeded the ability of Inuit to address the problem.



*Eelee Higgins lights the qulliq in Ottawa, Ontario, as Commissioner Robinson assists.*



## Conclusion: A Crisis Centuries in the Making

This chapter has examined a brief history of colonization in Canada through a gendered and intersectional lens, arguing that the policies, practices, and stereotypes confronting Indigenous women, girls, and 2SLGBTQQIA people today were put into place long ago. Understanding colonization as a structure of encounter, rather than as a series of isolated events, we have demonstrated how Indigenous knowledge systems and ways of understanding land, governance, and identity were targeted by colonizers who wanted to possess the land and to rid it of its people. In addition, we have focused our analysis on key encounters – policies and rules, stereotypes and misconceptions – that were applied differently to First Nations, Métis, and Inuit women, girls, and 2SLGBTQQIA people, and that have impacted them in harmful ways. At the same time, this chapter is a testament to the strength and resilience of these women, girls, and 2SLGBTQQIA people whose traditions and values continue to manifest at the individual, family, and community levels.

A key point in all of this history is that it isn't just "history." Although they might look different now, these policies and the structures and ideas that feed them are still around today and are still forms of violence. We can't brush off things like failures in policing, in health services, or in child welfare as "the way things were done back then." The reality is that many of the people who testified before the National Inquiry have lived through, and continue to heal from, these policies. Many more people are in current conflict with them. Many of the policies and ideas in place today, as well as the structures they are associated with, are modern iterations of the same historical atrocities.

Our analysis of these experiences brings us to three important conclusions.

First, the process of colonization was gendered, because Indigenous women and 2SLGBTQQIA people experienced these encounters differently from Indigenous men. The process of colonization features multiple moments of encounter and transformation where fundamental rights to culture, health, security, and justice are at stake, particularly for Indigenous women, girls, and 2SLGBTQQIA people.

European colonizers brought their own ideas about the roles of women and of men to Indigenous lands and territories, and applied them to diverse communities with their own traditions, roles, and values about women, girls, and gender-diverse people. European land tenure systems, as well as legal and social orders, relied on patriarchy – the dominance of men. Early Europeans simply could not see how Indigenous women's roles supported entire communities, as well as their own families, and helped to ensure continuity of culture, knowledge, language, and values from one generation to the next. When they did come to understand some of these roles, they consistently undermined the role of women in economic production and in governance in an effort to target communities for assimilation and, ultimately, extermination.



Second, the targeting of Indigenous women, girls, and 2SLGBTQQIA people is not new, but has been a common thread throughout the colonization process. Residential schools and various types of relocations caused mothers, daughters, and aunties to go missing from their families, sometimes permanently, and created conditions that feed, rather than prevent, violence. Moreover, violence against Indigenous women, including sexual abuse in residential schools and by various colonial officials, is a common thread throughout the history of colonization, and contributes directly to Indigenous Peoples' distrust of many institutions today. This distrust, in turn, makes it less likely for Indigenous women, girls, or 2SLGBTQQIA people to place faith in these systems in their current state.

Third, the process of colonization created the conditions for the crisis of missing and murdered Indigenous women, girls, and 2SLGBTQQIA people that we are confronting today, economically, socially, and politically. Indigenous Peoples were economically marginalized by the dispossession of their land and resources and the related destruction of their economies. Indigenous women experienced political and social marginalization through the imposition of patriarchy by Christian churches and the government of Canada. Colonization also gave rise to racist and ethnocentric ideas that continue to dehumanize Indigenous women and make them targets of violence. The cycles of intergenerational trauma, set in motion by colonization, are a root cause of domestic violence in Indigenous communities today.

The crisis of missing and murdered Indigenous women, girls, and 2SLGBTQQIA people is centuries in the making. This is what families told us; it is what survivors told us. In considering these histories, and as researchers Sarah Hunt, a member of the Kwakwaka'wakw Nation, and Cindy Holmes assert, we should not be surprised that "the rhythm of today ... is made possible through the historic and ongoing processes and ideologies of colonialism."<sup>246</sup>

Many witnesses before the National Inquiry discussed the need to learn more about the history of colonization, even as targets of its policies.

Mike Metatawabin, Chairman for the Board of Directors of the Nishnawbe-Aski Police Services, explained to the National Inquiry:

What we have to remember is the assimilation policies, the residential school policies, and their impacts have left a lasting legacy which is violence, anger, unresolved issues. And, I think for the most part, I, myself, as a survivor of residential school, did not understand what happened, or what happened to us, or what is happening even within our own families. Trying to understand the anger of why people are so angry with each other. It took me until I was – I reached the age of 30 years before I began to understand what had happened. And, for the most part, most of our people have never had that chance or do not have that beginning yet. We are still a long ways to go. We have a long ways to go before we understand what really happened to us with all these policies.<sup>247</sup>



Family member and survivor Shaun L. explained why this history matters today:

After 500 years, these [colonial] ideas have not changed much. The First Nations women and girls are thought of as disposable. They are not. They are the life-givers, the storytellers, the history keepers, the prophets, and the matriarchs.... The fallout of colonialism is like a fallout of a nuclear war, a winter without light.<sup>248</sup>

In this way, we position the following chapters, which focus on the more contemporary encounters with culture, health, safety, and justice – or the lack thereof – as extensions of these historical moments, and as expressions, in part, of a deep historic and contemporary web of limitations, barriers, and challenges to basic Indigenous human rights – both collective and individual – that continue to target women, girls, and 2SLGBTQQIA people for harm.



## Notes

- 1 Chief Judy Wilson (Secwépemc Nation), Part 1, Public Volume 86, Vancouver, BC, p. 4.
- 2 Hunt, “More than a Poster Campaign.”
- 3 Alfred, “Colonialism and State Dependency,” 45.
- 4 For more on this, see Chartrand, “Métis Treaties in Canada.” See also Government of Ontario, “We Speak for the Land.”
- 5 See McDonald-Dupuis, “The little-known history.”
- 6 Wolfe, “Settler Colonialism,” 387.
- 7 Ibid., 388.
- 8 Translation ours. Françoise R. (Pikogan), Part 1, Public Volume 61, Montreal, QC, p. 48.
- 9 Wolfe, “Settler Colonialism,” 388.
- 10 Robert C. (Musgamagw Dzawada'enuxw First Nation), Part 1, Public Volume 114, Vancouver, BC, p. 53.
- 11 Fossett, *In Order to Live Untroubled*.
- 12 See Harrington, “Canada Was Never Terra Nullius” and *Tsilhqot'in Nation v. British Columbia* 2014 SCC 44 at para. 69.
- 13 Wolfe, “Settler Colonialism,” 391.
- 14 Pope Alexander VI, “Inter caetera.” For more on this, see Assembly of First Nations, *Dismantling the Doctrine of Discovery*; John, “Study on the impacts of the Doctrine of Discovery”; and World Council of Churches, “Statement on the Doctrine of Discovery.”
- 15 Heidenreich and Ritch, *Samuel de Champlain*, 281.
- 16 Wolfe, “Settler Colonialism,” 391.
- 17 Thwaites, *The Jesuit Relations*, vol. 5, 237.
- 18 Ibid., vol. 8, 173.
- 19 Ibid., 174-175.
- 20 Ibid., vol. 29, 152-153.
- 21 Sprenger and Kramer, “Malleus Maleficarum.”
- 22 Davenport-Hines, *Sex, Death, and Punishment*.
- 23 Ethienne and Leacock, *Women and Colonization*, 30.
- 24 Simpson, “Anger, Resentment and Love.”
- 25 Dua and Robertson, *Scratching the Surface*, 63.
- 26 Pickles and Rutherford, *Contact Zones*, 233.
- 27 Maracle, “A Journey in Gender,” 39.
- 28 Ibid.
- 29 For more on the contested nature and misunderstandings regarding the use of the term “berdache,” see Cannon, “The Regulation of First Nations Sexuality.”
- 30 As cited in Martin Cannon, “The Regulation of First Nations Sexuality,” 3.
- 31 Thwaites, *The Jesuit Relations*, vol. 59, 127.
- 32 Prime Minister’s Office, “Remarks by Prime Minister Justin Trudeau to apologize to LGBTQ2 Canadians.”
- 33 Rieger, “Activist says recognition.”
- 34 Alfred, “Colonialism and State Dependency,” 44.
- 35 White, *The Middle Ground*.
- 36 Good, “A Tradition of Violence,” 94.
- 37 For a historical treatment of changing patterns of marriage in colonial Canada, see Van Kirk, “From ‘Marrying-In’.”
- 38 Carter, *The Importance of Being Monogamous*, 142.
- 39 Ibid.
- 40 Ibid., 79–80.
- 41 Harmon, *A Journal of Voyages*.
- 42 *The British North America Act, 1867*, SS 1867, c 3.
- 43 Feir, Gillezeau, and Jones, “The Slaughter of the Bison,” 1.
- 44 Ibid., 11.
- 45 Paula P. (Cree/Lakota/Scottish), Part 1, Statement Volume 374, Vancouver, BC, pp. 41-42.
- 46 Bruce, “The Last Best West.”
- 47 Surtees, “The Robinson Treaties (1850).”
- 48 CBC, “Northern Ontario First Nations win battle.”
- 49 Cheryl M. (Mi’kmaq), Part 1, Public Volume 18, Membertou, NS, p. 28.
- 50 Robinson, “Gradual Civilization Act.”
- 51 *An Act respecting Indians and Indian Lands*. C.S.L.C. 1860, c. 14.
- 52 Robinson, “Gradual Civilization Act.”



- 53 *An Act to amend and consolidate the laws respecting Indians*, S.C. 1876, c. 18.
- 54 Elder Miigam'agan (Mi'kmaq), Part 1, Public Volume 44(a), Moncton, NB, pp. 65-66, 67.
- 55 *Indian Act*, R.S., c. I-6, s. 18.
- 56 Cannon, "The Regulation of First Nations Sexuality," 11-12.
- 57 For a useful summary of the emergence of the "new police" model, see Marquis, *The Vigilant Eye*, 7-15.
- 58 For a more detailed history of the work of various Indian agents, see, for example, Brownlie, *A Fatherly Eye*; Satzewich, "Indian Agents"; Dyck, *What Is the Indian "Problem"*; and Steckley, *Indian Agents*. For more on the general policy and operations, see Irwin, "Indian Agents in Canada." On the head of the Indian Department for much of its time, and architect of many of its most repressive policies, see Titley, *A Narrow Vision*.
- 59 Marquis, *The Vigilant Eye*, xix.
- 60 Although the North-Western Territory and Rupert's Land are two separate territories, they are often confused. Originally, and in the transfer of 1869, Rupert's Land included what is today northern Quebec and Ontario, the entire province of Manitoba, most of Saskatchewan, and part of southern Alberta. The North-Western Territory was made up of areas to the north and west of Rupert's Land. But, in 1870, when Canada purchased these territories from the Hudson's Bay Company, they were renamed the Northwest Territories and combined.
- 61 Carter, *Capturing Women*, 21.
- 62 *Ibid.*, 53.
- 63 *Ibid.*
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- 99 Ibid., 31.
- 100 Albert McLeod, (Nisichawayasihk Cree Nation/Métis community of Norway House), Part 3, Public Volume 8, Toronto, ON, pp. 60-61. For more information about the impact of residential schools on Two-Spirit people, see the following video: Daily Xtra, “Residential schools’ impact on two-spirit people.” November 5, 2014. <https://youtu.be/SzT2ed8xRIU>.
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- 121 Bohaker and Iacovetta, “Making Aboriginal People ‘Immigrants Too’,” 443.
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- 204 Eber, *When the Whalers*, 114.
- 205 The Qikiqtani Truth Commission was a commission of inquiry established by the Qikiqtani Inuit Association in 2006 to examine the relationship between Inuit and the federal government between 1950 and 1975. See [www.qtcommission.ca](http://www.qtcommission.ca).
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- 210 Trott, “Mission and Opposition”; Oosten, Laugrand, and Remie, “Perceptions of Decline.”
- 211 Koperqualuk, “Puvirnurturmiut Religious and Political Dynamics,” 114.
- 212 Rutherford, ““She Was a Ragged Little Thing,”” 232.
- 213 Ibid., 233.
- 214 Tester and Kulchyski, *Tamarniit (Mistakes)*.
- 215 In December 1954, construction began on the Distant Early Warning (DEW) Line, an integrated chain of 63 radar and communication centres stretching 3,000 miles from western Alaska across the Canadian Arctic to Greenland.
- 216 Simon, “Canadian Inuit,” 880.
- 217 Qikiqtani Truth Commission, *Illiniarniq: Schooling in Qikiqtaaluk*, 37.
- 218 Watt-Cloutier, *The Right to Be Cold*, 72.
- 219 Tester and Kulchyski, *Tamarniit (Mistakes)*; Oosten, Laugrand, and Serkoak, “The Saddest Time of My Life”; Qikiqtani Truth Commission, *Nuutauniq: Moves in Inuit Life*.
- 220 *Report of the Royal Commission on Aboriginal Peoples, Volume 1, Part 2, Relocation of Aboriginal Communities*.
- 221 *Report of the Royal Commission on Aboriginal Peoples, Volume 1, Part 2, Relocation of Aboriginal Communities*; Qikiqtani Truth Commission, *Nuutauniq: Moves in Inuit Life*.
- 222 Many Inuit have long held that RCMP officers systematically killed thousands of sled dogs as part of a government plan to force them to abandon their traditional camps. In its own report in 2006, the RCMP concluded this was not the case. In 2003, the Qikiqtani Truth Commission's report explained that while RCMP officers were often following animal control laws in shooting the dogs, the laws were not properly explained to the Inuit, and they often didn't understand why the dogs were shot. The impact of the killing of the sled dogs signalled important changes to traditional hunting-based livelihoods, and, as the Qikiqtani Truth Commission reported, was inconsistently applied.
- 223 Qikiqtani Truth Commission, *Illiniarniq: Schooling in Qikiqtaaluk*; Truth and Reconciliation Commission of Canada, *The Inuit and Northern Experience*.
- 224 Wachowich et al, *Saqiyuq*, 166.
- 225 Qikiqtani Truth Commission, *Illiniarniq: Schooling in Qikiqtaaluk*; Truth and Reconciliation Commission of Canada, *The Inuit and Northern Experience*.



- 226 Annie B. (Inuit, Pangnirtung), Part 1, Public Volume 16, Winnipeg, MB, p. 9.
- 227 Adoptive Families Association of BC, “Perspectives.” See also Bucknall, “John Howard Sissons.”
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- 229 Qikiqtani Truth Commission, *Aaniajurliriniq: Health Care in Qikiqtaaluk*; Lux, *Separate Beds*.
- 230 Hanson, “Women Are Natural Leaders,” 61.
- 231 Micah A. (Inuit, Talurjuaq), Part 1, Public Volume 46(b), Rankin Inlet, NU, p. 2.
- 232 Qikiqtani Truth Commission, *Aaniajurliriniq: Health Care in Qikiqtaaluk*.
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- 236 Brody, *The People’s Land*.
- 237 Koperqualuk, “Puvirnituirmiut Religious and Political Dynamics”; Rasing, “Too Many People.”
- 238 Hanson, “Women Are Natural Leaders,” 67.
- 239 Watt-Cloutier, *The Right To Be Cold*, 73-74.
- 240 Crawford and Hicks, “Early Childhood Adversity.”
- 241 Pauktuutit, “National Strategy to Prevent Abuse,” 3.
- 242 Intergenerational trauma has also been identified as a root cause of several other problems Inuit confront today, including addictions, youth suicide, and conflicts with the criminal justice system. See Government of Nunavut, Nunavut Tunngavik Incorporated, the Embrace Life Council, and the Royal Canadian Mounted Police, “2010 Nunavut Suicide Prevention Strategy”; Nunavut Tunngavik Incorporated, *Annual Report: Examining the Justice System in Nunavut*; Inuit Tapiriit Kanatami, “National Inuit Suicide Prevention Strategy”; and Government of Nunavut, “Nunavut Crime Prevention Strategy.”
- 243 Sarah N. (Inuit, Inukjuak), Part 1, Public Volume 64, Montreal, QC, p. 16.
- 244 *Royal Commission on Aboriginal Peoples, Report of the Royal Commission, on Aboriginal Peoples, Volume 4, Perspectives and Realities*.
- 245 Karetak, “Healing Unresolved Issues,” 200-201.
- 246 Hunt and Holmes, “Everyday Decolonization,” 54.
- 247 Mike Metatawabin (Fort Albany First Nation), Mixed Parts 2 & 3, Public Volume 5, Quebec City, QC, p. 154.
- 248 Shaun L. (Kaska Dena, Crow Clan), Part 1, Public Volume 3, Whitehorse, YT, p. 5.



## Encountering Oppression

This section of the *Final Report* builds on the framework established in Section 1, through an exploration of the many kinds of violence that witnesses addressed in their testimonies in Parts 1, 2, and 3 of the Truth-Gathering Process. Here, we centre the voices of families, friends, and supporters of those whose lives have been taken by violence and those who have survived violence themselves. We centre their voices in order to honour the resilience, agency, and expertise of Indigenous women, girls, and 2SLGBTQQIA people in issues that impact them the most. In addition, we centre the voices of those survivors and family members who are learning to heal from their losses as a way to honour those who no longer walk among us.

As Section 1 outlined, centring these voices as being those of authority is part of our intersectional approach to understanding how lived experiences best portray the complexities of the issues faced. The examples cited in this section of the *Final Report* are not intended to paint all agencies, departments, and institutions with the same brush, but these experiences, in keeping with our approach to understanding encounters, help us to explore moments of harm and trauma as those that also engage the best potential for solutions, and for new paths forward.



In our *Interim Report*, we defined “violence” according to the definition of the World Health Organization (WHO) as “the intentional use of physical force or power, threatened or actual, against oneself, another person, or against a group or community that either results in or has a high likelihood of resulting in injury, death, psychological harm, maldevelopment or deprivation.”<sup>1</sup> This definition includes violence between people, self-directed violence (suicide or self-harm), and armed conflict. The National Inquiry also expands this definition of violence to include colonial, cultural, and institutionalized violence. This is consistent with our Terms of Reference and our companion Orders-in-Council and Administrative Decree.

As the Government of Newfoundland and Labrador’s Violence Prevention Initiative asserts, “Violence is rooted in inequality, and may occur once or repeatedly over a lifetime.” It may also occur, as is the case with many of our witnesses, over generations. Violence and abuse “are used to establish and maintain power and control over another person, and often reflect an imbalance of power between the victim and the abuser.”<sup>2</sup>

The Violence Prevention Initiative identifies nine different types of abuse:

<b>Physical Violence</b>	<b>Sexual Violence</b>	<b>Emotional Violence</b>
Physical violence occurs when someone uses a part of their body or an object to control a person’s actions.	Sexual violence occurs when a person is forced to unwillingly take part in sexual activity.	Emotional violence occurs when someone says or does something to make a person feel stupid or worthless.
<b>Psychological Violence</b>	<b>Spiritual Violence</b>	<b>Cultural Violence</b>
Psychological violence occurs when someone uses threats and causes fear in an individual to gain control.	Spiritual (or religious) violence occurs when someone uses an individual’s spiritual beliefs to manipulate, dominate or control that person.	Cultural violence occurs when an individual is harmed as a result of practices that are part of their culture, religion or tradition.
<b>Verbal Abuse</b>	<b>Financial Abuse</b>	<b>Neglect</b>
Verbal abuse occurs when someone uses language, whether spoken or written, to cause harm to an individual.	Financial abuse occurs when someone controls an individual’s financial resources without the person’s consent or misuses those resources.	Neglect occurs when someone has the responsibility to provide care or assistance for an individual but does not.

As such, this section takes on this definition of violence in an expansive way, understanding that violence is structural, systemic, and institutional, and is an ingrained part of how Indigenous people encounter everyday life. We view violence in all of its forms not only as an act, but as a pattern and a structure, which must be dismantled to be properly understood.



This report builds on the work of scholars such as the late Patricia Monture Angus, who researcher Cindy Holmes cites as calling for, in 1995, a new expansive definition of violence that “reflected the complexities of colonial power relations and the intersecting and interrelated forms of violence experienced by Indigenous peoples.” The National Inquiry acknowledges state violence – colonialism, patriarchy, misogyny, and racism – as inseparable from the everyday violence that Indigenous women, girls, and 2SLGBTQQIA people face. We use this kind of definition to explain how there isn’t just a single form of violence against Indigenous women, or a single reason Indigenous women and girls go missing or are murdered. Reducing the violence that Indigenous women face to interpersonal violence only is far too narrow an understanding to capture what feeds it. Relying simply on the idea of “male violence against Aboriginal women,” as Cindy Holmes explains, recolonizes and erases many of the larger currents that work to sustain the totality of violence that Indigenous women, girls, and 2SLGBTQQIA people experience.<sup>3</sup>

We maintain that colonial violence is complicit in all of these types of abuse. Section 2 of our *Final Report* is an examination of all of these forms of violence, as lived by those who experience them, in moments of encounter that set them on the path toward harm or toward healing. A decolonizing lens helps us understand how all of these forms of violence connect for Indigenous Peoples, and understand how the relationships that undergird them can be transformed.

## Four Pathways that Maintain Colonial Violence

In each of the next four chapters, we have chosen to focus on a different theme that presented itself in the testimony. Rather than organizing each chapter according to an event, or to a moment in time, we chose themes that could illustrate how the structures that serve to maintain colonial violence do so in key areas relevant to the everyday experiences of Indigenous women, girls, and 2SLGBTQQIA people. In choosing thematic areas that reflect these experiences in areas of culture, health, security, and justice, we also deliberately connect to international human rights instruments that Canada has pledged its support to as an important lens through which to view these obligations and to ensure accountability. Indigenous women’s rights to culture, health, security, and justice are not “extras,” but are basic human rights that are necessary and due.

In addition, each of these four chapters highlights how the pathways that maintain colonial violence, in each thematic area, are the same. While the nature of experiences varied from group to group, and we don’t use this lens to pan-Indigenize these experiences, highlighting their commonalities can help reveal the underlying causes, as our mandate directs us to do.

In their descriptions of encounters that led loved ones to harm, families and survivors who spoke at the National Inquiry consistently referred to four general ways that their experiences were rooted in colonialism – both historic and modern forms. These four pathways continue to enforce the historic and contemporary manifestations of colonialism in ways that lead to additional violence over and across generations.



As Expert Witness and Executive Director of the Arctic Children and Youth Foundation Sarah Clark testified:

Historical trauma is cumulative and intergenerational in its impacts, meaning its cumulative effects are passed on. These various sources of trauma that originated from outside Indigenous communities that I just discussed generated a wide range of dysfunctional and hurtful behaviours, such as physical and sexual abuse, which is recycled generation after generation within the community. As a result, we see negative behaviour, such as alcohol abuse, sexual, physical and emotional abuse, child neglect and violent crime. The link between the effects of past events like these and adverse outcomes in the present have been well documented.<sup>4</sup>

Our four pathways are explained in Chapter 1, but we reiterate them now for ease of reference:

- **Historical, multigenerational, and intergenerational trauma** examines the context of contemporary struggles with collective trauma or harm stemming from historic and current policies, arguing that current systems often work to perpetuate this trauma, instead of healing this generation. We maintain that intergenerational and multigenerational trauma is directly connected to interpersonal violence, as well as to self-harm, that ultimately places Indigenous women, girls, and 2SLGBTQQIA people in danger.
- **Social and economic marginalization** ensures that the structures that are carried forward from the past live on in the contemporary systems that cause marginalization. In particular, the ongoing dispossession of Indigenous Peoples through policies that worsen or maintain the poor conditions that people live in demonstrates how, in many rights areas, social and economic marginalization, as also linked to political marginalization, is a direct contributor to violence. In addition, the impact of this marginalization on Indigenous women, girls, and 2SLGBTQQIA people is especially significant in terms of the violence that stems from it.
- **Maintaining the status quo and institutional lack of will** are ways in which governments, institutions, and other parties have obfuscated their responsibilities, legal and other, toward Indigenous women, girls, and 2SLGBTQQIA people. Whether through lack of will, inadequate funding, or a desire to maintain the status quo that marginalizes Indigenous women, these policies – or the lack thereof – directly contribute to targeting Indigenous women, girls, and 2SLGBTQQIA people.
- **Ignoring the agency and expertise of Indigenous women, girls, and 2SLGBTQQIA people** is a consistent theme, both historically and in contemporary ways, particularly given the internalization of patriarchy and misogyny that, as many women have cited, keeps them outside of formal political structures. To challenge the current status quo, we maintain that agencies, institutions, and governments must be willing to work with



those who hold the most expertise – those impacted by violence – and to recognize their agency and resilience, and the solutions they bring to the table.<sup>5</sup>

At the conclusion of each chapter, we link many of the problems we heard with international human rights instruments as a way of highlighting the commitments Canada has made. As Expert Witness and Indigenous human rights activist Ellen Gabriel pointed out in her testimony:

When we talk about human rights, and this is the thing that I want to stress is, this needs to be based on a human rights end. And, human rights, as the UN says, are universal and inalienable and indivisible, interdependent and interrelated, it promotes equality and non-discrimination, participation and inclusion, accountability in the rule of law, none of which have been offered up to Indigenous people. We are constantly being told that we do not know what is best for us, that government policies are the best ones. We are constantly told that third-party interests to develop our lands and territories, to extract resources, are more important than our rights, that money will soothe the pain of losing our land, which it does not.<sup>6</sup>

These standards established by human rights instruments aren't meaningful unless they are applied fully to upholding human rights, which did not occur in many of the stories shared in this report. They need to be brought to life, and they need to live not only at an institutional or systems level, but in every single relationship, encounter, and interaction that Indigenous women, girls, and 2SLGBTQQIA people may have.

We invite you to read through these next chapters with a view to the big picture, as well as with a view to engaging your own beliefs and relationships – whether you are a survivor, a family member, an ally, or a non-Indigenous person. These experiences show that we all have a role to play in ensuring a full range of human rights for Indigenous women, girls, and 2SLGBTQQIA people. The negative encounters described in the following sections aren't intended to suggest that every person or institution holds the same discriminatory attitudes; they are intended to highlight how change begins at the base. These attitudes are a remarkably consistent feature of the many experiences we heard about in the way that Indigenous people experience them, and, for these reasons, these relationships and encounters are precisely where we should begin in seeking to restore safety for Indigenous women, girls, and 2SLGBTQQIA people.



## Confronting Oppression – Right to Culture

### Introduction: Identity and Culture

As documented in Chapter 4, the history of colonization has altered the relationships of people to their culture and identity through concerted efforts at assimilation and policies designed to sever these cultural and kin connections. The impacts of colonization on Indigenous women, girls, and 2SLGBTQIA people have resonated over generations and affected the way that people can access their cultural rights.

In sharing their truths about their missing and murdered loved ones, witnesses spoke often about the links between violence, the circumstances surrounding that violence, and the loss of traditional culture – its own form of violence. Within many Indigenous communities, the right to culture is understood as including the ability to practise and pass on cultural traditions, language, and ways of relating to other people and to the land. When describing the role of culture in their lives, however, many witnesses spoke about the many ways in which this right to culture has been violated. In speaking specifically about these violations, witnesses described the barriers they faced in accessing culturally safe services in areas such as health, security, and justice. They also described how, in the ongoing crisis of apprehension of Indigenous children through the child welfare system, the cultural rights held by Indigenous Peoples are undermined. For many people, the ongoing legacies of colonialism and its sustained effort to destroy the cultural, linguistic, and spiritual foundations held by Indigenous Peoples, families, and communities continue to be felt or evidenced by family separation, institutional discrimination, and societal denial of these realities. In all of these instances, the violation of cultural rights contributes to other forms of violence that disproportionately impact the lives of Indigenous women, girls, and 2SLGBTQIA people.



*A key part of our process over the course of the National Inquiry has been to invest in relationships and to centre them as key in our analysis. In Iqaluit, Commissioners speak with Hagar Idlout-Sudlovenick and Inukshuk Aksalnik of the Qikiqtani Inuit Association.*

Key to this discussion is racism, a particular form of colonial violence that seeks to undermine, to minimize, and to set aside Indigenous cultural rights and to diminish Indigenous Peoples. In particular, the experiences highlighted by many witnesses of their encounters with people and with systems are important opportunities for reflection, because they are moments where outcomes could have been transformed by a non-discriminatory approach that sets aside stereotypes and biases in favour of the basic value of respect.

In this chapter, we first confront the way in which intergenerational and multigenerational trauma works to maintain colonial violence in the present, as explained in stories about the loss of culture. The chapter then turns to the way in which the lack of access to full social, economic, and political rights compromises access to culturally appropriate services and the right to live one's culture. The chapter describes instances in which lack of political will and insufficient institutional responses have impacted the respect of Indigenous cultures. We examine how, in their testimonies, those who offered their truths have also offered stories of agency, of resilience, and of expertise as a way of restoring cultural rights. We identify the common experiences within these pathways that maintain the colonial violence that we heard about from First Nations, Métis, and Inuit testimonies, and we also highlight the distinctive expressions of violations of cultural rights as they appeared before the National Inquiry.

While the moments of encounter identified and highlighted within this chapter do not represent the entirety of Indigenous experiences within various institutions and systems, we maintain that they are important and representative of the types of oppression with respect to culture that Indigenous women, girls, and 2SLGBTQQIA people face. They are opportunities to reflect on how protecting cultural rights means beginning with respectful relationships, and understanding how these kinds of encounters can contribute to harm, or to healing, in the lives of those who have been most targeted by systemic, institutionalized, and interpersonal racism and violence.



## Defining “Culture”

In sharing their truths with the National Inquiry, families, survivors, Knowledge Keepers, and others made it clear that culture must be part of any undertaking to restore and protect Indigenous and human rights. In the same way, witnesses often cited racism and discrimination as important barriers to accessing these rights, including the most basic rights to personal security. As such, many witnesses described cultural rights as a necessary condition for the enjoyment of all rights. Many testimonies emphasized the importance of recognizing, respecting, and upholding Indigenous culture, as understood by different Indigenous groups, within institutions and systems, such as child welfare, health care, justice, and many more. Central to the protection of cultural rights in these contexts are respect for the importance of the family unit and a willingness to address the ways in which contemporary violations against Indigenous families in terms of child apprehension, in particular, place these rights in jeopardy. The testimonies also emphasized how the violation of cultural rights, in many cases, serves to endanger loved ones and to create situations in which women, girls, and 2SLGBTQIA people are targeted for violence.

International organizations have emphasized the importance of cultural rights and, alongside them, self-determination. As Professor of Law Alexandra Xanthaki explains, the concept of “culture” has evolved in recent decades, along with the scope of what are now considered cultural rights. For decades, international organizations tended to view culture as linked narrowly to the protection of cultural artifacts belonging to the state or to individuals.<sup>7</sup> But this definition fell far short of what many communities, including Indigenous communities, understood by “culture,” and, since the late 1980s, the definition has expanded.

In its broadest conception, “culture” is defined by Xanthaki as

the sum total of the material and spiritual activities and products of a given social group which distinguishes it from other similar groups ... a coherent self-contained system of values and symbols as well as a set of practices that a specific cultural group reproduces over time and which provides individuals with the required signposts and meanings for behaviour and social relationships in everyday life.<sup>8</sup>

As Xanthaki explains, “in this broad sense, the right to culture covers all aspects of life.”<sup>9</sup> Now, in addition to cultural artifacts, “culture” includes elements such as ways of life, language, histories or literatures (both oral and written), belief systems, ceremonies, environments, and traditions “through which individuals, groups of individuals and communities express their humanity and the meaning they give to their existence, and build their view representing their encounters with the external forces affecting their lives.”<sup>10</sup>

In its current interpretation in international human rights law, Indigenous Peoples’ right to culture includes several key aspects. For instance, the right to culture includes non-discrimination with regards to participation in the cultural life of the state as a whole, but it also encompasses rights to cultural autonomy, and to the protection of cultural objects, customs, practices, traditions, and manifestations. In the international rights context, the United Nations’ Expert Mechanism on the



Rights of Indigenous Peoples has highlighted that Indigenous women and children are often holders of significant cultural knowledge, but can also be disproportionately affected by violations of the right to culture.<sup>11</sup>

Within the international framework, cultural, economic, and social rights approaches highlight the importance and centrality of the family unit. The World Population Plan of Action affirms the family as the most fundamental unit in society, and the United Nations Population Information Network (POPIN) notes, “In spite of the many changes that have altered their roles and functions, families continue to provide the natural framework for the emotional, financial and material support essential to the growth and development of their members.... The family in all its forms is the cornerstone of the world.” The duties of families as primary agents of socialization include key areas that are threatened when the family is placed in jeopardy, including the establishment of emotional, economic, and social bonds, protecting family members, especially children, and providing care, socialization, and education of children.<sup>12</sup>

This explanation is indicative of a new weight and depth afforded to cultural rights by the international community, and the depth of dislocation and disruption that many witnesses reported feeling in the context of policies and practices that threaten the family unit and the culture it protects. As one witness from Vancouver, Patrick S., explained, “An Elder told me this once. You know, our culture is as deep as the shells that have layered it up since the beginning of time on the bottom of the ocean. If you work really, really hard you might make it through the first layer in a lifetime. That’s how deep our culture is, you know.”<sup>13</sup>

In 2016, the Human Rights Council of the United Nations unanimously adopted a resolution calling upon all states to “respect, promote and protect the right of everyone to take part in cultural life, including the ability to access and enjoy cultural heritage, and to take relevant actions to achieve this.”<sup>14</sup> The Human Rights Committee has also noted that, for Indigenous Peoples, the right to culture can require that a range of other rights are also fulfilled, including: the right to participate in customary activities; the right to access lands, territories, and resources; the right to family; and the right to participate in decision-making processes that affect their cultural rights.<sup>15</sup> States are also under an obligation to take action to prevent and provide redress for any action that deprives Indigenous Peoples of their integrity as distinct peoples and their cultural values or ethnic identities, and that contains any form of forced assimilation or integration.<sup>16</sup>

As the United Nations points out, “Gross violations of economic, social and cultural rights have been among the root causes of conflicts, and failure to address systematic discrimination and inequities in the enjoyment of these rights can undermine the recovery from conflict.” Further:

The denial of economic, social and cultural rights can lead to violations of other human rights. For example, it is often harder for individuals who cannot read and write to find work, to take part in political activity or to exercise their freedom of expression. Failing to protect a woman’s right to adequate housing (such as lack of secure tenure) can make her more vulnerable to domestic violence, as she might have to choose between remaining in an abusive relationship or becoming homeless.<sup>17</sup>



At first glance, the right to culture may not look like it is closely tied to the issue of missing and murdered Indigenous women and girls. However, understanding the role that culture plays in the context of the safety of Indigenous women, girls, and 2SLGBTQQIA people is key, from the standpoint of both harm and healing.

In generating harm, the violation of cultural rights disempowers Indigenous Peoples, particularly women, girls, and 2SLGBTQQIA people, through racism, through dismissal, and through heavy-handed state actions that seek to impose systems on them. The violation of cultural rights, as they are linked to the ability of culture to promote safety and to the ability of women to transmit it, is an important dimension of understanding the discrimination people face at every level of navigating the state.

On the other hand, the role of culture in healing – the promotion of cultural rights and cultural continuity, that is, the passing of culture from one generation to the next<sup>18</sup> – was a key element of what many witnesses identified as an area in which their loved ones could have found comfort, safety, health, and protection from violence. In addition, promoting cultural rights in the aftermath of tragedy – in the context of treatment, investigations, and prosecution, for instance – means protecting rights and values as defined by Indigenous women, girls, and 2SLGBTQQIA people themselves.

## Pathway to Violence: Intergenerational and Multigenerational Trauma

In sharing stories about family, land, home, and belonging, witnesses often spoke about the importance of the role of culture as a way of ensuring the health, safety, and well-being of their families, communities, and environments. As many witnesses described, in their understanding of culture, practising ceremony and using traditional medicines have been and continue to be important ways of fostering relationships that centre respect and reciprocity. As we discussed in Chapter 2, within these Indigenous cultural systems, women, girls, and 2SLGBTQQIA people have traditionally occupied a position of honour and respect.

“AN ELDER TOLD ME THIS ONCE. YOU KNOW, OUR CULTURE IS AS DEEP AS THE SHELLS THAT HAVE LAYERED IT UP SINCE THE BEGINNING OF TIME ON THE BOTTOM OF THE OCEAN. IF YOU WORK REALLY, REALLY HARD YOU MIGHT MAKE IT THROUGH THE FIRST LAYER IN A LIFETIME. THAT’S HOW DEEP OUR CULTURE IS, YOU KNOW.”

Patrick S.



*National Inquiry staff and members of the Elders and Grandmothers Circle lead the Strong Woman Song in Quebec City, Quebec.*

In describing contemporary experiences, witnesses also described how the violence directed toward their communities that contributed to the loss of culture and cultural practices has, in its simultaneous destruction of these value systems and world views, fundamentally changed the nature of family and community, and, specifically, the position of women, girls, and 2SLGBTQQIA people within family and community. Patrick S. explained how, in today's society, sexist and racist belief systems that champion individualism, hierarchy, and the exercise of power over others run counter to traditional Indigenous cultural systems of relating and organizing.

An Elder told me a story last week. And he said, “There’s white people – there’s white men and there’s white people.... He said, “White people are the people we, you know, the white nation we intersect with; our schoolteachers, our friends ... [they] don’t try and impress us, don’t try and change us, just accept us who we are and, you know, we’re – we’re good neighbors with them, basically.... White men are those people, you know, whatever gender they may be, who subjugate us, who oppress us, who still, you know, cling blindly to that dominant, you know, that paradigm of power, of hierarchy, you know. Those are, you know, white men.”<sup>19</sup>

For many people, loss of culture contributes to, or is experienced as, a form of trauma that extends across generations, and that is reinforced in many ways today. In the First Nations and Métis context, stories shared by witnesses about cultural loss and the violation of cultural rights and the ongoing impacts of that loss on their families and communities often begin with reference to the residential and day school system, the Sixties Scoop, and/or child apprehensions within the current child welfare system, all of which led to disconnection from community and culture. In the case of Inuit, the violation of cultural rights is similar, but shifts to include the important impacts of mass centralization and relocation, and a relatively recent change in way of life.

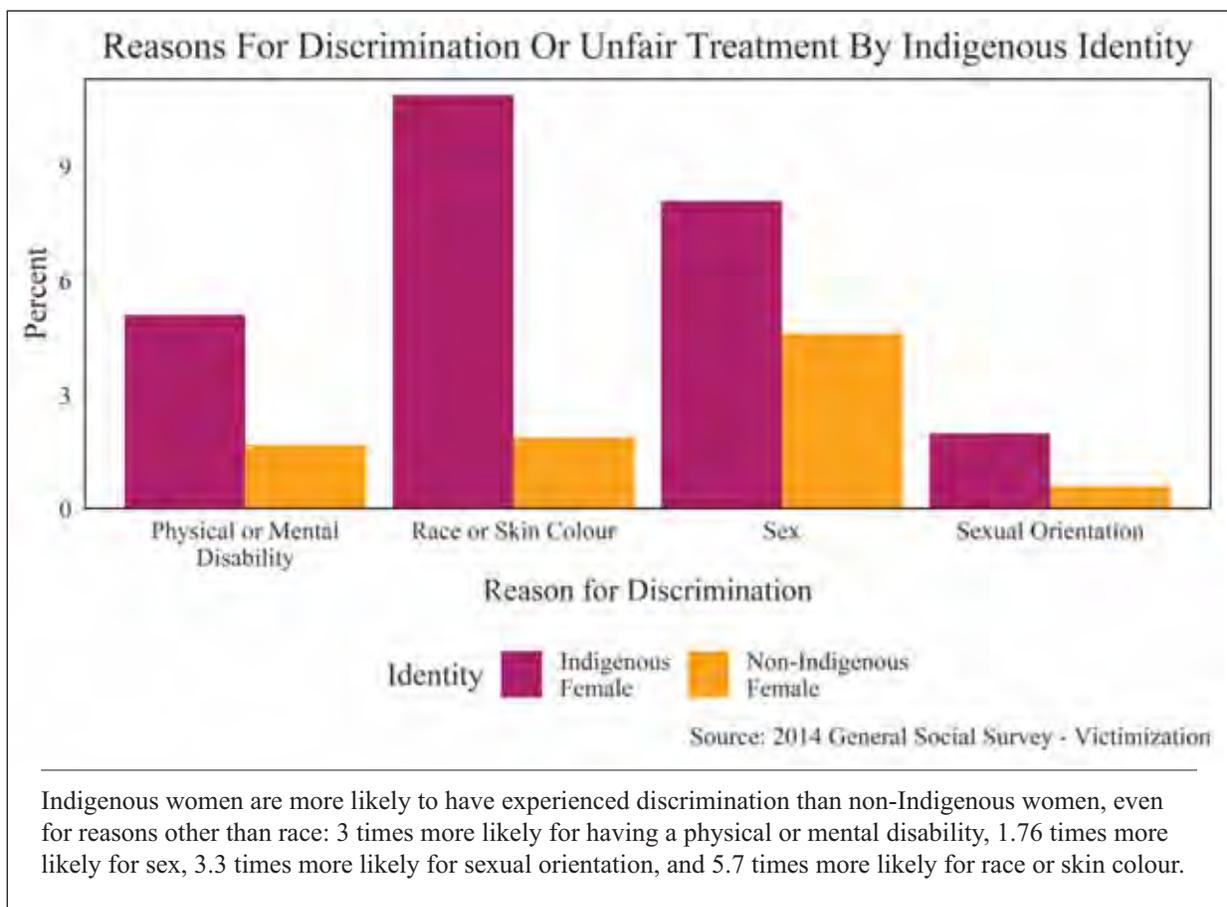


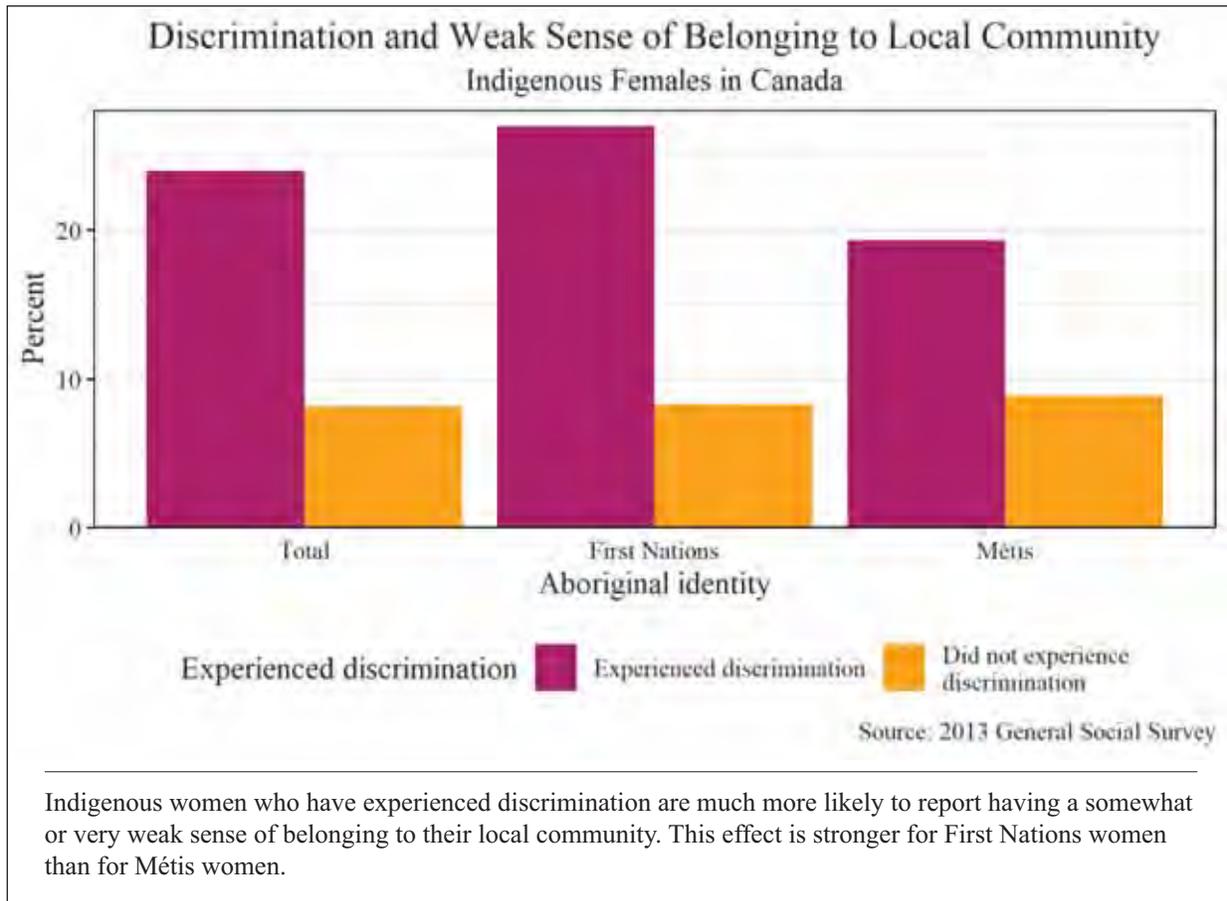
For 2SLGBTQQIA people, stories of cultural loss and violation that continue to have impacts today describe the fundamental shift from the value and respect many Two-Spirit and gender-diverse people held within traditional Indigenous cultures to extreme and at times violent exclusion and erasure from those communities.

Overall, these “patterns of cultural violence,” as described by legal anthropologist Rosemary J. Coombe, also include

the seizure of traditional lands, expropriation and commercial use of indigenous cultural objects without permission by indigenous communities, misinterpretation of indigenous histories, mythologies and cultures, suppression of their languages and religions, and even the forcible removal of indigenous peoples from their families and denial of their indigenous identity.<sup>20</sup>

These processes also include attempts to convince Indigenous people that they themselves are somehow of less value than non-Indigenous people, in a process of dehumanization through education and socialization.





Notably, these patterns continue today, and undermine the full enjoyment of rights held by Indigenous Peoples by virtue of being Indigenous. As family member and Kaska Dena community leader Ann M. R. explained:

As Indigenous people we are very distinct, with unique heritage, language, cultural practice and spiritual beliefs. So, I want everybody to know what it means to be “distinct.” The dictionary says unmistakable, easily distinguishable, recognizable, visible, obvious, pronounced, prominent, striking. That is we as Indigenous people. We have proven that you can never assimilate us and you can never change us. The White Paper of 1969 tried that. It didn’t work. The colonial policies and structures continue on the path of assimilation today.<sup>21</sup>

### Collective and Individualized Post-Traumatic Stress

As was explored in Chapter 4, the history of colonization has had devastating impacts on all Indigenous Peoples, and has affected Indigenous women, girls, and 2SLGBTQQIA people in distinctive ways. The cumulative effects of assimilation, of disenfranchisement through the *Indian Act* for First Nations, and of removal from the land for all Indigenous Peoples in Canada



have contributed to the loss of culture, language, and family. As Moses M. described, this loss of culture, language, and family is accompanied by a loss of Indigenous ways of knowing and relating to each other that, in the past, fostered good relations among people.

My father always sat us down, and these are his words [speaking in Nuu-chah-nulth]. Very few but very powerful words that as our people our very first law is respect, that you always go by that in whatever you're going to do, then there isn't much that you're going to do wrong. He also knew that we as people are just human, that if we make a mistake that we learn by it so that we don't keep on doing the same wrongs.

My mother also taught us about respect in a different way [speaking in Nuu-chah-nulth]. My humble translation of that is that I as an individual cannot demand respect but I have to earn it. And that's the other part of our lives today is that I come from a tribe of around 1,250 people in our tribe, and there's maybe 20 or 25 that can speak the language. So we no longer understand what our old people were saying about things like respect [speaking in Nuu-chah-nulth].<sup>22</sup>

Witnesses who attended residential school or who are children and grandchildren of residential school survivors, as well as those impacted by the Sixties Scoop, emphasized how these particular systems, of which we heard about most, placed them in danger. Michele G. explained:

Maybe the government was beginning the process to close residential schools down, but the Sixties Scoop policy was the replacement. In other words, they continued coming onto our reserve, taking us children. The only thing that had changed was that they sent us to middle-class white families across the country. Some of those families were good, some bad, and some were horrific.<sup>23</sup>

Concrete effects of these experiences varied, but, for many people, the most severe and lasting impacts are those that have fundamentally disrupted the sense of self-worth, family, and connection that had previously been nurtured and protected through culture and family. Carol B. shared the following observation.

And I really feel that the intergenerational trauma brought on by the residential schools has really impacted our families in a negative way. How can you possibly learn to love and value yourself when you're told consistently – daily, that you're of no value. And that we need to take the Indian out of you. How could you value or love yourself? And how could you expect to love and value your children? And so for me, it was really important that I speak on my mother's behalf because if she were alive today, we would have a loving relationship. Or she would love me the best ... way that she knows how, given the circumstances that she had to grow up in.<sup>24</sup>



Like Carol, other witnesses characterized their experiences at residential school, and the ongoing challenges they and their loved ones faced as a result of the ways residential school attendance disrupted family and culture, as a form of trauma. The cumulative effects, as Gail C. stated, represent a form of Post-Traumatic Stress Disorder (PTSD).

So between starvation, between laws and policies, between attitudes, between as what Sandra called yesterday was the open-air prisons [reserves], between the residential school and the foster system, you have whole populations suffering from traumatic stress – PTSD.... You know, people have been ambushed and they're suffering. And they're having a hard time. And this is the kinds of things that – this is also the kinds of things that leads to the violence against Indigenous women.... When you have that kind of information in terms of how your women are looked at, your women become targets.<sup>25</sup>

Experiences like the ones described by Gail of the trauma created through the residential schools system and the foster system, and the ongoing impact of that trauma on the well-being of Indigenous families, are the subject of research undertaken by Dr. Amy Bombay and other researchers who are interested in understanding how residential school attendance shapes the lives not only of survivors but also their children and grandchildren. In the research Amy Bombay shared with the National Inquiry, she explained how many of the features commonly known to have been present at residential schools constitute what are known as “adverse childhood experiences.” These include such experiences as harsh living conditions, lack of proper food or clothing, and physical, sexual, and emotional abuse. Among residential school survivors, these adverse childhood experiences are common, and result in significant consequences.<sup>26</sup>

Among those experiences that continue to have a negative impact, survivors identified factors connected to the destruction of family and loss of culture more frequently than other factors. For instance, research by Bombay and others shows that isolation from family was identified most frequently (77.8%) as one aspect of the residential school experience that continues to carry a negative impact. Also significant is that almost the same percentage of residential school survivors identified loss of cultural identity (69.9%) as having a negative effect as they did verbal or emotional abuse (70.7%).<sup>27</sup> Other factors connected closely to cultural identity that survivors identified as having a negative impact included loss of language (68.2%), separation from community (67.4%), and loss of traditional religion/spirituality (66%). The fact that, for those

“AS INDIGENOUS PEOPLE WE ARE VERY DISTINCT, WITH UNIQUE HERITAGE, LANGUAGE, CULTURAL PRACTICE AND SPIRITUAL BELIEFS. SO, I WANT EVERYBODY TO KNOW WHAT IT MEANS TO BE ‘DISTINCT.’ THE DICTIONARY SAYS UNMISTAKABLE, EASILY DISTINGUISHABLE, RECOGNIZABLE, VISIBLE, OBVIOUS, PRONOUNCED, PROMINENT, STRIKING. THAT IS WE AS INDIGENOUS PEOPLE. WE HAVE PROVEN THAT YOU CAN NEVER ASSIMILATE US AND YOU CAN NEVER CHANGE US. THE WHITE PAPER OF 1969 TRIED THAT. IT DIDN'T WORK. THE COLONIAL POLICIES AND STRUCTURES CONTINUE ON THE PATH OF ASSIMILATION TODAY.”

Ann M. R.



residential school survivors who participated in her study, these familial and cultural losses were more widely identified as having a negative impact than such things as lack of food (48.8%), harsh living conditions such as lack of heat, for example (48.2%), and even sexual abuse (42.6%) demonstrates the deep significance of those aspects of experience connected to culture and family.<sup>28</sup>

The cumulative effects of this disruption of cultural and familial continuity are concrete – and devastating. In addition to the impacts for survivors of the residential school system, Bombay explained, “there is consistent evidence showing that the children and grandchildren of those affected by residential schools are at risk for various negative mental, physical and social outcomes.”<sup>29</sup>

In her testimony, Robin R. provided a powerful account of how these cycles of trauma over lifetimes, and which manifest over generations, are so engrained and accepted that violence in the lives of residential school survivors and their children or grandchildren seems “pre-determined.”

My future was pre-determined in many ways. All of my grandparents attended residential school. They were severely alcoholic. And when I was a child growing up, when I lived in Alberta, there’s not a time that I remember seeing one of my family members sober. My mother was raised in violence, experiencing physical and sexual abuse throughout her childhood. I don’t know much about my father because he left my mother when I was very young. I vaguely remember my father’s father, but never really knew him well. The only father figures I had were the men that came into my mother’s life and continued the abuse she had already known her entire life. Thankfully, I had not experienced abuse at the hands of my mother’s partners, but drug addiction was also an issue with my mother and the men that came into our lives. In spite of this, when I was a teenager, I was a scholarship student preparing for university and college. I was highly academic and I wasn’t drinking or using drugs.

These are some of the things from my past that laid the path that brought me into this situation where I shared my life with a man who could murder my child. I wanted to escape from the pain of my childhood. I wanted a home of my own where I could feel safe, would feel safe. I was 15 years old when I had Isabella. Her father was a 19-year-old drug addict who was trying to live clean. Because I grew up watching my mother being physically abused, I allowed this to be part of my relationships, too, believing it was somewhat normal that I accepted it.<sup>30</sup>

Understandably, the cumulative effects of trauma have also resulted, for many of those who shared their truths, in a sense of anger and displacement that doesn’t always heal with time. As Verna W. explained:



This life wasn't easy for any of us. But, you know, I don't know if it [residential schools] made me stronger or made me more pissed off with the people today because they're still not doing it – doing anything right for us, any of us, and that's right across Canada. I am still angry because I got nothing to reconcile with anybody for.<sup>31</sup>

Other witnesses described the loss of a sense of belonging. Chrystal S. said:

So you know, we really have not had ... our home for so many generations, we've really been displaced for so many generations. We've had generations who grew up in residential schools, so further displaced from their homes. We have generations, from the grand-parents, great-grandparents, who already didn't have a home, but then were moved to residential school, where there was nothing but horrors that are unimaginable to children, and today, in Canada, today in Vancouver, the Downtown Eastside, you know, they don't even have their own homes in that community.

What's the biggest problem for Indigenous people of Canada today is having a home. So we have this long history of not having our home. Of not having a home to live in. How can we raise our children if we don't have a home to belong to? If we don't have a home that's safe? That has our family around us? If we're not even allowed to have that and we're not even allowed to even feel like we belong here, how can we raise our kids in that?<sup>32</sup>

Amy Bombay believes an essential intervention in breaking this cycle comes in repairing the ways in which the residential school system and the foster care system severed familial and cultural ties. Based on her research, Bombay explained, “factors related to culture and cultural identity are particularly protective in buffering against those negative effects of residential schools and other aspects of colonization.”<sup>33</sup> Unfortunately, as the National Inquiry heard from many witnesses, the institutional systems with which Indigenous Peoples interact often ignore the importance of culture and family. In doing so, they reinforce rather than dismantle the harmful relationships and systems that continue to create traumatic conditions.



## DEEPER DIVE

# The Need for a Systems-Level Approach to Transforming Child Welfare

The *Final Report* includes testimony that conveys the extent to which child welfare systems have worked to create the conditions that maintain violence in families, in communities, and within Indigenous groups in Canada. The history of the child welfare system, as well as many of its contemporary iterations, points to the need for a comprehensive, systems-level approach to transforming the ways that child welfare operates in Canada, from its most fundamental level: the lack of respect for Indigenous families and the rights of Indigenous children. As many witnesses identified, the apprehension of children that occurs unfettered on this scale represents the strongest form of violence against a mother, in addition to the violence that it represents for the children.<sup>A</sup> A system this broken and that places Indigenous children at greater risk for violence, now and in the future, requires nothing less than a complete paradigm shift.

## 66 Million Nights, and 187,000 Years of Childhood: Contextualizing Child Welfare in Canada

Over the course of our hearings, the National Inquiry heard from many survivors of the child welfare system, as well as from many family members whose loved ones did not survive. The high number of Indigenous children in care is directly linked to the history and contemporary legacies of colonial policies. According to Dr. Cindy Blackstock, the Gitksan executive director of the First Nations Child and Family Caring Society of Canada and professor at the School of Social Work at McGill University:

It's really the whole roots of colonialism, where you create this dichotomy between the savage, that being Indigenous Peoples, and the civilized, that being the colonial forces ... if you're a

savage, you can't look after the land, and so the civilized have to take over. And if you're a savage, you can't look out for your children, and the civilized have to look after them.<sup>B</sup>

This kind of colonial violence – the removal of children from their families – violates fundamental human rights and compromises culture, health, and security. It is a direct attack on the survival of the group, culturally, biologically, physically, and overall. For those children left behind, children of women who are missing or who have been murdered, the significant consequences of being placed in care are lifelong and critically important: they have implications for programs and initiatives related to healing and to a complete overhaul of the system as it exists.

Cindy Blackstock testified passionately on the subject, pointing out that, by any measure, Indigenous children are still the most likely to be placed in care. As she explained, “And, to give you a sense of the scale of it just for on-reserve, between 1989 and 2012, we’ve known that First Nations kids are 12 times more likely to go into child welfare care, primarily driven by neglect, primarily driven by poverty, substance misuse and by poor housing.”<sup>C</sup> Her testimony revealed the extent to which the causes for children in care connect to the violation of key rights, and the need for healing, in areas related to culture, health, and human security, which encompasses both social and physical security.

In some testimonies heard by the National Inquiry, the danger to children can be compounded or increased by being placed in care; in many instances, they are placed into situations where the likelihood of harm and violence is even higher than it was before. For example, the Canadian Observatory on Homelessness’s national youth homelessness survey, conducted in 2015, found that almost 60% of the 1,103 homeless youth (ages 13 to 24) surveyed in nine provinces and Nunavut had previous or current involvement with child welfare.<sup>D</sup> A British Columbia



study by the Representative for Children and Youth and the Office of the Provincial Health Officer, published in 2009, found that just over a third of the children in care had also been involved in the youth justice system.<sup>E</sup> The same report argued that children in care were more likely to be involved with the justice system than to graduate from high school.

The ongoing disruption to culture, identity, and family through the child welfare system runs in direct opposition to what research demonstrates about how to foster resiliency and improve the lives of Indigenous people. As Amy Bombay explained, when cultural pride and culture are practised and available, they are often accompanied by better overall health outcomes.<sup>F</sup>

In many cases, families – and the sense of belonging, identity, and culture that can come from being in a family – are further punished by structural barriers. In 2018, Winnipeg Member of the Legislative Assembly of Manitoba Bernadette Smith worked to amend Manitoba's child apprehension laws to ensure that children cannot be seized due only to poverty<sup>G</sup> – something that many witnesses outlined as part of their own experiences. But the funding formula still provides funding for children in care, rather than funding designed to properly support families or to prevent the apprehension of children in the first place.

Natalie G. made the following observation about how funding is misdirected into the hands of child welfare services or foster families rather than into the hands of families who need it.

They [Mi'kmaq Family and Children Services] spend thousands and thousands of dollars apprehending these children, and ... it's hard to believe that they'll take a child out of a home, put them in another home, but they're going to pay, like, \$5,000 for new beds, new dressers, new clothes, some food, whatever. Why can't they take that \$5,000 or whatever, buy them brand-new beds in their own home, buy some food for their own home, help the parents, get L'nu [Mi'kmaq] support, you know?<sup>H</sup>

According to Blackstock, the ongoing failure to address the structural roots of the challenges facing

Indigenous families related to poverty, housing, and other basic needs facilitates a system in which the apprehension of children becomes a way for governments to make money by increasing federal transfers, while keeping intact a system that undermines Indigenous culture and family systems. Senator Murray Sinclair has affirmed that “the monster that was created in the residential schools moved into a new house. And that monster now lives in the child-welfare system.”<sup>I</sup>

Looking at this crisis, Blackstock maintains, is about understanding how it impacts children. As she explained to the National Inquiry:

Kids don't think about overrepresentation. When they're looking forward to something or they're looking forward to something being over, they think, “How many sleeps until I see my mom?” And this spreadsheet counted up those sleeps. How many sleeps did First Nations kids spend away from their families in foster care between 1989 and 2012? And it was 66 million nights, or 187,000 years of childhood.<sup>J</sup>

## Children's Rights and Canada's Obligations

For Blackstock and others, those 66 million nights represent fundamental human rights violations committed against children. As many people point out, the rights of children in care are also directly connected to Canada's human rights obligations.

The idea for a convention devoted to the rights of children was first proposed by the country of Poland, in 1978, before the United Nations, but it took 10 years for it to gain the unanimous support of the international community.

A working group began the drafting process in 1979, composed of members from the United Nations Children Fund (UNICEF), different non-governmental organizations (NGOs), and the 48 member states of the Commission on Human Rights.<sup>K</sup> On November 20, 1989, the General Assembly of the United Nations (UN) finally adopted the *Convention on the Rights of the Child* (CRC) as part of Resolution 44/25.



The CRC's 54 articles and its two Optional Protocols are based on four core principles: non-discrimination; the best interests of the child; the right to life, survival, and development; and respect for the views of the child.

For example, Article 3 of the CRC stipulates, "In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative bodies or legislative bodies, the best interests of the child shall be a primary consideration." The CRC also specifically cites child welfare as an area where the rights of children may be in jeopardy. Article 9(1) asserts: "States Parties shall ensure that a child shall not be separated from his or her parents against their will, except when competent authorities subject to judicial review determine, in accordance with applicable law and procedures, that such separation is necessary for the best interests of the child."

Article 9(1), in theory, means that any decisions affecting children, including within the context of child welfare, must be made with this principle in mind. An example of this principle in action means that children should not be separated from their family unless it is necessary for their best interests. As we heard, however, the extent to which the "best interests of the child" are interpreted by workers, as well as by the rationale that undergirds removal in the first place, demonstrates how subjective and culturally biased interpretations of the "best interests" provision have had devastating impacts, particularly when the provision is applied through a colonial or racist lens. As Canadian lawyer, judge, and legislative advocate for children's rights Dr. Mary Ellen Turpel-Lafond testified to the National Inquiry:

One of the most important things that needs to be changed, kind of in a large stroke immediately, is to change the definition of the best interests of the child, so that the best interests of the child includes being with the family and the right of the child to stay connected to their community, their family, their Nation, their identity, and to allow for the best interest of the child to be applied in a way that children aren't removed because of poverty and they aren't removed because of some of those continuing impacts of residential school.<sup>1</sup>

The CRC's Article 24 also entitles all children to health and well-being, whether they are living in their own biological families or in care. As numerous researchers have identified, Indigenous children continue to live, on average, far below the standards of other children in Canada. For instance, First Nations children living in urban centres are twice as likely as non-First Nations children in the same centres to live in poverty, in single-parent households, or in inadequate housing, or to experience hunger.<sup>M</sup> The challenges of on-reserve First Nations communities, as well as Inuit communities, as related to infrastructure and housing as well as poverty and lack of services, are documented throughout this report. Children who are First Nations and who live with disabilities struggle in obtaining services. In addition, food security in more remote or northern communities continues to be a crisis of significant dimensions.<sup>N</sup>

Canada's obligations under the CRC also link to other national and international law instruments that speak to the rights of children, including the *United Nations Declaration on the Rights of Indigenous Peoples* (UNDRIP) and the *Canadian Human Rights Act* (CHRA). Discrimination against Indigenous children also violates the *International Covenant on Civil and Political Rights* (ICCPR) and the *Universal Declaration of Human Rights* (UDHR). According to the First Nations Child and Family Caring Society, Canada's obligations are also linked under the principles of the Honour of the Crown, and fiduciary duty.

In 2018, the Canadian Coalition for the Rights of Children (CCRC) published a discussion paper examining the implications for child welfare within the context of children's rights in Canada. Specifically, and in relation to the *Convention on the Rights of the Child*, the CCRC identified three key areas for consideration and in need of urgent reform. These included data and accountability, focused on understanding the true scope of child welfare practices within Indigenous communities, and as recommended by the Truth and Reconciliation Commission's (TRC) Calls to Action 2 and 55; legislative reform "that requires all actors to make the best interests of the child a top priority," including eliciting and considering the views of children themselves; and measures to support families, including "the state's duty to provide support for parents of vulnerable children, address public service discrimination, and ensure equitable access to services for all families."<sup>O</sup>



The inclusion of the TRC's Calls to Action is significant, and points to the reality that is lived by many of those who testified before the National Inquiry. The TRC's Calls to Action, developed in conjunction with its *Final Report* focusing on the experiences of Indigenous residential school survivors, cited child welfare as an important legacy of the system itself. The first five of the TRC's 94 Calls to Action centre on child welfare, calling on all levels of government to work together to reduce the number of children in care, to report accurately on the numbers of children in care, to fully implement Jordan's Principle on the basis of substantive equality, to support the right of Indigenous governments to establish and maintain their own agencies, and to support Indigenous families through culturally appropriate parenting programs.<sup>P</sup> Further, the recommendations specifically call upon government to ensure that care is culturally safe and takes into account the legacies of the residential school system in subsequent generations, both in terms of placement and ongoing support.

## TRC Calls to Action – Child Welfare

1. We call upon the federal, provincial, territorial, and Aboriginal governments to commit to reducing the number of Aboriginal children in care by:
  - i. Monitoring and assessing neglect investigations.
  - ii. Providing adequate resources to enable Aboriginal communities and child-welfare organizations to keep Aboriginal families together where it is safe to do so, and to keep children in culturally appropriate environments, regardless of where they reside.
  - iii. Ensuring that social workers and others who conduct child-welfare investigations are properly educated and trained about the history and impacts of residential schools.
  - iv. Ensuring that social workers and others who conduct child-welfare investigations are properly educated and trained about the potential for Aboriginal communities and families to provide more appropriate solutions to family healing.
  - v. Requiring that all child-welfare decision makers consider the impact of the residential school experience on children and their caregivers.<sup>Q</sup>

Despite its obligation to report to the UN Committee on the Rights of the Child, Canada could not, in 2012, provide it with an accurate number of children in care, especially of children aged 14 to 18 years who may have been placed in "alternative care facilities." In 2012, the government of Canada appeared before the UN Committee on the Rights of the Child to review its compliance with the CRC. In its review of Canada, entitled "Concluding Observations," the committee observed specific concerns related to Indigenous children in the areas of child welfare, health, poverty, education, and juvenile justice.<sup>R</sup> Specific to child welfare, it recommended that removal decisions must always be assessed by "competent, multidisciplinary teams of professionals," and that the government should "develop criteria for the selection, training and support of childcare workers ... and ensure their regular evaluation."<sup>S</sup> It recommended that the child's view "be a requirement for all official decision-making processes that relate to children," including child welfare decisions.<sup>T</sup> This is especially true for young people who are leaving care, and the committee recommended that they be supported and involved in planning their transition.<sup>U</sup> In addition, and importantly, the committee noted that Canada could not escape its obligations due to its federalist structure – namely, the way in which services are funded by Ottawa and delivered by provinces or other governments.<sup>V</sup>

As Marlyn Bennett, a child welfare researcher who is also a member of Sandy Bay Ojibway Nation in Manitoba, points out:

As a wealthy and prosperous nation with an international reputation for challenging oppressors of the under classes, Canada falls short when its treatment of Aboriginal children is exposed and scrutinized. The social determinants of health overall for First Nations communities have a large impact on the health and well-being of First Nations children and often impeded their future success.<sup>W</sup>

Speaking on CBC's *Power and Politics* program in late 2017, then-Minister of Indigenous Services Jane Philpott characterized the overrepresentation of Indigenous children in care in Canada as a "humanitarian crisis."<sup>X</sup> But, for many who have worked within and observed the system for years, there is reason to be wary. As Blackstock testified, evoking the forgotten history of Dr. Peter Henderson Bryce, the chief



medical health officer with Indian Affairs who surveyed the health of children in residential schools in 1904 but whose findings were ignored, “And that’s a pattern that we’re going to see throughout the whole trajectory of child welfare: the Canadian government knowing better and making a conscious choice not to do better.”<sup>Y</sup>

## A Diverse Landscape of Service Delivery

The UN Committee on the Rights of the Child’s observation – that Canada should not renege on its obligations by virtue of its federal structure – is an important one. As many studies devoted to child welfare systems have pointed out, there is a great diversity of types and levels of child welfare in Canada. In part, this is because child welfare incorporates various levels of government in terms of its funding and its operations, as well as the fact that quality of care and the practices associated with it vary greatly, as Bennett says, “from agency to agency and from region to region depending on how First Nations Child and Family Service Agencies,”<sup>Z</sup> as well as Métis and Inuit service agencies and providers, organize themselves. The diversity of types of care also depends on the structure, funding arrangement, and level of care delegated to child welfare. For Indigenous communities not serviced by Indigenous agencies, the non-Indigenous system steps in, as administered in each province and territory.

### Provincial Agencies

Under the Canadian Constitution, child welfare services are a delegated provincial responsibility, where non-Indigenous children are concerned. But, under the amendments to the *Indian Act* in 1951, child welfare for First Nations children officially came under provincial control rather than being under federal control, as it was previously. By this time, children’s aid societies, as they were known, had already been in existence for some time. The first Children’s Aid Society was established as early as 1891, in Toronto, and Ontario was the first province to pass a *Child Protection Act* in 1893, making it illegal to abuse children. The Act, fully entitled the *Act for the Prevention of Cruelty to and Better Protection of Children*, as researchers Jim Albert and Margot Herbert explain, “promoted

foster care, gave children’s aid societies guardianship power, and established the office of the superintendent of neglected children.”<sup>AA</sup> Within this system, most service providers tended to blame families for their inability to take care of children, rather than understanding the wider societal issues, such as poverty among the working class, that created conditions where abuse and alleged “neglect” could occur.

Until the 1950s, the government of Canada executed child welfare interventions on reserves through its established Indian agents, who would intervene in cases where they suspected abandonment or abuse.<sup>BB</sup> As Bennett explains, these interventions were “without a legal basis,” and, in most cases, the response was sending the child away to residential school. But, due to the 1951 changes in the Act, provincial governments became more engaged in child welfare under section 88 of the *Indian Act*, whereby provincial laws of general application were applied to First Nations people within any province. Previously, constitutional responsibility for those determined to be “Status Indians” was reserved for the federal government. Since child welfare fell under provincial responsibility under the *Constitution Act*, provinces became more involved in child welfare, because section 88 allowed them to intervene in areas outside of their constitutional jurisdiction. Since there was no section dealing with child welfare specifically within the *Constitution Act* or the *Indian Act*, the federal government maintained that those services could be provided by the provinces. This was confirmed in the Supreme Court of Canada in 1976 in the *Natural Parents v. Superintendent of Child Welfare* case.<sup>CC</sup>

The child welfare field has, of course, changed significantly from its early roots; greater understanding in the circumstances of families that undergird an accusation of neglect, and the professionalization of what once used to be a largely volunteer-based, or religiously oriented, occupation, have changed how provincial and territorial child welfare agencies do their work. In part, the publication of the Truth and Reconciliation Commission of Canada’s Calls to Action has also urged the federal government to take on a greater role to clarify areas of responsibility and its own duties towards Indigenous children in care. One of the federal government’s six points of action on this file is exploring the potential for co-developed federal child and family services legislation.



At the same time, criticism of these agencies – as much of our testimony demonstrates – shows that for Indigenous children within provincial and territorial systems, experiences with the child welfare system both represent systemic violence in key rights areas, including children’s rights, as well as possibly serve to later target them for violence.

Within the provincial and territorial child welfare system, as policy researchers Vandna Sinha and Anna Kozlowski explain, “The province or territory is responsible for service provision, lawmaking, governance, and funding for off-reserve families.”<sup>DD</sup> In provinces and territories, children are directed to agencies largely on the basis of location, with obvious implications for urban Indigenous families who are not attached to a specific reserve community or Métis settlement area.

## First Nations Agencies

In general, the application of provincial laws and standards means that the jurisdiction for First Nations governments in administering their own services is delegated, and must follow the standards set by provincial and territorial legislation on the matter. Directive 20-1, a national funding formula administered by the Department of Indian and Northern Affairs, as it was called then, came into effect in 1991. It sets out a requirement that “First Nations CFS Agencies enter into agreements with the provinces to arrange for the authority to deliver a range of comparable child and family services on reserve.”<sup>EE</sup> In practice, this means two separate agreements; the first sets out the delegation of authority with the province or territorial government, while the second agreement is with the federal government and establishes funding for the agencies. The funding for these agencies is based on a population threshold of children aged 0 to 18 on-reserve. In some provinces, such as Ontario, there are other arrangements: the Province of Ontario funds services and then is reimbursed by the federal government.

According to a profile prepared on First Nations services in Canada, there are over 125 First Nations child and family service agencies in operation.<sup>FF</sup>

Within Directive 20-1, there are five common models operated by First Nations agencies, including:

1. **Delegated Models:** These models provide for the assignment of child and family service agencies to provide services to First Nations on- or off-reserve, according to the rules and standards set out by the provincial or territorial statute. These agencies can operate with full delegation, which allows them to provide full protection and prevention authority, or partial delegation, which authorizes them to provide support and prevention services for families at the same time as the provincial or territorial authority provides the child protection component.
2. **Pre-Mandated Services:** These agencies provide prevention support and family support under agreements with the provinces or territories. They are mostly located in Ontario and, according to Cindy Blackstock, “provide an essential service by ensuring that clients have access to culturally based preventative and foster care resources, thus making a significant contribution to supporting Aboriginal and First Nations communities to care for their children, youth and families.”<sup>GG</sup>
3. **Band Bylaw Model:** This model operates under the *Indian Act*’s provisions that allow band councils to pass bylaws on their reserves. The Spallumcheen First Nation in British Columbia, who operates its own agency and represents the only case, as Bennett says, where those laws can “circumvent the application of provincial child welfare laws or standards,” was created under this rule.<sup>HH</sup> But the Spallumcheen First Nation’s legislation has been challenged many times in Canadian courts, so far without overturning it. The enactment of similar systems in other reserves, however, has not been successful.
4. **Tripartite Model:** In this case, both provincial or territorial and federal governments delegate their law-making authority to First Nations, with the rule that First Nations must meet provincial standards. This is the case for the Sechelt First Nation in British Columbia, which has developed and implemented its own authority for child and family services based on a tripartite agreement model. Under its provision, the Sechelt Agreement’s regulations aren’t geographically limited and apply to Sechelt members on- and off-reserve. The Sechelt Agreement, as researchers



Ardith Walkem and Halie Bruce report, also “recognize[s] Sechelt’s ability to pass child welfare laws.”<sup>III</sup> Under section 14(1):

The Council has, to the extent that it is authorized by the constitution of the Band to do so, the power to make laws in relation to matters coming within any of the following classes of matters: ... (h) social and welfare services with respect to Band members, including, without restricting the generality of the foregoing, the custody and placement of children of Band members.<sup>JJ</sup>

5. Self-Government Model: Under the Nisga’a Treaty, “Nisga’a Child and Family Services has achieved full child protection services for the four communities of Gitlaxt’aamiks, Gitwinksihkw, Laxgalts’ap and Gingolx.”<sup>KK</sup> The services are in compliance with British Columbia’s *Child, Family and Community Service Act*, and are guided by the Ayuuk (the Nisga’a inheritance of oral culture and laws). Child protection workers endeavour to uphold the safety and health of children. It provides both statutory services (an extension of the child welfare law) and non-statutory services (volunteer community services), including family support services that focus on prevention. As Bennett explains, the culturally based model can provide “the benefit of being based on the worldview, cultures, and histories of the Aboriginal peoples and affirms, versus competes with, traditional child and family caring processes.”<sup>LL</sup>

There are also many communities who do not operate an agency of their own, for a variety of reasons, including, as Bennett explains,

small economies of scale resulting in limited financial and human resources to operate an agency to lack of willingness on the part of provincial and territorial governments to support Aboriginal agency development to individual communities feeling satisfied with services being delivered by the province or territory often in consultation with the Aboriginal community.<sup>MM</sup>

In these cases, the province or territory of residence provides the services within existing non-Indigenous agencies, including to many off-reserve First Nations.

In 2000, the Assembly of First Nations and the Department of Indigenous and Northern Affairs reviewed Directive 20-1, and offered recommendations for its improvement. Their report focused on topics such as governance, legislation and standards, communications, and funding of existing First Nations child and family service agencies. Its recommendations focused on clarifying areas of responsibility, jurisdiction, and resources; better accounting for factors that negatively impact care; funding for capacity development; and, fundamentally, supporting the goals of First Nations “to assume full jurisdiction over child welfare. The principles and goals of the new policy must enable self-government and support First Nations leadership to that end.”<sup>NN</sup>

## Métis Agencies

Child welfare within a Métis context is, in some ways, different from child welfare in the context of First Nations child welfare agencies, primarily based in the long century during which the Métis were, by all accounts, “the forgotten people.” Stuck in jurisdictional voids where neither the provincial nor the federal government claimed responsibility towards them as a Nation, Métis children were nevertheless marketed for adoption into non-Indigenous homes, as were First Nations, within the context of the Sixties Scoop. The mass marketing of these children, without the accompanying acknowledgement of federal responsibility during this time, left Métis without resources or assistance.

But, in the early 1980s, “Métis and First Nations leaders campaigned heavily against the practice of adopting Métis and First Nations children out to families not living in the local community, particularly out of the province and country.”<sup>OO</sup> In Manitoba, this action resulted in a prohibition against all out-of-province adoptions and the appointment of a special committee, chaired by Judge Edwin Kimelman, to review the placement and adoption of Métis and First Nations children.

Released in 1985, the committee’s final report, *No Quiet Place*, recommended changes to Manitoba’s child welfare legislation that would facilitate bringing cultural and linguistic heritage into the child’s development. Kimelman called the sum of previous practices aimed at separating children from their families “concerted efforts at cultural genocide.”<sup>PP</sup> In its after-



math, *No Quiet Place* helped to establish relationships between the government of Manitoba and the Manitoba Metis Federation on child welfare issues.

A few short years later, the Aboriginal Justice Inquiry (AJI) produced its own report in 1991, outlining its analysis of the historical treatment of Indigenous Peoples within social services. Specifically, it noted that “child welfare practices in Manitoba had a major destructive force on Aboriginal families, communities, and culture.”<sup>QQ</sup> As summarized by researchers Shannon Allard-Chartrand et al., the AJI recommended a number of changes to the child welfare system, including legislating rights to culturally appropriate services and establishing a mandated Métis child and family service agency.<sup>RR</sup>

In 1999, the creation of the Aboriginal Justice Implementation Commission alongside the Aboriginal Justice Inquiry – Child Welfare Initiative (AJI-CWI) meant that the initiative was brought back to life. According to Allard-Chartrand et al.:

The AJI-CWI was jointly established between the provincial government and Métis and First Nations leaders. It looked to implement a strategy to restructure the child welfare system within Manitoba. The most significant objective of this initiative was establishing a province-wide Métis mandate and expanding off-reserve authority for First Nations.<sup>SS</sup>

Among other measures, the work resulted in an amendment to Manitoba’s *Child and Family Services Act*, stating that “Aboriginal people are entitled to the provision of child and family services in a manner which respects their unique status, and their cultural and linguistic heritage.”<sup>TT</sup> In addition, four new child and family services authorities were created out of the process, including the First Nations of Northern Manitoba Child and Family Services Authority, First Nations of Southern Manitoba Child and Family Services Authority, Metis Child and Family Services Authority, and General Child and Family Services Authority. Under three separate memoranda of understanding, the Manitoba Metis Federation, the Assembly of Manitoba Chiefs, and Manitoba Keewatinowi Okimakanak undertook the responsibility to administer and provide child and family services under a delegated model, where the system continues to operate under provincial or territorial regulations. It

did so through new legislation, proclaimed in 2003. Under the legislation, the province maintains authority for setting child welfare standards and for assessing how delegated authorities meet the requirements of the Act, as well as allocating funding and support services to them. In turn, authorities are authorized to set service standards to supplement those that already exist.

For the Métis agency in Manitoba, which operates at arm’s length from the Manitoba Metis Federation, and as asserted by Allard-Chartrand et al., “The new governance structure is a tremendous step toward the repatriation of Métis children. The Métis Authority is better equipped to offer culturally appropriate services for Métis families than the previous system. This grants Métis families and communities greater self-determination.”<sup>UU</sup> At the same time, the systemic deficiencies within the old system are articulated in the new, specifically as related to the training of supervisors on Indigenous awareness and anti-racism, a lack of funding and family support systems as related to prevention, the shortage of resources to handle caseloads, and implications of these stressors for staffing resulting in high turnover and poor health.<sup>VV</sup> In 2006, the report “Strengthen the Commitment: An External Review of the Child Welfare System” also “emphasized the need for an appropriately resourced mechanism to develop and implement the goals of the AJI-CWI.”<sup>WW</sup>

Today, there are a number of Métis child welfare agencies in operation, including in British Columbia, Alberta, and, as above, in Manitoba, that provide delegated child welfare services devoted to the Métis. None of these have received federal funding to date. The Province of Manitoba funds its agencies, whereas, as the TRC reports, “in Alberta, the province funds municipalities and Métis settlements for Métis child welfare services ... in British Columbia, five Métis child and family services agencies deliver services while a non-profit organization, the Métis Commission for Child and Families, consults with the provincial government.”<sup>XX</sup>

In Alberta, the Métis Child and Family Services Agency “ensures children and families are served with dignity, respect, and understanding throughout the delivery of Métis community-based family services and support programs, so that we may serve to strengthen the Métis child, family and community.” It



aims to reduce the number of children apprehended under Alberta's provincial services by "improving the quality and effectiveness of social services, the development of programs to strengthen Indigenous families, and the development of community awareness and responsibility for the well-being of Indigenous children."<sup>YY</sup>

## Inuit Child and Family Services

Across Inuit Nunangat, Inuit children encounter different challenges from those of children in other regions in accessing culturally safe and relevant protection services, as well as in the experiences of apprehension. As researcher Lisa Rae, reporting for the National Aboriginal Health Organization, points out, "Many of the challenges faced by Inuit communities today can be traced to historical events."<sup>ZZ</sup> These include the "imposition of non-Inuit values on Inuit communities and the imposition of the Canadian justice system, the introduction of the wage economy in relatively recent times, the impacts of residential schools and hostels, and the loss of Inuit self-reliance, culture and way of life."<sup>AAA</sup> These experiences, combined with the imposition of "southern bureaucratic governance over Inuit way of life," establish a foundation for the elevated rates of child apprehension in the North, compounded by the struggle of many residents to provide a basic standard of living. In addition, and as Rae explains:

These severe changes, particularly the trauma experienced by many Inuit during the residential school period, have resulted in increased suicide rates and the normalization of suicide in Inuit communities, elevated rates of drug and alcohol abuse, family violence, mental health challenges, and a lack of coping skills.<sup>BBB</sup>

Part of the differences in the structures and mechanisms governing child and family services in Inuit Nunangat rests with the land claims and self-government agreements in force there.

The Nunavut Territory was created in 1999, pursuant to the *Nunavut Act* in conjunction with the settlement of the Nunavut Land Claims Agreement, which received Royal Assent in 1993. In Nunavut, all child welfare and child protection services are provided by the Government of Nunavut's Health and Social Ser-

ices department and through the Child and Family Services Branch. Under the legislation, there are provisions for community agreements for Inuit communities to take more control over child welfare and custom adoption. Nunavut has yet to create its own child welfare law. When it does, and given that it serves a mostly Inuit population, many people insist it should reflect Inuit laws, values, and practices.

In the Inuvialuit Settlement Region, located within the Western Arctic Region of the Northwest Territories, under the 1984 Inuvialuit Final Agreement, child welfare services are provided through regional health authorities. While this does represent a localized authority over the services, it is not Inuit self-government and jurisdiction over child welfare, and remains a form of delegation, whereby laws in application remain territorial laws. In 2015, the Inuvialuit Self-Government Agreement-in-Principle was signed, and included section 8.1, stipulating:

The Inuvialuit Government may make laws in relation to the provision of Child and Family Services for Inuvialuit within the Western Arctic Region, provided that such laws include standards: for the protection of Children; and that apply the principle of acting in the best interests of the Child.<sup>CCC</sup>

The agreement-in-principle further establishes that the Inuvialuit laws shall be compatible with the Northwest Territories' core principles and objects for child and family services. Within the current framework, provisions are in place for community agreements among First Nations, Inuit, and Métis communities to take more control over child welfare, using specific agreements and provisions for custom adoption, with respect to their distinctive perspectives.

Under Nunavik's land claim that covers Northern Quebec, the James Bay and Northern Quebec Agreement, signed in 1975, child welfare services are provided through the Nunavik Regional Board of Health and Social Services, one of 17 regional services in Quebec. As with the case of Inuvialuit, this is a delegated model with more local and regional control, but the laws in application, in this case, remain those of the province of Quebec. Child protection services are provided through two health centres: the Tulat-



tavik Health Centre (Ungava Bay) in Kuujuaq and the Inuulitsivik Health Centre (Hudson Bay) in Puvirnituk. The Kativik Regional Government is represented on the board of directors of the Regional Board of Health and Social Services.

Under the Nunatsiavut agreement, signed in Newfoundland and Labrador in 2005, Nunatsiavut has a law-making agreement with respect to child and family services, under section 17.15:

The Nunatsiavut Government may make laws in Labrador Inuit Lands and the Inuit Communities in relation to the following matters respecting social, family, youth and children's programs, services and facilities for Inuit:

- (a) programs and services for the protection, assistance, well being and development of children, youth and families, including programs and services that focus on prevention and early intervention as they relate to children, youth and families;
- (b) the recruitment, approval, support and monitoring of residential services for children and youth, including caregivers, emergency housing, and group homes;
- (c) the placement of children in approved residential services;
- (d) child care services, including the licensing and monitoring of child care facilities and persons providing child care in private residences.<sup>DDD</sup>

While Nunatsiavut has this authority, it has yet to take it up, focusing in the interim on capacity building to ensure a smooth and healthy transition from the current provision of services at the regional health authority level.

Child welfare and family support services may be organized differently in different jurisdictions, and the services provided for Inuit may also apply to non-Inuit living there.

As Lisa Rae contends, "While these agreements are significant landmarks for Inuit, the transfer of control over services and building capacity in Inuit commu-

nities to take on those services is a slow process with many challenges."<sup>EEE</sup> In addition, the provision of child welfare under these different departments hasn't necessarily solved all of the issues related to children in care. For example, Nunavut undertook a review of its *Child and Family Services Act*. During its course, a judge found:

The Act is in violation of the Canadian Charter of Rights and Freedoms, because of its failure to provide a mechanism that allows for timely post-apprehension screening on the grounds of removal. Currently, after children are removed from their parents by a social worker, there is no way for parents to appeal the decision through the courts in a timely manner.<sup>FFF</sup>

A 2011 report from the Auditor General of Canada also outlined significant issues within Nunavut's department of Health and Social Services, including failures in the department's ability to meet its own standards and procedures, including a lack of safety checks on foster homes, poor record keeping, a lack of coordination between services, social worker shortages, and unmanageable workloads.<sup>GGG</sup>

In Nunavik, the Commission des droits de la personne et des droits de la jeunesse conducted an investigation in Ungava Bay and Hudson Bay in 2007 after it received complaints about the delivery of services in Nunavik, including lack of services to those referred to it, poorly trained staff, and lack of knowledge about the *Youth Protection Act* of Quebec.<sup>HHH</sup>

The investigation revealed the need for

improving the governance structure of service organizations and delivery, improving specialized resources such as addictions services, conducting assessments of foster families, offering training and supports for foster families, building an employee assistance program to support and train workers, as well as recommendations in the areas of housing, adoption, and the application of the *Youth Justice Act*.<sup>III</sup>

In 2010, a follow-up report concluded there was some progress in some areas, but noted that 30% of children living in Nunavik are reported to child protection services, crime is increasing, the suicide rate remains high, and drug and alcohol abuse is one



of the key areas of investigation and child placement.<sup>JJJ</sup> Staff recruitment and training remained problems, as well as the assessment of potential foster families, housing needs, and the involvement of regional organizations.<sup>KKK</sup> In 2018, an Aboriginal Peoples Television Network story reported that one in three Inuit youth in Nunavik are involved with child protection, with intervention workers carrying case-loads of approximately 45 cases, with the provincial average being 18.<sup>LLL</sup>

While these regions are distinct, they share much in common. Over 2010 and 2011, an Inuit Children and Social Services Reference Group identified a number of key issues for Inuit in relation to family support and child welfare services. These included:

1. addressing child and family poverty caused, in part, by the high cost of living, as well as addictions in many Inuit families;
2. fostering community involvement to generate solutions to different challenges;
3. taking an Inuit-specific, distinctions-based approach to child welfare and to family support;
4. developing culturally safe resources and services, as well as educating service providers about Inuit culture and values, since many who are delivering services are not Inuit, or not from that region;
5. focusing on prevention and on supporting families to prevent apprehension in the first place;
6. improving supports for those experiencing financial or social distress, akin to a home-care visiting model at work in Nunatsiavut;
7. supporting traditional practices, including custom adoption;
8. ensuring access to legal services to ensure proper representation in cases involving child welfare;
9. seeking more direction from Inuit about how best to meet Inuit needs and priorities;

10. maintaining cultural ties and community connection for adoptees who are sent outside of communities and adopted by non-Inuit;
11. increasing community involvement in decision making that affects children and youth; and
12. building capacity in Inuit communities for people to be able to provide services for themselves, and to increase economic health.

These common themes and experiences point to the need for agreements to take into account local needs and circumstances, as well as the larger themes important to children, youth, and families regarding culturally safe resources and Inuit-specific approaches.

## “It’s not just pushing paper”: Interjurisdictional Disputes and Non-compliance

This complexity of agreements and the challenges associated with a diverse child welfare landscape are stark and important examples of where interjurisdictional cooperation can impact the operation and provision of these services.

As Blackstock argues, in specific reference to the government’s non-compliance in the application of Jordan’s Principle,<sup>MMM</sup> explained earlier in this report, the failure to act to fully address the problem goes beyond simple inaction, with profound consequences: “I just want to emphasize that this non-compliance isn’t neutral. It’s not just pushing paper around. It’s having real impacts on children.”<sup>NNN</sup>

Eight existing reports spanning from 1994 to 2015, with approximately 28 recommendations, address the need to improve child and family services for Indigenous Peoples. Reports note there are several ways in which the inadequacies of child welfare systems contribute to violence against Indigenous women, girls, and 2SLGBTQIA people. First, the disruption to Indigenous families and communities caused by child apprehensions, conducted systematically over generations by Canadian governments, has resulted in trauma, substance abuse, low self-esteem, cultural disconnection, a lack of parenting



skills, and, ultimately, violence. Second, apprehended children are more vulnerable to sexual abuse and exploitation while they are in care. There are also increased chances of youth becoming street-engaged earlier if they have been apprehended. Third, leaving or “aging out” of care can significantly elevate young Indigenous women’s and gender-diverse people’s vulnerability to violence, especially when it involves a sudden end to their community supports and relationships.

Most of the recommendations under this sub-theme are directed either at provincial governments, or else at the need to better coordinate services and funding at multiple levels of government. The need for better interjurisdictional funding was mentioned by virtually everyone.

In 2016, the Canadian Human Rights Tribunal (CHRT) found that the federal government discriminated against First Nations children in care by providing them with less funding compared with non-First Nations children in care.<sup>OOO</sup> The CHRT held that this discrimination perpetuated historic disadvantages, particularly the legacies of residential schools. The CHRT also found that the federal government was failing to implement Jordan’s Principle, and that the structure of Directive 20-1 effectively created an incentive to remove First Nations children from their families by providing non-First Nations recipients with higher levels of funding, greater flexibility, and fewer reporting requirements that incentivizes non-culturally appropriate services.<sup>PPP</sup> While the CHRT found the federal government had made some effort to address shortcomings of the directive in recent years, these measures failed to adequately remove inequalities in child welfare funding formulas for First Nations children.

The federal government has been slow to implement the CHRT’s orders. As of March 2019, the CHRT has issued its seventh non-compliance order to the federal government for failing to fully implement Jordan’s Principle.<sup>QQQ</sup> While the federal government has promised more funding to address child welfare issues and make sure there are equitable services for Indigenous children, what it has promised still falls far short of what families need.<sup>RRR</sup> Almost all Canadian provinces have initiated at least one systemic review of child welfare regimes within their respective jurisdictions.<sup>SSS</sup> To date, there are no legislated national standards for child welfare.

## “The price of us waiting”: Encouraging New Initiatives for Change

For many of our witnesses, changes must happen right now, to begin to address the very real impacts that child welfare has on human security, and on the safety of Indigenous women, girls, and 2SLGBTQQIA people. The loss of childhoods, as Cindy Blackstock explained, represents

the price of us waiting. That’s the price of us putting up with this underfunding and this partial equality for even a day more. That’s why we have to do everything in our power as individuals, as systems, as inquiries, to make sure that this is the generation of kids, First Nations, Métis, and Inuit kids who don’t have to recover from their childhoods, because we know better and we can do better, so we’ve got to get to it.<sup>TTT</sup>

As the National Inquiry heard, the price of waiting is too much. Particularly with high numbers of Indigenous children aging out of care, as well as being apprehended on a daily basis, the consequences in



*Dr. Cindy Blackstock testifies before the National Inquiry in Winnipeg, Manitoba.*



these moments of transition can be grave. In addition, the remarkable level of apathy that was demonstrated, at least until recently, for a crisis that has been worsening for decades underscores the extent to which governments are cognizant of this price, and aware of the need to change.

The National Inquiry heard specific testimony related to the price of waiting, particularly in moments of transition. For instance, “aging out of care” refers to the process by which many children in foster care are abandoned when they reach the age of majority – in most cases, 18 – by child and family services systems funded to support children and youth up to a certain age. Many of these children simply “age out” of the child welfare system, without having forged a stable family connection and without the skills to survive, let alone thrive, on their own.

As the Canadian Coalition for the Rights of Children’s research demonstrates, provincial child welfare systems do not adequately prepare youth for life after care and directly contribute to lower graduation rates from high school, greater mental health issues, and a greater likelihood of becoming involved in the youth criminal justice system.<sup>UUU</sup>

Stephen Gaetz, professor and director of the Canadian Observatory on Homelessness at York University, points out:

Difficult transitions from care often result in a range of negative outcomes, such as homelessness, unemployment, lack of educational engagement and achievement, involvement in corrections, lack of skills and potentially, a life of poverty. Many young people who leave care fail to make the transition to independent living because of underdeveloped living skills, inadequate education, lower levels of physical and emotional well-being and lack of supports and resources that most young people rely on when moving into adulthood.<sup>VVV</sup>

In addition, in many jurisdictions, the rules governing child welfare ignore more recent social and economic changes, making it more difficult for youth to live on their own at an early age. For example, over 40% of Canadians aged 20 to 29 live with their parents due to high costs of housing, their attendance at college

and university, or poor job prospects.<sup>WWW</sup> For these reasons, child welfare services that cease providing support for youth at a relatively young age place youth in jeopardy. While there are programs that seek to fill these gaps, they don’t exist everywhere and aren’t all successful. Many testimonies before the National Inquiry gave examples of how youth aging out of care ended in homelessness and sometimes even death.

As First Nations Family Advocate for the Assembly of Manitoba Chiefs Cora Morgan testified, the outcomes for children aging out of care in Manitoba, for example, are not good.

The education outcomes in Manitoba for children in our care, only 25% of them graduate high school, and you know, we have high populations of homeless people due to children aging out of care. You know, those are the things that when you take children out of the community and, you know, they lose language, they lose connection, they lose family, and then they come into Winnipeg and they’re searching for some sort of belonging, and it’s not always in a good place.<sup>XXX</sup>

Turpel-Lafond presented *Paige’s Story*, a report about the death of a girl who aged out of care and then died in Vancouver’s Downtown Eastside. As she said in her testimony:

Essentially, the story of Paige’s life is that she moved around Vancouver, and particularly, in the Downtown Eastside, and she aged out of care in a way that many youth age out of care. And I certainly heard and worked with them extensively, which is essentially being given sort of their belongings in a garbage bag and being sent, in British Columbia, kind of to the curb at 19. So Paige aged out of care, and she had no place to live. The only place she had to live was in the Downtown Eastside. And she died, tragically, of a drug overdose at 19 years old in the Downtown Eastside.<sup>YYY</sup>

Resolving the issues of ongoing apprehension, as well as of aging out of care without proper support, is key. Some Indigenous organizations have advocated for greater federal legislative input in child welfare systems, seeing it as a means by which In-



Indigenous self-determination may also be better facilitated.<sup>ZZZ</sup> Improving accountability in the child welfare system for past and current practices is an important issue. The problematic consequences of primary provincial control over child welfare systems include significant disparities from province to province concerning the extent to which each provincial government will recognize Indigenous jurisdiction over Indigenous children in the child welfare system, including the extent to which First Nations agencies will be delegated authority to administer these systems (and receive financial and technical support to do so).<sup>AAAA</sup> Further, conflicts and inconsistencies can arise between provincial child welfare legislation and federal funding frameworks. While Canadian constitutional law fails to provide clarity over interjurisdictional financial responsibilities, especially in cases in which federal and provincial jurisdiction may overlap, federal legislation (coordinated with the provinces and territories) may provide more clarity.<sup>BBBB</sup>

In her testimony, Dr. Valérie Gideon, regional director for First Nations and Inuit Health, Ontario Region for Health Canada, talked about a working group recently appointed by the minister of Justice to review “all laws, policies and operational procedures in the context of the United Nations Declaration and the rights of Indigenous peoples in section 35.”

As she pointed out:

It’s a question of prioritization and I mean, there’s been a – obviously now, with Minister Bennett very actively consulting with First Nations, Inuit, and Métis on the recognition and implementation of Indigenous rights framework, and there’s also discussions with respect to child and family services and potential legislation, so there is a lot of work underway.<sup>CCCC</sup>

This includes a more active engagement with those not traditionally serviced by the federal government, such as Métis and Inuit. Over the course of the working group’s review, “more than 65 engagement sessions with nearly 2,000 participants were held.”<sup>DDDD</sup>

In late 2018, then-Indigenous Services Minister Jane Philpott announced that the government of Canada will introduce co-developed federal legislation on Indigenous child and family services in early 2019. Ac-

companied by Assembly of First Nations National Chief Perry Bellegarde, Inuit Tapiriit Kanatami President Natan Obed, and Métis National Council President Clément Chartier, Philpott pointed out that Indigenous children represent 52.2% of children in foster care in private homes in Canada, and that these children face greater risks regarding health outcomes, violence, and incarceration.<sup>EEEE</sup> As the government’s summary of the meeting explains, the steps being taken reflect a need for significant legislative change.

Currently, Indigenous families are bound by rules and systems that are not reflective of their cultures and identities. The goal of the proposed legislation is to change that. It aims to support Indigenous families to raise their children within their homelands and nations as well as increase efforts to prevent child apprehension where possible and safe to do so.<sup>FFFF</sup>

The proposed legislation is intended to affirm section 35 rights of the Canadian Constitution and support the Calls to Action of the TRC, as well as operate in line with Canada’s commitments to UNDRIP and the CRC. According to the government, the proposed legislation is based on the principle and the right to self-determination for Indigenous Peoples to determine their own laws, policies, and practices for child and family services.

The focus on the legislation, Minister Philpott maintained, was necessary and would provide “a powerful tool to support these efforts.” Minister Carolyn Bennett, Minister of Crown-Indigenous Relations, said, “This is a critical step in supporting the rights and well-being of Indigenous children. The status quo is not acceptable.”<sup>GGGG</sup>

Indigenous leaders, similarly, cited the importance of reforming child and family services in ways that respect, as Assembly of First Nations National Chief Perry Bellegarde explained, “our rights, cultures, family structures.... First Nations are ready to focus on prevention over apprehension, and apply First Nations laws, policies and cultural values that place children at the centre of our Nations.” Inuit Tapiriit Kanatami President Natan Obed reiterated the commitment of Inuit to “working constructively and on a distinctions basis towards the co-development of federal child and family welfare legislation to help



meaningfully address social inequity in Inuit Nunangat, and across Canada, and ultimately decrease the overrepresentation of Inuit children in care.” Clément Chartier, president of the Métis National Council, asserted:

This proposed legislation will provide a new chapter towards increased recognition that we, the Métis Nation, are best placed to nurture and to care for our children. This is an unprecedented initiative that will ensure the survival, dignity and well-being of our families, communities and nation for generations to come.<sup>HHHH</sup>

On February 28, 2019, Indigenous Services Minister Seamus O’Regan introduced Bill C-92, An Act respecting First Nations, Inuit and Métis children, youth and families. Co-developed with Indigenous partners, including the Assembly of First Nations, Inuit Tapiriit Kanatami, and the Métis National Council, the Bill seeks to affirm Indigenous Peoples’ inherent right to exercise jurisdiction over child and family services, as well as to “establish national principles such as best interests of the child, cultural continuity and substantive equality to guide the interpretation and administration of the Bill.”<sup>IIII</sup> Significantly, the Bill outlines new factors for consideration in determining what is meant by the “best interests” of an Indigenous child in care, including cultural, linguistic, and spiritual values and the ongoing and important aspect of relationship with one’s biological family, community, and Indigenous group. The Bill also emphasizes the need to focus on prevention to reduce apprehension, and to provide care to support families as an integral unit.

## Conclusion: “Our ability to dream for ourselves”

In identifying solutions, Cindy Blackstock argued that it is important to

re-embrace those cultural ways of keeping kids safe and be prepared to do that.... We feel that one of the things taken from many Indigenous Peoples through colonization, perhaps even, I would argue, the most important thing was our ability to dream for ourselves. What does a healthy Gitksan family and child look like? Some of us have pieces of that vision, but that commu-

nal vision, that was broken apart; in some cases, more than in others. And so, one of the first things is to re-dream what that looks like, and then work with community to re-establish that dream.<sup>JJJJ</sup>

One example is the First Nations Child and Family Caring Society’s Touchstones of Hope project to promote reconciliation in the area of child welfare, launched in 2005. This project is based on five principles. They include:

- self-determination: respecting that Indigenous Peoples are in the best position to make decisions regarding Indigenous children;
- holism: respecting the child as part of an interconnected reality where family, community, Nation, and world are all honoured;
- culture and language: honouring the culture and language of an Indigenous child and supporting that through the provision of culturally based child welfare and family support services;
- structural interventions: addressing poverty, poor housing, and substance misuse as key components to effective child welfare and family support services for Indigenous children; and
- non-discrimination: providing Indigenous children with a comparable level of child welfare and allied services as provided to non-Indigenous children and giving preference to Indigenous knowledge when responding to the needs of Indigenous children.<sup>KKKK</sup>

The National Inquiry heard about other programs, too, that enhance connection to community and that are aimed at confronting this crisis. In her testimony, Cora Morgan talked about a program from the First Nations Children’s Advocate Office, where they work to help mothers whose newborn babies are likely to be apprehended. This initiative focuses on creating cultural connection and safety, from birth. As she explained:

Newborn babies, we were getting calls from moms who, upon the discharge of their babies,



they were going to be apprehended. So we started responding at the hospital to try and prevent babies from being taken. And then we started trying to offer more. We soon had the ability to offer moccasins.<sup>LLLL</sup>

She also cited the Sacred Babies workshop, where families create bundles for their family.<sup>MMMM</sup>

For children already in care, witnesses testifying before the National Inquiry also identified a number of practices focused on cultural safety that could ultimately help create a sense of belonging for the child, and improve outcomes later in life. As Mary Ellen Turpel-Lafond discussed, cultural plans for children in foster care are necessary to maintain strong ties to community and to cultural identity, and, thereby, to personal safety. She explained:

I think that it should be required that there be what I called early cultural plans, which means there has to be an operationalized cultural plan. So you don't just, like, go later and find out who your family is.... So there isn't that discontinuity between your identity, your culture, and your time in foster care.<sup>NNNN</sup>

As the programs and efforts in this Deeper Dive demonstrate, the answers are there. As Cindy Blackstock argued:

A lot of people think that we need to find new answers to remedy some of the most pressing problems confronting First Nations children in care and their families. I argue against that. I think that, actually, we have known for, for at least, 111 years, the inequalities that have been facing these communities, and how that has piled up on the hopes and dreams of children and, in fact, incentivized their removal of children – from their families. First, in residential schools; then, through the Sixties Scoop; now, in contemporary times.<sup>OOOO</sup>

The existing child welfare system inflicts violence on Indigenous women, girls, and 2SLGBTQQIA people, and contributes in significant ways to a lack of safety.



## Findings:

- The Canadian state has used child welfare laws and agencies as a tool to oppress, displace, disrupt, and destroy Indigenous families, communities, and Nations. It is a tool in the genocide of Indigenous Peoples.
- State child welfare laws, policies, and services are based on non-Indigenous laws, values, and world views and, as such, are ineffective. Further, they violate inherent Indigenous rights to govern and to hold jurisdiction over child and family services.
- The apprehension of a child from their mother is a form of violence against the child. It also represents the worst form of violence against the mother. Apprehension disrupts the familial and cultural connections that are present in Indigenous communities, and, as such, it denies the child the safety and security of both.
- There is a direct link between current child welfare systems and the disappearances and murders of, and violence experienced by, Indigenous women, girls, and 2SLGBTQQIA people.
- The state has a fiduciary obligation to children and youth in its care. Canada has failed to support Indigenous children who are in state care to safely grow into adulthood.
- Indigenous children are removed from their families due to conditions of poverty or as a result of racial and cultural bias. The state characterizes these circumstances as “neglect.” This is a form of discrimination and violence.
- The use of birth alerts against Indigenous mothers, including mothers who were in care themselves, can be the sole basis for the apprehension of their newborn children. Birth alerts are racist and discriminatory and are a gross violation of the rights of the child, the mother, and the community.
- The child welfare system fails to meet the needs of Indigenous children and youth and fails to protect them from abuse and exploitation. State failure to protect has assisted human traffickers in targeting children and youth in care for sexual exploitation.
- State funding of child welfare services incentivizes the apprehension of Indigenous children and youth. This is exemplified by the state’s prioritizing funding for foster homes over economic and support services to families; state policies that limit access to specialized support services unless the child is in care; and agency funding models that are predicated on the number of children in the agency’s care.
- Gaps in child and family services and infrastructure in northern and remote communities result in the disproportionately high rate of Inuit, Métis, and First Nations children being sent out of their communities and regions to obtain services and care in other jurisdictions. This can result in jurisdictional neglect and culturally unsafe services. Further, it can result in the denial of the human rights and Indigenous rights of the children and their families.



- A Dr. Janet Smylie (Cree/Métis), Mixed Parts 2 & 3, Public Volume 2, Iqaluit, NU; Cora Morgan (Sagkeeng First Nation), Mixed Parts 2 & 3, Public Volume 10, Winnipeg, MB; Jackie Anderson (Métis), Part 2, Public Volume 3, Calgary, AB.
- B Dr. Cindy Blackstock (Gitksan), Part 3, Public Volume 10, Toronto, ON, pp. 256-257.
- C Dr. Cindy Blackstock (Gitksan), Part 3, Public Volume 10, Toronto, ON, p. 259.
- D Gaetz et al., as cited in Hyslop, "How poverty and underfunding."
- E Representative for Children and Youth and British Columbia Office of the Provincial Health Officer, "Kids, Crime and Care."
- F Dr. Amy Bombay (Ojibway, Rainy River First Nations), Mixed Parts 2 & 3, Public Volume 10, Winnipeg, MB, pp. 182-183.
- G Malone, "Change to Manitoba's child apprehension."
- H Natalie G. (Mi'kmaq), Part 1, Public Volume 18, Membertou, NS, p. 87.
- I Krugel, "Child welfare system."
- J Dr. Cindy Blackstock (Gitksan), Part 3, Public Volume 10, Toronto, ON, p. 260.
- K "The Beginnings of the Convention on the Rights of the Child."
- L Dr. Mary Ellen Turpel-Lafond (Cree), Mixed Parts 2 and 3, Volume 13, Winnipeg, MB, p. 202.
- M Canadian Council of Provincial and Youth Advocates, "Aboriginal Children."
- N McIntyre, Walsh and Connor, "A Follow-Up Study of Child Hunger," as quoted in Bennett and Auger, "The Rights of First Nations Children," 3.
- O Canadian Coalition for the Rights of Children (CCRC), "The System Needs Fixing," 2.
- P Truth and Reconciliation Commission of Canada, *Calls to Action*, p. 1.
- Q Ibid.
- R Bennett and Auger, "The Rights of First Nations Children," 4.
- S United Nations, Human Rights Committee, "Concluding observations," in CCRC, "The System Needs Fixing," 5.
- T Ibid.
- U Ibid.
- V Ibid.
- W Bennett and Auger, "The Rights of First Nations Children," 8.
- X Reported by Barrera, "Indigenous child welfare rates."
- Y Dr. Cindy Blackstock (Gitksan), Part 3, Public Volume 10, Toronto, ON, p. 187.
- Z Bennett, "First Nations Fact Sheet," 1.
- AA Albert and Herbert, "Child Welfare."
- BB Bennett, "First Nations Fact Sheet," 1.
- CC As quoted in Bennett, "First Nations Fact Sheet," 2.
- DD Sinha and Kozlowski, "The Structure of Aboriginal Child Welfare," 7.
- EE Bennett, "First Nations Fact Sheet," 2.
- FF For a list of agencies, see First Nations Child and Family Caring Society, "First Nations Child and Family Service Agencies in Canada."
- GG Blackstock, "Aboriginal Child Welfare," cited in Bennett, "First Nations Fact Sheet," 4.
- HH Bennett, "First Nations Fact Sheet," 2, 4.
- II Walkem and Bruce, "Calling Forth Our Future," 62.
- JJ Ibid, 61.
- KK Nisga'a Lisims Government, "About NCFCS."
- LL Bennett, "First Nations Fact Sheet," 5.
- MM Ibid., 5-6.
- NN McDonald, Ladd, et al., "First Nations Child and Family Services," 119.
- OO Bostrom, Rogan and Asselin, "The Aboriginal Justice Inquiry," cited in Allard-Chartrand et al., "Métis Children and Families," 10.
- PP Ibid.
- QQ Bourassa, "Summary review," cited in "Métis Children and Families," 10.
- RR Ibid, 10.
- SS Ibid, 11.
- TT Ibid.
- UU Ibid, 12.
- VV Ibid, 12.
- WW Ibid.
- XX Truth and Reconciliation Commission of Canada, *Canada's Residential Schools: The History...*, 52.
- YY "Métis Child & Family Services Society."
- ZZ Rae, "Inuit Child Welfare," 4.
- AAA Ibid.
- BBB Ibid.
- CCC Canada, Aboriginal Affairs and Northern Development Canada, "Inuvialuit Self-Government Negotiations."
- DDD Labrador Inuit Land Claims Agreement, "Land Claims Agreement," 264.
- EEE Rae, "Inuit Child Welfare," 10.



- FFF Nunatsiq News, "Judge: Nunavut child protection," as cited in Rae, "Inuit Child Welfare," p. 11.
- GGG Office of the Auditor General, *2011 March Report of the Auditor General of Canada*.
- HHH Commission des droits de la personne et de droits de la jeunesse Québec, "Investigation into Child and Youth."
- III Rae, "Inuit Child Welfare," 11-12.
- JJJ Commission des droits de la personne et de droits de la jeunesse Québec, "Investigation into Child and Youth."
- KKK Rae, "Inuit Child Welfare," 11-12.
- LLL Fennario, "One in three Inuit youth."
- MMM Jordan's Principle dictates that if a First Nations child is in need of services, they must receive them immediately from the government of first contact. The principle arose in response to jurisdictional disputes that would arise between the provincial and federal governments over which jurisdiction would have to pay for these medical services.
- NNN Dr. Cindy Blackstock (Gitksan), Part 3, Public Volume 10, Toronto, ON, p. 246.
- OOO *First Nations Child and Family Caring Society of Canada v Attorney General of Canada* (for the Minister of Indian and Northern Affairs Canada) 2016 CHRT.
- PPP First Nations Child and Family Caring Society, "Memorandum of Fact," 8.
- QQQ *First Nations Child and Family Caring Society of Canada v Attorney General of Canada* (for the Minister of Indian and Northern Affairs Canada) 2016 CHRT 2.
- RRR Ostroff, "Trudeau budget continues illegal discrimination."
- SSS Alberta, British Columbia, and Manitoba governments have commissioned multiple reviews of their respective child welfare systems. Saskatchewan, Quebec, and New Brunswick have all initiated reviews of their respective child welfare systems. Ontario, Nova Scotia, Newfoundland and Labrador, and the Yukon do not appear to have commissioned such reviews of studies within their respective jurisdictions.
- TTT Dr. Cindy Blackstock (Gitksan), Part 3, Public Volume 10, Toronto, ON, p. 260.
- UUU CCRC, "The System Needs Fixing."
- VVV Gaetz et al., "Without a Home," 49-50.
- WWW Gaetz, "Coming of Age," 2.
- XXX Cora Morgan (Sagkeeng First Nation), Mixed Parts 2 & 3, Public Volume 11, Winnipeg, MB, pp. 153-154.
- YYY Dr. Mary Ellen Turpel-Lafond (Cree), Mixed Parts 2 & 3, Public Volume 13, Winnipeg, MB, p. 77.
- ZZZ Grammond, "Federal Legislation," 136.
- AAAA Ibid.
- BBBB Ibid.
- CCCC Dr. Valérie Gideon (Mik'maq Nation of Gesgapegiag), Part 2, Public Volume 4, Calgary, AB, p. 50.
- DDDD Canada, Indigenous Services Canada, "Government of Canada."
- EEEE Ibid.
- FFFF Ibid.
- GGGG Ibid.
- HHHH Ibid.
- IIII Canada, Indigenous Services Canada, "An Act."
- JJJJ Dr. Cindy Blackstock (Gitksan), Part 3, Public Volume 10, Toronto, ON, pp. 257-258.
- KKKK Blackstock et al, "Reconciliation in Child Welfare."
- LLLL Cora Morgan (Sagkeeng First Nation), Mixed Parts 2 & 3, Public Volume 10, Winnipeg, MB, pp. 45-46.
- MMMM Cora Morgan (Sagkeeng First Nation), Mixed Parts 2 & 3, Public Volume 10, Winnipeg, MB, p. 46.
- NNNN Dr. Mary Ellen Turpel-Lafond (Cree), Mixed Parts 2 & 3, Public Volume 13, Winnipeg, MB, p. 289.
- OOOO Dr. Cindy Blackstock (Gitksan), Part 3, Public Volume 10, Toronto, ON, p. 182.



*First Nations and Métis Elders are recognized and thanked at the close of the hearings on racism in Toronto, Ontario.*

## The Impact of Colonial Systems on Identity, Family, and Culture

Of the systems we heard most about, and those that represent shared experiences across Indigenous groups including First Nations, Métis, and Inuit, the residential and day school experiences, as well as Sixties Scoop or child welfare interventions, are an important catalyst for violence against Indigenous women, girls, and 2SLGBTQQIA people. More specifically, the ongoing suffering caused by these experiences through the disruption of family systems continues to jeopardize the safety of Indigenous women, girls, and 2SLGBTQQIA people. This is particularly true for those left to deal with the legacies of these systems for their families, as manifested in physical or emotional abuse, in unresolved pain, in poverty, or in substance abuse.

Some of the abuses that occurred in the context of state-sponsored assimilative schooling and of foster care are described in more detail in Chapter 4. This section focuses on how these experiences serve to weaken family and community ties – ties that ultimately can work to restore safety and to protect Indigenous women. These impacts are not short-term. As many witnesses described, they can last for years.

In one case, Shara L. talked about how hard it was to have eight brothers and sisters but grow up separate from them because of residential school. Ultimately, this transformed her family forever. She described running into one of her family members at an Elders' Gathering.

As I got closer, [I saw] it was my [elder family member]. I was just like, “Oh, my God....” And I was going to hug, he got up and he just hugged me over the counter. A barrier between us, and even I wanted to go around and give him a full body hug. No, he was – “Hey, [family member], how are you doing?” Like, not even – not even a minute. You know. And right away my defences went up to block, a wall just came up, and I just instantly – “Hold your emotions back. Don’t show your love. Don’t – don’t express yourself,” and this was going through my head because he did the same thing. He just give me the real quick hug, not even a hug. Right away I knew. Yeah, he’s still affected at 60-plus years old. He still has that mentality, that, what he was taught in residential school.<sup>34</sup>



Another witness, Ann M. R., explained how the impact of residential schools affected the communities of Pelly Banks and Frances Lake for many generations. Ann's sister was found dead at the age of 26 at a garbage dump, after being jailed for two weeks for drinking, since it was illegal for First Nations people to drink at the time in Yukon. Ann was in residential school and wasn't told of her sister's death. She remembers her mother's heartache very vividly, saying "her heart died that day that she lost Tootsie."<sup>35</sup> Because of the segregation of families in residential schools, she says, she didn't really know her sister.

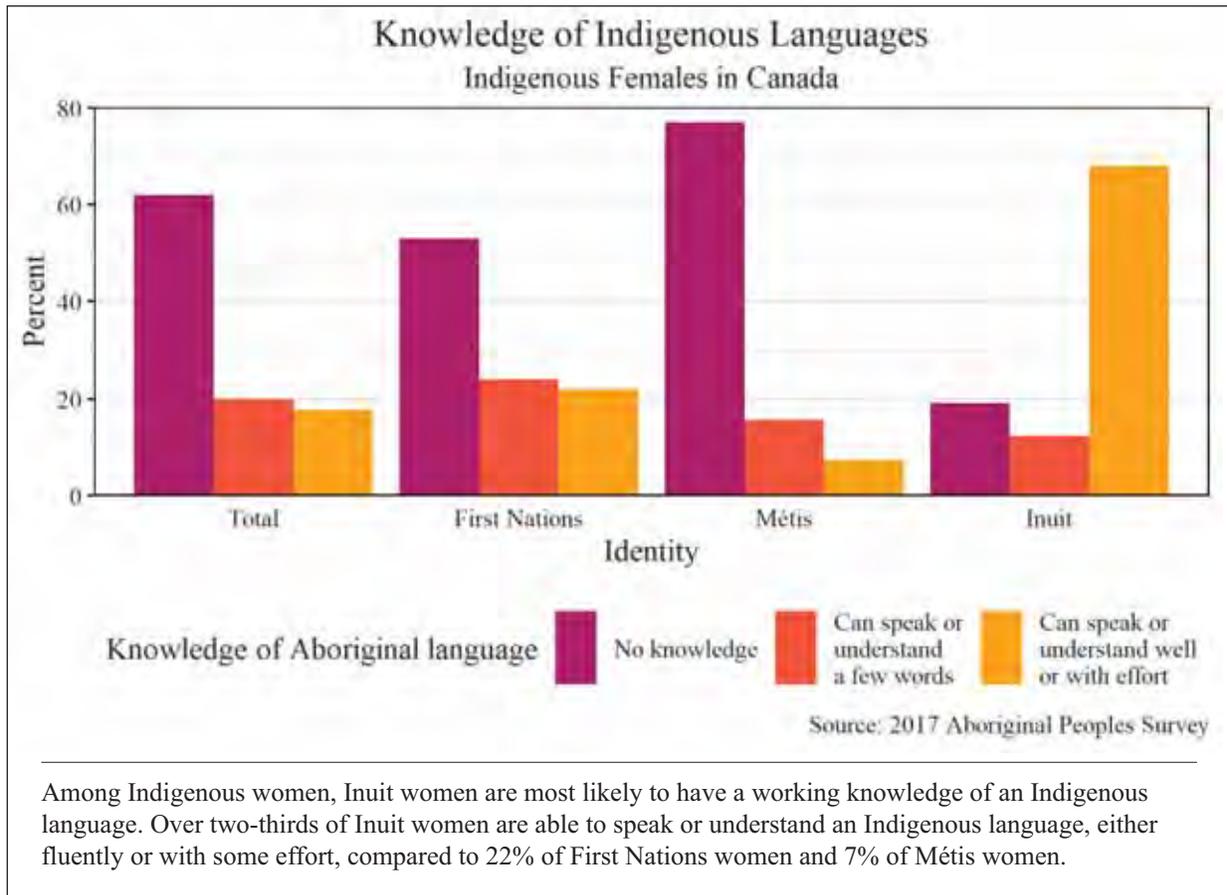
Like Ann, many other witnesses have siblings who died in residential schools. Many of them were never notified, only learning about the deaths when they returned home. As Elder Jal T. said:

After seven years in residential school I never saw my sisters for four years. When I came home they told me my sisters were passed away and [I asked] why didn't they tell me. They said they didn't want to disrupt my education and school. So you can imagine the shock, because the women are our biggest part of our life.<sup>36</sup>

In addition to – or because of – this disruption to family, community, and culture, many people spoke about how the lessons they had been taught at residential school and how the negative stereotypes about their culture and family systems translated into the way they parented their own children in relation to Indigenous culture and language. For many, in this sense, the negative impact of the residential school system continued outside of the residential school setting and into families.

For Moses M., not teaching his children their Nuu-chah-nulth language was an act of protection. He shared the following observation about how his residential school experience shaped his relationship to his language and, consequently, the role culture and language played in his relationships with his children.

I'm a survivor of residential school. I spoke my own language until I went to school at seven years old. And today I have nine children – or had nine [Moses's daughter was murdered], and 60-plus grandchildren, and I never taught any one of them our language. I always wondered why. It's my own way of protecting my children because somebody tried to beat it out of me. But I'm still here. I still speak the language.<sup>37</sup>



In her statement, Muriel D. spoke about how her mother’s experience at residential school translated into her mother’s parenting.

I just really wanted to talk about all the effects at the residential school. They took us, like, from my mother and us, me and my sisters and brothers, all we had to go through and we were never taught anything, or we never had any physical or emotional caring, I think. My mom was so – was so closed off. And so ... all of us, my sisters and brothers are totally damaged from – from my mom being in Blue Quills School.<sup>38</sup>

Speaking of the impact of residential schools on Indigenous families and the struggles she experienced as a result of her mother’s attendance at residential school, Carol B. put it simply as follows:

I honestly can’t imagine what it’s like to be brutalized on a daily basis. Made to feel that you’re nothing. I – and it hurts my heart. And that’s why I was able to forgive my mother. You know, she did the best that she could with what she had. And like I said earlier, I think it’s impossible to love if you have not felt love yourself.<sup>39</sup>



Carol B. was able to forgive her mother and recognize how her experiences of abuse and structural marginalization made it difficult for her to parent. However, unlike family members like Carol, the Canadian state, child welfare workers, and legislators continue to see things otherwise.

“I HONESTLY CAN’T IMAGINE WHAT IT’S LIKE TO BE BRUTALIZED ON A DAILY BASIS. MADE TO FEEL THAT YOU’RE NOTHING. I – AND IT HURTS MY HEART. AND THAT’S WHY I WAS ABLE TO FORGIVE MY MOTHER. YOU KNOW, SHE DID THE BEST THAT SHE COULD WITH WHAT SHE HAD. AND LIKE I SAID EARLIER, I THINK IT’S IMPOSSIBLE TO LOVE IF YOU HAVE NOT FELT LOVE YOURSELF.”

**Carol B.**

For many witnesses, one of the most severe ongoing impacts of the residential school system on Indigenous families and culture is the way it contributes to the creation of conditions used by the Canadian state to justify the removal of Indigenous children from their homes. As some witnesses were careful to note, the Sixties Scoop and the ongoing crisis of child apprehension are commonly viewed as the continuation of the assimilative school systems in which many Indigenous Peoples were swept away. As Corey O’Soup explained to the National Inquiry:

You know, at the height of the residential school system, there were thousands of kids being taken away from homes.... The current foster care system, there is more kids in our current system than were ever in the residential school system. And it’s not a historical issue, it’s a contemporary issue. Kids are still being taken away.<sup>40</sup>

Carol B. put it this way:

We have another residential school system starting with child welfare. How many children do we have in care right now? Our children are maybe not being taken away and put in schools, but they’re put – being put in foster homes.... Is that not the same? I mean, we just got our children back. And now, they’re being taken away again to be raised by – and I’m sorry to say, non-Native families, they need to be placed with Native families. Native foster homes. Once again, we’re being stripped away of our culture, our language, our family, our roots. They’re doing it to us all over again, but in a different way. And that needs to change.<sup>41</sup>

The connections that witnesses drew between residential school attendance and child welfare are confirmed in research shared by Amy Bombay.

And, we found that, again, having a parent who went to residential school was linked with more reports of cumulative exposure to various childhood adversities, and we found that that, in turn, kind of was a pathway leading to people being more likely to have spent time in foster care. So, we did find that those with a parent who went to residential school were more likely to spend time in foster care, and that those adverse childhood experiences were a key factor in that cycle across generations.<sup>42</sup>

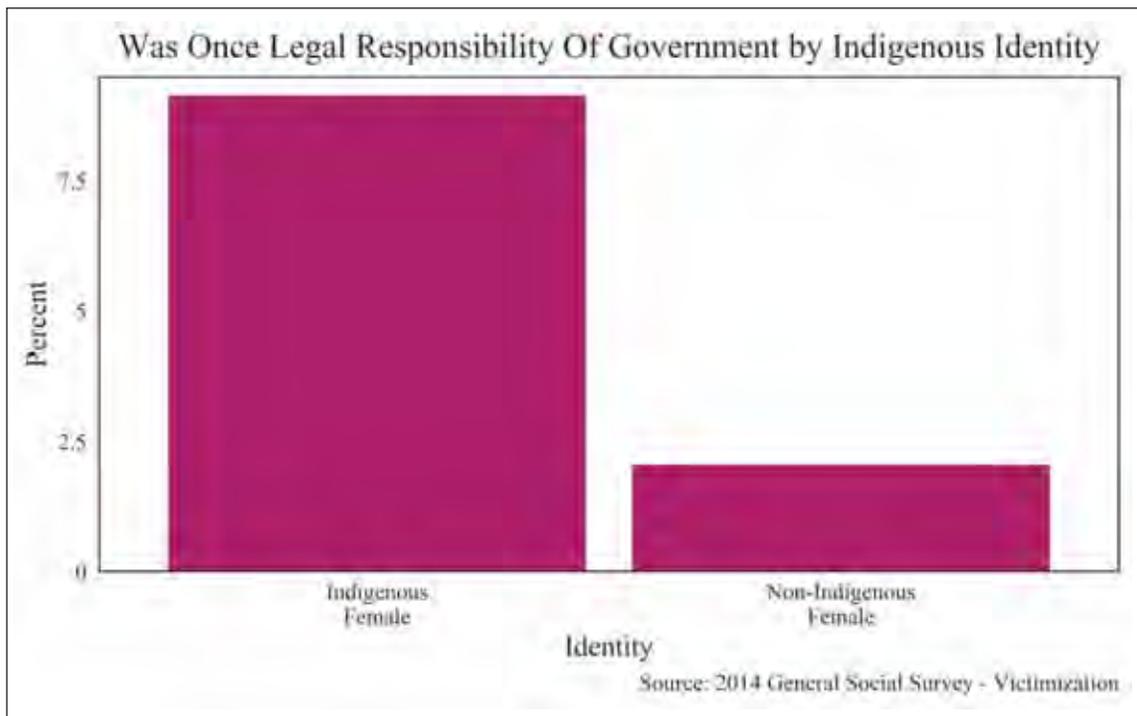


The impact of these removals is important, because, like residential schools, it separates families and alienates family members from each other. Other witnesses pointed out the impact of these experiences on their relationships with family – experiences that marked them for life. As Juanita D. recalled:

I think my very first foster home that I went to – I don't have a lot of recollections, like the recollections that I do have are of trauma. So, you know, I know that I suffered from forms of torture. And so, with that, that means that I was confined while I was in a foster home. So, that meant that the door was locked.

I had no human contact. I was fed food from under the door. I remember I was on the third floor, or whatever. There were windows below me, and then the ground. And, I jumped out of that window, and I took off and I wanted to see my mom. I didn't have, like, visitations with my mom at all. I didn't have any visitation with my family.<sup>43</sup>

She recounted a feeling of isolation in foster care: “And, I don't ever remember, like, having any bonding. I never had, like, that bonding or that love provided to me, like children should have. I also didn't have any counselling services or connection to culture provided to me. And, I never got to see any of my family either during that time.”<sup>44</sup>



Indigenous women are 4.4 times more likely to have been the legal responsibility of the government (9.1%) than non-Indigenous women (2.1%). This includes being in foster care, group homes, residential school, or youth justice facilities.



Darlene S. shared a similar experience. Speaking of her time in care, and of the worker assigned to her case, she said:

She was a true ... welfare agent. She was like this mean woman who was, like, going to do her job properly, and at the time I wasn't even sure who she was until she says, until she said who she was ... and that's all she said, that, "You are not to have any contact with your Indian relatives." Those were her words.<sup>45</sup>

Carol B. spoke about the impact of this alienation on her sense of self and connection to culture.

I mean, I grew up in the system. And at that time, like, any time I would ask my foster parents any information about my family, they would just say, you know, well, that's in the past, you should be grateful that you have a roof over your head. And the past needs to be left behind. So not even having that information – not having – not knowing where your roots are. It just makes you feel that you don't know where you belong. Do I belong in the Native world? Do I belong in the non-Native? So you grow up feeling confused.<sup>46</sup>

In many cases, siblings were separated, never to see each other again. In other cases, they did find each other – but not before their experience in care marked these relationships for life. As Danielle E. shared:

When I was about nine and Laney [Eleanor, her sister] was 10, they were separating us from our home.... In our backyard at that foster home, we had this couch, and we used to use it as a playhouse. And, Eleanor and I were on there, and we promised each other that no matter what, when we grew up, we would find – we would find each other. And, we did.<sup>47</sup>

Carol M. noted:

It reflects a lot of what our people have gone through, you know, from being a child growing up in the foster home, in a white home, trying to connect back with your family, with your culture. Lost. I think they say a lot of our kids didn't come home from residential school. You know, that's true. A lot of them died and a lot of them got lost inside of themselves. We got lost. We were lost. We are lost. I don't think any of us have come home.<sup>48</sup>

In her testimony, Carla M. made a connection between the loss of culture and values instilled through traditional teaching and contemporary attitudes toward violence against Indigenous women.

[It's] because of the shaming that happened through the residential schools – at least that's where I believe it comes from – the belief that whoever was murdered deserved it, that they brought it in on themselves, that shaming that had lasted for so long. And then the families accepting that and saying, well, they were doing whatever, they were whatever, I mean, and that's not just happening to First Nations women, that just happens to women, oh, [who] wore that kind of clothing so they deserve to be killed.<sup>49</sup>



# Institutionalized since Birth: Child Welfare Agencies and Birth Alert Systems

As we heard in testimony from family members, survivors, Knowledge Keepers and Expert Witnesses, the removal of a child from its parents at birth represents one of the very worst forms of violence; and that, once removed, it can be exceedingly difficult to get a baby back. One of the most egregious and ongoing examples of violence against mothers and against children is the operation of birth alert or newborn apprehension systems. These exist in several child welfare jurisdictions, including Manitoba, whose practices have recently been publicized on social media.<sup>1</sup> It is notable that in Manitoba, a birth alert is automatically required by doctors who are treating any pregnant woman under the age of 18. While there are, at times, legitimate reasons for child apprehension at birth regarding child safety, evidence suggests that the birth alert system disproportionately impacts Indigenous women and their infants.

## The Nature of Birth Alerts

Birth alerts are one of the contributing factors to the disproportionate rates of the apprehension of Indigenous infants and children by child welfare. According to Manitoba's Child and Family Services manual, for example, "Birth alerts apply to expectant mothers considered by agencies to be high risk in relation to the care they will provide for their newborn infant. The practice in Manitoba is to issue alerts to track and locate these high-risk expectant mothers."<sup>2</sup> The alerts serve to flag certain women – largely Indigenous – in hospital, and stipulate that, if an alert has been issued, the agency may apprehend the child at birth.

In these cases, hospital social workers are given a list of women who are pregnant and their due dates and as soon as one of these women enter the hospital to give birth, an alert is activated.

Often, Indigenous mothers about to give birth will not be aware that there has been a birth alert placed against them. As Dr. Janet Smylie, a family physician,

as well as a public and Indigenous health researcher and Knowledge Keeper, observed:

It's striking to me that people think it's still okay to send a birth alert to the hospital without informing a woman. So I'm aware that other prenatal providers have actually gotten scolded by, like, social service agencies, child protection agencies, both Indigenous and non-Indigenous, because they actually found out about a birth alert and told a woman that there was a birth alert, right? So to me, like, I don't understand how that could be conceptualized, right? Because it would seem to me that it would be very important to tell people, like, if there was that kind of legal intervention happening. Like, I don't think it's acceptable in Canadian health care systems to hold that kind of important information and not let people know."<sup>3</sup>

In her testimony, Cora Morgan, a First Nations family advocate with the Assembly of Manitoba Chiefs' First Nations Family Advocate Office, likewise commented on how birth alerts are often issued without the



expectant mother's knowledge and that a much more effective approach would be to inform the mother and work with her if necessary to ensure that the newborn does not need to be apprehended:

A lot of times, what will happen is an agency in Winnipeg will ... issue the birth alert, and it could be unbeknownst to the mother that there's a birth alert on their baby, and that mom will go throughout her pregnancy, and she will be at the hospital, deliver her baby, and then get a letter from the agency that her baby is going to be apprehended.

And so, a switch in process would be that as soon as that ... birth alert is issued, that it's transferred to the appropriate agency, and the agency looks at the circumstance of the mom upfront and, you know, look at if there's ways to address things before baby comes into the world instead of waiting for baby to be born.<sup>iv</sup>

## Targeted for Life

One aspect of the birth alert practice that Indigenous health care and child welfare advocates find particularly troubling is that they continue to target and punish Indigenous women across their childbearing experiences where these alerts may apply to women who have had other children in care – even if the time elapsed is over a decade long.

In addition, in her testimony, Cora Morgan shared the following example of how even Indigenous women who age out of care, sometimes many years ago, were still flagged by this system: "I had a woman who had her first baby at 38 years old, and because she aged out of the system, they had flagged her baby. She had been out of care for 18 years. So, yes, there is a reality of our families being at risk."<sup>v</sup> According to Sandie Stoker, executive director of Child and Family All Nations Coordinated Response Network, a parent's historical involvement with child welfare is a factor, especially if nothing changed for that family.<sup>vi</sup> In other words, if the person who is having the baby was at one time in the care of child welfare, or if other children have ever been placed into care, regardless of the time lapsed, a birth alert will likely be issued

for them, regardless of their own personal ability to parent. Cora Morgan offered another example demonstrating that even when Indigenous parents take extraordinary efforts to prepare for parenting the birth alert system may still impact their ability to keep custody of their newborn:

So, the very first birth alert I responded to was within a couple of months of being on the job, and this young woman had aged out of care and she was exploited as a youth and, you know, had addiction issues. And, now, she was 23, having her first baby, attended every parenting program, and it was all self-motivated. Her and her partner prepared for the baby, and her baby was at risk of apprehension. And so, when I arrived at the hospital an hour before the agency was there to pick up the baby, they had six bags of baby clothes, they had their car seat. They were all ready. The paternal grandmother was there. When I arrived, she was breastfeeding her baby, and you know, I couldn't believe what was going on. And, I had phoned our Grand Chief at the time, and I'm, like, this is happening right now, and I can't even witness this.

The father, you know, was just kind of beside himself. And, I said, "Well, the issue is with the mom because she grew up in care, and they've issued a birth alert." I said, "There's no concerns or issues that they have with you, and it's your baby. You should be able to take your baby." He's, like, "Okay, I'll take my baby." And he was getting ready to do that, and the assistant advocate said, "You know that the police will be called and you will likely be charged if you take your baby," and then he backed down.

And, you know, the worker came in with their agency car seat, and they took the baby. And I had found out later that they had issued that birth alert when the mom was three months pregnant, and they held onto it for her entire pregnancy. And then when the agency got a call from the hospital, they responded. And so, there was over six months of time that they could have went to that home and got to know that mom, and taken – you know, given her the opportunity.<sup>vii</sup>



In addition, birth alerts or apprehensions may also occur in relation to the other parent, who may not be living with the custodial parent. In a story documented by *The Current* in January 2018, a 16-year-old woman who was in school and living at home with her mother had her son apprehended based on concerns about the boy's father, who was in trouble with police at the time, as well as concerns about her own parenting. The young mother argued that her parenting was appropriate, explaining, "The worker that I had at the time [...] plainly said that I teased my son. Like I teased a four-month-old child. I don't know how you can tease a child. I guess that's just because it wasn't up to how she would parent."<sup>viii</sup>

Janet Smylie explained how the ongoing targeting of Indigenous mothers and newborns in this way effectively erases the possibility that Indigenous women can create the relationships and care necessary for children, especially if they have been prevented from doing so in the past through forced separation:

So, I would agree in my experience providing care that it seems that once there's one apprehension, it seems to be a black mark on people's files and they're deemed, like, to be inadequate parents for life. And, again, I'm not always privy to the insider discussions that are held in the child protection agency services, but it's very interesting because even in our criminal justice system, we believe that people can change, right? And, be rehabilitated, even though I hesitate to use that word within the context of parenting.<sup>ix</sup>

As Smylie acknowledges, ultimately, this treatment amounts to racism.

I also think racism has a huge role, both attitudinal and systemic racism and colonial violence. So, in my experience, 25 years providing primary care, including maternity care to diverse First Nations, Inuit, and Métis families in diverse urban, and rural, and remote settings, I find that First Nations, Inuit, and Métis parents get constantly misjudged.<sup>x</sup>

## Implications for Health and Well-being

Drawing on her many years of experience as a family physician, as well as a Knowledge Keeper, Smylie also offered some perspective about how birth alerts, and the subsequent separation between mother and baby caused when the newborn is apprehended, hold significant negative impacts for both mother and baby. As Smylie explained, the importance of these early relationships is well recognized both within Indigenous knowledge systems and mainstream health care research.

So, even if one was just relying on the mainstream medical literature, and one didn't take into account, like, the importance that is highlighted by the Knowledge Keepers and Elders who supported me in providing this testimony, in terms of the importance of feeling safe and secure and a sense of belonging and Indigenous identity; that if we discounted that, if we just looked at mental health outcomes and health outcomes over the lifespan, that is definitely critically interfering with the development of the child. And that doesn't account for the health and mental health of the mother. So, to me, having a child apprehended in that manner would be comparable to the death of a child, both on the family and the mother.<sup>xi</sup>

Cora Morgan, who testified at the Knowledge Keeper, Expert, and Institutional Hearing on Child and Family Welfare in Winnipeg, Manitoba, donated baby moccasins. She was sworn in on these baby moccasins and wanted to leave them for the Inquiry's bundle following her testimony. She shared why she chose to be sworn in on them. She had attended a ceremony at Serpent River First Nation just as the First Nations Family Advocate Office was starting. When she shared what the Family Advocate Office was trying to do and their work with families, the women at the ceremony stood in support. Cora explained that at Serpent River, there are petroglyphs, one of which is a baby who has feathers in their hair, since a



baby who has feathers in their hair will always come home. She was speaking to Nancy Rowe from the Mississaugas of the New Credit First Nation, in Ontario, before she left about the office's work and said that "if at minimum all we can do is offer feathers for babies, then that's what we will do." Nancy later drove to Winnipeg to bring feathers and began working with other teachers to make hundreds of baby moccasins, which have been given to the office. The First Nations Family Advocate Office provides these moccasins to expectant mothers who come to see them, beginning to make their bundles, and in the hospital to women whose children are going to be taken at birth.

In her testimony, Cora talked about how the organization's prenatal support team works to navigate the birth alert system.

Now that we have a larger team since last October, we have a prenatal support team. And so, our prenatal support team works with expecting moms or moms with babies, helps advocate if there's birth alerts. They are there to work with moms and offer – and fathers – traditional parenting programs. They also have a Sacred Babies workshop, and they work with families to build bundles for their family.<sup>xii</sup>

All of these practices are in keeping with what Janet Smylie described as maintaining a "continuity of relationships"<sup>xiii</sup> that supports and acknowledges the significance of early relationships.

So what we actually need to optimize health and well-being, at least in my understanding as a Métis woman, is these high-quality early relationships, because what that builds in is a sense of love, security, and belonging. And then that translates into a feeling of self-worth, self-acceptance, compassion, and strong abilities to engage in relationships. And if relationships is the fabric and glue that holds us together, then this investment is a critical thing.<sup>xiv</sup>

While practices such as birth alerts, as well as the medical evacuation of pregnant women from remote communities to give birth elsewhere, are often

justified as a means of mitigating risk, Smylie argues that this particular definition of risk is limited and reflective of a colonial, biomedical understanding. As she argues, this way of understanding risk in relation to birth and parenting

undervalu[es] ... the importance of birth as a way of strengthening *wahkohtowin*, the sacred time where an infant is perceived, at least in my developing Métis world view, as a spiritual gift that is coming from the spirit world, and that spirit needs to be attended in that transition into this physical life. And, also how the person that attends the birth becomes a relative that will understand that child and know information about that family and support the well-being and support the nurturing of that child's gifts. And how important it is to be born on that land, right, so that there are protocols around birth so that you have that *wahkohtowin* tie to the land as well, right? So, all of those things, it's actually all about, like, our cultures, right? So, the risk of losing culture is also something that needs to be attended to, as well as the acute, like, physical safety of the mom and the infant. And, in fact, through these modern models of Indigenous midwifery, you can have both of those things.<sup>xv</sup>

Smylie also talked about the additional risks in how the birth alert system and infant apprehensions actually lead Indigenous expectant mothers to avoid going to a hospital or reaching out for medical support out of fear that their child will be apprehended. During the Racism in Institutions Panel held during an Expert and Knowledge Keeper Hearing, Dr. Barry Lavallee, a family physician and then-director of the Student Support for the Centre for Aboriginal Health Education at the University of Manitoba, acknowledged that Indigenous women may have a "reasonable fear" that in seeking medical care for their child or in giving birth, they may trigger a referral to child welfare.<sup>xvi</sup> Cora Morgan, likewise, stated that, based on what she has witnessed in her role as the First Nations family advocate with the Assembly of Manitoba Chiefs' First Nations Family Advocate Office, simply being Indigenous puts women at risk for being flagged for a birth alert.



I do agree that women are flagged [by the system to have their child removed at birth]. One of my co-workers just went – is having her second child, and because she was Indigenous in appearance, the doctor automatically made an assumption that she – there was a potential of a birth alert on her baby.<sup>xvii</sup>

For some Indigenous women, seeking reproductive health care within mainstream health care settings may be additionally complicated by a lack of cultural understanding on the part of health care workers. For instance, as Jennisha Wilson, manager for programs related to sex work, exiting the sex trade, and anti-human trafficking at Tungasuvvingat Inuit, explained, a lack of understanding of Inuit culture and history often leads to tensions between Inuit women and support workers.

Some of the other things that often I hear is that there are challenges of individuals not being understood as what does it mean to be Inuk. They're often misunderstood as being First Nations, which takes away their identity and their ability to mobilize around their specific needs and to understand that there are differences between the cultures. Those are just a few of the vulnerabilities, but you can imagine how, if you were coming to the South looking for supports, and you are met with racism, discrimination, lack

of – folks wanting you to be there and then misunderstanding where to place you as an individual, how that leads to mistrust – mistrust between individuals, service providers, law authority individuals, but also pushes you to feel like you don't belong.<sup>xviii</sup>

## Conclusion

Ensuring the health and well-being of Indigenous mothers and their newborns is an important part of rebuilding Indigenous families and communities in ways that also lessen the potential for further violence and harm. For Cora Morgan, this involves “examin[ing] the legality of birth alerts and the practice of birth alerts and newborn apprehension.”<sup>xix</sup> For Janet Smylie this begins with valuing and protecting these early relationships. As she asks: “[H]ow can we rebuild ... a feeling of love, peace, and joy, right, and security, and belonging, if our infants keep getting apprehended?”<sup>xx</sup> This includes, as we heard, embracing practices that can generate health, well-being and strength. This also includes, as the evidence demonstrates, supporting practices like community midwifery and the right to give birth at home and within the community, to ensure that the bonds of safety that are created in that moment are cemented for life, and can ultimately contribute to safety later on.



- I *Chronicle Herald*, "Blindsided."
- II Manitoba, "Child Protection Services," s. 1.3.1.
- III Dr. Janet Smylie (Cree/Métis), Mixed Parts 2 & 3, Public Volume 2, Iqaluit, NU, pp. 246–247.
- IV Cora Morgan (Sagkeeng First Nation), Mixed Parts 2 & 3, Public Volume 11, Winnipeg, MB, pp. 203–204.
- V Cora Morgan (Sagkeeng First Nation), Mixed Parts 2 & 3, Public Volume 11, Winnipeg, MB, p. 26.
- VI CBC Radio, *The Current*, "I felt like my heart was ripped out."
- VII Cora Morgan (Sagkeeng First Nation), Mixed Parts 2 & 3, Public Volume 11, Winnipeg, MB, pp. 25–26.
- VIII CBC Radio, *The Current*, "I felt like my heart was ripped out."
- IX Dr. Janet Smylie (Cree/Métis), Mixed Parts 2 & 3, Public Volume 2, Iqaluit, NU, pp. 236–237.
- X Dr. Janet Smylie (Cree/Métis), Mixed Parts 2 & 3, Public Volume 2, Iqaluit, NU, p. 235.
- XI Dr. Janet Smylie (Cree/Métis), Mixed Parts 2 & 3, Public Volume 2, Iqaluit, NU, p. 240.
- XII Cora Morgan (Sagkeeng First Nation), Mixed Parts 2 & 3, Public Volume 11, Winnipeg, MB, p. 46.
- XIII Dr. Janet Smylie (Cree/Métis), Mixed Parts 2 & 3, Public Volume 2, Iqaluit, NU, p. 160.
- XIV Dr. Janet Smylie (Cree/Métis), Mixed Parts 2 & 3, Public Volume 2, pp. 122–123.
- XV Dr. Janet Smylie (Cree/Métis), Mixed Parts 2 & 3, Public Volume 3, p. 36.
- XVI Dr. Barry Lavallee (First Nations/Métis) Part 3, Public Volume 9, Toronto, ON, p. 228.
- XVII Cora Morgan (Sagkeeng First Nation), Mixed Parts 2 & 3, Public Volume 10, Winnipeg, MB, p. 199.
- XVIII Jennisha Wilson, Mixed Parts 2 & 3, Public Volume 16, St. John's, NL, p. 41.
- XIX Cora Morgan (Sagkeeng First Nation), Mixed Parts 2 & 3, Public Volume 10, Winnipeg, MB, p. 81.
- XX Dr. Janet Smylie (Cree/Métis), Mixed Parts 2 & 3, Public Volume 2, Iqaluit, NU, p. 135.



## The *Indian Act* and the Practice of “Banishment”

In speaking about the ways in which Indigenous women and girls were targeted within colonial systems, a number of witnesses also pointed to and described how the *Indian Act* and its denial of Status was not only a denial of home, but also a denial of connection to culture, family, community, and their attendant supports. For those seeking the safety of home – both cultural and physical – the intergenerational and multigenerational effects of the *Indian Act*, for many First Nations communities, are also significant, and have erected barriers to accessing cultural rights, as well as cultural safety.

The *Indian Act*'s impact of determining Status for some, while stripping others of Status, continues to affect many First Nations women, girls, and 2SLGBTQQIA people. This is documented in greater detail in Chapter 4, but this section deals with the impacts of the Act in a contemporary context. Despite the reinstatement of Status for thousands of women and girls, the ongoing stigma that comes with having been excluded by the Act can contribute to danger.

Wendy L., for example, explained how her mother was torn from her community and not allowed to go back, even after she was reinstated with Indian Status.

Because of what happened to my mother, I feel that in a sense she was missing because she was stripped of her cultural identity and her Status, and she was really torn from her community because of the discriminatory provisions of the *Indian Act*, where she ... had her Status taken away from her. Which, as many people know, did not happen to the Aboriginal men. In fact, when Aboriginal men married non-Indian women, no matter which race they were, not only did the men retain their Status and band membership, but their spouses and their descendants acquired them. So today you have mixed families on reserves or off-reserve, where the women that had married non-Native men were actually cast out from their communities. So in a sense my mother was missing because she was stripped from her community and her family, and that had a big impact on her life, her education, her economic situation, her as a person.<sup>50</sup>

The “banishment,” as some other witnesses referred to it, had longer-term impacts on her mother, as well. When Wendy’s grandfather passed away in 1968, Wendy’s mother was not allowed to live in his house, despite his having left her – his only child – the land, properties, and homes. Because Wendy’s mother had been declared non-Native, she was not allowed to inherit or live in the home where she was born and raised. Wendy said, “I believe in the sense that she was missing. She was missing her family, her community, any supports that she could receive, any support from the government, financial or programs, any community involvement. She was cut off from all of that.”<sup>51</sup>

Despite the insistence of some community leaders who argued that anyone with Squamish blood was welcomed back, Wendy said that “it wasn’t true. The women were not welcomed back.”<sup>52</sup>



While Wendy's mother's Status and band membership were returned, she was blocked from actually returning to live on the Squamish Nation Reserve. Women were, in Wendy's words, "torn from their communities, and literally thrown off the edge of the reserve and told to leave."<sup>53</sup>

In her testimony, Natalie G. shared another example of the way in which gender discrimination within the *Indian Act* and band membership excluded Mi'kmaq women from their community. As Natalie explained, the refusal to grant Status and band membership for women in their community put many women in precarious positions and impacted their ability to build families in keeping with the culture and the community.

We have many women that are living off the reserve that should be on their home reserves and not living in squalor, you know, or feel that they have to always be working so hard. I mean, they're getting up in age. Why do they have to be scrubbing floors or, you know, making crafts all the time just to make ends meet, you know? And a lot of our women – we still have women walking the street thinking that the only way that they're going to make that little bit of ends meet is to give a part of their soul to the devil in order to make a little bit of change to pay for the rent, pay for maybe their kids' things or whatever, so it was – like, it was hard because when Mom looked out her window, she seen Millbrook First Nations reserve. How ironic is that? It just doesn't make sense, but that's the government, that's the Canadian government trying to cause part of the assimilation, the colonization.<sup>54</sup>

Despite Natalie's mother's standing as what she describes as a "real Mi'kmaw woman," she was not valued in her community, and was forced to undertake an arduous process in order to have her band membership returned. As Natalie said, the denial of Status and band membership is also the denial – or perhaps fear – of strong, traditional women taking their place in the community and within the band council.

The band council, I believe, was fearful of my mother because she was a strong Mi'kmaw warrior that wasn't going to let things slide under the rug. She was going to bring them forth, and I believe she was going to bring all those [Status] cards that were given out to the non-Native women, she was going to see that the government brought – took them, rightfully so, but the children still would be Status.<sup>55</sup>

"BECAUSE OF WHAT HAPPENED TO MY MOTHER, I FEEL THAT IN A SENSE SHE WAS MISSING BECAUSE SHE WAS STRIPPED OF HER CULTURAL IDENTITY AND HER STATUS, AND SHE WAS REALLY TORN FROM HER COMMUNITY BECAUSE OF THE DISCRIMINATORY PROVISIONS OF THE *INDIAN ACT*, WHERE SHE ... HAD HER STATUS TAKEN AWAY FROM HER ... SO IN A SENSE MY MOTHER WAS MISSING BECAUSE SHE WAS STRIPPED FROM HER COMMUNITY AND HER FAMILY, AND THAT HAD A BIG IMPACT ON HER LIFE, HER EDUCATION, HER ECONOMIC SITUATION, HER AS A PERSON."

Wendy L.



As Natalie explained, this exclusion impacts women’s children and grandchildren, as well. Natalie described how, as a young girl, she and her cousins were not provided access to similar educational supplies as other children living on the reserve: “My cousins go to the band office and get free school supplies and whatever. We – we didn’t get that.”<sup>56</sup>

Natalie offered the following reflection on the ongoing impact on the children and grandchildren of women who lost Status or band membership: “There’s the first generation, they got their Status, but their children, they can’t get them registered and then they’re trying to go back to the grandmother’s law, but still they’re having a hard time getting them registered. Those children should be registered.”<sup>57</sup> Women banished in this way have often sought refuge in larger urban centres, often unsafe environments that may have ultimately led to their disappearance or to their death, and have experienced alienation from family and from culture that could contribute to keeping them safe.

As these experiences shared by Wendy and Natalie demonstrate, the impact of the *Indian Act* on women’s power and place within community and family put Indigenous women in danger. Many people consider that the death and disappearance of Indigenous women are directly connected to policies and practices such as these and others that have severed the protective measures that cultural practice, family, and a sense of belonging normally offer.



*A drum group performs at the hearings in Calgary, Alberta.*



# Challenging Exclusion: Human Rights-Based Challenges to the *Indian Act*

As some of the witnesses appearing before the Inquiry have asserted, the *Indian Act* has, since 1876, excluded First Nations women in many areas, with important impacts that touch on human rights instruments. The *Indian Act* applies only to First Nations women, and not to Métis or Inuit.

In its 2014 report, *Missing and Murdered Indigenous Women in British Columbia, Canada*, the Inter-American Commission on Human Rights (IACHR) found that “existing vulnerabilities that make Indigenous women more susceptible to violence” include both the context of colonization, broadly speaking, as well as unjust and discriminatory laws, such as the *Indian Act*, that continue to affect women.<sup>I</sup>

It also found that “addressing violence against women is not sufficient unless the underlying factors of discrimination that originate and exacerbate the violence are also comprehensively addressed.”<sup>II</sup>

As we saw in Chapter 3, the case of Jeannette Corbiere Lavell, who married a non-Indian in 1970, resulted in a legal challenge against the *Indian Act*'s subsection 12(1)(b), alleging it violated the equality clause in the 1960 *Canadian Bill of Rights* on the grounds of discrimination by reason of sex. This case built on the early work of advocates such as Mary Two-Axe Earley, a Kanien'kehà:ka (Mohawk) woman who, in 1966, after the death of a clan sister from a heart attack she believed was induced by the denial of property rights in Kahnawà:ke under the *Indian Act*, mobilized a campaign to raise awareness of the issues facing women denied Status and related rights under the *Indian Act*. Mary Two-Axe Earley became involved with Indian Rights for Indian Women (IRIW) in 1967 and appeared before the Royal Commission

on the Status of Women the same year. Mary also found herself the target of the *Indian Act* in 1969 after the death of her husband, when she was forced to transfer her house to her daughter, who was married to a man from Kahnawà:ke, in order to retain her property in her own family and to return to the reserve.<sup>III</sup>

The Lavell case, a few years later, revolved around Jeannette Corbiere Lavell, a member of the Wikwemikong Band who married a non-Indian and whose name was therefore deleted from the Indian Register. The case charged that the *Indian Act*

should be held to be inoperative as discriminating between Indian men and women and as being in conflict with the provisions of the *Canadian Bill of Rights* and particularly s. 1 thereof which provides:

1. It is hereby recognized and declared that in Canada there have existed and shall continue to exist without discrimination by reason of race, national origin, colour, religion or sex, the following human rights and fundamental freedoms, namely, ...

(b) the right of the individual to equality before the law and the protection of the law.<sup>IV</sup>



The Lavell case of the early 1970s was lost at trial in the York County Court in 1971, but won on appeal in the Federal Court of Appeal later the same year. It went to the Supreme Court of Canada, where it was paired with the case of Yvonne Bédard, a woman from the community of Six Nations in Brantford and a member of the the Haudenosaunee (Iroquois) Confederacy who lost her Status when she married a non-Indian in 1964. After her separation from her husband, Bédard attempted to return to her reserve to live in a house left to her by her mother, but found that she and her children were no longer entitled to live on-reserve due to loss of Status. Fearing eviction, she brought legal action against her band and won the case based on the legal precedent set by the Lavell case.

In the Supreme Court of Canada, though, both Bédard and Lavell lost their cases – the “marrying out” rule of the *Indian Act* was upheld on the grounds that the law had been applied equally, which was the only guarantee in the *Canadian Bill of Rights*. In its judgment, the Supreme Court explained:

Equality before the law under the Bill of Rights means equality of treatment in the enforcement and application of the laws of Canada before the law enforcement authorities and the ordinary courts of the land, and no such inequality is necessarily entailed in the construction and application of s. 12(1)(b).<sup>v</sup>

The issue of substantive equality that the cases raised was rejected, even though, in the decision, Justice Bora Laskin characterized the effect of the law as a kind of “statutory excommunication” whereby Status could never be regained.<sup>vi</sup>

In addition, and as Pamela Palmater, Mi’kmaw from Eel River Bar First Nation and associate professor and chair in Indigenous Governance at Ryerson University, points out, for a long time:

The *Indian Act* had the effect of denying First Nations women their political voice. Unable to run in elections for chief and council, to live in their First Nations, to vote in referendums related to their reserve lands, to benefit from treaties, to access elders and other community supports or

even have a seat at the negotiating tables between First Nations and Canada, First Nations women were effectively denied the political voice to protest their exclusion and the abuse that followed as a result.<sup>vii</sup>

Leah Gazan, an instructor at the University of Winnipeg who spoke as part of the Indigenous Determinants Wellbeing Panel during the Community Hearing in Winnipeg, commented on how the *Indian Act* undermined the role First Nations women played as leaders and decision makers.

Prior to colonization, most Nations lived in matrilineal societies. Our women, in particular, our grandmothers, were the main decision makers within our Nations. Equality was practised as our survival depended on all members fulfilling their roles and responsibilities. Women were powerful.... This rapidly changed with the imposition of patriarchal power structures brought over by colonists. The exclusion of Indigenous women in decision making eventually led to the cultural, social, economic, and political disposition of Indigenous women and girls that was and continues to be enforced through the *Indian Act*.<sup>viii</sup>

Fay Blaney, who spoke as a Knowledge Keeper at the National Inquiry’s Human Rights Framework Expert and Knowledge Keeper Hearing in Quebec City, also commented on the impact of the *Indian Act* on women’s political representation:

Indigenous women are not represented in the political sphere and we often think it’s – you know, we blame ourselves for that and we don’t often look at the fact that the *Indian Act* denied us that right. We were not allowed to vote. We were not allowed to run in band elections and the men did that.<sup>ix</sup>

Despite the loss in the court, many Indigenous women’s groups took up the call raised by these cases, and pushed forward to try to address the issue, under difficult circumstances. Sandra Lovelace Nicholas took her case to the United Nations Human Rights Committee (UNHRC), alleging that her marriage to an American and subsequent move away from her community should not disqualify her from



returning to the reserve and/or from receiving services, upon the end of that marriage. In 1981, the UNHRC found Canada in breach of the *International Covenant on Civil and Political Rights* (ICCPR).

Section 15 of the *Canadian Charter of Rights and Freedoms* came into effect three years after the rest of the *Charter*, giving governments the time to bring their legislation into compliance with section 15. Section 15 states that “every individual is equal before and under the law and has the right to the equal protection and benefit of the law without discrimination based on race, national or ethnic origin, colour, religion, sex, age, or mental or physical disability.” In addition, section 28, which states, “Notwithstanding anything in this Charter, the rights and freedoms referred to in it are guaranteed equally to male and female persons,” should, in theory, provide additional protection to women. Subsection 4 of section 35, which guarantees Aboriginal and Treaty rights, also guarantees these rights equally to women and men.<sup>x</sup>

Partially as a result of these new rights guarantees, as well as the concerted action of women impacted by unjust legislation, the *Indian Act* of 1985 restored Status to those who had had Status removed through enfranchisement. It ended the “marrying out” rule under section 12(1)(b) that had brought forward Lavell’s action, restoring Status to women and their children disenfranchised under this rule. It also abolished section 12(1)(a)(iv), the “double mother” rule, which had been added in 1951 and excluded from registration at age 21 grandchildren whose mother and paternal grandmother both acquired Status through marriage to an Indian. The changes also terminated the acquisition of Indian Status through marriage, rather than descent. In its first five years, from 1985 to 1990, as researchers Megan Furi and Jill Wherrett report, “the status Indian population rose by 19% as a result of the amendments. Women represented the majority of those who gained status, particularly of those who had status restored.”<sup>xi</sup>

While many people regained Status through this legislation, the amendments also created a new issue, under the revised section 6, which effectively created two “types” of Status Indians: those who

could pass Status onto their children, and those who couldn’t. This meant that any Status woman who had been reinstated under section 6 and “married out” could pass on section 6(2) Status only to her children. Those children could not pass on Status to theirs, impacting both women and men under the “second-generation cut-off.” As the Feminist Alliance for International Action explains:

Consigning women to 6(1)(c) status has devalued them, treated them as lesser parents, and denied them the legitimacy and social standing associated with full s. 6(1)(a) status. Throughout the years, the so-called “Bill C-31 women” have been treated as though they are not truly Indian, or ‘not Indian enough,’ less entitled to benefits and housing, and obliged to fight continually for recognition by male Indigenous leadership, their families, communities, and broader society. In many communities, registration under section 6(1)(c) is worn by Indian women like a ‘scarlet letter’ – a declaration to other community members that they are lesser Indians.<sup>xii</sup>

For those asserting that the *Indian Act* is a tool of genocide, both paper and otherwise, the effect of section 6 to extend the termination of Status by one generation was still termination – just delayed.

Due to the lack of effective remedy, and the slowness of addressing these issues, other advocates pressed on. In 1994, Sharon McIvor brought a constitutional challenge to the sex discrimination in the registration provisions of the *Indian Act*. In its decision, the Supreme Court of British Columbia ruled that section 6 of the *Indian Act* violated section 15 of the Charter guaranteeing rights to women and other groups equally under Canadian legislation. In 2009, when Canada appealed, the British Columbia Court of Appeal ruled that although the *Indian Act* was discriminatory, the trial order had gone too far, and that it was not for the court to impose a solution that opened up Status to a larger group of people. It gave the government 12 months to fix the problem before the declaration of the lower court could have effect.<sup>xiii</sup>

As a result of the decision, Sharon McIvor decided to take her complaint to the United Nations, as Sandra



Lovelace Nicholas had in 1981. She argued that, despite the changes, First Nations women with Status still could not pass on that Status in the same way as Status men. Her complaint engages the failure of the government to provide effective remedy to a situation that has been identified, even in an international forum, as an element of discrimination for decades.

In her complaint, Mclvor's team argued that the sex-based hierarchy established by the 1985 amendments violates articles 26 and 27 of the ICCPR, in conjunction with articles 2(1) and 3, because it discriminates against matrilineal or female descendants born before 1985 and against those First Nations women born before 1985 who "married out." Mclvor maintained that under section 2(3)(a), these women and descendants were entitled to effective remedy.

Under the violation of Article 26, Mclvor maintained, among other things, that the impacts of the exclusion constituted "a form of social and cultural exclusion," including her perception of a differential treatment of reinstated persons from those who were always considered Status under the Act. These had impacted her life, including her ability to access health benefits and educational funding for her children during their formative years.

Under Article 27 in conjunction with articles 2(1) and 3, Mclvor's team maintained that the capacity to transmit culture, as guaranteed by the ICCPR, had been violated by denying "their capacity to transmit their cultural identity to the following generations on an equal basis between men and women," and depriving them "of the legitimacy conferred by full status."<sup>XIV</sup>

In its response, Canada maintained that the discrimination under successive versions of the Act prior to 1985 was inadmissible, and that any residual discrimination had been corrected by the 2011 amendments, made in response to the decisions concerning the Act in Canadian Courts. These amendments had modified the *Indian Act* so that grandchildren born after September 4, 1951, who could trace their Aboriginal heritage through their

maternal parentage could be registered. Still, under those amendments, those grandchildren born prior to 1951, or whose parents were not married before 1985, could not necessarily qualify, while those who trace their heritage through their paternal heritage could.<sup>XV</sup> Canada also argued that some aspects of the claims made by Mclvor could not with certainty be blamed or attributed on the government's actions. It also argued that it was still in the process of examining its legislation to determine if further remedies could be applied, including the changes in Bill S-3, which came into force in December 2017, as a result of the Superior Court of Quebec's decision in the Descheneaux case.<sup>XVI</sup>

In this case, the Superior Court of Quebec had ruled on a challenge by Stéphane Descheneaux, Susan Yantha, and Tammy Yantha. The plaintiffs claimed that the Indian registration provisions under section 6 of the *Indian Act* were unconstitutional and in contravention of the *Charter's* guarantees to equality, since the legislation still perpetuated different treatment between Status Indian women as compared with Status Indian men and their descendants. In its decision, the court found several parts of the Act that violated section 15 of the *Charter* and struck down the provision, giving the government a fixed period of time to respond. In her testimony, Leah Gazan said, about the ongoing impact of Bill S-3:

This violence has been affirmed through the *Indian Act* where, even today, we see the current Liberal government fail to make amendments to Bill S-3 to end discrimination against Indigenous women and girls residing [in] what some refer to as Canada. We have been raising our concerns to deaf ears for far too long; our voices often muzzled by powers of bureaucracy that have been designed to silence us as we fight for our survival; a story that has become all too common even at present as we try and find ways to ensure our safety in the future.<sup>XVII</sup>

In January 2019, the UN Human Rights Committee ruled in Sharon Mclvor's favour, holding that the sex-based hierarchy created by section 6 of the *Indian Act* still exists, despite the amendments of 2011 and 2017, and that Canada was in violation of articles 3



and 26, read in conjunction with Article 27.<sup>xviii</sup> The 2011 and 2017 amendments, and the *Indian Act* itself, continue to violate the equal right of men and women to the enjoyment of the rights guaranteed by the *International Covenant on Civil and Political Rights*, to which Canada has been party since the 1970s. Specifically, the UNHRC noted that Sharon McIvor's brother's children all have full Status under section 6(1)(a), while her own ability to pass on that "class" of Status is not the same. Given the fact that they shared the same lineage, the UNHRC noted, that difference in Status was attributable only to the legislation's discriminating on the basis of sex.<sup>xix</sup> It further noted that the prohibition in discrimination applied not only in law, but also in fact, and so McIvor's argument about the impacts of the discrimination in her lived experience, as a "Bill C-31 woman," is significant.<sup>xx</sup>

In the aftermath of this decision, many questions remain concerning how the government can untangle the complicated historical and contemporary issues around its assumption of authority in determining Status, and how Status has become associated with a sense of belonging or exclusion in many of the testimonies before the National Inquiry. As Darla-Jean L. stated about the impact of the *Indian Act* on her sense of self and belonging: "The federal government made us wards of the state through the *Indian Act* and we learnt helplessness. We became ashamed of our ourselves. We became – we believed what society was telling us."<sup>xxi</sup> When asked to speak about the impact of the link between identity and the loss of Status through the *Indian Act*, Sylvia M. said, "Well, it makes you ... question yourself, you know, right?"<sup>xxii</sup>

As the Feminist Alliance for International Action asserts:

As long as the *Indian Act* is in place, be it one year or twenty, the Act cannot discriminate on the basis of sex. Further, if the Act is replaced before eliminating the sex discrimination, the sex discrimination and injustice to Indian women and their descendants will infect any post-*Indian Act* regime.<sup>xxiii</sup>

In her testimony, Fay Blaney spoke about how sex discrimination created by the *Indian Act* continues to play out in communities.

Men have been bestowed a whole lot of patriarchal privilege from the *Indian Act* and ... they've been taught very well how to be patriarchal in our communities. And I fear that men may not be willing to give up the patriarchal power that they have, and in fact some of them have claimed patriarchy to be a tradition, even though we know that culture comes from a matriarchal tradition. So they reinvent culture to align with what the *Indian Act* says they have, that they have patriarchal privilege now.<sup>xxiv</sup>

Further, the question remains of how, given the existing guarantees under Canadian law, including the *Charter of Rights and Freedoms*, these kinds of exclusions can persist, and how domestic remedies can be better applied to resolve these exclusions. As some people have suggested, passing new legislation that substantively incorporates the guarantees under international conventions, such as the *Convention on the Elimination of all Forms of Discrimination Against Women* and the *United Nations Declaration on the Rights of Indigenous Peoples*, could strengthen these existing guarantees, ensuring that, under the international conventions, the issue of systemic discrimination, rather than individual discrimination, receives effective and timely remedy.<sup>xxv</sup> At the same time, the continuing assumption that undergirds the process – that the Government of Canada, rather than First Nations themselves, should ultimately decide who accesses the rights guaranteed to First Nations – fundamentally dictates the fact that the resolution to this issue will involve reconsidering the foundations of the approach.

As Palmater argues, the McIvor decision of 2019 "is about more than Indian status; it is about restoring the political rights and powerful voices of First Nations women.... The law requires that Canada end sex discrimination against First Nations women and children. The question is whether Canada will choose to be an outlaw or put action behind its alleged commitment to reconciliation."<sup>xxvi</sup>



- I Inter-American Commission on Human Rights, *Missing and Murdered Indigenous Women*, 12.
- II Ibid., 68.
- III Robinson, "Mary Two-Axe Earley."
- IV *Attorney General of Canada v. Lavell* [1974] SCR 1349.
- V Ibid., 1373.
- VI *Attorney General of Canada v. Lavell* [1974] SCR 1349.
- VII Palmater, "Will Ottawa heed."
- VIII Leah Gazan (Lakota), Part 1, Public Volume 10, Winnipeg, MB, pp. 82–83.
- IX Fay Blaney (Xwémalhkwu of the Coast Salish), Part 3, Public Volume 4, Quebec City, QC, p. 117.
- X Subsections 3 and 4 of Section 35 were further developed in 1983 and 1984, after important campaigns by Indigenous women's groups who insisted they had not been represented by organizations in the original discussions around the Charter, and who were still fighting for the repeal of sex discrimination under the *Indian Act*. For more on this, see Erin Hanson, "Constitution Act, 1982 Section 35," [https://indigenousfoundations.arts.ubc.ca/constitution\\_act\\_1982\\_section\\_35/](https://indigenousfoundations.arts.ubc.ca/constitution_act_1982_section_35/).
- XI Furi and Wherrett, "Indian Status and Band Membership Issues."
- XII Feminist Alliance for International Action Canada, "Equal Status for Women," 4.
- XIII For a more detailed examination of the *Mclvor* decisions, see Lehmann, "Summary of the *Mclvor* Decisions."
- XIV United Nations, Human Rights Committee, "Views adopted by the Committee under article 5(4)," 5.
- XV For more detail and information on the 2011 amendments, see Canada, Indigenous and Northern Affairs, "2011 Indian Act Amendments."
- XVI United Nations, Human Rights Committee, "Views Adopted," 6–7. For a more detailed examination of Bill S-3 and its impacts on specific exclusions under the *Indian Act*, see Canada, "The Government of Canada's Response to the Descheneaux Decision."
- XVII Leah Gazan (Lakota), Part 1, Public Volume 10, Winnipeg, MB, pp. 76–77.
- XVIII United Nations, Human Rights Committee, "Views Adopted," 16.
- XIX Ibid., 15.
- XX Ibid., 17.
- XXI Darla-Jean L. (First Nations), Part 1, Public Volume 1, Whitehorse, YT, p. 31.
- XXII Sylvia M. (Mi'kmaq), Part 1, Public Volume 56, Happy-Valley Goose Bay, NL, p. 33.
- XXIII Feminist Alliance for International Action, "Equal Status," 13. See also Palmater, *Beyond Blood*.
- XXIV Fay Blaney (Xwémalhkwu of the Coast Salish), Part 3, Public Volume 4, Quebec City, QC, pp. 134.
- XXV West Coast LEAF, Part 4, Final Written Submission, p. 29.
- XXVI Palmater, "Will Ottawa heed." See also James Anaya, "Report of the Special Rapporteur on the Rights of indigenous peoples," 2014. The report was developed on the basis of research and information gathered from various sources, including during a visit to Canada from October 7<sup>th</sup> to 15<sup>th</sup>, 2013.



## Pathway to Violence: Social and Economic Marginalization

The cultural losses and familial disruptions created through various colonial systems take a significant toll not only on the emotional and spiritual well-being of Indigenous people, but also on the material (economic and social) facets of their lives. Without access to traditional ways of living on traditional territories, which included supporting others in times of hardship, many Indigenous people who shared their truths told stories about their struggles with poverty, homelessness, addiction, and other challenges – struggles that were often greatly compounded by the lack of access to familial, community, and cultural support, as well as by efforts and responses that often sought to erect even greater barriers to such supports.

As part of the truths they shared, witnesses also talked about the way poverty, homelessness, and other forms of socio-economic marginalization worked against them in their efforts to create and maintain family and kinship bonds, as well as cultural continuity. In particular, many witnesses talked about how poverty and other forms of economic and social marginalization were used by child welfare agencies to justify the apprehension of children from their families, mothers, and communities. As Nico Trocmé, director of McGill University’s School of Social Work and principal researcher for the Canadian Incidence Study of Reported Child Abuse and Neglect, observed, “I’ve certainly never seen any evidence from any of the research to indicate that there is something endemic to First Nations families that would explain a higher rate of placement. It has much more to do with the high rates of poverty and the difficult social and economic circumstances they’re living in.”<sup>58</sup>

Expert Witness and Assistant Professor of Law at Dalhousie University Naiomi Metallic explained:

Often the provincial systems and laws don’t account for the poverty and the systemic issues that exist already in First Nations communities and so there can be certainly negative impacts.... [I]t was actually recognized in the child welfare decision from the Canadian Human Rights Tribunal that First Nations’ children are actually being taken because of reasons of neglect more so than abuse and that’s because I think also provincial child welfare rules often don’t, you know, specifically consider the socio-economic position and children again are [being taken] ... for neglect that is outside of the control of the parents.<sup>59</sup>

Beyond these circumstances, the socio-economic jeopardy that many families find themselves in is only reinforced by other stressors. Research has shown that addictive behaviour links to “a strong inverse relation with socioeconomic status.”<sup>60</sup> Further, as researcher Mickie Jakubec explains, “For many Indigenous people, there are many layers of stressors – racism, poverty, poor education, unemployment, family instability, and residential instability.”<sup>61</sup> All of these factors combined can increase the likelihood of child apprehension.



According to the 2003 Canadian Incidence Study of Reported Child Abuse and Neglect, housing conditions were deemed “unsafe” in 24% (an estimated 2,938) of substantiated First Nations child investigations, and “overcrowded” in 21% (an estimated 2,581). This compares with only 7% of substantiated non-Aboriginal child maltreatment investigations where housing conditions were described as “unsafe” and/or “overcrowded” (an estimated 5,948 and 5,924, respectively).

According to the same survey, the category of “neglect” accounts for over half of all substantiated First Nations child investigations, and incidents of domestic violence was the second most frequently substantiated category of maltreatment. Almost half of the substantiated child investigations concerned families who derived their income from social assistance, unemployment insurance, or other benefits, compared with only 20% for substantiated non-Indigenous investigations.<sup>62</sup>

Nonetheless, in many instances, the living arrangements that Indigenous families create in order to protect and care for children and to navigate what is often severe poverty, food insecurity, and other challenges are translated or interpreted as “neglect” by non-Indigenous social workers, police, and others. These agencies and individuals are working within a child and family services system that maintains and operates upon the basis of a definition of care that is rooted in the dominant colonial system’s terms and beliefs, and that rarely takes into account the structural barriers that prevent Indigenous families from meeting these standards.

Speaking of child welfare agencies and their policies, Vanessa B. said:

I understand you have a mandate and you have policies. At the same time, you need to start – you need to start humanizing that this – this family went through this and ... these children will need this, and I shouldn’t have to wait for the federal government to decide that they have \$10 in their pocket and they want to throw it our way. I want to know that that \$10 is in your pocket right now and you’re passing it to me.... We need tangible kinds of honest efforts that are within our reach and not something that’s ridiculously beyond our reach because that’s – that’s one of the problems that happened with Tanya [her sister]. Every expectation, it just seemed, that she thought was reasonable ended up being non-tangible. It was so far without her reach.<sup>63</sup>

These are important statements that can help to explain how poverty can undergird the violation of cultural rights, and how socio-economic disadvantage is interpreted by some institutions as a lack of fit parenting by Indigenous people. Following the murder of her daughter by her common-law partner, Robin R.’s other daughter was apprehended and she was prevented from seeing her until the murder trial was over – which took five years. Robin talked about how the staph infection her child had, which was used against her as an indication of neglect, was, in fact, the result of her tireless efforts to ensure her child had all she needed.

Yeah, my daughter had a staph infection but she had a staph infection because when I was raising my two children at 17 years old, I used to access three different food banks in the city and one of the food banks I accessed was extremely dirty. People used



needles. But I didn't care because if that meant that feeding my children, even to walk into an environment like that, I would do it. And I know that that's where we contracted the staph infection from.... It doesn't mean I was dirty. It means I did what I had to do to survive and we did pick up a staph infection. But that didn't make me a dirty human being.<sup>64</sup>

## Pathway to Violence: Lack of Will and Insufficient Institutional Responses

For many witnesses, the child welfare systems diminish Indigenous cultures and values in favour of non-Indigenous standards and models of parenting. In many cases, a lack of will to change the system in favour of embracing and understanding Indigenous values, or the institutional responses to investigating cases and substantiating child apprehensions, are viewed by Indigenous women as insufficient and racist, demonstrating a lack of respect for cultural rights.

In some testimonies, witnesses described how their own upbringing engaged the important cultural principles foundational to community life – principles that are directly threatened by removal from their families. Anastasia N. noted:

My childhood, I remember it as the most beautiful moment of my life. I was a very pampered child, with a lot of affection. I was surrounded by elderly people. I had my mother. My mother was a person, a caregiver who was caring for two people, who were both 80 years old. And then, she was the one who took care of me. And I had responsibilities to these two people.... Every night, I had to get up, get dressed, put on my little moccasins, and help the older person go out [to use the outhouse] and so on. I was empowered very young. I have always enjoyed the way I was raised.... It made me into a very autonomous and responsible person during my life.<sup>65</sup>

This undertaking of responsibility at a young age prepared Anastasia for her life, by her own account. Yet, according to non-Indigenous child welfare standards, this kind of upbringing could fall under the description of “neglect.” These kinds of Indigenous principles of family life are threatened by a lack of will for foundational change to redefine parenting roles, and the roles of children, through Indigenous understandings.

These understandings, or misunderstandings, can contribute to creating an inaccurate child welfare evaluation, as well as discourage Indigenous people from seeking help or support. As one witness noted:

I want to be able to walk down the street with my grandkids without someone calling the social worker because they think I – oh, she yanked her kid there. She did something. I want to be able to go to the police and the police to be able to look at me and say, “Hey, Ms. M., how are you doing? What can we do to help you?” Not come in assuming and, you know, right away, call social services.<sup>66</sup>



Other witnesses noted similar feelings regarding obstacles placed before them that they felt did not apply equally to non-Indigenous people. Vanessa B. argued:

Their criteria seemed to be set in such a damn way that, good Lord, I'd have to have great jumping legs to jump over each and every one of these – these hurdles and it's – it's constantly. It's a hurdle. You can't even get – get over that hurdle enough to – and then, you know ... the momentum of constantly jumping through the hoops and that's how Tanya [Vanessa's sister] always felt, that she had to jump through so many hoops for her children and it's not that she didn't try, but with addiction that struggle is real and this tells you how real it was for her, and, "You know, you tell me to behave this way. Okay, I'm – I'm behaving this way." "Well, you know what? You're not quite doing it right. You need to do it this way because that's just not enough." All the while these children were placed at one point in a home that had added to the damage. Now, these children are now damaged, you know, so – and it still exists, you know, [those] hurdles are still existing now and I'm feeling that now.<sup>67</sup>

In the case of Robin R., the lengths she had to go to in order to be able to get her child back were so great that by the time she was finally permitted to see her daughter, it was too late. She said:

Those five years passed, the trial happened, and I went to the MCFD [British Columbia Ministry of Children and Family Development] and I said, "Give me my child back." No, they – I was irate and I was angry. I walked in there and they forced me to do anger management because I demanded that they give me a plan to get my child back. They said, "No, do anger management and get your certificate and come back and prove that you have done anger management before we talk."

I did the first anger management. It was eight weeks. I went back with my certificate, yelled at the social worker again, and she made me do another 12-week program. So for about five months I was in anger management.

"I BECAME A WARD OF THE GOVERNMENT AT THE AGE OF 14 YEARS OLD. FOR ME, THAT WAS ONE OF THE MOST HUMILIATING TIMES OF MY LIFE THE GOVERNMENT PUT ME THROUGH. THEY BROUGHT MY MOTHER INTO A PLACE, INTO THE COURTROOM, MADE HER SIGN PAPERS WHILE I STOOD THERE, PUT ME UP FOR ADOPTION. THAT'S – THIS IS GOVERNMENT.... THIS IS THE INSTITUTION THAT HAS NO HEART."

Noeline V.



Then, I finally bit my tongue and I walked in there. And they let me see my child. But I was just Robin at that time. Her mother was her foster mother. That was her family that she had grown to love. And I told myself I could never rip my child away from the family she loves so I made the decision right then and there to just let her go. It would be better for her mental state if she was raised in one family and not just keep jumping in and out of her life and demanding to get her back, because she will know now, she will see this Inquiry film and she will know the truth when she is ready.<sup>68</sup>

Once children are apprehended, there are additional obstacles that can lead women who are trying to leave bad circumstances or situations back into dangerous ones. As Mealia Sheutiapik, an Inuk Expert Witness described of her experience:

I had to go through courts just to get my kids back and – my baby. And, I went through the courts, but Children’s Aid were too harsh on me and they didn’t really give me no chance. They didn’t even ask me any questions, if I’d like to get better or if I need help. [All] they were concerned about [was] my baby and tak[ing] him away. So, that kind of got to me and then I just went back on the drugs and being hard on myself.<sup>69</sup>

We also heard about Métis experiences within the context of child welfare, where many children in care were taught to deny their Indigenous identities, or were convinced they didn’t have one. As Métis community therapist and social work professor Cathy Richardson/Kinewesquao notes, looking at child welfare in a Métis context means

understanding that the terrain for Métis people in Canada is full of potholes and pitfalls, and that the Métis make careful decisions about when and how to identify, knowing that they will often be misunderstood by others. For example, if identifying means that Métis families will receive adequately funded, culturally centered, and respectful social work services, then public identification is more likely. I once asked my son why he didn’t identify as Métis in his high school. He told me that if he did, they would put him in a class where he would have to make tipis out of popsicle sticks. Once you identify, the Métis become vulnerable to other people’s projections about who and what is Métis.”<sup>70</sup>

“THE GOVERNMENT IS STILL TRYING TO KILL THE INDIAN IN THE CHILD. IT’S NEVER STOPPED. THEY ARE STILL AT WAR WITH OUR PEOPLE, AND I KNOW THIS. I’VE SEEN IT, AND THIS IS MY LIFE. THIS IS NOT SOMETHING I JUST READ OUT OF A BOOK OR I HAD TO LEARN IN UNIVERSITY. I SEEN IT, I LIVED IT, AND THEY’VE USED OUR PEOPLE AS SCAPEGOATS, AND THEY’VE CREATED SUCH A HATE TOWARDS ABORIGINAL PEOPLE AND CREATED SUCH A DIVISION AMONGST INDIGENOUS PEOPLE AND NON-INDIGENOUS PEOPLE. THERE IS NO EDUCATION OUT THERE ON THE IMPORTANCE OF OUR PEOPLE AND OUR CULTURE.”

Marilyn W.



In addition, ongoing discussions regarding the definition of Métis, and who may qualify for benefits under Métis-specific programs, complicate the context of addressing how best to serve the Métis and to affirm cultural rights in child welfare,<sup>71</sup> as well as in other key services areas, such as health and education.

Regardless of the outcome of those discussions, the impact of child welfare on Métis families was a consistent theme through the testimonies. As Noeline V. shared:

I became a ward of the government at the age of 14 years old. For me, that was one of the most humiliating times of my life the government put me through. They brought my mother into a place, into the courtroom, made her sign papers while I stood there, put me up for adoption. That's – this is government.... This is the institution that has no heart.<sup>72</sup>

## Re-evaluating Helping Services

Many witnesses noted the lack of culturally responsive or appropriate services in key areas beyond child welfare that violated their cultural rights, particularly within support services centred on health. As health researchers Malcolm King, Alexandra Smith, and Michael Gracey note:

Many Indigenous people have little success with, and in fact often will not engage in, treatment that does not value their ways of knowing – especially those pertaining to health and wellness. This failure might account for, in part, the underuse of non-Indigenous specific mental health services by Indigenous people, despite their disproportionately high burden of mental illness.<sup>73</sup>

Many witnesses also pointed out how, despite all of the recent work by organizations and advocates to educate the public, there is a continuing lack of awareness about Indigenous Peoples and their needs today. Ann M. R. said that “educating people and curing ignorance seems like a lifelong process.”<sup>74</sup> The work of educating people is an additional burden placed on those still healing from these wounds.

Marilyn W. observed:

The government is still trying to kill the Indian in the child. It's never stopped. They are still at war with our people, and I know this. I've seen it, and this is my life. This is not something I just read out of a book or I had to learn in university. I seen it, I lived it, and they've used our people as scapegoats, and they've created such a hate towards Aboriginal people and created such a division amongst Indigenous people and non-Indigenous people. There is no education out there on the importance of our people and our culture.<sup>75</sup>



## DEEPER DIVE

# Media and Representation

## Introduction: What's New about the News?

Throughout the testimonies presented before the National Inquiry, witnesses talked about the difficult realities of media representation of their loved ones that they perceived as unfair, inaccurate, or distorted. As Chief Commissioner Marion Buller explained:

We have heard from many people across Canada that they have chosen not to participate in this National Inquiry because of the way the media has portrayed their family members, their experiences, and others' experiences. We've also heard from participants in this Inquiry that they've chosen to testify only in private because they are fearful of how the media will portray them and/or their family members.<sup>A</sup>

Joanne A., who testified in relation to two murdered aunts, explained how media coverage regarding their deaths revictimized the family.

I was just a kid at the time, but I remember her bloody, knife-torn clothing being displayed on the news. That image stayed with me since then. It traumatized me. I never understood why this was done. What purpose did it serve? None. This was only the beginning of the media circus that began and brought more suffering and pain to an already difficult situation.<sup>B</sup>

In this case, this family finally wrote to the media to fight back against the hurtful way their family member was being treated, the "sensationalized journalism," and had an open letter published, but to no noticeable effect. The media treated her other aunt's murder in the same sensationalized way a few years later.

At the same time, and for some families, the counterpart of this – a lack of coverage – is also a painful reality. Delores S. shared how she looked to use media

to support her quest for justice for her loved one, Nadine, but that the process of doing so has led to retraumatization.

I've had to continually go to the media and replay the events that happened in her story over and over and over for the last two years to get somebody to listen, to get somebody to hear that this is a bigger problem, that these issues are bigger. That this is not just another Indigenous woman, but this is a problem that is arising in Canada with our Indigenous women being – going missing and being murdered. And, it's been traumatizing. It's been very traumatizing to have to take my family through this over, and over, and over, and over.<sup>C</sup>

For those families, the fact that missing and murdered Indigenous women, girls, and 2SLGBTQIA people receive disproportionately less media coverage than their non-Indigenous counterparts is a painful reality. The limited attention of the media to, and its framing of, missing and murdered Indigenous women, girls, and 2SLGBTQIA people sends the message that Indigenous women, girls, and 2SLGBTQIA people are not "newsworthy" victims, contributing to the Canadian public's apathy toward this crisis.

This Deeper Dive summarizes the existing academic literature on the media's representation of Indigenous women, girls, and 2SLGBTQIA people, and incorporates new knowledge about media representation gathered from the National Inquiry's Truth-Gathering Process.

We outline the historical representations of Indigenous women in Canadian discourse and how these portrayals manifest in today's media representations of them. We discuss the framing, content, and coverage by traditional and non-traditional forms of media of Indigenous women, girls, and 2SLGBTQIA people. This analysis examines how the media's representation contributes to and legitimizes the violence



toward them, suggesting important findings about the way forward for truthful representations in the Canadian media of Indigenous women, girls, and 2SLGBTQQIA people.

## Historical Representations of Indigenous Women: Queen, Indian Princess, and Squaw

Negative sexist and racist representations of Indigenous women, girls, and 2SLGBTQQIA people are part of Canada's colonial history. Early representations of Indigenous women in Canada are intimately tied to the process of colonization.<sup>D</sup> Although Indigenous women's connection to the land is used in both Western and Indigenous historical frameworks, the Euro-constructed image of Indigenous women mirrors Western attitudes toward land of "control, conquest, possession, and exploitation."<sup>E</sup> North American images of Indigenous women have been constructed within the context of colonization and have evolved as three different stereotypes: the Queen, the Indian Princess, and the Squaw. All of the early representations of Indigenous women are overtly sexual and charged with colonialist goals and perceptions of land.<sup>F</sup>

When settlers first encountered Indigenous women in the 16th century, they produced images of Indigenous women that encapsulated the beauty of the "New World."<sup>G</sup> As scholar Joyce Green explains, representations of Indigenous women as the Queen were "exotic, powerful, and dangerous."<sup>H</sup> The Queen was both militant and mothering. Indigenous women were presented as being "draped in leaves, feathers, and animal skins, as well as in heavy jewelry, she appeared aggressive, militant, and armed with spears and arrows."<sup>I</sup> The Queen was seen as something to be both desired and feared.

As Europeans aspired to conquer more land, the Queen trope was replaced with that of the Indian Princess.<sup>J</sup> Colonialist expansion of North America could work only if the Queen metaphor became more accessible and less powerful.<sup>K</sup> Europeans began producing images of Indigenous women as the Indian Princess.<sup>L</sup> The "mother goddess" representation of Indigenous women was replaced with a more girlish sexual figure.<sup>M</sup> The Indian Princess was easily assimilated into European ideals of womanhood and, in that persona,

cooperated with settlers to colonize Indigenous land.<sup>N</sup> This imagery of Indigenous women symbolized virgin land that was open for consumption to settlers.<sup>O</sup>

However, once Indigenous Peoples in North America began to resist colonization, the archetype of Indigenous womanhood changed again.<sup>P</sup> Europeans imposed the Squaw stereotype on Indigenous women to legitimize land acquisition, based on the principle that only civilized people should have or develop land.<sup>Q</sup> The term "squaw" literally means dirty, immoral, and unworthy;<sup>R</sup> it is the antithesis to the traditional Victorian woman.<sup>S</sup> Portraying Indigenous women as Squaw has subsequently legitimized many forms of violence against Indigenous women.<sup>T</sup> For example, the Squaw stereotype presents Indigenous women as unfit mothers.<sup>U</sup> Therefore, if Indigenous mothers are portrayed as unfit to raise their children within the confinement of the Victorian family model, the Canadian government can legitimize the forcible removal of Indigenous children by child welfare services.<sup>V</sup> As "Squaw," Indigenous women are seen to be unable to mother because of issues such as domestic violence and poverty. These are targeted policies of marginalization that are products of Canada's colonial history and live on into the present.

The narrative of Indigenous women as "easy squaws" was also used to describe Indigenous women's sexuality as "lewd and licentious"<sup>W</sup> by government officials, law enforcement, and other colonial authorities. This manifestation of the Squaw stereotype was, and still is, used to excuse the violence Indigenous women and girls experience by white settler men.<sup>X</sup> The narrative of "easy" Indigenous women was created to cover up white males' unmarried sexual activity.<sup>Y</sup> Portraying Indigenous women as Squaw allows Indigenous women to be blamed for the sexual deviance of white settler men.<sup>Z</sup> However, Janice Acoose, professor of Indigenous and English literature at First Nations University, argues that regardless of how Indigenous women are portrayed, as either Indian Princess or Squaw, they are sexualized and deemed accessible to white European men for consumption.<sup>AA</sup>

## Creating and Silencing the Violence in Media Framing

The historical stereotypes of Indigenous women manifest in today's media representations of Indige-



nous women, girls, and 2SLGBTQQIA people; they are still subject to representations as the Indian Princess or Squaw by the media. The representation of Indigenous women, girls, and 2SLGBTQQIA people in news media is different from that of their non-Indigenous counterparts in its content and framing. “Content” is the information included in a news article. “News media framing” is broadly understood as the selection of some aspects of information to make them more important.<sup>BB</sup> Media frames are both persuasive and analytical tools; they are heuristics, or mental shortcuts, that allow complex issues and ideas to be understood.<sup>CC</sup> Media frames can explicitly and implicitly shape attitudes and opinions based on what is included in the frame and how it is understood.<sup>DD</sup>

Media representation is not neutral. Power is at the core of what is considered “newsworthy.”<sup>EE</sup> News media representations of Indigenous women, girls, and 2SLGBTQQIA people, and of the violence against them, are linked to what is deemed worthy or unworthy of coverage.<sup>FF</sup> Newsworthiness is “what makes a story worth telling.”<sup>GG</sup> However, not all women who experience violence are treated equally by the media.<sup>HH</sup> In determining which victims of violence are newsworthy, the news media often presents victims of violence as a binary of either “good” or “bad.”<sup>II</sup> Like society, the binary that the news media depicts falls along racial and class lines.<sup>JJ</sup> White, educated, and wealthy women are portrayed as “good” women who are worthy of saving and reporting on, whereas Indigenous women are portrayed as “bad” women who are unworthy.<sup>KK</sup>

Consequently, the media’s binary portrayal of violence against women results in white missing and murdered women being framed more compassionately than Indigenous missing and murdered women. A case study of news media representation of missing and murdered Indigenous women by researcher Kristen Gilchrist compared with the representation of missing and murdered white women highlights the media’s unequal representation of victims of sexual violence. All six women in the case study were under the age of 30, attended school or were working, had close connections with friends and family, and had disappeared between 2003 and 2005.<sup>LL</sup> None of the women in the case study were sex workers or had run away from their families.<sup>MM</sup> However, the media highlighted the non-Indigenous

women’s personalities, families, ambitions, and hobbies.<sup>NN</sup> In contrast, the details of the Indigenous women’s lives were scant.<sup>OO</sup> Since the articles about the Indigenous women were significantly shorter than those about the non-Indigenous women, the media did not convey who these women were and what they meant to their families and communities in the same way it did for non-Indigenous women.<sup>PP</sup>

Most often, news media emphasizes Indigenous women’s and girls’ criminal behaviour. Indigenous women are primarily framed as sex workers and criminals. “Never Innocent Victims: Street Sex Workers in Canadian Print Media,” a study of media representation of Indigenous sex workers from 2006 to 2009, found that two dominant narratives emerge from news media coverage.<sup>QQ</sup> The first narrative that is perpetuated by the media is “vermin-victim.”<sup>RR</sup> This narrative portrays Indigenous sex workers as dirty and as a nuisance to Canadian society.<sup>SS</sup> Sex work is depicted as something that should be eradicated.<sup>TT</sup> The second narrative that emerges from news media representation of Indigenous sex workers is that Indigenous women are to blame for the violence against them because they engage in “high-risk” lifestyles. The media continually refers to sex work as a “lifestyle,” suggesting that sex work is an individual choice, despite the fact that many women have no other employment opportunities available to them. Media discourse about sex work as individual choice suggests that Indigenous women who engage in sex work and experience violence as a result are at fault: by choosing to engage in a “high-risk” lifestyle, Indigenous sex workers must also accept the consequences of that lifestyle.<sup>UU</sup>

Criminalized portrayals were cited in testimony before the National Inquiry. Elora S. shared with the National Inquiry:

I’m sure a lot of families have this in common, but what the media does in how they portray our sisters, our aunties, our daughters, it’s not in a very good light.... The one that is often portrayed in the media newspapers is not one that we want to remember her by.... The [photo] that has been all over in the newspapers was actually a mug shot of her, and that’s not how we want to remember her.<sup>VV</sup>



As Jamie Lee Hamilton shared, “people are more than that. You know, their humanity is robbed from them when you just categorize them by those terms. And there’s no need for that.”<sup>www</sup>

The repetitive representation of Indigenous women engaging in “high-risk” lifestyles normalizes the violence against them.<sup>xx</sup> In emphasizing Indigenous women’s criminal activity in news media, there is no attention paid to Canada’s colonial history, which constrains and shapes some Indigenous women’s, girls’, and 2SLGBTQQIA people’s experiences and opportunities.<sup>yy</sup> News media representation blames Indigenous women and girls for the violence against them and dismisses the unequal social conditions that contribute to some Indigenous women’s, girls’, and 2SLGBTQQIA people’s engaging in sex work or living in poverty.<sup>zz</sup>

As Jamie Lee Hamilton shared on a panel before the National Inquiry, media coverage as related to 2SLGBTQQIA people can be challenging for different reasons, as well.

When we’ve had trans people – Two-Spirited, trans people that have been murdered, the police routinely would disclose to the media that they’re trans. And they have no right to do that because it sets in motion this defence that’s used, the panic. We call it the homosexual panic defence of, “Oh, the perpetrator was triggered because of this.” When in actual fact, they’re hate crimes. You know, there are individuals that go out and target.<sup>aaa</sup>

As Kim M. shared, in relation to the media portrayal of her sister:

Media needs to be educated on how they report on missing and murdered Indigenous women and girls. They need to be respectful and honourable.... When media was trying to post pictures of my sister, they were not very representative pictures, and I actually phoned a number of places that were posting pictures and I said, “We’re sending you pictures. Use these.” Even the way how they described my sister when they first announced that she was murdered, they described her as a sex-trade worker. So, I phoned them and I said, “How can you – why are you calling her that?” So, media, get your facts straight and treat us with honour and respect.<sup>bbb</sup>

As these examples demonstrate, many media outlets perpetuate a narrative that violence against Indigenous women is a result of individual choice, rather than social and structural inequalities.<sup>ccc</sup> Consequently, the violence against Indigenous women, girls, and 2SLGBTQQIA people is “justified” because the media framing signals to the Canadian public that violence against them is not important.<sup>ddd</sup> The silencing of violence against Indigenous women and girls is made worse in comparison with the media’s compassionate framing of white women.<sup>eee</sup>

## A Curious Silence

In addition to the negative framing and content of news media representations of Indigenous women, girls, and 2SLGBTQQIA people, they constantly receive disproportionately less media coverage than their non-Indigenous counterparts do. Media coverage refers to the frequency of media representation – for example, the number of news articles and placement of newspaper stories.

In terms of frequency and placement of newspaper articles, there are more articles written about non-Indigenous women than Indigenous women, and these articles appear in a more prominent place in newspapers. On average, missing or murdered white women received three times more coverage than Indigenous women did.<sup>fff</sup> The comparative case study mentioned earlier found that articles about white women averaged 1.4 times more words than Indigenous women and that 37% of articles about white women appeared on the front page of newspapers, compared with 25% of articles about Indigenous women.<sup>ggg</sup> Articles about the Indigenous women often appeared beside advertisements and soft news.<sup>hhh</sup> Further, other less significant articles were given more prominent space when placed near the stories of missing or murdered Indigenous women.<sup>iii</sup> Poorly placed articles signal to readers that the stories in the articles lack urgency and social importance.<sup>jjj</sup> The placement of news articles about Indigenous women in the periphery of newspapers signals to readers that missing and murdered Indigenous women are not newsworthy.

Further, a study conducted in 2008 found that even Indigenous women who do not engage in “high-risk” lifestyles also receive limited news media coverage.



In 2004, Daleen Kay Bosse, a 25-year-old Cree university student and mother from Onion Lake First Nation, went missing from Saskatoon. There was only a total of 51 articles in the *Saskatoon StarPhoenix*, a daily newspaper serving the Saskatoon area, and *Regina Leader-Post*, a daily newspaper serving the Regina area, over a four-year time period about her disappearance and death.<sup>KKK</sup> During the critical two-week period when Daleen first went missing, her disappearance received no news coverage, despite the fact that her family notified the police within 24 hours of her disappearing.<sup>LLL</sup> Once her killer was identified, there was an increase in news coverage; however, the coverage focused on her killer, rather than on Daleen.<sup>MMM</sup> The limited media coverage of Daleen creates and maintains a silenced discourse about her disappearance and murder. The number and timing of news articles suggest that Daleen's disappearance and death are not important.<sup>NNN</sup>

Marilou S. shared about a friend's experience with media silence, in comparison with a non-Indigenous victim.

We met this one family where their little girl was chopped up into little pieces and thrown into the river in Manitoba. And it happened at the same time that this little girl in Toronto, a white girl, she was chopped up and put in a suitcase, and they found her on Centre Island. And the little girl in Manitoba didn't get any news time at all. But the little white girl was – it was all over the world what happened to her, you know?<sup>OOO</sup>

Similarly, Rachelle W., testifying about the lack of media coverage around her cousin's murder, said:

It seemed like we didn't have any support. Even trying to get the media, like the *Interior News* or any kind of radio station, somebody to hear us, but our family had to chase after the media to say, "Hey, wait a minute. You guys have to listen to us because our family member's gone missing." And it seemed like it was just dead ends everywhere trying to look for Ramona.<sup>PPP</sup>

Another issue in news media coverage is that stories on murdered and missing Indigenous women and girls before 1980 are largely absent. As Tanya Talaga, an Anishinaabe author and journalist, said, cases of

their being missing "in the 1950s, and 1960s and the 1970s ... were swept under the rug. ... There's so many cases of women that disappeared and there's hardly any information anywhere on them ... it's important that we remember those women."<sup>QQQ</sup> Without information about murdered and missing Indigenous women and girls before 1980, the severity of violence against Indigenous women and girls, and how the media contributes to and silences this violence, cannot be fully understood. To help fill some of the knowledge gaps about the murdered and missing Indigenous women and girls in the news media, Tanya Talaga and a team of journalists at the *Toronto Star* created the series "Gone." The goal of the series is to investigate the disappearances and deaths of Indigenous women and girls to tell more honest and truthful stories of the women and to create a comprehensive database.

As Trudy S. shared, when asked if her sister's story was ever reported on in the media: "No. There was nothing. It was just like my sister was invisible, that nobody cared about her, and I'm the only one that really cared for her. I'm the only one that wants justice for Pauline."<sup>RRR</sup>

## Film, Sports, and Popular Culture

Indigenous women and girls are also misrepresented in popular culture. In movies, Indigenous women and girls are dehumanized and hypersexualized, and their agency is denied. Erotic images of Indigenous women as the historical stereotype of the Indian Princess persist today. For example, the Indian Princess archetype is manifested in Western representations of Pocahontas.<sup>SSS</sup> In his analysis of the Disney movie *Pocahontas*, Jesse Wenthe, an Anishinaabe man and director of the Indigenous Screen Office, highlighted the oversexualization of Pocahontas. Wenthe commented that the Disney movie encapsulates "the maturation thinking that Indigenous women are somehow sexually active or mature at a very young age, compared to the regular population."<sup>TTT</sup> Wenthe highlights "the myth that the movie paints about who Pocahontas was, that was actually not even her name, and she would have been a child when she met John Smith."<sup>UUU</sup> He continues, "The Disney movie *Pocahontas* is probably the most widely watched piece of entertainment of Indigenous Peoples. She's portrayed scantily clad for most of the



film. And, the disconnect, I think, is both evidence of that overall in the media, but in particular, when it comes to the portrayal of Indigenous women.<sup>www</sup> John Ford's 1956 film *The Searchers*, which has a slightly more nuanced portrayal of Indigenous women, is still dehumanizing. Throughout the movie, there are jokes made about Indigenous women's appearances, and they are traded as a commodity in the movie.<sup>www</sup> Further, *Wind River*, a 2017 film specifically about missing and murdered Indigenous women, denies Indigenous women agency.<sup>xxx</sup> The Indigenous women in *Wind River* are portrayed only as rape victims; they are not active in the movie's other narratives.<sup>yyy</sup> Similarly, the 2015 Oscar-winning film *The Revenant* portrays Indigenous women as only victims of sexual assault and as sexual objects.<sup>zzz</sup> Indigenous women's rape is used as a plot device as opposed to being central to the telling of the story.<sup>aaaa</sup>

Misrepresentations of Indigenous Peoples are also prevalent in sports mascots. Jesse Wentz told the Inquiry that the ongoing use of depictions Indigenous Peoples as sports mascots is a clear perpetuation of racism.

Indigenous people are the only humans that are cast as mascots and as team names. You don't see this, actually, with other peoples. They are mostly named after animals, and it's important to consider that most of the negative effects and negative purpose of much of the mis-portrayals in the media are dehumanization of Indigenous Peoples, so that being named mascots suddenly becomes acceptable to the wider population. In fact, you see stories that these teams begin to tell themselves about why they did this. Usually, they refer to these as honouring ... that they honour Indigenous Peoples through these names. But, again, if you consider what was actually occurring to Indigenous Peoples when these names were created, I would suggest that is a dramatic disconnect, one reinforced by media at the time and ongoing now.<sup>bbbb</sup>

## A New Wild West: Social Media and Representation

Although social media can facilitate racist and sexist representations of Indigenous women, girls, and

2SLGBTQQIA people, it can also create a platform for Indigenous Peoples to present their voices.<sup>cccc</sup> Unlike traditional forms of media, social media has no constraints as to what can be published; there is no overarching message that is being controlled by traditional media sources.<sup>dddd</sup> In some ways, social media has the potential to mitigate racist and sexist portrayals of Indigenous women, girls, and 2SLGBTQQIA people by allowing Indigenous Peoples to contribute to their own stories. For example, the twitter hashtag #MMIW was used by many Indigenous groups to focus media attention on the stories of the women and the National Inquiry, rather than on sexist and racist portrayals of missing and murdered Indigenous women.<sup>eeee</sup>

Missing from the academic literature is specifically how 2SLGBTQQIA people are represented and largely under-represented in the media. Fallon Andy, media arts justice facilitator with the Native Youth Sexual Health Network and a gender non-conforming Anishinaabe artist who uses they/them pronouns, told the Inquiry about how they use memes and GIFs to bring awareness to the violence against 2SLGBTQQIA people. They explained, "Heterosexuality is sort of the main sexuality category, it's very normalized, and you see it everywhere in media."<sup>ffff</sup> Andy stressed the importance of having culturally specific memes of Indigenous 2SLGBTQQIA people. In reference to their memes, Andy stated that they "often send them to different places and communities and people will ask me to send them, like, PDF copies so that they can print and take it up and hang it somewhere. ... It's more, like, culturally specific."<sup>gggg</sup>

## Violence by Media Representation, Misrepresentation, and Under-Representation

Like historical representations of Indigenous women that legitimized early colonial violence, today's media misrepresentation and under-representation of Indigenous women, girls, and 2SLGBTQQIA people contribute to and legitimize the disproportionate and distressing amount of violence they experience. The limited news coverage of Indigenous women, girls, and 2SLGBTQQIA people sends the message that they are not newsworthy victims: the violence com-



mitted against them is not important. Media framing of Indigenous women as engaging in activities that increase their risk of violent crime places the blame and responsibility of their circumstances on themselves, rather than increasing support and advocacy amongst Canadians.<sup>HHHH</sup>

Misrepresentation and lack of coverage also legitimize the Canadian government's lack of intervention and inadequate police investigations. Dr. Robyn Bourgeois, a Cree professor at Brock University, told the National Inquiry:

The hypersexualization of Indigenous women and girls, and the perception that we are inherently sexually available ... [means that] the violence that happens to our bodies doesn't count because – I mean, in really gross, kind of, pop culture terms that I've actually heard people say – we are getting what we asked for, we put ourselves in – you know, we were – by our very existence, we asked for it. And so, it exonerates that violence, and that's the source of the ideas. It's this inherent belief within the settler colonial system, which is the foundation of our current Canadian nation-state, that Indigenous women and girls are inferior, they're deviant, they're dysfunctional, and they need to be eliminated from this nation-state, and that's what makes it okay to abuse and violate Indigenous women and girls.<sup>IIII</sup>

The under-representation and misrepresentation of Indigenous women, girls, and 2SLGBTQQIA people allow the Canadian government and public to maintain its apathy toward the ongoing crisis.

Consequently, the Canadian public's attitudes toward Indigenous women heighten the women's vulnerability to violence by non-Indigenous Canadians. Amnesty International's 2004 report *Stolen Sisters: Discrimination and Violence against Aboriginal Women in Canada* found that non-Indigenous Canadians' violence toward Indigenous women and girls is motivated by racism and sexism. The report also found that non-Indigenous men's violence toward Indigenous women is in part motivated by the Canadian public's indifference to the deaths and disappearances of Indigenous women and girls. The findings in *Stolen Sisters* are sobering when understood in the context of how the media informs Canadian public

opinion about murdered and missing Indigenous women and girls.

A 2018 study on Inuit women's responses to various Western media highlights the findings in *Stolen Sisters*. "We don't kiss like that': Inuit women respond to music video representations" found that Inuit women believed that the media's representation of Indigenous women legitimized the physical violence against them.<sup>JJJJ</sup> The women in the study believed that the media's representation of missing and murdered women as victims of violence focused on their Indigeneity, rather than on the socio-economic and structural causes of violence.<sup>KKKK</sup> One woman stated that the media portrays Indigenous women as "illiterate ... and dumb so that they can easily rape us or sexually abuse us."<sup>LLLL</sup>

Media representation of Indigenous women and girls perpetuates the ongoing colonial violence against Indigenous women. As we heard, these stereotypes, as well as the lack of coverage that crimes against Indigenous women, girls, and 2SLGBTQQIA people receive, mean that some perpetrators feel as if these victims represent less "risk" to them in committing the violence. In addition to legitimizing the violence of non-Indigenous perpetrators, some witnesses shared, Indigenous men have accepted the media's stereotypes, viewing the victims as people no one cares about, or believing they won't get caught, or be prosecuted, because of that.

In the absence of appropriate representations of Indigenous Peoples in the media, misrepresentations become the accepted "truth."<sup>MMMM</sup> The way that Indigenous women, girls, and 2SLGBTQQIA people are represented by the media affects how Indigenous Peoples see themselves and their cultures. As scholar Janice Acoose explains, "Stereotypic images of Indian princesses, squaw drudges, suffering helpless victims, tawny temptresses, or loose squaws falsify our realities and suggest in a subliminal way that those stereotypic images are [Indigenous Peoples]."<sup>NNNN</sup>

Sandra L. stated, "I used to hate my people, like how come we were supposed to be these bums, but I didn't know ... I thought these people who were telling me about who we were as a people was the truth. It wasn't the truth, right?"<sup>OOOO</sup>



## The Path Forward: Telling Our Stories

The truth about missing and murdered Indigenous women and girls must be represented in the media. Indigenous women, girls, and 2SLGBTQQIA people have spirit: they are mothers, daughters, sisters, aunts, wives, valued community members. They matter, and their stories are important. The path forward to honest representations of Indigenous women, girls, and 2SLGBTQQIA people is not straight or easy, but there are several changes that the media can make to lead to more truthful representations that can ultimately contribute to change. As Sandra L., a witness before the National Inquiry, stated, “the thing about learning the truth is it'll set you free, but it's painful as hell going through the process.”<sup>PPPP</sup>

A common recommendation in both the academic literature and the testimonial knowledge is that for fair media representation of Indigenous women, girls, and 2SLGBTQQIA people, Indigenous Peoples must be able to tell their own stories. Indigenous Peoples are the experts of their own lives, and their knowledge should be represented in the media. Connie Greyeyes, a member of Bigstone Cree Nation and advocate for missing and murdered Indigenous women and girls, told the National Inquiry that it is important for the families of missing and murdered Indigenous women to tell their own stories on their own terms.

Quite often when stories of a woman that has gone missing or has been murdered, there's a stereotype that's attached to it. And for a family to be able to go and tell their story, their truth of their loved one is so important because we are not what the media often portrays us to be. You know, we are mothers, grandmothers, aunts, sisters. We are ceremonial people. You know, I've seen so many stories of my own personal friends in the media and have been just disgusted by the way they've been portrayed.<sup>QQQQ</sup>

Elora S., testifying about her loved one, implored the media to reach out to families.

Before you publish anything, I know it's for rates and whatever, but you know, reach out to the families, because we all – we'll help you. We want

to portray a positive image, not just what you guys want to put out there. And, I know for our story, it was just, come on, just be a little more sensitive, you know? Because the graphic details that they portrayed my auntie in were horrendous. And, that's all the public knows about her, was that – I'm not going to – I'm not going to share what was posted, what was said, but it was just dehumanizing.<sup>RRRR</sup>

In some cases, this also means understanding and respecting cultural traditions and protocols of grieving. As Micah A. shared, her family's silence was interpreted by media as support for the perpetrator.

My relatives did not feel it was in their interest to speak on my behalf as the mother of the child, and they did not want to be interviewed by the media with their questions. At first I wasn't interested in being interviewed myself, but one of the questions was, became this: “Are the [A.'s family] supportive of murder, then? Because you won't reply?” That was one of the questions I was given.

In her testimony, Micah said she felt pressured to provide an interview, but when she did, she pointed out that the media should respect Inuit culture, “whereby you give the person grieving who experienced the loss, three days prior to contact for interviews or to answer questions.”<sup>SSSS</sup>

Fallon Andy pointed out that one way for Indigenous Peoples to tell their stories is through social media because it allows them to represent their realities better.<sup>TTTT</sup> The ability for social media to change the social and political landscape cannot be understated.

Part of the reason that the violence toward Indigenous women, girls, and 2SLGBTQQIA people is underrepresented and misrepresented in the media is that Canadian media is dominated by white settler men.<sup>UUUU</sup> Jesse Wenthe explained, “The majority of Indigenous storytelling that occurs, or stories about Indigenous people that are seen on screens and in media are typically produced by non-Indigenous peoples.”<sup>VVVV</sup> The lack of Indigenous representation in the Canadian media is problematic because the majority of the information Canadians receive about Indigenous Peoples and issues, and, consequently, how they form their opinions, is through the



media.<sup>wwwww</sup> In contexts where Canadians have little knowledge, contact, or personal interactions with Indigenous communities, media plays an integral role in shaping perceptions of Indigenous Peoples.<sup>xxxx</sup> In moving forward, the media should include Indigenous Peoples as a part of the creation of stories and the storytelling process. This can include, but is not limited to, Indigenous production teams, actors, writers, journalists, and directors.

In some cases, this is happening. For example, Jeffrey McNeil-Seymour, a Two-Spirit assistant professor at Ryerson University and band member at Tk'emlúps te Secwepemc First Nation, created a video art presentation that recorded 2SLGBTQQIA people in ceremony. McNeil-Seymour described the video in his testimony as “a way for there to be visual documentation of a particular ceremony for Two-Spirit people in my nation of Secwepemcul’ecw to look to and to be able to hopefully feel a sense of belongingness and attachment, because a lot of us grow up not necessarily having those strong feelings.”<sup>yyyy</sup>

In addition, work from advocates has resulted in some changes in Manitoba in how Indigenous women, girls, and 2SLGBTQQIA people are portrayed in the media. As Member of the Legislative Assembly of Manitoba Nahanni Fontaine explained, activism from Winnipeg families finally convinced the Winnipeg Police Service (WPS) and the RCMP to stop using mug shots when releasing photos of murdered and missing Indigenous women and girls in Winnipeg. As Fontaine explained in an interview:

So actually, here in Winnipeg, there were a group of predominantly Indigenous women from a variety of different organizations that kept lobbying and fighting for the WPS and for the RCMP to stop releasing mug shots because what it does intrinsically is when that mug shot is released to the public, it doesn't really induce the public to that particular woman. Right, because we've got our own, you know, markers in respect of that she's criminalized and she's all these things. We actually lobbied for that for very hard. And now the WPS and the RCMP don't do that.<sup>zzzz</sup>

Another way forward for truthful representation of Indigenous women, girls, and 2SLGBTQQIA people in the media is set out by the Truth and Reconciliation Commission's (TRC) Call to Action 84, “Media and Reconciliation.” The TRC states:

We call upon the federal government to *restore and increase funding to the CBC/Radio-Canada*, to enable Canada's national public broadcaster to support reconciliation, and be properly reflective of the diverse cultures, languages, and perspectives of Aboriginal peoples, including, but not limited to: (iii) Continuing to provide dedicated news coverage and online public information resources on issues of concern to Aboriginal peoples and all Canadians, including the history and legacy of residential schools and the reconciliation process. (emphasis added)<sup>aaaa</sup>

Many of the witnesses for the National Inquiry testified about the importance of increasing funding for Indigenous media content. This could facilitate more Indigenous participation in media creation and content, leading to more honest representations of Indigenous women, girls, and 2SLGBTQQIA people.

## Conclusion

This Deeper Dive has explained how early colonial representations of Indigenous women manifest in today's misrepresentation and under-representation of Indigenous women, girls, and 2SLGBTQQIA people. Today, through media coverage and content, media representations can legitimize violence and contribute to the targeting of Indigenous women by silencing their experiences.

As Jesse Wenthe explained, media should and can be an important outlet for improving outcomes, not making them worse. In responding to the idea that some families were afraid to testify, fearing the media portrayal they might encounter, Wenthe stated: “That should be a shameful blight, because that is not what journalism should be doing; the exact opposite.”<sup>bbbb</sup> Tanya Talaga pointed out that, in some cases, these bad experiences work to colour Indigenous Peoples' perceptions of the media as a single entity.



That's really hard because, you know, families, they have a bad experience and then someone else hears about it. And so, it just gets magnified and not all journalists are bad, and not all journalists are insensitive, and some do work hard to be sensitive. So, it's difficult because when that happens, everyone gets painted with the same brush, and that's not necessarily fair.<sup>cccccc</sup>

While witnesses pointed out, in many instances, the difficulties they faced with media, they also offered solutions that point to media's important role in shaping Canadian public opinion. While the media has, so far, contributed to a lack of public concern for the crisis of murdered and missing Indigenous women and girls, and has legitimized the Canadian government's inadequate intervention, it can also work to do something else entirely. The path forward should include Indigenous Peoples' telling their own stories on their own terms for truthful and fair media representations of Indigenous women, girls, and 2SLGBTQQIA people.



*Jesse Wente testifies about media and representation at the National Inquiry's hearing on racism in Toronto, Ontario.*

## Findings

- The media has not accurately portrayed First Nations, Inuit, and Métis women and girls in general, and 2SLGBTQQIA people in particular. As a result, the media has perpetuated negative stereotypes of Indigenous women, girls, and 2SLGBTQQIA people. These stereotypes perpetuate racism, sexism, homophobia, transphobia, and misogyny against Indigenous women, girls, and 2SLGBTQQIA people within the broader Canadian population.
- Media portrayal has resulted in the dehumanization of Indigenous Peoples, which in turn manifests and perpetuates views that Indigenous women, girls, and 2SLGBTQQIA people are “less than” non-Indigenous people; that they are not worthy of the same rights and protections as non-Indigenous people; and that they are burdens on Canadian society.



A	Tanya Talaga (Anishinaabe/Polish), Part 3, Public Volume 10, Toronto, ON, p. 171.	GG	Gilchrist, "Newsworthy Victims," 3; Gilchrist, "Invisible Victims"; Gilchrist, "Multiple Disadvantages."
B	Joanne A. (English River First Nation, Treaty 10), Part 1, Public Volume 24, Edmonton, AB, pp. 78-79.	HH	Gilchrist, "Newsworthy Victims," 3; Jiwani and Young, "Missing and Murdered Women," 901.
C	Delores S. (Saulteaux, Yellow Quill First Nation), Part 1, Public Volume 26, Saskatoon, SK, pp. 25-26.	II	Gilchrist, "Newsworthy Victims," 3; Gilchrist, "Multiple Disadvantages."
D	Jiwani, "Symbolic and Discursive Violence," 3.	JJ	Ibid.
E	Anderson, <i>A Recognition of Being</i> , 101.	KK	Acoose, <i>Neither Indian Princesses nor Easy Squaws</i> , 43; Gilchrist, "Newsworthy Victims," 3; Gilchrist, "Multiple Disadvantages."
F	Jiwani, "Symbolic and Discursive Violence," 3.	LL	Gilchrist, "Newsworthy Victims," 11.
G	Anderson, <i>A Recognition of Being</i> , 101; Green, "The Pocahontas Perplex," 702.	MM	Ibid.
H	Green, "The Pocahontas Perplex," 703.	NN	Ibid.
I	Ibid., 702.	OO	Ibid.
J	Anderson, <i>A Recognition of Being</i> , 101; Green, "The Pocahontas Perplex," 702.	PP	Ibid.
K	Anderson, <i>A Recognition of Being</i> , 101.	QQ	Strega et al., "Never Innocent Victims," 12.
L	Anderson, <i>A Recognition of Being</i> ; Carter, <i>Capturing Women</i> , 161; Green, "The Pocahontas Perplex," 702.	RR	Ibid.; Longstaffe, "Indigenous Women as Newspaper Representations," 239.
M	Anderson, <i>A Recognition of Being</i> , 101.	SS	Ibid.
N	Burnett, "Aboriginal and White Women," 105; Dean, "Moving Beyond 'Stock Narratives.'"	TT	Strega et al., "Never Innocent Victims," 13.
O	Anderson, <i>A Recognition of Being</i> , 101.	UU	Ibid.
P	Ibid., 103.	VV	Elora S., Part 1, Public Volume 10, Winnipeg, MB, p. 155.
Q	Ibid., 103.	WW	Jamie Lee Hamilton (Indigenous/Irish), Part 1, Public Volume 104, Vancouver, BC, p. 54.
R	Burnett, "Aboriginal and White Women," 105.	XX	Strega et al., "Never Innocent Victims," 21.
S	Anderson, <i>A Recognition of Being</i> , 103; Bourgeois, "A Perpetual State of Violence"; Burnett, "Aboriginal and White Women," 105; Carter, <i>Capturing Women</i> , 161; Razack, "Gendered Racial Violence," 99-100.	YY	García-Del Moral, "Representations as a Technology of Violence," 46; Strega et al., "Never Innocent Victims," 20.
T	Bourgeois, "A Perpetual State of Violence," 260; de Finney, "Playing Indian," 172; Razack, "Gendered Racial Violence," 99.	ZZ	García-Del Moral, "Representations as a Technology of Violence," 46; Gilchrist, "Newsworthy Victims."
U	Anderson, <i>A Recognition of Being</i> , 103.	AAA	Jamie Lee Hamilton (Indigenous/Irish), Part 1, Public Volume 104, Vancouver, BC, p. 53.
V	Ibid.	BBB	Kim M., Part 1, Public Volume 10, Winnipeg, MB, pp. 173-174.
W	Ibid., 104.	CCC	García-Del Moral, "Representations as a Technology of Violence," 46.
X	Ibid.; Razack, "Gendered Racial Violence," 105.	DDD	Gilchrist, "Newsworthy Victims," 14.
Y	Anderson, <i>A Recognition of Being</i> , 104.	EEE	Ibid.
Z	Ibid.; Pierce, "Christian Stereotypes and Violence," 9.	FFF	Ibid., 7.
AA	Acoose, <i>Neither Indian Princesses nor Easy Squaws</i> , 45.	GGG	Ibid.
BB	Entman, "Framing," 51.	HHH	Gilchrist, "Newsworthy Victims," 9.
CC	Hallahan, "Seven Models of Framing," 207.	III	Ibid.
DD	Ibid.	JJJ	Ibid., 10.
EE	García-Del Moral, "Representations as a Technology of Violence," 35.	KKK	McKenzie, "She was not into drugs and partying," 148.
FF	Gilchrist, "Newsworthy Victims," 2; Gilchrist, "Invisible Victims"; Jiwani, <i>Discourses of Denial</i> , 38.	LLL	Ibid.
		MMM	Ibid.
		NNN	Ibid., 148-49.



OOO	Marilou S. (Bear Clan, Anishinaabe), Part 1, Statement Volume 563, London, ON, p. 18.	JJJ	Glennie, "We don't kiss like that," 109.
PPP	Rachelle W. (Wolf Clan, Gitksan Nation), Part 1, Public Volume 7, Smithers, BC, p. 77.	KKK	Ibid., 110.
QQQ	Tanya Talaga (Anishinaabe/Polish), Part 3, Public Volume 10, Toronto, ON, pp. 85-86.	LLL	Ibid.
RRR	Trudy S. (Mowachaht/Muchalaht First Nation), Part 1, Public Volume 95, Vancouver, BC, p. 11.	MMM	Jesse Wente (Anishinaabe, Serpent River First Nation), Part 3, Public Volume 10, Toronto, ON p. 21.
SSS	Green, "The Pocahontas Perplex," 704.	NNN	Acoose, <i>Neither Indian Princesses nor Easy Squaws</i> , 44.
TTT	Jesse Wente (Anishinaabe, Serpent River First Nation), Part 3, Public Volume 10, Toronto, ON, p. 17.	OOO	Sandra L. (Cree/Dakota), Part 1, Public Volume 41, Yellowknife, NWT, p. 187.
UUU	Jesse Wente (Anishinaabe, Serpent River First Nation), Part 3, Public Volume 10, Toronto, ON, pp. 16-17.	PPP	Sandra L. (Cree/Dakota), Part 1, Public Volume 41, Yellowknife, NWT, p. 187.
VVV	Jesse Wente (Anishinaabe, Serpent River First Nation), Part 3, Public Volume 10, Toronto, ON, pp. 16, 17.	QQQ	Connie Greyeyes (Bigstone Cree Nation), Mixed Parts 2 & 3, Public Volume 6, Quebec City, QC, pp. 29-30.
WWW	Jesse Wente (Anishinaabe, Serpent River First Nation), Part 3, Public Volume 10, Toronto, ON, p. 26.	RRR	Elora S., Part 1, Public Volume 10, Winnipeg, MB, p. 156.
XXX	Jesse Wente (Anishinaabe, Serpent River First Nation), Part 3, Public Volume 10, Toronto, ON, p. 17.	SSS	Micah A. (Inuit, Talurjuaq), Part 1, Public Volume 46(b), Rankin Inlet, NU, p. 13.
YYY	Jesse Wente (Anishinaabe, Serpent River First Nation), Part 3, Public Volume 10, Toronto, ON, p. 17.	TTT	Moeke-Pickering et al., "Understanding the Ways," 55; Fallon Andy (Anishinaabe, Couchiching First Nation), Part 3, Public Volume 8, Toronto ON, p. 131.
ZZZ	Jesse Wente (Anishinaabe, Serpent River First Nation), Part 3, Public Volume 10, Toronto, ON, p. 17.	UUU	McKenzie, "She was not into drugs and partying," 144.
AAAA	Jesse Wente (Anishinaabe, Serpent River First Nation), Part 3, Public Volume 10, Toronto, ON, p. 17.	VVV	Jesse Wente (Anishinaabe, Serpent River First Nation), Part 3, Public Volume 10, Toronto, ON, p. 20.
BBBB	Jesse Wente (Anishinaabe, Serpent River First Nation), Part 3, Public Volume 10, Toronto, ON, pp. 15-16.	WWW	Harding, "Historical Representations of Aboriginal People," 224.
CCCC	Moeke-Pickering et al., "Understanding the Ways," 55.	XXX	Anderson and Robertson, <i>Seeing Red</i> , 6; Harding, "Historical Representations of Aboriginal People," 224.
DDDD	Ibid., 58.	YYY	Jeffrey McNeil-Seymour (Tk'emlups te Secwepemc/English), Parts 2 & 3, Public Volume 3, Iqaluit, NU, p. 193.
EEEE	Ibid., 58.	ZZZ	CBC Radio, <i>The Current</i> , "MMIWG Winnipeg public forum."
FFFF	Fallon Andy (Anishinaabe, Couchiching First Nation), Part 3, Public Volume 8, Toronto ON, p. 236.	AAAAA	Truth and Reconciliation Commission of Canada, <i>Calls to Action</i> , 9-10.
GGGG	Fallon Andy (Anishinaabe, Couchiching First Nation), Part 3, Public Volume 8, Toronto ON, pp. 260-261.	BBBBB	Jesse Wente (Anishinaabe, Serpent River First Nation), Part 3, Public Volume 10, Toronto, ON, p. 172.
HHHH	Jiwani, "Symbolic and Discursive Violence," 2.	CCCCC	Tanya Talaga (Anishinaabe/Polish), Part 3, Public Volume 10, Toronto, ON, p. 174.
IIII	Dr. Robyn Bourgeois (Cree), Mixed Parts 2 & 3, Public Volume 17, pp. 36-37.		



## Pathway to Violence: Denying Agency and Expertise in Restoring Culture

Of the many views expressed with reference to solutions, witnesses often pointed out that the answers must be self-determined. The right to culture and Indigenous understandings of culture are deeply rooted in their own identities, languages, stories, and way of life – including their own lands – and these ways of knowing must be recentred and embraced as ways to move forward. As Patrick S. asserted, this doesn't mean segregating cultures, but learning to respect the "other."

And we can learn a lot as cultures and grow together as cultures, you know, empower one another as cultures. But where one thinks they, you know, have all the answers for the other one, that's never going to work, you know. We don't have all the answers for you but you certainly don't have all the answers for us. The answers are in here – in here.<sup>76</sup>



*Elders Thelma Morrisseau and Stan LaPierre address the group gathered for the Knowledge Keeper and Expert Hearing in Winnipeg, Manitoba.*

## Improving Programs and Services through a Cultural Lens

Many witnesses shared ideas on how to improve systems and services in ways that can support culture and support families – a key component of preserving culture, according to international human rights instruments and to many Indigenous world views. Paula P. suggested:

If you supported the young mothers going to school and not have to pay that back, you would help our Native Nation. If you supported them where they could do outings with their children, if they submitted their receipts for regalia and got that money back, that's what they should do. And giving mothers money so that they can take their children to Pow-Wows and ceremonies outside. Making it – that's what new reunification looks like to me. You know? The reconciliation, that's what reconciliation looks like to me.<sup>77</sup>



Ann M. R. suggested simplifying the process for applications to programs and properly funding organizations that offer programs through core and not project-based funding, while applying a cultural lens to the process.

I think government needs to fund cultural programs without the bureaucratic application processes. My life has been about filling in application processes. I mean, it's been so bureaucratic. There is no cultural lens to their application process. It's very difficult, very time-consuming, and you have organizations that do not have any money, with huge expectations. We're on the ground, there is a lot of work to be done, and we don't have time to fill in their bureaucratic process. It's very difficult. They need to change their applications. More or less, never mind an application, they need to provide core funding.<sup>78</sup>

Part of this work, as witnesses pointed out, means approaching Indigenous Peoples and communities with a true desire to facilitate or help in terms that are of their own creation and self-determined. As Patrick S. reflected:

You know ... a real leader leads from behind. So, you know, if those people in power can – can learn that, you know, it's the most vulnerable, you know, that's where we need to shine the lens of equity, you know. We can't judge our people who are struggling with a burden, you know, of colonialism, of residential school, of foster care, of uncountable losses. You cannot judge them for, you know, doing whatever they can do to survive on a day-to-day basis, whatever that looks like.<sup>79</sup>

As a related issue, Jackie Anderson, a Métis woman working with exploited and trafficked youth through the Ma Mawi Wi Chi Itata Centre in Winnipeg, Manitoba, maintains that new systems for funding these services must be in place. For instance, the only specialized option for sexually exploited children and youth in Manitoba currently requires that child to be in the care of Child and Family Services before they can receive a referral. This has forced parents to make the heart-breaking decision to voluntarily put their children into care to receive the services they need:

We had this amazing, powerful mother who, you know, was ... desperate to, you know, help her daughter and to get her the support that she needed, and unfortunately, other than addictions treatment centres, for her to be into a specialized program that specifically works with exploited young people, she was told that she couldn't access the service unless she signed a voluntary placement for her child. And even signing a voluntary placement, you also have to prove your income, because you may have to contribute to the care of your child, and that was a really huge challenge for her.<sup>80</sup>



## Self-Determined and Decolonized Systems

For many who testified before the National Inquiry, access to cultural safety is an important part of reclaiming power and place. It is also linked to the patriarchal systems that have been imposed, and reified, within legislation and in some Indigenous governance structures. They have resulted in an overwhelmingly male-dominated leadership today, in communities across the country. As Shelley J. explained:

Because of the *Indian Act* and Indian residential schools, the patriarchal system that comes with that, women are seen as and treated as less than. Our roles were diminished, if not completely erased. And I think all of that has brought us to why we're here, you know, why so many of our women and girls are missing and murdered.<sup>81</sup>

In explaining power imbalances within communities, witness Viola Thomas remarked that “many of our people are silenced to ... take action because of that imbalance of power within our communities and how sexism is really played out. And we need to look at strategies that can ... remind our men that they were born from Mother, they were born from Mother Earth.”<sup>82</sup>

Gina G. similarly explained: “I walk into my community, into my band office and it's not very welcoming sometimes. There's some very negative people there and still yet, I go in, I hold my head high, I work with them, very respectful and professional to them.”<sup>83</sup>

Recalling the sexism in her own family, Gail C. remembered:

When it came to gender equality or equity in the house, there was no such thing. The boys got everything and I got – you know, I got the peanuts, I got the little scraps in the end. So there's a lot of inequity in what was happening. It didn't matter how old or how young. I was right in the middle. I did not [get] the bikes, not this, second-hand clothes, clothes so big that when she [her mother] sewed them in at the waist to try and sort of just pass by, I had a ballooning, all this ballooning material on a pair of pants over my hips and my bum and everything. So – and, of course, it was a total embarrassment. My sister-in-law took me to – my dad's brother's wife, who did a lot of sewing. She sewed in clothes for me so that I would feel that I could actually walk in a school without being mortified, embarrassed and wanting to die.<sup>84</sup>

“WE NEED TO GO BACK TO HAVING OUR CULTURE AND WE NEED TO GO BACK TO SPEAKING OUR LANGUAGE, AND WE NEED TO GO BACK TO WALKING GENTLY ON THIS EARTH AND NOT TAKING THINGS LIKE RESOURCES, DISRESPECTING THAT. THAT'S REALLY IMPORTANT BECAUSE WE NEED FRESH WATER. WE NEED OUR TRADITIONAL MEDICINES. WE NEED THAT CONNECTION TO THE LAND BECAUSE IT MAKES US STRONGER. WE NEED THAT CONNECTION TO OUR LANGUAGE BECAUSE IT MAKES US STRONGER. WE NEED THOSE CONNECTIONS TO OUR FAMILIES BECAUSE IT DOES MAKE US STRONGER. WE NEED OUR WOMEN TO BE VALUED. WE NEED OUR CHILDREN TO KNOW THAT THEY ARE VALUED, THAT THEY MATTER.”

Rhonda M.



But, as many witnesses pointed out, the keys still exist in communities and in individuals. As Ann M. R. explained, “We are Dena. We have a lot. Our culture is encoded in each of us. It’s something we will never forget. You just provide the environment, it will come to life.... You can never forget. That’s why we can never be assimilated because our culture is encoded in our DNA.”<sup>85</sup>

Rhonda M. advocated:

We need to go back to having our culture and we need to go back to speaking our language, and we need to go back to walking gently on this earth and not taking things like resources, disrespecting that. That’s really important because we need fresh water. We need our traditional medicines. We need that connection to the land because it makes us stronger. We need that connection to our language because it makes us stronger. We need those connections to our families because it does make us stronger. We need our women to be valued. We need our children to know that they are valued, that they matter.<sup>86</sup>

At the most basic level, respecting cultural rights means, as Viola said, “renewing our honour of our mothers and our grandmothers because they are the centre of our being.”<sup>87</sup> It means celebrating and embracing women, girls, and 2SLGBTQQIA people as sacred and as valuable, and teaching and communicating those values to individuals, to communities, and to the non-Indigenous world.

The pursuit of cultural rights and cultural safety is an important part of what many witnesses suggested can support healing. In many cases, witnesses focused on the importance of revitalizing language and tradition as a way of grounding what the right to culture might look like in certain communities or First Nations. Shara L. said:

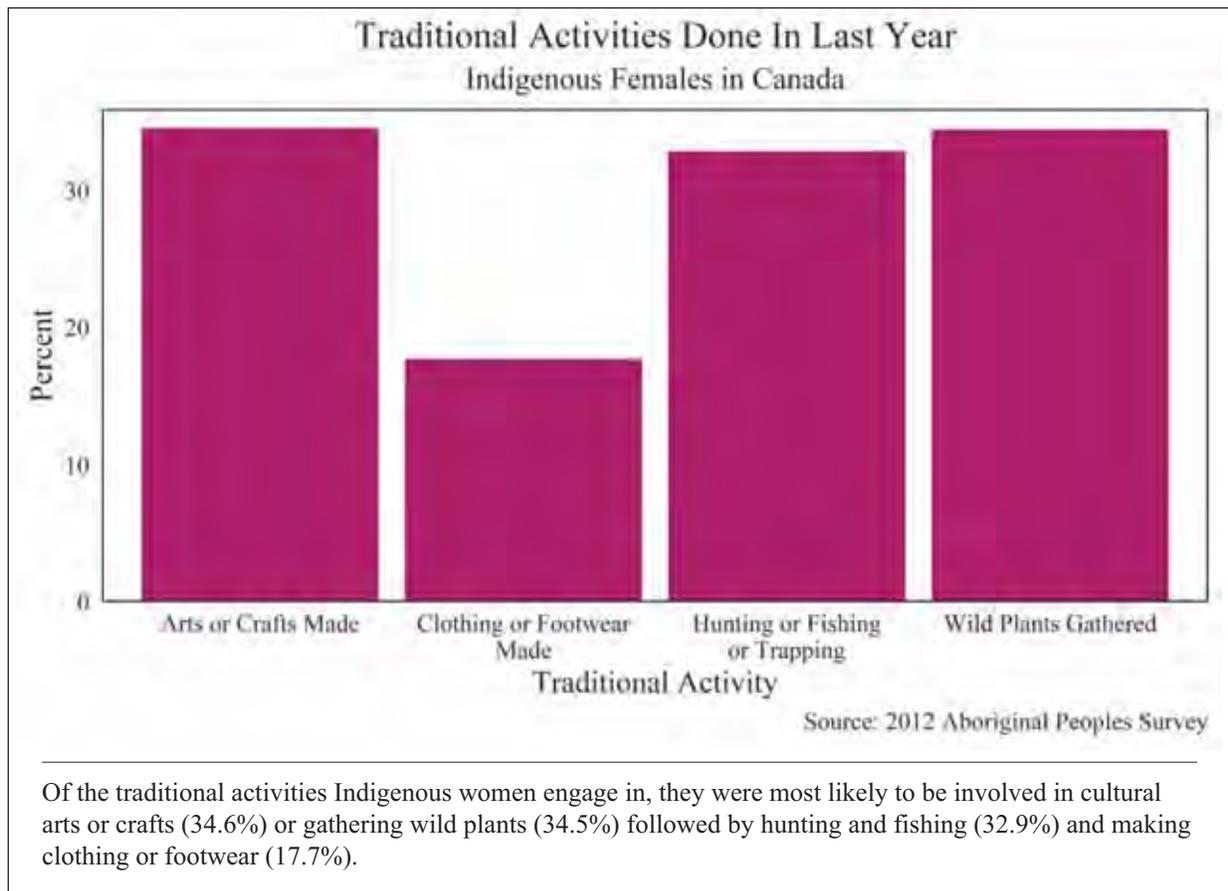
I want our future generations to acknowledge their history. Of all the things that have happened to our parents, our ancestors. I want my language back. I fought to keep my language. Now, I have – I can speak my language.... I want my kids to speak my language fluently. I want my homeland back. On the river where my grandparents raised me. I want to go home. I don’t want to be in the community. I want to be out on the land. I want to be where I should be. Close to my father – my dad’s buried out there. I want a home there. I want my kids to have roots. Yes. This is where my mom and dad live and my grandparents. This is where I belong. I want them to be strong. I don’t want them to be murdered. I don’t want them to be missing.<sup>88</sup>

“MANY OF OUR PEOPLE ARE SILENCED TO ... TAKE ACTION BECAUSE OF THAT IMBALANCE OF POWER WITHIN OUR COMMUNITIES AND HOW SEXISM IS REALLY PLAYED OUT. AND WE NEED TO LOOK AT STRATEGIES THAT CAN REMIND ... OUR MEN THAT THEY WERE BORN FROM MOTHER, THEY WERE BORN FROM MOTHER EARTH.”

Viola Thomas



Reconnecting with culture as a way to belong and, ultimately, as a way to decrease violence was a key truth that we heard. As Darla-Jean L. explained, “We need more of our language. We need to focus on ... the wheel of life, birth to death ceremonies, coming of age ceremonies, which my family has practised, learning our songs and our legends.”<sup>89</sup>



A key idea emerging from these testimonies is that of making or reclaiming space; the idea that cultural ideas, stories, and principles, such as those we explored in Chapter 2, can also provide a foundation for the creation of empowering spaces for women. At the Heiltsuk Women Community Perspective Panel, panellist Chief Marilyn Slett asserted:

We need some space for women – women that are in leadership roles to come together and talk. You know, because we – we were doing it, you know ... in caucus rooms, you know, having these conversations during lunch, you know, during some regional sessions or you know, over breaks, in very informal, but organic ways. But ... we knew that we had to create that space.<sup>90</sup>



As Bryan J., and many others, expressed, Indigenous women, girls, and 2SLGBTQQIA people have a key role to play in reclaiming place and reasserting power: “When we talk about our women, we talk about our land. When we talk about our land, we talk about our spirits. We talk about our traditions, our people, our Elders, our children.”<sup>91</sup>

In some cases, this is also a process of learning to love oneself. Carol M. recalled:

I went to sweat lodge with this Elder, these two Elders. One has gone to the spirit world, and my grandmother used to always say she was waiting for me to come home. And I went to the sweat lodge. And of course, you know, Elders, they want to go eat, so we went to the restaurant. And I went to reach for something. And I noticed my hands and I said, “Wow.” I said, look at – and they were both sitting there, and I said, “Wow, look at my hands. They’re so brown. Look at them.” And I heard the Elder whisper to the other one. He says, “It sounds like she’s come home.” And right then and there, I knew what my grandmother was talking about. I’m still there looking at my hands. I realize I was a brown person. It looks so beautiful and so nice. So now, I know what my grandmother meant, you know, when she said she was waiting for me to come home.<sup>92</sup>

As these examples illustrate, and as the link between culture and international human rights instruments will show, understanding the need to protect and promote culture in a self-determined way is key to addressing a number of the issues connected to trauma, marginalization, maintaining the status quo and ignoring the agency of Indigenous women, girls, and 2SLGBTQQIA people.

## Linking Culture to International Human Rights Instruments

Witnesses who testified before the National Inquiry highlighted important moments and situations where their rights to culture and to the associated protections for families have been jeopardized. These encounters often engage government institutions and service providers bound by provincial, territorial, and domestic human rights legislation. In addition, the violation of cultural rights specifically ties to a number of public and international obligations that Canada has with respect to its commitment to human rights. These international human rights instruments address many of the ways in which witnesses told us their rights to culture were placed in jeopardy, through the disruption of relationships with land, the separation of families, the impoverishment of communities, and the lack of access to traditional knowledge, language, and practices that would have contributed to a sense of cultural safety.

The *International Convention on the Elimination of All Forms of Racial Discrimination* (ICERD) calls upon governments to “condemn racial discrimination and undertake to pursue by all appropriate means and without delay a policy of elimination of racial discrimination in all its forms” (Article 2). This right also includes the idea that governments should not themselves engage in acts of racial discrimination against persons, groups of persons, or institutions – or any



aspect of their cultural identity. Article 2 further declares that governments should take measures to review all policies and to eliminate laws that are racially discriminatory, and that governments must work to prohibit any racial discrimination espoused by other people or groups.

In Canada, this could be interpreted to include policies such as those in the *Indian Act*, as well as the contemporary forms of these policies that continue to have a direct impact on Indigenous identity and community affiliation. Interpreted broadly, the wording also suggests that governments should work to prevent racial discrimination in all of its forms, including in its own systems and those it funds, such as child welfare.

The ICERD is not the only instrument to affirm cultural rights, or to link cultural rights to identity. As Expert Witness Brenda Gunn pointed out, “But now, today, we really talk about the interdependency and interrelatedness and you can’t exercise your civil and political rights if you don’t have economic, social and cultural rights. They all work together.”<sup>93</sup> *The International Covenant on Civil and Political Rights* (ICCPR), which deals with civil and political rights, affirms the rights of parents “to ensure the religious and moral education of their children in conformity with their own convictions,” including political and civil convictions (Article 18). It also identifies the family as the “natural and fundamental group unit of society,” due to its importance in transmitting education, morals, and values. On the issue of groups operating within larger nation-states, the ICCPR is clear: all communities have the right to “enjoy their own culture, to profess and practice their own religion, or to use their own language” (Article 27).

The *International Covenant on Economic, Social and Cultural Rights* (ICESCR) specifically cites cultural rights, and also notes, “All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development” (Article 1). Further, the ICESCR guarantees the access of these rights to men and women equally (Article 3) and emphasizes the importance of family to the education of children, in conjunction with the exercise of economic, political, and cultural rights (Article 10). Signatories to this covenant also agree that everyone has the right to take part in cultural life, and that steps should be taken by States Parties “to achieve the full realization of this right,” including “those necessary for the conservation, the development and the diffusion of science and culture.”

“WE NEED CANADA TO LISTEN AND TO START RESPECTING ... THE ORIGINAL PEOPLE OF THIS LAND, THE INDIGENOUS PEOPLE. WE’RE NOT THE STEREOTYPE THAT YOU WATCHED ON TV, THAT – YOU KNOW, WE’RE SCALPING PEOPLE AND GOING AROUND WITH – WITH BOWS AND ARROWS AND SETTING WAGONS ON FIRE. THAT’S HOLLYWOOD, PEOPLE. THAT’S NOT REAL LIFE. WE WERE THE ONES THAT HAD OUR CHILDREN TAKEN AWAY. WE WERE THE ONES THAT HAD OUR CULTURE ALMOST DESTROYED. WE WERE THE ONES THAT HAD OUR CEREMONIES BANNED. WE WERE THE ONES THAT WERE HARMED. WE DIDN’T HARM YOU. WE MADE AN AGREEMENT FOR YOU TO SHARE THIS LAND WITH US. ALL WE’RE ASKING FOR IS FOR YOU TO HOLD UP YOUR PART OF THE BARGAIN.”

Blu W.



As Brenda Gunn said, the committee that oversees the ICCPR has pointed out the interaction between access to economic, social, and cultural rights and gender-based violence, and has noted that “gender-based violence is a form of discrimination that inhibits the ability to enjoy rights and freedoms, including economic, social and cultural rights on the basis of equality.”<sup>94</sup>

The *Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)*, which condemns discrimination against women, also has important implications for the protection of the cultural rights of Indigenous women, girls, and 2SLGBTQQIA people. For instance, CEDAW signatory states “agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women” (Article 2). This includes taking measures to *prevent* violence against Indigenous women, girls, and 2SLGBTQQIA people, to the extent necessary and in all of the areas necessary to effect change.

The *United Nations Convention on the Rights of the Child (UNCRC)* also has a number of articles that deal with rights to culture and to identity. Specifically, it explains that all actions involving children undertaken in the context of social welfare, law courts, or other administrative or legislative bodies should be in the best interests of the child (Article 3). Within these contexts, States Parties are committed to protecting the right of the child to “preserve his or her identity, including nationality, name and family relations” (Article 8). Article 9 mentions that children should not be separated from their parents against their will, unless that separation is determined by the courts to be in the best interest of the child – which, in many cases involving determinations made against Indigenous families, is arguable. Finally, in relationship to Indigenous groups, UNCRC asserts that a child belonging to such a group can’t be denied the right “to enjoy his or her own culture, to profess and practice his or her own religion, or to use his or her own language” (Article 30).

Interpreted broadly, these protections require states to look, first, at how culture and identity are transmitted, and then, to take steps to preserve these measures and to strengthen them. Recognizing the importance of oral traditions and of learning within Indigenous families and communities, this right could also be interpreted as a right that can be enabled only through sound economic, political, and cultural policies designed to respect and to support self-determination, alongside policies intended to keep families and communities united.



## KEY CONVENTIONS: RIGHT TO CULTURE

The National Inquiry considers as foundational to all human and Indigenous rights violations the conventions associated with genocide. In the area of culture, these relate specifically to causing serious mental harm, and forcibly transferring children from the rights-bearing group.

For reference, Article II of the *Convention on the Prevention and Punishment of the Crime of Genocide*, which provides a definition of genocide, includes "any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:

- (a) Killing members of the group;
- (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;
- (d) Imposing measures intended to prevent births within the group; and
- (e) Forcibly transferring children of the group to another group."

<b>IESCR:</b> <ul style="list-style-type: none"><li>- right to self-determination</li><li>- equal rights to men and women</li><li>- widest possible protection to the family<ul style="list-style-type: none"><li>- right to education</li><li>- right to cultural life</li></ul></li></ul>	<b>ICCPR:</b> <ul style="list-style-type: none"><li>- respect for parents' liberty to ensure religious and moral education of their children</li><li>- family is the natural and fundamental group unit of society</li><li>- every child has right to protection, without discrimination</li></ul>	<b>CEDAW:</b> <ul style="list-style-type: none"><li>- condemns discrimination in all forms</li><li>- embraces equality under legislation</li><li>- creates political, social, economic and cultural state obligations toward women</li></ul>	<b>ICERD:</b> <ul style="list-style-type: none"><li>- condemns racial discrimination</li><li>- pledges to prevent and prohibit all forms of apartheid and discrimination</li></ul>	<b>CRC:</b> <ul style="list-style-type: none"><li>- best interest of the child is most important</li><li>- child has the right to preserve nationality, name and family relations without unlawful interference</li><li>- child shall not be denied right to enjoy their own culture or use their own language</li></ul>
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IESCR: International Covenant on Economic, Social and Cultural Rights

ICCPR: International Covenant on Civil and Political Rights

CEDAW: Convention on the Elimination of all Forms of Discrimination Against Women

ICERD: International Covenant on the Elimination of All Forms of Racial Discrimination

CRC: Convention on the Rights of the Child



## KEY DECLARATIONS: RIGHT TO CULTURE

The following international human rights instruments hold States accountable in the area of culture.

<b>DEVAW:</b> <ul style="list-style-type: none"><li>- women entitled to equal enjoyment and protection of all human rights</li></ul>	<b>UNDRIP:</b> <ul style="list-style-type: none"><li>- Indigenous Peoples have the right to maintain distinct institutions</li><li>- right to transmit languages, histories, and other forms of knowledge to future generations</li><li>- right to establish educational systems and institutions to provide education that is culturally appropriate</li><li>- includes the right not to be subjected to assimilation</li><li>- all freedoms in UNDRIP guaranteed equally to men and women</li></ul>	<b>VIENNA PROGRAMME:</b> <ul style="list-style-type: none"><li>- right to self-determination and economic, social and cultural development</li><li>- the rights of women and the girl-child are inalienable, integral and indivisible from universal human rights</li></ul>	<b>BEIJING:</b> <ul style="list-style-type: none"><li>- women's empowerment is fundamental to equality, development and peace</li><li>- women's rights are human rights</li><li>- need for good partnerships and relationships between women and men</li><li>- need to prevent violence</li><li>- need to eradicate poverty</li></ul>
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DEVAW: Declaration on the Elimination of Violence Against Women

UNDRIP: United Nations Declaration on the Rights of Indigenous Peoples

Vienna Programme: The Vienna Declaration and Programme of Action

Beijing: The Beijing Declaration

## Conclusion: “Stop making an industry out of me”

This chapter has addressed how the four pathways that maintain colonial violence prevent Indigenous women, girls, and 2SLGBTQQIA people from accessing and enjoying their cultural rights, conceived broadly as “way of life” rights, as well as rights related to families, language, health, and many other aspects of cultural safety. These rights have the potential to improve outcomes for Indigenous women, girls, and 2SLGBTQQIA people, as applied in self-determined ways, to improve services and programs so that they actually do help people, rather than perpetuate harm. Specifically, this chapter has addressed cultural rights violations and their



ongoing impacts within the context of residential schools, the Sixties Scoop, and child welfare, arguing that the inter-relatedness of cultural rights with social, economic, and political rights is necessary to preserving safety.

The need to uphold these rights isn't a matter of creating new ones, or of generating something that doesn't exist. As Sandra L. told us:

I haven't lost my power. I [had] it when I was writing the recommendations, and I just want to say this to Justin [Trudeau]: I do have my power. You just need to take the state blanket off of me. And it comes through state policy, state law, state acts, and it filters into organizations, and stop making an industry out of me.<sup>95</sup>

Ultimately, and as many witnesses pointed out, the foundation of reclaiming power and place, and asserting rights to culture, is about relationships and about respect. As Blu W. set out:

We need Canada to listen and to start respecting ... the original people of this land, the Indigenous people. We're not the stereotype that you watched on TV, that – you know, we're scalping people and going around with – with bows and arrows and setting wagons on fire. That's Hollywood, people. That's not real life. We were the ones that had our children taken away. We were the ones that had our culture almost destroyed. We were the ones that had our ceremonies banned. We were the ones that were harmed. We didn't harm you. We made an agreement for you to share this land with us. All we're asking for is for you to hold up your part of the bargain. Share it with us peacefully. That's all we ever wanted, and equally, we need to get our halves back because you took more than just your half.<sup>96</sup>

Restoring respect for cultural rights through the protection of families and through the preservation of language, way of life, and other cultural elements is part of the state's duty to its citizens. Respect for cultural rights is protected by international human rights instruments and manifested in domestic law. Protecting cultural rights isn't optional, or "extra"; as these instruments and the witnesses to the National Inquiry make clear, it is imperative to ensuring that Indigenous women, girls, and 2SLGBTQIA people can reclaim their power and place in a framework that has for so long sought to erase and eradicate them.

Respecting and upholding culture through self-determined solutions is an important precursor for the pursuit of other rights, and is a recurring theme through testimonies we also heard in relation to health, to security, and to justice, which we address next.



## Findings: Right to Culture

- Assimilationist and genocidal government laws and policies as they relate to the expression and exercising of Indigenous cultural rights have directly led to the high rates of violence against Indigenous women, girls, and 2SLGBTQQIA people.
- Indigenous women, girls, and 2SLGBTQQIA people are denied their rights to learn, practise, and be part of the development of their own cultures, due to colonialism, racism, sexism, transphobia, homophobia, and misogyny.
- The intergenerational transmission of cultural knowledge has been broken or deeply fragmented because of the sustained and persistent policies of the Canadian state designed to oppress and eliminate Indigenous Peoples through their assimilation. This is a policy of cultural genocide.
- The *Indian Act* creates marginalization, alienation, displacement, and isolation of Indigenous Peoples. This is because the *Indian Act* is an ongoing tool of oppression and genocide that clearly aims to eliminate Indigenous Peoples. As a legal instrument, it puts into law the false assumptions, discriminatory practices, and colonial and genocidal policies that the Canadian government historically used to clear Indigenous Peoples' lands, and to control and eliminate Indigenous Peoples and their cultures. Its continued existence perpetuates racial and gendered violence. Regardless of amendments or improvements to "Indian" policy and law, the very existence of the *Indian Act* demonstrates racism, sexism, and a refusal to move toward self-determination for Indigenous Peoples. As a result, the *Indian Act* cultivates – and exposes First Nations women, girls, and 2SLGBTQQIA people to – more violence.
- Governments' role in determining cultural belonging through prescribing requirements for granting or denying Status, or membership within First Nations, Inuit, and Métis communities, is an infringement of the inherent rights of First Nations, Inuit, and Métis peoples and is a violation of Article 33 of the *United Nations Declaration on the Rights on Indigenous Peoples*. Specifically, the provisions of the *Indian Act* concerning Indian Status usurps First Nations' inherent right and ability to determine citizenship. Denial of self-determination and jurisdiction is a form of systemic violence that impacts the individual, the family, the community, and the Nation.
- The registration provisions of the *Indian Act* do not truthfully reflect concepts of citizenship and belonging of First Nations Peoples in relation to their communities. Importantly, the registration provisions of the *Indian Act* are discriminatory toward women and their descendants. The attempts to remedy the discrimination, to date, have not been sufficient. Further, Bill C-31 in 1985 also created new provisions: sections 6(1) and 6(2) work to assimilate all First Nations Peoples – women, men and gender-diverse people. The gendered discrimination over decades has disenfranchised women from their communities, broken up families, and caused great disparity in rights and benefits as between First Nations women and men. The laws and policies that exclude Indigenous women's citizenship within their Nations or



communities based on marriage or gender have largely contributed to the loss of culture and poor socio-economic outcomes for Indigenous women. These factors thereby contribute to the violence that First Nations, Inuit, and Métis women, girls, and 2SLGBTQQIA people experience.

- In addition to the *Indian Act*, any state laws or policies that deny the Indigenous identity of First Nations, Inuit, and Métis women, girls, and 2SLGBTQQIA people results in their exclusion from their community, which largely contributes to loss of culture and their social and economic marginalization.
- Creating Indian bands and maintaining governance over First Nations Peoples under section 74 of the *Indian Act* is yet another means to control First Nations Peoples and their distinct societies' cultures, governance, and organizations. The “one size fits all” approach that was originally taken under the *Indian Act* has had long-standing implications. This approach destroyed self-determination and the ability of Indigenous communities to uphold their customary laws, rules, and organizations. Further, it has been a tool to oppress and deny First Nations women their traditional leadership roles and their political rights.
- Restoration of family and community ties is key to the revitalization of culture and safety. Culture and belonging are key to safety because of how culture defines safe relationships. Reconnecting with distinctive languages, cultures, territories, and ways of knowing represents an important solution to healing, Nation rebuilding, and safety.
- Indigenous children and youth experience challenges and barriers in accessing education, particularly culturally relevant knowledge. Indigenous children and youth have the right to an education and to be educated in their culture and language. Most Indigenous children continue to be educated in mainstream education systems that exclude their Indigenous culture, language, history, and contemporary realities. A high-quality, culturally appropriate, and relevant education is the key to breaking cycles of trauma, violence, and abuse.

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## Notes

- 1 World Health Organization, “World Report,” 5.
- 2 Newfoundland and Labrador, “Defining Violence and Abuse.”
- 3 Holmes and Hunt, “Indigenous Communities and Family Violence,” 11, 15-16.
- 4 Sarah Clark, Mixed Parts 2 & 3, Public Volume 10, Winnipeg, MB, p. 105.
- 5 For a fuller discussion of these themes, see Chapter 1.
- 6 Ellen Gabriel (Turtle Clan, Kanien'kehá:ka Nation), Mixed Parts 2 & 3, Public Volume 9, Quebec City, QC, pp. 7-8.
- 7 Xanthaki, “Cultural Rights.”
- 8 Xanthaki, “Indigenous Cultural Rights,” 355.
- 9 Xanthaki, “Indigenous Cultural Rights,” 356.
- 10 United Nations Economic and Social Council, quoted in Xanthaki, “Cultural Rights,” 17.
- 11 United Nations General Assembly, “Report of the Special Rapporteur.”
- 12 United Nations Population Information Network, “The Family.”
- 13 Patrick S. (Kwagu'ł, Fort Rupert, Qualicum), Part 1, Public Volume 102, Vancouver, BC, p. 30.
- 14 United Nations Office of the High Commissioner, “Cultural Rights.”



- 15 United Nations Office of the High Commissioner, “A Manual for National Human Rights Institutions,” 14.
- 16 *Ibid.*, 13.
- 17 United Nations Office of the High Commissioner for Human Rights, “Fact Sheet No. 33.”
- 18 Oster, et al., “Cultural Continuity.”
- 19 Patrick S. (Kwagu’t, Fort Rupert, Qualicum), Part 1, Public Volume 102, Vancouver, BC, pp. 26-27.
- 20 Coombe, “The Properties of Culture,” 272.
- 21 Ann M. R. (Kaska Dena), Part 1, Public Volume 3, Whitehorse, YT, p. 38.
- 22 Moses M. (Nuu-chah-nulth), Part 1, Public Volume 82, Vancouver, BC, pp. 4-5.
- 23 Michele G. (Musqueam), Part 1, Public Volume 84, Vancouver, BC, p. 17.
- 24 Carol B. (Ermineskin Cree Nation), Part 1, Public Volume 20, Edmonton, AB, pp. 75-76.
- 25 Gail C., Part 1, Public Volume 43, Yellowknife, NT, pp. 104-105.
- 26 Dr. Amy Bombay (Ojibway, Rainy River First Nations), Mixed Parts 2 & 3, Public Volume 10, Winnipeg, MB, pp. 151-152.
- 27 First Nations Information Governance Centre, “National Report,” 151.
- 28 *Ibid.*
- 29 Dr. Amy Bombay (Ojibway, Rainy River First Nations), Mixed Parts 2 & 3, Public Volume 10, Winnipeg, MB, p. 139.
- 30 Robin R. (Nakota Sioux), Part 1, Public Volume 92, Vancouver, BC, pp. 3-5.
- 31 Verna W. (Cape Mudge), Part 1, Public Volume 88, Vancouver, BC, p. 20.
- 32 Chrystal S. (Musqueam), Part 1, Statement Volume 385, Richmond, BC, pp. 27-28.
- 33 Dr. Amy Bombay (Ojibway, Rainy River First Nations), Mixed Parts 2 & 3, Public Volume 10, Winnipeg, MB, p. 139.
- 34 Shara L. (Dene), Part 1, Statement Volume 101, Edmonton, AB, p. 49.
- 35 Ann M. R. (Kaska Dena), Part 1, Public Volume 3, Whitehorse, YT, p. 31.
- 36 Elder Jal Tun, Part 1, Public Volume 3, Whitehorse, YT, p. 68.
- 37 Moses M. (Nuu-chah-nulth), Part 1, Public Volume 82, Vancouver, BC, p. 6.
- 38 Muriel D. (Cree), Part 1, Statement Volume 98, Edmonton, AB, p. 2.
- 39 Carol B. (Ermineskin Cree Nation), Part 1, Public Volume 20, Edmonton, AB, p. 79.
- 40 Corey O’Soup (Métis/First Nations from the Key First Nation), Part 3, Public Volume 6, Quebec City, QC, p. 123.
- 41 Carol B. (Ermineskin Cree Nation), Part 1, Public Volume 20, Edmonton, AB, p. 88.
- 42 Dr. Amy Bombay (Ojibway, Rainy River First Nations), Parts 2 & 3, Public Volume 10, Winnipeg, MB, p. 178.
- 43 Juanita D. (Dene), Part 1, Public Volume 87, Vancouver, BC, pp. 8-9.
- 44 Juanita D. (Dene), Part 1, Public Volume 87, Vancouver, BC, p. 9.
- 45 Darlene S. (Kingcome Inlet), Part 1, Statement Volume 353, Richmond, BC, pp. 51-52.
- 46 Carol B. (Ermineskin Cree Nation), Part 1, Public Volume 20, Edmonton, AB, pp. 76-77.
- 47 Danielle E. (Kawacatoose First Nation), Part 1, Public Volume 31, Saskatoon, SK, p. 86.
- 48 Carol M. (Nisga’a Gitanyow), Part 1, Statement Volume 357, Richmond, BC, p. 74.
- 49 Carla M. (Nuu-chah-nulth), Part 1, Public Volume 82, Vancouver, BC, p. 8.
- 50 Wendy L. (Squamish Nation), Part 1, Statement Volume 370, Richmond, BC, pp. 4-5.
- 51 Wendy L. (Squamish Nation), Part 1, Statement Volume 370, Richmond, BC, p. 8.
- 52 Wendy L. (Squamish Nation), Part 1, Statement Volume 370, Richmond, BC, p. 26. As Morellato points out, it is “important to distinguish between Indian status rights, which, in certain circumstances, will only be available to status band members, and Aboriginal rights more generally, which are those rights that extend to all band members regardless of their status under the Indian Act and which are guaranteed in the Canadian Constitution.” For more on this, see Morellato, “Memorandum on Indian Status,” 7.
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- 54 Natalie G. (Mi’kmaq), Part 1, Public Volume 18, Membertou, NS, pp. 83-84.
- 55 Natalie G. (Mi’kmaq), Part 1, Public Volume 18, Membertou, NS, pp. 91-92.
- 56 Natalie G. (Mi’kmaq), Part 1, Public Volume 18, Membertou, NS, p. 86.
- 57 Natalie G. (Mi’kmaq), Part 1, Public Volume 18, Membertou, NS, p. 91.



- 58 Hyslop, “How poverty.”
- 59 Dr. Naomi Metallic (Listuguj Mi'gmaq First Nation), Part 3, Public Volume 4, Quebec City, QC, pp. 188-189.
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- 62 Trocmé, “Understanding the Overrepresentation.”
- 63 Vanessa B. (Millbrook First Nation), Part 1, Public Volume 19, Membertou, NS, pp. 96-97.
- 64 Robin R. (Nakota Sioux), Part 1, Public Volume 92, Vancouver, BC, pp. 15-16.
- 65 Translation ours. Anastasia N. (Natashquan), Public Volume 35(a), Maliotenam, QC, pp. 16-17.
- 66 Carol M. (Nisga'a Gitanyow), Part 1, Statement Volume 357, Richmond, BC, pp. 95-96.
- 67 Vanessa B. (Millbrook First Nation), Part 1, Public Volume 19, Membertou, NS, pp. 95-96.
- 68 Robin R. (Nakota Sioux), Part 1, Public Volume 92, Vancouver, BC, pp. 19-20.
- 69 Mealia Sheutiapik (Inuit, Frobisher Bay), Mixed Parts 2 & 3, Public Volume 16, St. John's, NL, p. 16.
- 70 Richardson, “Métis-Astute Social Work.”
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- 72 Noeline V. (Dene/Metis), Part 1, Public Volume 40, Yellowknife, NT, pp. 125-126.
- 73 King et al., “Indigenous Health,” 78.
- 74 Ann M. R. (Kaska Dena), Part 1, Public Volume 3, Whitehorse, YT, p. 32.
- 75 Marilyn W. (Cree), Part 1, Public Volume 30, Saskatoon, SK, p. 25.
- 76 Patrick S. (Kwagu't, Fort Rupert, Qualicum), Part 1, Public Volume 102, Vancouver, BC, p. 30.
- 77 Paula P. (Cree/Lakota/Scottish), Part 1, Statement Volume 374, Richmond, BC, p. 43.
- 78 Ann M. R. (Kaska Dena), Part 1, Public Volume 3, Whitehorse, YT, p. 39.
- 79 Patrick S. (Kwagu't, Fort Rupert, Qualicum), Part 1, Public Volume 102, Vancouver, BC, p. 28.
- 80 Jackie Anderson (Métis), Part 2, Public Volume 3, Calgary, AB, pp. 95-96.
- 81 Shelley J. (Musgamagw Dzawada'enuxw First Nation), Part 1, Public Volume 114, Vancouver, BC, p. 26.
- 82 Viola Thomas (Kamloops Tk'emlúps te Secwepemc), Part 1, Public Volume 104, Vancouver, BC, p. 14.
- 83 Gina G. (Selkirk First Nation), Part 1, Public Volume 3, Whitehorse, YT, p. 88.
- 84 Gail C., Part 1, Public Volume 43, Yellowknife, NT, p. 99.
- 85 Ann M. R. (Kaska Dena), Part 1, Public Volume 3, Whitehorse, YT, p. 40.
- 86 Rhonda M. (Anishinaabe), Part 1, Public Volume 7, Smithers, BC, p. 30.
- 87 Viola Thomas (Kamloops Tk'emlúps te Secwepemc), Part 1, Public Volume 104, Vancouver, BC, p. 35.
- 88 Shara L. (Dene), Part 1, Statement Volume 101, Edmonton, AB, pp. 62-63.
- 89 Darla-Jean L. (First Nations), Part 1, Public Volume 1, Whitehorse, YT, p. 31.
- 90 Chief Marilyn Slett (Heiltsuk Nation), Part 1, Public Volume 90, Vancouver, BC, p. 50.
- 91 Bryan J. (Wolf Clan from Taku River, Tlingit First Nation), Part 1, Public Volume 3, Whitehorse, YT, p. 63.
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- 93 Brenda Gunn (Métis), Part 3, Public Volume 6, Quebec City, QC, p. 52.
- 94 Brenda Gunn (Métis), Part 3, Public Volume 6, Quebec City, QC, p. 38.
- 95 Sandra L. (Cree/Dakota), Part 1, Public Volume 41, Yellowknife, NT, p. 212.
- 96 Blu W. (Cree/Mi'kmaq/Métis), Part 1, Public Volume 117, Vancouver, BC, p. 60.





## Confronting Oppression – Right to Health

### Introduction: Connecting Health and Safety

In Chapter 5, we explored how the destructive impact of colonial policies on culture, family, and community constitutes a form of cultural violence, which many people who shared their truths with the National Inquiry recognize as the starting point for other forms of violence that they or their missing and murdered loved ones have experienced in the past and continue to experience today. In this chapter, we build on this foundation, as told to us by families and survivors, to consider how colonial violence directed toward traditional cultural practice, family, and community creates conditions that increase the likelihood of other forms of violence, including, in particular, interpersonal violence, through its distinct impacts on the mental, emotional, and spiritual health of Indigenous Peoples. In sharing stories about the health issues they or their missing or murdered loved ones faced, the experiences they had in seeking health services, and the consequences of encounters that more often than not further diminished rather than promoted health and wellness, witnesses illustrated how addressing violence against Indigenous women, girls, and 2SLGBTQQIA people must also address their right to health.

This chapter begins by defining “health” as a human right according to international human rights standards, in order to explain how the right to health is directly connected with positive outcomes, both individually and in communities, for women, girls, and 2SLGBTQQIA people. In addition, we explore health as understood through distinctive First Nations, Inuit and Métis perspectives, to understand how Indigenous ways of being well are directly connected to maintaining safety. We then look more closely at the testimonies witnesses shared about physical, mental, emotional, and spiritual health, and the connections between health and violence, in the context of the four pathways that maintain colonial violence.

Then, we share testimony that explains and demonstrates how the impact of colonial violence on traditional culture, family, and community, as well as the ongoing disruption to cultural continuity through present-day iterations of colonial policies such as child welfare apprehensions,



environmental destruction, or gender-based discrimination within the *Indian Act*, carries significant health consequences for Indigenous people, often in the form of multigenerational and intergenerational trauma. Next, we consider how the socio-economic marginalization of Indigenous people and their communities further compromises their physical, mental, emotional and spiritual health, particularly by creating conditions that facilitate violence and that exacerbate trauma. We consider how, despite widespread recognition of the significant health problems faced by Indigenous Peoples – and widespread recognition of the significant health consequences all forms of interpersonal violence hold for Indigenous women, girls, and 2SLGBTQQIA people in particular – the systems and institutions that Indigenous people reach out to for health care-related support often fail to provide the support needed and, in doing so, often deepen these health concerns. We demonstrate how these failings within the health care systems to repair harm and restore health seem to demonstrate a willful ignorance of many alternative Indigenous health care and healing models that, through centring culture and cultural continuity at the same time, address and improve physical, mental, emotional, and spiritual health. As an example, we end by discussing how respecting the knowledge and agency Indigenous Peoples hold in terms of their own needs in the areas of physical, mental, emotional and spiritual health, and the steps that must be taken to create the conditions with which they can meet these needs, is an important part of addressing all forms of violence against Indigenous women, girls, and 2SLGBTQQIA people.

Ultimately, what we heard is this: when the right to health is in jeopardy, so is safety. Improving health services and delivery mechanisms can contribute in concrete ways to promoting community and individual health, safety, and healing, especially when it involves embracing effective and self-determined solutions that challenge racist, sexist, homophobic, and transphobic assumptions that all too often continue to shape how the health of Indigenous Peoples, and especially Indigenous women, girls, and 2SLGBTQQIA people, is valued.

## Defining “Health”

In 1948, the World Health Organization (WHO), an agency within the United Nations system, defined “health” as a “state of complete physical, mental and social well-being and not merely the absence of disease or infirmity.”<sup>1</sup> Although the definition itself has not been amended since 1948, the United Nations and other international health organizations have since the 1990s acknowledged the particular importance of understanding health in a holistic context and in a way that includes Indigenous world views. As health researcher Odette Mazel argues, this recognition opened up new opportunities for viewing health as a legal entitlement and for recognizing it as a social justice issue with societal causes.<sup>2</sup>

Today, the WHO recognizes that “this definition extends beyond the traditional Western biomedical paradigm which treats body, mind and society as separate entities and reflects a more holistic understanding of health.” This includes the idea that “well-being is about the harmony that exists between individuals, communities and the universe.”<sup>3</sup> Traditional health systems, as the Pan



American Health Organization/WHO has defined them, “include the entire body of ideas, concepts, beliefs, myths, procedures and rituals (whether explainable or not) connected with the maintenance of health or health restoration through the treatment of physical and mental illness or social imbalances in a particular individual, community or people.”<sup>4</sup> Simply put, the context in which a person lives directly contributes to their health and well-being or takes away from it, and it is the interaction of all of these factors, which includes many of the themes reflected in our testimonies, that can be determinative of good or poor health.

## FIRST NATIONS HEALTH AUTHORITY (BC): FIRST NATIONS’ RIGHT TO HEALTH

The First Nations Perspective on Health and Wellness visualization below is intended to serve as a starting point for discussion by First Nations communities on what they conceptualize as a vision of wellness for themselves and the First Nation Health Authority in British Columbia.

The Centre Circle represents individual human beings. Wellness starts with individuals taking responsibility for our own health and wellness (whether we are First Nations or not).

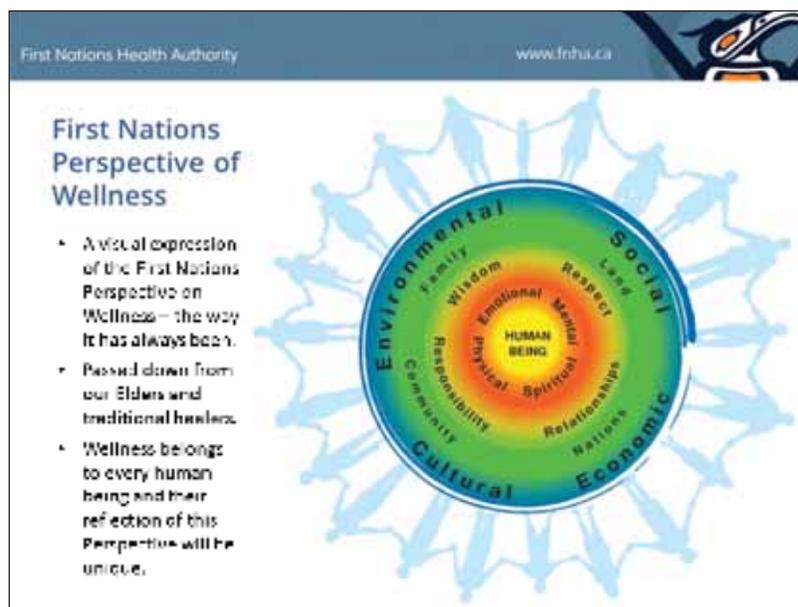
The Second Circle illustrates the importance of Mental, Emotional, Spiritual and Physical facets of a healthy, well, and balanced life. It is critically important that there is balance between these aspects of wellness and that they are all nurtured together to create a holistic level of well-being in which all four areas are strong and healthy.

The Third Circle represents the overarching values that support and uphold wellness: Respect, Wisdom, Responsibility, and Relationships.

The Fourth Circle depicts the people that surround us and the places from which we come: Nations, Family, Community, and Land are all critical components of our healthy experience as human beings.

The Fifth Circle depicts the Social, Cultural, Economic and Environmental determinants of our health and well-being.

The people who make up the Outer Circle represent the First Nations Health Authority’s vision of strong children, families, elders, and people in communities. The people are holding hands to demonstrate togetherness, respect and relationships, which in the words of a respected BC elder can be stated as “one heart, one mind.” Children are included in the drawing because they are the heart of our communities and they connect us to who we are and to our health.

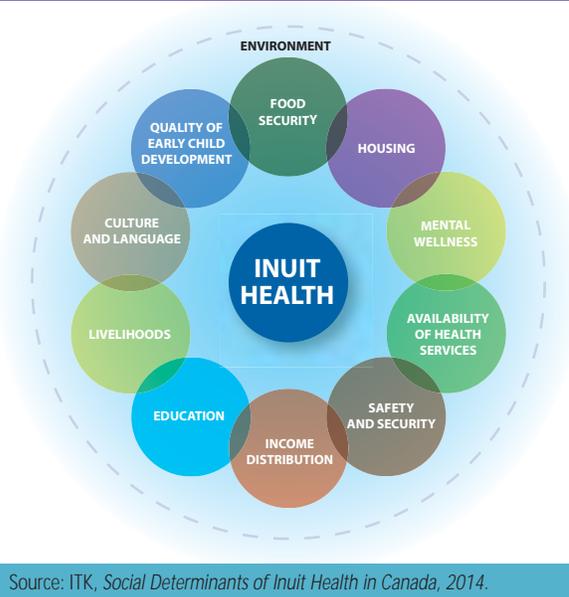


Source: Adapted from First Nations Health Authority Perspective on Health and Wellness, [www.fnha.ca/wellness/wellness-and-the-first-nations-health-authority/first-nations-perspective-on-wellness](http://www.fnha.ca/wellness/wellness-and-the-first-nations-health-authority/first-nations-perspective-on-wellness).



In this chapter, we define “health” as a holistic state of well-being, which includes physical, mental, emotional, spiritual, and social safety and does not simply mean an absence of illness. The right to health is also a right to wellness,<sup>5</sup> and is linked to other fundamental human rights such as access to clean water or adequate infrastructure in Indigenous communities, as well as the right to shelter and food security, which impact all Indigenous communities but have particular import in the North. These basic services, which also include access to medical care without the need to travel long distances, are key to the security and safety of Indigenous women, girls, and 2SLGBTQQIA people. The right to health also speaks to the prevention of danger and harm to others, to the health of children and families, and to all aspects of physical and mental wellness.

### INUIT TAPIIRIT KANATAMI (ITK): SOCIAL DETERMINANTS OF INUIT HEALTH



Witnesses that shared with the National Inquiry also addressed how health challenges may be distinctive for particular groups. For instance, Timothy Argetsinger explained that Inuit social determinants of health include food security, housing, emotional wellness, availability of health services, safety and security, income distribution, education, livelihoods, culture and language, quality of early childhood development, and, finally, surrounding all of it, the environment. As he explained,

So there are ... a few aspects of this visual that make it different from other representations.... So the main one being the environment and the role that that plays within our Inuit culture and society, and every aspect of our lives. So that’s why it is surrounding the other determinants.<sup>6</sup>

The connection between health and violence against Indigenous women, children, and 2SLGBTQQIA people is important, because of the way in which many loved ones went missing or were murdered in circumstances that served to target them because of their physical, mental, emotional, and spiritual health and well-being. In addition, testimonies related to the issue of suicide, as well as to the issue of travelling for medical care to outside or foreign locations, made clear how the right to health is connected to the issue of violence, beyond the idea of preserving health as preserving life. In addition, as the United Nations Permanent Forum on Indigenous Issues has pointed out:

Children born into indigenous families often live in remote areas where governments do not invest in basic social services. Consequently, indigenous youth and children have limited or no access to health care, quality education, justice and participation. They are at particular risk of not being registered at birth and of being denied identity documents.<sup>7</sup>



This sense of dislocation and isolation, fed by insufficient or inadequate health policies and procedures, compounds the issues facing Indigenous communities, particularly within a remote context.

## MÉTIS NATIONAL COUNCIL: MÉTIS INITIATIVES FOR HEALTH AND WELLNESS

In August of 2018, the Métis Nation Health Policy Session concluded with the signing of a Memorandum of Understanding (MOU) between the Government of Canada and the Métis Nation for the development of a 10-year accord designed to address the specific health needs of Métis people.

Elements of the Accord will include:

- Métis capacity to participate effectively in health care systems;
- Métis Nation research, surveillance, knowledge and evaluation;
- Métis Nation supplementary health benefits;
- Métis Nation participation in primary health and specialist care;
- Métis Nation home, community, long-term and palliative care models;
- Métis community and wellness hubs (i.e. Métis service/wellness access centres);
- Métis people within the health human resources sector;
- Healthy living and disease prevention and health promotion capacity;
- Cultural competency of the health care system;
- Intergovernmental coordination to adapt and to improve health care systems that reflect expanded roles of the Métis Nation;
- Climate change related health effects and risks mitigation, and associated data management; and
- Access to mental health supports

Source: Métis Nation, "Métis Nation Presses Health and Wellness, Family and Child Care Priorities at Policy Sessions in Ottawa," September 6th, 2018. <http://www.metisnation.ca/index.php/news/metis-nation-presses-health-and-wellness-family-and-child-care-priorities-at-policy-sessions-in-ottawa>

Further, the Inter-Agency Support Group on Indigenous Peoples' Issues (IASG) points out that, globally, Indigenous Peoples suffer from poorer health than non-Indigenous populations, and that "Indigenous women experience health problems with particular severity, as they are ... often denied access to education, land property, and other economic resources." In addition, the IASG asserts that "Indigenous youth and adolescents face particular challenges in the realization of their right to health that are often not adequately addressed, including sexual and reproductive health and rights, and mental health."<sup>8</sup> Conditions that will support the right to health may include:

- physical and geographic accessibility;
- economic accessibility;
- information accessibility; and
- non-discrimination in accessing services.<sup>9</sup>



The National Inquiry heard about the lack of all of these conditions for health from our testimonies. In the sections that follow, we take a closer look at how the absence of many of these conditions manifests for Indigenous women, girls, and 2SLGBTQQIA people seeking help, support, and safe spaces, and fleeing violence.

## Current Approaches to Health in Canada

One of the witnesses testifying for the National Inquiry shared important information regarding the current federal approach to health programs and services. As we saw briefly in our examination of Indian hospitals, federal responsibility for health in a First Nations context officially began as early as 1904, when the Department of Indian Affairs appointed a general medical superintendent to start medical programs and develop health facilities. Indian Health Services came under the umbrella of the Department of National Health and Welfare in 1945, and, in 1962, Indian Health and Northern Health Services came together as the Medical Services Branch. By 1974, the minister of National Health and Welfare tabled the Policy of the Federal Government concerning Indian Health Services, which rearticulated the Medical Services Branch's assertion that there existed no statutory or Treaty obligation to provide health services for Status Indian people. Still, in its own words, the federal government wanted to make sure that services were available, "by providing it directly where normal provincial services (were) not available, and giving financial assistance to indigent Indians to pay for necessary services when the assistance (was) not otherwise provided."<sup>10</sup>

As Expert Witness Dr. Valérie Gideon testified, the mandate of the First Nations and Inuit Health Branch (FNIHB) is still based in the 1979 Indian Health Policy that emerged from the 1974 document, which identified three pillars as the foundation of the branch. These pillars are: community development, recognition of a special relationship between the Crown and Indigenous Peoples, and interrelationships among systems at multiple levels of government, all intended to support the advancement of Indigenous health. As Gideon admitted, "It is a dated document. However, those three pillars continue to – to guide the mandate of the branch."<sup>11</sup> Although the policy was updated with broader and more relevant language in 2012, the basic foundations of the branch's approach remain unchanged. Gideon believes this is because, fundamentally, the branch's focus on supplementing access offered within territorial and provincial health services and systems is still the main focus of its work, along with developing health partnerships with First Nations and Métis leadership at the community or regional level.<sup>12</sup>

In her estimation, Gideon explained, the greatest barriers to health rest in how provincial and territorial health systems organize their services, rather than with the federal agency responsible for recognizing the direct relationship between Indigenous Peoples and the Crown or the interrelationships between systems and levels of government.



It's that it is absolutely important to collaborate with provincial and territorial health systems in order to be able to access those areas such as physician support, specialist support, and diagnostic technology, laboratory, pharmacy services, that really, within the FNIHB context, is not something that we have direct funding and responsibility for. So it's ... creating those linkages with provincial and territorial health systems that is extremely important in order to increase access to services and communities.<sup>13</sup>

## INDIAN HEALTH POLICY, 1979

According to the First Nations and Inuit Health Branch (FNIHB), "The Federal Indian Health policy is based on the special relationship of the Indian people to the Federal Government, a relationship which both the Indian people and the Government are committed to preserving. It recognizes the circumstances under which many Indian communities exist, which have placed Indian people at a grave disadvantage compared to most other Canadians in terms of health, as in other ways."



**Community Development:** Socio-economic and cultural and spiritual development, to remove the conditions of poverty and apathy preventing community members from achieving full state of well-being.



**Recognition of Crown-Indigenous Relationship:** Federal government serves as an advocate for interests of First Nations and Inuit communities, promoting the capacity to achieve aspirations. Depends on good communicating and involvement in delivery of programs.



**Canadian Health System:** Divisions between jurisdictions are superficial in light of viewing the health system as related, and as a whole. System is interdependent and includes public health activities in communities, promotion of health, and mitigation of health hazards.



Source: Adapted from Government of Canada, *Indian Health Policy 1979*, <https://www.canada.ca/en/indigenous-services-canada/corporate/first-nations-inuit-health-branch/indian-health-policy-1979.html>.

The branch provides programs and services to First Nations and Inuit. Inuit-specific funding is directed to the area of mental health and healthy child development. This approach, Gideon explained, was developed with Inuit Tapiriit Kanatami (ITK) and the National Inuit Committee on Health in 2014 and is focused on working with land claims organizations, for instance, in Nunavut, where a tripartite partnership is working to address the needs of Inuit.<sup>14</sup> There remain, however, significant gaps in services, including the lack of a hospital in Nunavik.<sup>15</sup>



In describing the process of allocating funding and determining priorities, Gideon described partnership tables composed of First Nations representatives assigned by leadership, including representatives like “community Chiefs, political territorial organizations ... as well as, of course, some FNHIB regional executives.”<sup>16</sup> When asked if grassroots organizations had a seat at the table, or if urban organizations could participate, Gideon answered: “Well, I mean, anybody can absolutely contact us and sit with us to talk about what needs exist in context and what priorities, and we can bring that information and – and invite presentations at the partnership committee tables.”<sup>17</sup>

The FNIHB, like many government agencies, works through established leadership structures, such as the Assembly of First Nations, as well as elected chiefs in different communities, to determine these priorities; for some women, testifying from a grassroots perspective, this is tantamount to complete exclusion.

In speaking specifically on the Métis, Gideon explained that the branch has been approached by the Métis Nation with a draft memorandum of understanding to work collaboratively to look specifically at health priorities and to work toward a 10-year Métis Nation health accord.<sup>18</sup> When asked about the application of Jordan’s Principle to Inuit, Métis, and non-Status people, Gideon noted that “the departmental position is not confirmed at this point.”<sup>19</sup>

While the branch notes a positive responsibility on it to fill gaps while respecting the roles of other jurisdictions, such as the provinces and territories, First Nations governments, and land claims agreements,<sup>20</sup> Gideon also pointed out that their programs and services did not flow from a rights-based perspective, but from a policy mandate that includes recognition of, but is not based in, rights instruments.<sup>21</sup>

## Pathway to Violence: Intergenerational and Multigenerational Trauma

In her testimony, Sharna S. used the metaphor of a diseased tree to describe the many factors that negatively impact the physical, mental, emotional, and spiritual health of Indigenous people.

The way that I look at the National Inquiry and all the atrocities that have happened to my people, to me it’s like a tree that’s diseased. And the branches branch out.

One [branch] of it is for the residential school survivors; one of it is for the murdered and missing; you know, another branch is for the mental health and addictions and the fentanyl crisis. You know, the other ones are how the bands are treating their own members. The discrimination that happens, the racism that happens, you know, our loss of our culture, the Truth and Reconciliation Commission, all of this stuff.<sup>22</sup>



In her description, Sharna identified many historical and contemporary factors impacting the health of Indigenous Peoples: residential school attendance, interpersonal violence, drug and alcohol addiction, lateral violence,<sup>23</sup> discrimination, racism, and the loss of culture. She also acknowledged that each of the branches on this tree “branch out” – that is, the physical, mental, emotional, and spiritual health impacts that each of these experiences carry cross generations in ways that create and contribute to intergenerational trauma.

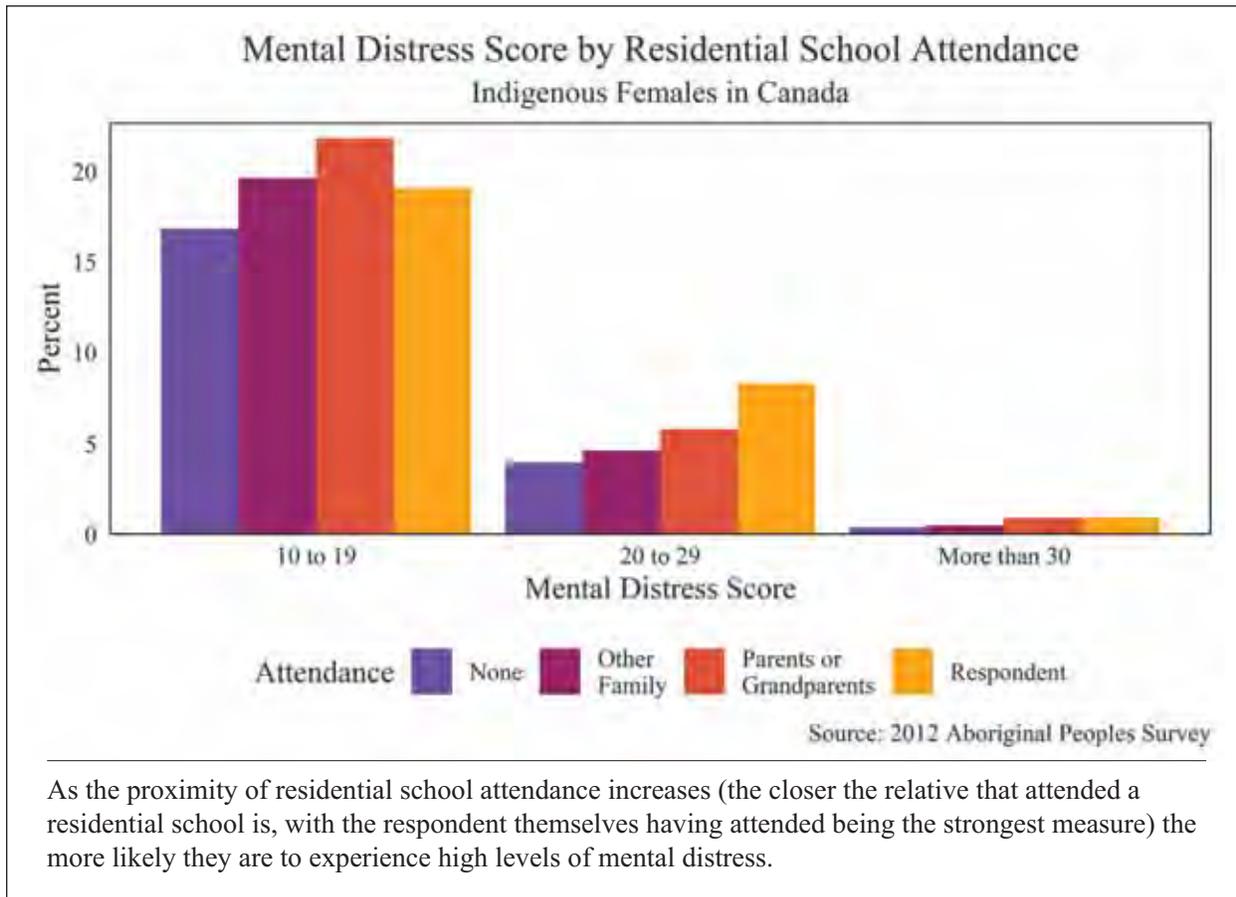
Like Sharna, many witnesses described how these acts of cultural, institutional, and interpersonal violence carry – among other things – significant health consequences for Indigenous people, including widespread trauma, suffering, and pain, which can, in turn, lead to further violence. For Indigenous women, girls, and 2SLGBTQQIA people, against whom these acts of violence are more frequently directed, the health consequences are severe and lasting.

In this section, we look more closely at what the families of missing and murdered Indigenous women, girls, and 2SLGBTQQIA people, as well as others who shared their truths, had to say about their own and their loved ones’ health and wellness.

### **Long-Term Poor Health Standards: An Overview of Health and Wellness**

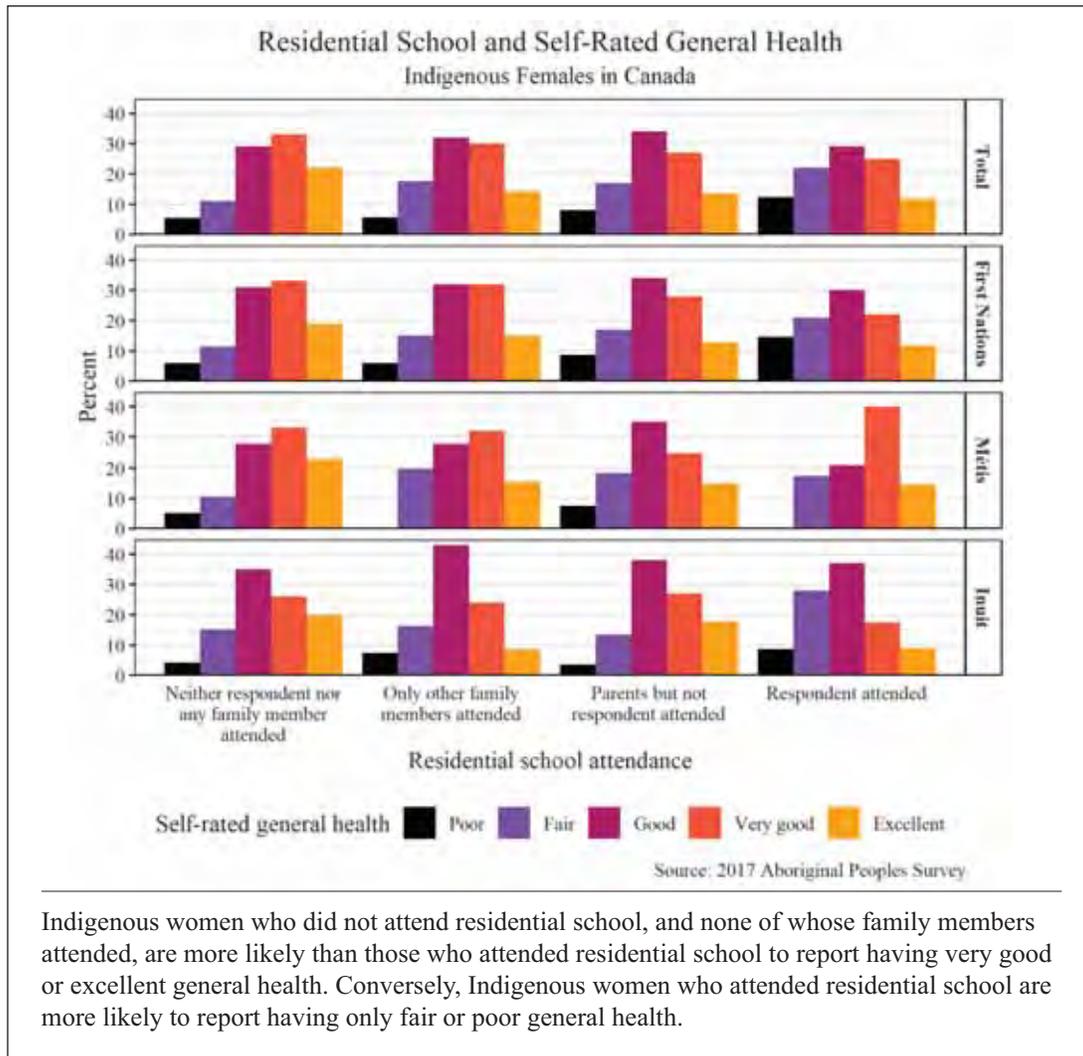
In describing their experiences of health and wellness, the families of missing and murdered Indigenous women, girls, and 2SLGBTQQIA people, survivors, and others who spoke about the impacts of violence offered stories that demonstrate the resilience and strength Indigenous Peoples and communities cultivate in the face of the many barriers that compromise their wellness. Nonetheless, in many instances, their stories also illustrated what is widely recognized as the significant health disparities that exist between Indigenous and non-Indigenous populations in Canada.<sup>24</sup> For many witnesses, the long-term impacts of dispossession, of relocation, of harm inflicted at residential school, and of the many forms of social and cultural disruption are key drivers for these health disparities. As the First Nations Information Governance Centre (FNGC) explains in contextualizing the findings from its most recent First Nations Regional Health Survey (2015–16):

High rates of chronic health conditions do not occur in isolation, rather health inequalities are shaped by – and rooted in – the inseparable relationship between health and generations of racist colonial policies. The effects of colonization have resulted in a legacy of environmental dispossession, degradation of the land, substandard living conditions, inadequate access to health services, social exclusion and a dislocation from community, language, land and culture. These policies have been clearly linked to adverse health consequences for individuals and community.<sup>25</sup>



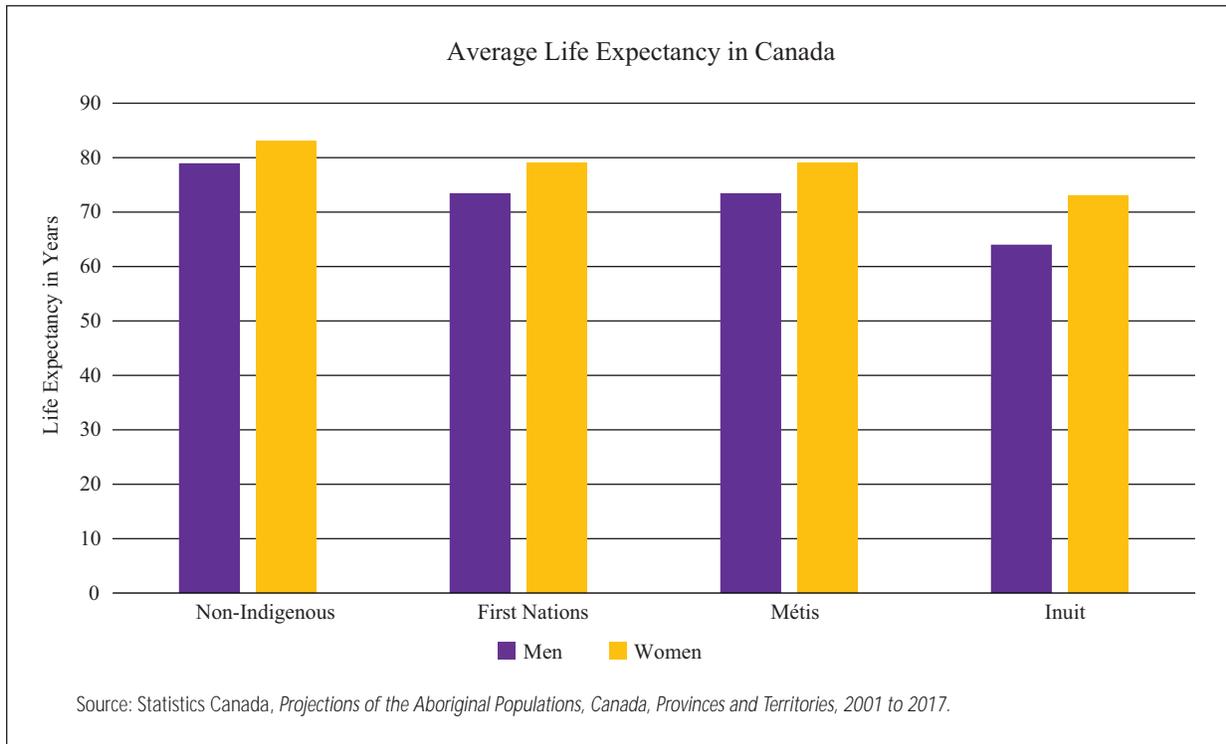
To André Picard, health columnist for the *Globe and Mail*, it is no wonder, given this context, that First Nations, Inuit, and Métis populations all experience poorer health than the non-Indigenous population.

The indigenous community is young and the fastest growing by far – more than 50 percent of indigenous people in Canada are under the age of 15. This is the time to stop generation after generation of disaster, poverty, isolation, addiction and suicide – we’ve created all that. We have an apartheid system designed to oppress people and it’s given the exact results it was designed to produce. Take away their culture, their language, their ability to earn money, their ability to have land, and then, oh, we’re surprised they’re the most unhealthy people in our country? It’s not a surprise at all.<sup>26</sup>



In general, First Nations, Inuit, and Métis have a lower life expectancy than Canada's non-Indigenous population. According to the most recent data available from Statistics Canada, in 2017, the projected life expectancy for the Canadian population was 79 years of age for men and 83 years of age for women. For Métis and First Nations populations, this life expectancy is approximately five years lower for both men (73 to 74 years of age) and women (78 to 80 years of age) than the non-Indigenous Canadian population. The Inuit have the lowest projected life expectancy, at 64 years for men and 73 years for women.<sup>27</sup>

Indigenous people represent the fastest growing population in Canada, as well as the youngest.<sup>28</sup> In part because of this young population, First Nations, Inuit, and Métis mothers are younger than non-Indigenous mothers. For instance, between 2003 and 2007, 34.3% of First Nations mothers were under 24 years of age and an additional 29.3% were under the age of 29.<sup>29</sup> The most recent data available on infant mortality rates also demonstrates significant differences between Indigenous and non-Indigenous populations, with infant mortality rates being more than twice as high



for First Nations, Métis, and Inuit populations than for the non-Indigenous population, and the rates of death from sudden infant death syndrome (SIDS) was more than seven times higher in First Nations and Inuit populations than in the non-Indigenous population.<sup>30</sup>

Research on infant mortality demonstrates that when infant mortality occurs in the postneonatal period (from 28 days to one year after birth), it is more likely to reflect social and environmental factors than factors associated with access to obstetric and neonatal care, which is more likely to occur during the neonatal period (birth to less than 28 days). While postneonatal deaths make up about one-quarter of all infant deaths in the non-Indigenous population, they make up nearly half of infant deaths in the Indigenous population.<sup>31</sup> This reality speaks to the urgent need to address those social and environmental factors that impact health – as many of the witnesses who described their experiences as mothers indicated – even in the earliest days.<sup>32</sup>

## Chronic Health Conditions

Indigenous children, youth, and adults more frequently live with chronic health conditions. According to the First Nations Regional Health Survey (2015–16), “nearly two-thirds (59.8%) of First Nations adults, one-third (33.2%) of First Nations youth, and more than one-quarter (28.5%) of First Nations children reported having one or more chronic health conditions,” such as diabetes, arthritis, high blood pressure, allergies, and chronic back pain.<sup>33</sup> More First Nations women (46.5%) than men (36.4%) report co-morbid conditions (two or more chronic health conditions



occurring at the same time) – a finding that underlines the need for health care supports, and the manner in which First Nations women are at a distinct disadvantage where a lack of health care supports exist, given that multiple chronic conditions are “often associated with complex health outcomes, clinical management and health care needs.”<sup>34</sup> For First Nations youth, among the most common chronic health conditions are those connected to mental health, including anxiety (8.3%) and mood disorders (6.6%).<sup>35</sup>

In addition, higher adult obesity rates are found in Indigenous populations than in the non-Indigenous population: First Nations and Inuit, 26%; Métis, 22%; non-Indigenous population, 16%.<sup>36</sup>

For Inuit, chronic conditions, as seen in 2012 among Inuit, included those such as high blood pressure, arthritis, asthma, depression, and diabetes in approximately 43% of the population, many of which can directly be linked to a changing way of life. Tuberculosis, a focus of colonial policy in previous decades, is also much more prevalent among Inuit: according to ITK, while it was 0.6 per 100,000 in Canada, the rate of tuberculosis as of 2018 was 181 per 100,000 among Inuit.<sup>37</sup>

Like the Inuit and First Nations, Métis people also experience a high incidence of chronic conditions such as arthritis, high blood pressure, asthma, intestinal ulcers, and diabetes: according to 2016 data from the Aboriginal Peoples Survey (the most recent available), only 54% of the Métis population aged 12 and older reported a good state of general health.

For 2SLGBTQQIA people, health outcomes are less consistently measured or studied. Nonetheless, available research suggests that 2SLGBTQQIA people may experience higher rates of chronic health conditions, mental health issues, substance use, suicide, and violence than other Indigenous people and the non-Indigenous population.<sup>38</sup>

## **Mental Health**

In addition to chronic health conditions related to physical health, First Nations, Inuit, and Métis are also more likely to experience mental health concerns than the non-Indigenous population. For instance, 2012 data from the Aboriginal Peoples Survey shows that over one in five Indigenous individuals reported having suicidal thoughts. All First Nations age groups up to age 65 are at increased risk, compared with the Canadian population; males are at a higher risk than females. The suicide rate of Inuit is 10 times that of the rest of Canada, with the greatest difference between the Inuit and non-Indigenous population being among young to middle-age females.<sup>39</sup> Among Inuit females aged 15 to 24, the suicide rate is approximately eight times that of non-Indigenous people; for Inuit females aged 25 to 39, it is approximately five times greater.<sup>40</sup> In 2016, the Aboriginal Peoples Survey also reported that Indigenous youth are particularly at risk for poor mental health, with just over one in ten of off-reserve First Nations youth and 7.8% of Métis youth having a mood disorder. Further, “Rates of acute-care hospitalizations for intentional self-harm are high among Indigenous youth aged 10 to 19,” with the highest in Inuit Nunangat.<sup>41</sup>



Compounding the health issues, access to health services remains a barrier to health and wellness. According to Health Canada data for the period between 2006 and 2010, 39% of First Nations adults reported that they had less access to health services than the rest of the Canadian population, with the most common barrier being waiting lists for health services.<sup>42</sup>

For many Inuit, and as we heard from several witnesses, access to health care in the Inuit population is an important determinant of health, and many who need treatment, including expectant mothers, are forced to leave the community for extended periods of time. The difficulties of access are exacerbated by problems with recruitment and retention of health professionals in Inuit communities. For example, in 2012, 59% of Inuit had seen or talked to a medical doctor, compared with 79% in the Canadian population.<sup>43</sup> Only 32% of Métis had access to traditional medicine or wellness practices in their own communities, with more and better services cited as being in larger urban areas.<sup>44</sup> Due to the relatively recent tracking of disaggregated data related to the Métis, there is not a great deal of data available to make comparisons over the longer term.<sup>45</sup>

“THE INDIGENOUS COMMUNITY IS YOUNG AND THE FASTEST GROWING BY FAR – MORE THAN 50 PERCENT OF INDIGENOUS PEOPLE IN CANADA ARE UNDER THE AGE OF 15. THIS IS THE TIME TO STOP GENERATION AFTER GENERATION OF DISASTER, POVERTY, ISOLATION, ADDICTION AND SUICIDE – WE’VE CREATED ALL THAT. WE HAVE AN APARTHEID SYSTEM DESIGNED TO OPPRESS PEOPLE AND IT’S GIVEN THE EXACT RESULTS IT WAS DESIGNED TO PRODUCE. TAKE AWAY THEIR CULTURE, THEIR LANGUAGE, THEIR ABILITY TO EARN MONEY, THEIR ABILITY TO HAVE LAND, AND THEN, OH, WE’RE SURPRISED THEY’RE THE MOST UNHEALTHY PEOPLE IN OUR COUNTRY? IT’S NOT A SURPRISE AT ALL.”

André Picard



# Understanding Youth Suicide

In testimonies before the National Inquiry, many witnesses cited the important barriers to rights that come with challenges in the area of mental health, particularly for youth. The epidemic of suicide, particularly among youth, represents a manifestation of many of the factors that have been outlined in this report, including intergenerational and multigenerational trauma, the apprehension rates within the context of child welfare, and the social and economic marginalization of Indigenous Peoples more broadly.

## Contextualizing the Suicide Crisis in Remote Communities

In Saskatchewan's Advocate for Children and Youth Corey O'Soup's home province, the rates of youth suicide are epidemic. As he explained, "Indigenous youth suicide is an epidemic within our province. And I know it's not just Saskatchewan and I know it's not just Indigenous kids. It's all across our country in all areas of life but specifically we've targeted our Indigenous kids and mental health."<sup>i</sup> In Saskatchewan, Indigenous girls are 26 times more likely to die by suicide than non-Indigenous girls.<sup>ii</sup>

As award-winning journalist and author on the issue of youth suicide Tanya Talaga shared, in an interview with Anna-Maria Tremonti on CBC's *The Current*, part of the reason for the high incidence of youth suicide is the normalization of it: "What is so hard for someone, who doesn't live in that community and is not surrounded by suicide, to understand is, it becomes part of your normal everyday life." She cites her uncle, her mother's friend, and her friend as examples of people close to her that took their own lives. In the same interview, Talaga expressed how the foundational factor to all of these deaths is something that can be addressed in attending to the issue of inequality.

Growing healthy children, it's not really rocket science. You have to have safe housing, you have to have a family that loves you, someone who

tucks you in at night, to say to you, "You belong." You need nutritious food, you need access to an education, you need access to health care. And when you're growing up in a community that's missing all of these things, all these things that every other ... non-Indigenous Canadian enjoys in urban and rural settings – suicide is there, suicide becomes normal.<sup>iii</sup>

In a study analyzing trends across 23 different studies of Indigenous youth suicide, researchers Henry G. Harder, Josh Rash, Travis Holyk, Eduardo Jovel, and Kari Harder found evidence to suggest that some of the factors raised by Talaga manifest themselves in mental health challenges and specifically, in depression. Their synthesis of existing literature found that the strongest risk factors to Indigenous youth suicide emerge as depression, and having a friend or someone close die by suicide.<sup>iv</sup> This explains, in part, why youth suicides within Indigenous communities tend to appear in clusters, rather than as isolated incidents, particularly when the community is tight-knit or small. The next strongest factors included conduct disorder, defined as "violent behaviour, aggression, violent ideation, anger, delinquency, antisocial behaviour," and substance or alcohol abuse. The third most likely risk factor was the existence of another psychiatric disorder other than depression and suffering from childhood abuse or trauma.<sup>v</sup>

Importantly, the same analysis also showed that the strongest protective influence against Indigenous youth suicide was "high support, whether social or familial.... Personality variables of high self-esteem



and having an internal locus of control further reduced the risk of suicide.”<sup>vi</sup> As the researchers explain, “Individuals are likely to search for identity during developmental crises where psychological growth can be triggered through the experience of stressful life events.... If such meaning cannot be located and the struggle for identity cannot be resolved, then a serious period of hopelessness or depression occurs.”<sup>vii</sup> The failure to find continuity or a sense of belonging can lead youth to adopt addictive lifestyles or to adopt unhealthy self-images leading to suicidal thoughts or attempts.

Compounding these problems is a perceived sense of isolation in some communities, and a lack of access to services that could help in a crisis situation. As O’Soup testified, the challenges in addressing mental health are particularly severe in northern and remote communities: “We have 15 child psychiatrists – and I’m just using this as an example – in Saskatchewan. One of them travels one day every two weeks to our northern communities. So I’m guessing that the actual wait list for them is longer than two years.”<sup>viii</sup> In her testimony, Tanya Talaga highlighted a similar issue, citing the example of the community of Wapekeka, a community of approximately 400 people in northwestern Ontario, where youth experiencing mental health crises and needing to see someone “have to be flown away, flown away from their families, flown away from everything that they know, put in a hotel or put into the Sioux Lookout Hospital.... I mean, all by themselves, you know, without any support. And, these are children in crisis.”<sup>ix</sup> In part, and as we heard in many testimonies, improving outcomes includes properly resourcing health services, including mental health services, for children and youth, to decrease these kinds of barriers to well-being.

Part of the problem, as O’Soup testified, is the way that mental health issues are treated in Canada today. He pointed out:

When you break your leg or you have a flu ... when something like that happens to you, what do you do? You go to the doctor. You go to the emergency room if it’s really bad. And the doctor sees you. They’ll give you some medicine. They’ll write you a prescription. If your leg’s broken,

they’ll set your leg. They’ll put a cast on it. And you’ll go away and you’ll feel like you’ve received some sort of help and, like, you’re on the way to getting better. But when you look at our mental health system, the challenges there exist. They’re real for our children and our youth.... You take the same child that’s suffering with mental health issues, whatever it is, you know, ADHD, anxiety, OCD, ODD, youth – there’s so many of these different diagnoses. If you take that same child into that same emergency room or that same health clinic, that child sits there for 10, 12, 14, 16 hours. And you know what happens? Someone on a phone says, send them home. So those kids go home. I’m telling you, we’re dealing with life-and-death situations when that happens.<sup>x</sup>

## Suicide among Inuit Youth

In the decades before the way of life based on the land and in geographic mobility was changed to a more sedentary life in centralized settlements as a result of colonization, Inuit suicide was a phenomenon reserved for a very few and older Inuit. Back then, Inuit who were suffering from illness, famine, or old age could decide which moment they wished to die. The choice by individuals to die by suicide was in keeping with the respect Inuit have for the autonomy of their fellow Inuit to make decisions about their own matters and lives.<sup>xi</sup> However as societal changes occurred through colonization and settlement, the death of Inuit youth by suicide began to occur. While Indigenous groups across Canada have also experienced increased suicide rates among their youth, Inuit have seen very high suicide rates. Inuit youth suicides began in the 1970s followed by a dramatic increase in the 1980s, and Inuit youth suicide rates continued to rise since. In Inuktitut someone who chooses to end one’s life is *qivittuq* and more commonly now, *imminiartuq*, taking one’s own life.

According to the “*Learning From Lives That Have Been Lived*,” *Nunavut Suicide Follow-Back Study: Identifying the Risk factors for Inuit Suicide in Nunavut*, Nunavut, as in the three other Inuit regions of Canada, currently has a suicide rate 10 times higher than the Canadian suicide rate. Nunatsiavut and Nunavik suicide rates are similar to the Nunavut region.



Here are some facts: studies over the last five decades have consistently shown that more young Inuit men die by suicide than young Inuit women. The study above examined 120 cases of suicide completers in the period from 2005-2010, and compared them to another 120 who did not die by suicide. Of the 120 suicide completers, 99 (82.5%) were male and 21 female (17.5%). The average age was 23.6 years old. As for the level of education of individuals who died by suicide, they were 3.6 times more likely to have had less than seven years' education. Dropping out of school could be an indication of living in more difficult situations that could lead to suicidal behaviour.<sup>xii</sup> Another fact was their contact with the legal system, showing a greater tendency to experience legal problems. Crowded houses, which impact many families in Inuit Nunangat, did not appear to be a factor linked to suicide. Adoption, whether it be adoption between kin, or adoption outside of kin showed there was no major difference between those of the suicide group and the comparison groups.

The study also demonstrates the close link mental health problems have with the suicidal behaviours, such as anxiety, depression and drug and alcohol abuse or dependence problems.<sup>xiii</sup> The most important issue raised in the follow-back study was childhood maltreatment, which encompasses physical abuse, sexual abuse, emotional abuse and neglect during childhood.<sup>xiv</sup> There are strong indicators that survivors of childhood abuse attempt or die by suicide in greater numbers than those not maltreated in their childhood. As well, childhood maltreatment could lead to serious issues impacting on mental and physical health and suicidal behaviour. The study found that almost half of those who died by suicide had been abused, physically and/or sexually, during their childhood compared to one third of the comparison group.<sup>xv</sup> Another major factor was the state of mental health – 61% of those who died by suicide and 24% of those in the comparison group suffered from a major depressive disorder six months prior, and these rates were higher than the national average of 8%.<sup>xvi</sup> Alcohol dependency or abuse was an indicator for higher risk for suicide, as the data showed that 37.5% of those who died by suicide had abused alcohol or had a dependence on it in the last six months of their lives.<sup>xvii</sup>

As mental health researcher Eduardo Chachamovich concludes in his study on Nunavut:

The rapid increase in suicidal behaviour in recent decades, especially young people, is probably the result of a change in the intensity of social determinants – among them the intergenerational transmission of historical trauma and its results (increased rates of emotional, physical, and sexual abuse, violence, substance abuse, etc.)... Since difficult life experiences are associated with the onset of mental disorders (particularly if substance abuse is included in the definition of “mental disorder”), it is reasonable to deduce that there are elevated rates of mental disorders in Nunavut society.<sup>xviii</sup>

The Inuit regions are well aware of the crisis among youth and are developing strategies for the prevention of suicide, such as the *National Inuit Suicide Prevention Strategy* created by the national Inuit organization Inuit Tapiriit Kanatami (ITK), which supports families and youth to be strong and resilient as the Inuit ancestors once were. Its Strategy addresses social inequity, community safety and cultural continuity to help create well-being in the Inuit communities. It expresses its vision of suicide prevention as a shared national, regional and community-wide effort, that collaborative and well supported policies and programs can and will make a difference. The Strategy defines priority areas such as creating social equity and cultural continuity, nurturing healthy Inuit children from birth, access to comprehensive mental wellness services for Inuit, healing unresolved trauma and grief and mobilizing Inuit knowledge for resilience and suicide prevention. These are themes that were consistently identified by Inuit witnesses testifying before the National Inquiry, as well. The *ITK Suicide Prevention Strategy* prioritizes the importance of Inuit perspectives and knowledge to bring about action in the Inuit communities. It is an example of self-determination, working with Inuit communities and regions, to acknowledge the crisis of suicide among Inuit youth and to help heal Inuit communities.



## Engaging Children and Youth to Generate Solutions

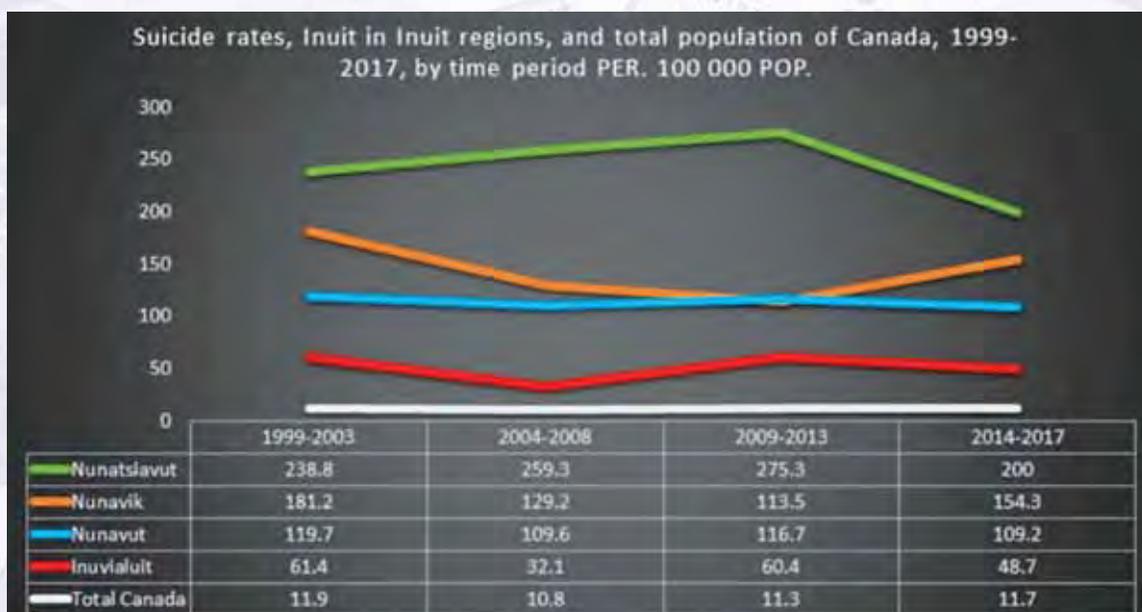
Part of the way forward begins with listening. As O'Soup contends, children and youth must be at the table in discussing the way forward: "It is their right to be at the tables when decisions are being made about them, when they are being discussed. They need to have a voice. And that voice just can't be me ... I believe that we can't get that voice without talking to our children and our youth."<sup>XXIX</sup> And, as he points out, children and youth are already talking about it "in chat rooms ... on social media and their phones ... at parties in basements. They're just not talking to us about it. And the data we have already shows us that they're already doing it."<sup>XXX</sup>

This crisis is surmountable; as Cindy Blackstock insisted, "And so, when I see the suicide rates, I am horrified at the loss of every child, but I think it's an absolutely predictable thing to happen when you're treating children in this way as a country."<sup>XXXI</sup> As the researchers conducting the survey of existing literature conclude, and as many of the studies they analyzed suggest, decision-makers should take seriously the way in which culture and bonding can mitigate these rates of self-harm:

The maintenance of culture and formation of social and familial supports are ingredients that may offset IYS [Indigenous Youth Suicide]. Social and family support positively influences the development of relational, occupational, and self-identity.... It was found to be the strongest protective factor reducing the risk of suicide among the studies examined.<sup>XXII</sup>

Finally, and in reference to the report entitled *Shhh...Listen!! We Have Something to Say! Youth Voices from the North*, O'Soup talks about some important findings, with implications for decreasing youth suicide in all Indigenous communities.<sup>XXXIII</sup> As he explained, "Our kids ... state that in order for them to not think about suicide, they need a safer community. They don't want to be scared walking down their streets. They need to be safe and protected."<sup>XXXIV</sup>

Upholding cultural safety and belonging as well as physical safety, along with sufficient support services and the right to be heard, are important building blocks that can work to improve outcomes for youth by looking to those most impacted for solutions.



Source: Nunavik Regional Health Board. Used with permission.



- I Corey O'Soup (Métis/First Nations from the Key First Nation), Part 3, Public Volume 6, Quebec City, QC, p. 97.
- II Corey O'Soup (Métis/First Nations from the Key First Nation), Part 3, Public Volume 6, Quebec City, QC, p. 109.
- III CBC Radio, *The Current*, "Suicide shouldn't be 'normal.'"
- IV Harder, Rash, et al., "Indigenous Youth Suicide," 134.
- V Ibid.
- VI Ibid., 134-135.
- VII Ibid., 138.
- VIII Corey O'Soup (Métis/First Nations from the Key First Nation), Part 3, Public Volume 6, Quebec City, QC, p. 99.
- IX Tanya Talaga (Anishinaabe/Polish), Part 3, Public Volume 10, Toronto, ON, p. 91-92.
- X Corey O'Soup (Métis/First Nations from the Key First Nation), Part 3, Public Volume 6, Quebec City, QC, p. 98.
- XI Thorslund, "Why Do They Do It?," 151.
- XII Chachamovich, Tomlinson et al., *Learning From Lives*, 28.
- XIII Ibid., 15.
- XIV Ibid., 32.
- XV Ibid., 33.
- XVI Ibid., 37.
- XVII Ibid., 42.
- XVIII Ibid. See also Inuit Tapitit Kanatami's "National Inuit Suicide Prevention Strategy," <https://www.itk.ca/wp-content/uploads/2016/07/ITK-National-Inuit-Suicide-Prevention-Strategy-2016.pdf>.
- XIX Corey O'Soup (Métis/First Nations from the Key First Nation), Part 3, Public Volume 6, Quebec City, QC, pp. 99-100.
- XX Corey O'Soup (Métis/First Nations from the Key First Nation), Part 3, Public Volume 6, Quebec City, QC, p. 103.
- XXI Dr. Cindy Blackstock (Gitksan), Part 3, Public Volume 10, Toronto, ON, p. 232.
- XXII Harder, Rash, et al., "Indigenous Youth Suicide," 138.
- XXIII See Saskatchewan Advocate for Children and Youth, *Shhh...Listen!! We Have Something to Say! Youth Voices from the North: A Special Report on the Youth Suicide Crisis in Northern Saskatchewan*. Corey O'Soup (Métis/First Nations from the Key First Nation), Part 3, Public Volume 6, Quebec City, QC, p. 99.
- XXIV Corey O'Soup (Métis/First Nations from the Key First Nation), Part 3, Public Volume 6, Quebec City, QC, p. 99.



## Seeing Health and Wellness in the Context of Colonialism

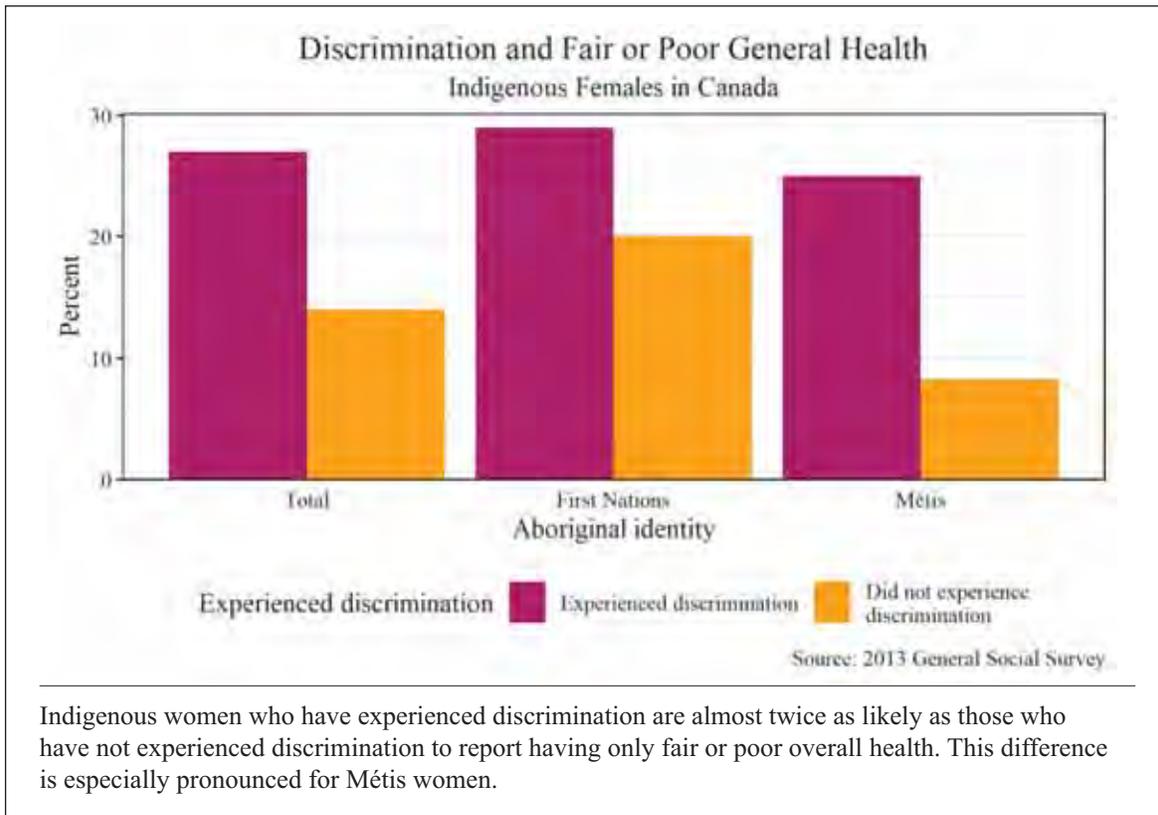
As with many of the challenges facing Indigenous Peoples and communities, Indigenous people themselves are often blamed for poor health, especially within dominant medical and health promotion models that focus on individual behaviour and choices as the route to good health and wellness.<sup>46</sup> However, as health researchers such as Amy Bombay, whose research focuses on intergenerational and multigenerational trauma, explained, the health of Indigenous Peoples must be contextualized within historical, social, and economic factors connected to the cumulative impacts of colonization, as well as persistent and harmful policies that serve to harm communities and individuals.

For example, researchers have found that, compared with those who did not attend residential school, residential school survivors are more likely to suffer various physical and mental health problems.<sup>47</sup> According to Bombay, the most recent First Nations Regional Health Survey likewise found that residential school survivors are “more likely to report higher levels of psychological distress, poorer self-rated health, and ... [are] more likely to be diagnosed with various chronic health conditions.”<sup>48</sup>

In their descriptions of health, witnesses made connections between colonial violence and physical, mental, emotional, and spiritual wellness. Wet’suwet’en Chief Vivian T., for example, who testified in relation to her daughter, explained how she has ongoing health issues from infant pneumonia and tuberculosis when she was seven or eight. Her mother “was not sure” if the doctors treated her properly for her illness.<sup>49</sup>

Viola Thomas connected the high rate of chronic health conditions among the Indigenous population with the forcible displacement of Indigenous Peoples from their communities.

And also there’s the other side of that displacement where it’s, what I would refer to as forcible displacement. Because of the historical, irreparable harms that’s been inflicted on our people, we have a large number of folks that are displaced, who must travel long distances to be able to access health services, for example. We have a high chronic disease within our communities.<sup>50</sup>



In her testimony, Shara L., a residential school survivor, described how she continues to live with the traumatic memories of the abuse she experienced there, and how, despite efforts at healing, it is still easy for her to become triggered, especially in the absence of proper support. Shara, who was staying in a hotel to be close to her hospitalized grandson, reported how the smell of the vinyl shower curtain in the bathroom triggered her memories of residential school. As she explained, it reminded her of

the shower room in residential school, and that's where they would sexually abuse you.... They made you suffer in there. They scrubbed your skin with a – with a nail file, you know, those really hard coarse brushes. And if you had scabs on your skin you'd just scrape it like they were trying to scrape off your skin ... because you're dirty. Dirty little Indian.<sup>51</sup>

Shara collapsed in the bathroom of the hotel, paralyzed with fear. As she recalled:

I just collapsed there and I couldn't get up, and I couldn't get out of that bathroom. I started sobbing. It controlled me like a child. And I was screaming. I wanted to get out of there. I don't know why I couldn't move. I just couldn't get out of there.... I was in that room for a while, I just couldn't move. I just laid – collapsed on the bed and I just laid there. I was just crying.<sup>52</sup>



As Carol M. suggested, the health impacts of colonial violence – particularly in the absence of adequate health supports – continue to threaten the health and well-being of Indigenous people and their communities. As she reported, “I did some heavy work on myself and I thought, doesn’t the healing ever stop? It never stops. It’s like you think you deal with it, and it’s like something else pops up, and it’s right there.”<sup>53</sup>

“AND ALSO THERE’S THE OTHER SIDE OF THAT DISPLACEMENT WHERE IT’S, WHAT I WOULD REFER TO AS FORCIBLE DISPLACEMENT BECAUSE OF THE HISTORICAL, IRREPARABLE HARMS THAT’S BEEN INFLICTED ON OUR PEOPLE. WE HAVE A LARGE NUMBER OF FOLKS THAT ARE DISPLACED, WHO MUST TRAVEL LONG DISTANCES TO BE ABLE TO ACCESS HEALTH SERVICES, FOR EXAMPLE. WE HAVE A HIGH CHRONIC DISEASE WITHIN OUR COMMUNITIES.”

Viola Thomas

To be sure, the long-term health impacts associated with residential and day school attendance, relocation, and other forms of colonial violence and abuse, which, as Carol described, never seem to stop, continue to be felt by the children, grandchildren, and other family members of those struggling with trauma associated with these experiences. Research shared by Amy Bombay demonstrates how the health consequences of surviving residential school “branch out” – as Sharna S. described – to later generations. For example, First Nations adults living off-reserve, compared to those living on-reserve, who had at least one parent or grandparent who attended residential school were more likely than those who did not have a relative who was a residential school survivor to experience psychological distress: approximately 54% to 40%.<sup>54</sup>

Many witnesses spoke about how the health-related impacts of historical colonial policies continue to shape the health of the children and grandchildren of those directly affected by these policies. Chrystal S. shared how the spiritual and emotional health impacts associated with the removal of her ancestors from their lands have been “passed down” to the next generation and can contribute to stressors that create poor health outcomes.

I believe that is so true with our First Nations people is that our body, our mind, our blood has been without our homes, without our food, without a place where we belonged. And I believe that is one of the many causes of the stress, the depression, and that longing ... just to go home and not knowing where that is.

That happened, I can imagine, way before residential schools because we were moved first, before residential schools, and we were killed off, many of us, by the diseases, smallpox and TB [tuberculosis], so before we were even moved, many of us were killed off, but I believe those 10% that survived had that longing for their home, and I believe that’s been passed down ever since in our genes, in our blood, as we don’t have our home anymore. We don’t have that place of peace, that place of belonging, that place of safety, because we were moved to a different part of the land that we never grew up on.<sup>55</sup>



Stephanie H. described the impact that her mother’s deteriorating health had on her family. According to Stephanie, her mother had mental health problems as a result of her upbringing. The doctors she went to see would give her pills and shock treatments. Stephanie said that her mother was never the same after the shock treatments and that her mother became addicted to the pills. She said that the shock treatment “ruined their lives.” Stephanie said that she herself was also an addict an early age.<sup>56</sup>

Kim C.-M. shared how relocation and residential school trauma continue to impact communities, and women, in particular, whose parents or grandparents are relocatees or residential school survivors, and how these experiences have “in turn contributed to negative factors in their lives, as well, such as substance abuse, alcohol, drugs, we know that. Family violence, sexual abuse, we know that. Child sexual abuse, we know that.”<sup>57</sup>

As Kim C.-M. pointed out, one of the most significant health impacts of colonial violence in the lives of Indigenous women, girls, and 2SLGBTQQIA people is the prevalence of interpersonal violence, including family/domestic violence, sexual violence, and all forms of childhood abuse. Again, in the absence of adequate support for those who are affected by it, the experiences of interpersonal violence carry significant health impacts for Indigenous people, including addiction, self-harm, and suicide.

In the next section, we look more closely at some of those most significant health impacts experienced by Indigenous people, which are rooted in colonial violence and the cultural loss associated with this violence.

## **Violence as a Health Issue**

Interpersonal violence directed against Indigenous women, girls, and 2SLGBTQQIA people is one of the most significant health impacts associated with the colonial violence of residential schools, family separation and relocation, dispossessions of land, and the *Indian Act*. Although interpersonal violence is not always considered a public health issue, the health-related impacts associated with violence are far-reaching. In addition to the psychological impacts of violence, the severity of violence often experienced by Indigenous women can lead to many additional health problems, such as various types of injuries, including broken bones; chronic pain; gastrointestinal issues; sexually-transmitted infections, including HIV; unplanned pregnancy and other gynaecological complications.<sup>58</sup>

Throughout our testimony, witnesses courageously offered often difficult testimony that explained the impact on their health of acts of physical violence, sexual assault, and childhood physical, sexual, and emotional abuse. In many cases, the efforts survivors take to cope with the traumatic impact of this violence (often in the absence of other culturally relevant supports) can create additional health problems. Isolation, addiction, self-harm, and suicide are all common health-related challenges that Indigenous women and girls confront in the aftermath of violence and are those that increase the risk of further violence.



In her testimony, Nikki K. described how addiction and mental health and other health challenges were some of the ways that severe childhood sexual and physical abuse impacted the health of her cousin Jessica, who eventually allegedly took her own life. Speaking on behalf of her cousin, Nikki explained:

She was working the streets for money. She was hooked on crack cocaine. At 14 years old, like that's crazy, you know, and I believe if we would have had family or someone there with us, she wouldn't have gone down that road. But we had no one.<sup>59</sup>

As Nikki explained, the impacts of this abuse on Jessica were compounded by the apprehension by child welfare services of Nikki and Jessica and their subsequent separation from their Inuit family and culture. In the absence of culturally relevant mental health supports and family, Jessica died at 17 years old of an apparent suicide.

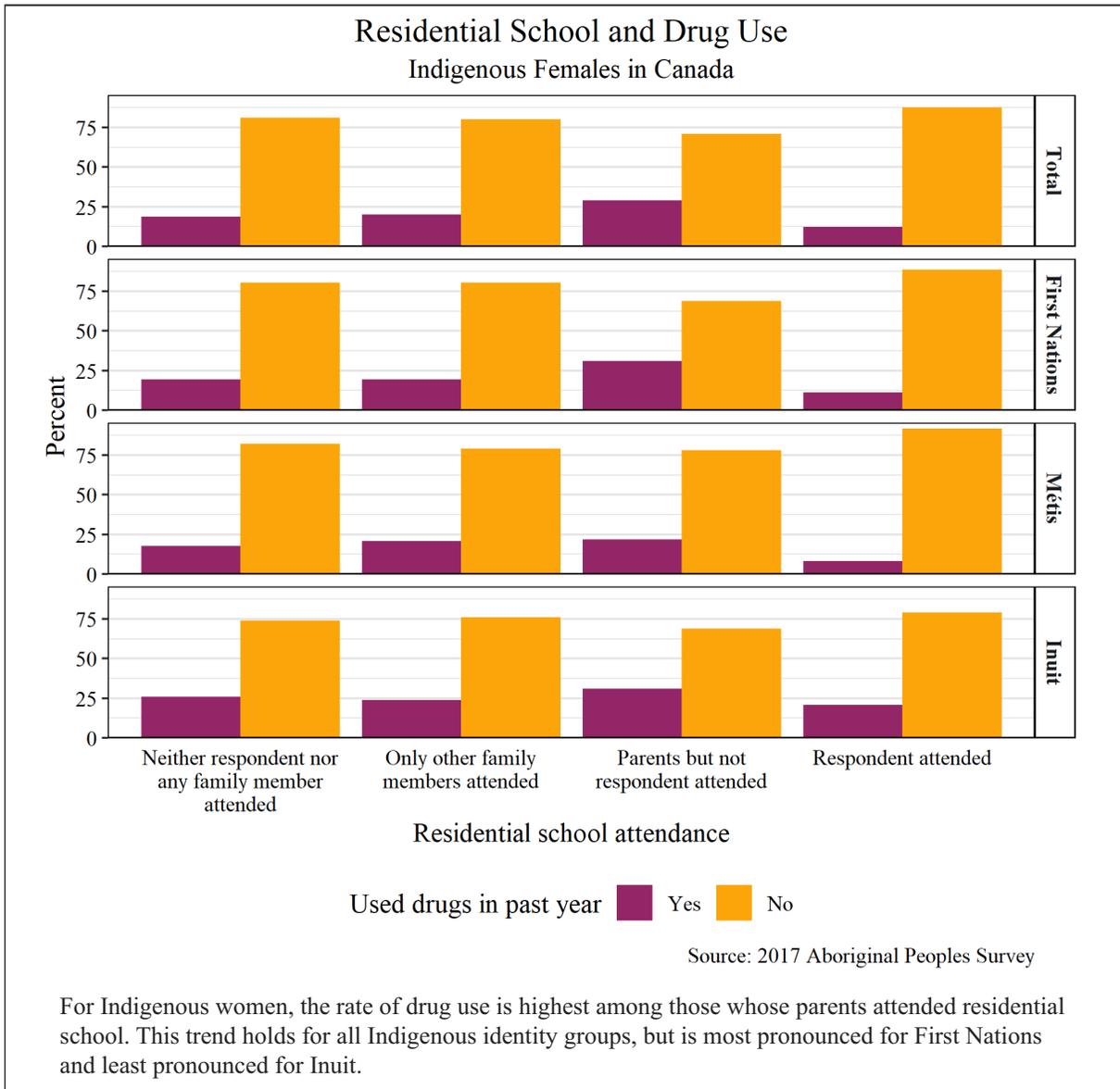
Sonia B. described how childhood abuse led her to use substances as a way to cope with the pain she experienced. As Sonia explained, she started drinking and smoking when she was 10 years old. She was on the street from age 10 to 15. She grew up in a home with a lot of dysfunction, and her maternal grandmother used to beat her and tell her that it should have been her who died, not her mother. She was also twice beaten nearly to death.

In reflecting on why she was drinking, she explained:

It took a lot of years for me to realize I was drinking to numb the pain and to numb the anger and the resentment... But through the treatment centre and learning to understand myself, learning to deal with all the anger, I don't want to say it made life easier, but it kind of did in a way so that I was able to acknowledge my defects, my hurt. Because of the way I was raised, it made so much sense for me to be numb, for me to be hateful, for me to be angry. I didn't understand what anger was. I thought it was just a natural – I thought that was normal to be that way.<sup>60</sup>

As she recalled, “Some days, being sober was the loneliest place I ever was at.”<sup>61</sup>

In her addiction and despair, Sonia said, she wanted to just end it, feeling like there was nothing and no one who could save her. She explained what motivated her, while she was lying in the hospital, to keep fighting: “I didn't know who would love my children the way I did as a mother. I did the best I could with them as an alcoholic.” Sonia went to a treatment centre for her alcoholism 27 years ago and has been on that healing journey since.<sup>62</sup>



Despite the healing that can occur, the memories of the pain don't fade easily. As Paula P. noted, "It's really hard to sober up and then look at all the pain that you carried on and how much it's affected your children and grandchildren, and to face it and try to change it. And that's why I'm here. I want to make change for all our children."<sup>63</sup>



Expert Witness Allan Wade believes that the early experiences of violence or witnessing violence described by women like Jessica and Sonia is directly connected to their struggles with addiction and suicide later in life. Wade explained that:

70 to 80% of people who get a diagnosis of serious mental illness also report significant violence and trauma histories.... The best single predictor of whether or not a child will get a diagnosis of a mental illness as an adult is whether or not they experienced violence as a child. So there's no question that the main problem we're dealing with across all these social problems is interpersonal violence. It follows that if we get better at dealing with violence, we get better at everything.<sup>64</sup>

As the stories that witnesses shared demonstrate, “getting better at dealing with violence” in the lives of Indigenous women, girls, and 2SLGBTQQIA people must occur in a context that acknowledges the historical and ongoing consequences of colonial violence for the physical, mental, emotional, and spiritual health of Indigenous Peoples. As we explore in the next section, this involves acknowledging and addressing how the social and economic marginalization of Indigenous Peoples as a result of colonialism also contributes to the many health-related barriers they face.



# The Disproportionate Impact of Opioids on Indigenous Peoples in Canada

During its Truth-Gathering Process, the National Inquiry heard from families and survivors, as well as those working in health care, mental health, and other social services, about the challenge substance use and addiction creates for individuals, families, and communities. As those who shared their truths with the National Inquiry explained, using drugs and alcohol is, for many Indigenous people living with a history of trauma and violence, one of the only ways of managing significant pain, suffering, shame, and despair within broader systems and institutions that fail to provide other forms of meaningful and adequate support. Families of missing and murdered Indigenous women, girls, and 2SLGBTQIA people, as well as survivors of violence, spoke about how drug use is part of the broader story about violence that has impacted themselves or their loved ones. While women, girls, and 2SLGBTQIA people may turn to drugs as a way of coping with the violence and other difficulties they experience, such as poverty or homelessness, drug use also often becomes a factor that increases their vulnerability to further violence of all forms.

Over the past few years, significant growth in the prevalence of opioids among street-level and non-prescription drug use – in particular, fentanyl and carfentanil – means that the use of non-prescription drugs is becoming even more dangerous. Given the overrepresentation of Indigenous people among those affected by opioid and fentanyl overdoses and deaths,<sup>1</sup> this public health crisis is also part of the crisis of violence against Indigenous women, girls, and 2SLGBTQIA people.

## Overview of the Opioid Crisis

The opioid crisis – as it is often referred to because of the significant increases in hospitalizations and deaths associated with the use of opioids – is a Canada-wide problem that continues to worsen rather than improve.<sup>11</sup> The most up-to-date data available released by the Public Health Agency of Canada shows that between January 2016 and June

2018, more than 9,000 people in Canada died as a result of an apparent opioid-related overdose, with more than 2,000 of those deaths occurring in the first six months of 2018.<sup>12</sup> Equally troubling is the rapid increase in the number of hospitalizations associated with opioid-related poisonings or non-fatal opioid overdoses: recent findings from the Canadian Institute for Health Information indicate a 27% increase in hospitalizations due to opioid-related poisonings over the past five years. Data for 2016–17 shows that, each day in Canada, there was an average of 17 opioid-related poisoning hospitalizations.<sup>13</sup>

One of the most troubling trends in the opioid crisis is the increase in fentanyl-related substances responsible for deaths and hospitalizations. While it is an opioid that doctors may prescribe to treat pain, fentanyl is increasingly produced illegally, and then found in other substances, such as OxyContin and heroin. Roughly 50 to 80 times more potent than morphine, fentanyl is more powerful than other opioids, and thus the possibility of accidental



overdose is much higher.<sup>v</sup> For example, almost three-quarters (72%) of opioid-related deaths that occurred between January to June 2018 as a result of accidental overdoses involved fentanyl-related substances.<sup>vi</sup> The Public Health Agency of Canada reported that fentanyl has now been detected in the illegal drug supply in all Canadian jurisdictions.<sup>vii</sup> More recently, carfentanil – a drug almost 100 times more potent than fentanyl and one that can be lethal in even small doses – has started to surface in various jurisdictions across the country.<sup>viii</sup>

Although the opioid crisis is one that impacts all jurisdictions across Canada, and impacts people from all walks of life, the available data shows that certain jurisdictions, including British Columbia and Alberta, as well as Yukon and Northwest Territories, have been impacted to a greater extent than others.<sup>ix</sup> For example, from January to June 2018, the national rate of opioid-related deaths was 11.2 per 100,000 population (2,066 apparent opioid-related deaths); however, in British Columbia, the number of deaths due to illicit drugs (not limited to opioids) was 30.2 per 100,000 (or 754); in Alberta, the number of apparent opioid-related deaths was 17.6 per 100,000 or 379.<sup>x</sup> Despite widespread recognition of the problem, however, the rates of deaths and hospitalizations in these jurisdictions continue to increase.

## Disproportionate Impact on Indigenous Peoples

Another important trend emerging in information about the opioid crisis is its disproportionate impact on Indigenous Peoples.<sup>xi</sup> Available research focusing on opioid deaths and hospitalizations in British Columbia and Alberta indicate that First Nations are more likely than non-First Nations people to die from an opioid-related overdose.<sup>xii</sup> According to British Columbia's First Nations Health Authority, First Nations people were five times more likely than non-First Nations to experience an opioid-related overdose and three times more likely to die from that overdose.<sup>xiii</sup>

In terms of gender breakdown, First Nations men and women are about equally likely to experience an opioid overdose or death. However, when the rate of overdose and death among First Nations women and

non-First Nations women was compared, significant differences emerge, with Indigenous women being eight times more likely to experience a non-fatal overdose and five times more likely to have a fatal overdose than non-Indigenous women.<sup>xiv</sup> Currently, there is no data to demonstrate the extent to which Indigenous 2SLGBTQIA individuals have been affected by the opioid crisis.

Understanding the impact and nuances of the opioid crisis on Indigenous Peoples is hampered by a lack of disaggregated data – a limitation that means that the most recent numbers are an underrepresentation of the actual extent of the issue. This lack of disaggregated data also makes it difficult to understand the scope of the problem among Inuit and Métis people.<sup>xv</sup>

## Underlying Factors

The overrepresentation of Indigenous people among those experiencing non-fatal and fatal opioid overdoses is another iteration of the legacy of colonial violence and the intergenerational trauma it carries, the socio-economic marginalization that circumscribes access to health- and wellness-promoting resources, and the institutional racism that continues to create barriers to treatment, not only for substance use but also for the many other harms caused by colonialism and intergenerational trauma.<sup>xvi</sup> Many of the socio-economic indicators associated with Indigenous Peoples, such as poverty, homelessness, and incarceration, are also associated with an increased likelihood of opioid-related harms.<sup>xvii</sup> In its report, the British Columbia First Nations Health Authority identified a number of factors that create conditions that contribute to the overrepresentation of Indigenous people within the opioid crisis, including 1) barriers to health care because of racism and intergenerational trauma; 2) the ongoing impact of intergenerational trauma; and 3) reduced access to mental health and addiction treatment.<sup>xviii</sup> Certainly, as witnesses described throughout the Truth-Gathering Process, the lack of culturally appropriate services, particularly within the fields of health care and mental health, make it exceedingly difficult for people to reach out for support. In a recent study by the Canadian Centre on Substance Use and Addiction, researchers found that



one of the main reasons Indigenous and non-Indigenous users cited for not calling 911 in the event of an overdose and/or the administration of Naloxone was because of a fear of police involvement.<sup>xix</sup>

## Creating Solutions

Addressing the opioid crisis as it impacts Indigenous Peoples requires Indigenous-specific solutions. Advocates highlight the importance of harm-reduction interventions, such as needle exchange programs, access to drugs not laced with other harmful substances, and the distribution of Naloxone, but also emphasize that these interventions must also be grounded in Indigenous values and be delivered in ways that are culturally appropriate.<sup>xx</sup> Of the witnesses who spoke about their help-seeking experiences during the Truth-Gathering Process, many talked about how, as an Indigenous woman, girl, or 2SLGBTQQIA person, especially one using or involved with drugs, reaching out to health care, emergency responders, or the police may not be safe, given

the institutional racism Indigenous Peoples often encounter in these settings. In order to ensure people do seek support in these extremely vulnerable times, services that are culturally appropriate and responses that do not create further harm or difficulty – for instance, by criminalizing an individual for drug possession during an overdose – are essential.<sup>xxi</sup>

Beyond reactionary responses to managing the current crisis, however, Indigenous health care advocates and others emphasize the necessity of addressing the structural and institutional inequalities that continue to impact Indigenous people and contribute to the crisis in the first place. This includes addressing many of the socio-economic factors, such as poverty and housing, that continue to create risk in the lives of Indigenous people. This also involves providing culturally appropriate addiction and mental health support that allows space for Indigenous people to understand and access support that assists them to work through the trauma, pain, and suffering they may be carrying so that using drugs does not have to be the only means of survival.<sup>xxii</sup>

- I Belzak and Halverson, "Evidence Synthesis – The Opioid Crisis."
- II Ibid.
- III Public Health Agency of Canada, "Overview of National Data."
- IV Canadian Institute for Health Information, "Opioid-Related Harms in Canada," 5.
- V Toward the Heart, "Opioid Overdose in BC."
- VI Public Health Agency of Canada, "Overview of National Data."
- VII Belzak and Halverson, "Evidence Synthesis – The Opioid Crisis."
- VIII Alberta Health Services, "Carfentanil – Background."
- IX Belzak and Halverson, "Evidence Synthesis – The Opioid Crisis."
- X Public Health Agency of Canada, "Overview of National Data."
- XI Canadian Institute for Health Information, "Opioid-Related Harms in Canada." See also Belzak and Halverson, "Evidence Synthesis – The Opioid Crisis."
- XII Belzak and Halverson, "Evidence Synthesis – The Opioid Crisis," 228.
- XIII First Nations Health Authority, *Overdose Data and First Nations*, 8.
- XIV Ibid., 7.
- XV Lavalley, Kastor, Valleriani, and McNeil, "Reconciliation and Canada's Overdose Crisis."
- XVI First Nations Health Authority, *Overdose Data and First Nations*, 6.
- XVII Lavalley, Kastor, Valleriani, and McNeil, "Reconciliation and Canada's Overdose Crisis."
- XVIII First Nations Health Authority, *Overdose Data and First Nations*, 2–3.
- XIX As cited in Belzak and Halverson, "Evidence Synthesis – The Opioid Crisis," 228.
- XX Lavalley, Kastor, Valleriani, and McNeil, "Reconciliation and Canada's Overdose Crisis."
- XXI First Nations Health Authority, *Overdose Data and First Nations*, 4-5.
- XXII Ibid.



## Pathway to Violence: Social and Economic Marginalization

Social and economic factors, including employment, education, housing, income, food, and sustainable resources, shape the health of Indigenous people, as well as their encounters with the Canadian health care system.<sup>65</sup> Poverty, lack of safe housing, food insecurity, and other socio-economic realities are widely understood to compromise the physical, mental, emotional, and spiritual health of Indigenous people, and, in particular, Indigenous women, girls, and 2SLGBTQQIA people. In addition, the marginalization of Indigenous Peoples and Indigenous approaches to health and wellness within mainstream health care systems, despite the widespread need for these services, creates additional barriers to health that maintains rather than addresses health inequities.<sup>66</sup>

### Poverty, Health, and Wellness

As Fred Wien, of the National Collaborating Centre for Aboriginal Health, has noted, “the economic dimensions of poverty are one of the most important determinants of health.”<sup>67</sup> For Indigenous people living in poverty, the possibility of encountering situations that have a negative impact on physical, mental, emotional, and spiritual health is greater than for those not experiencing poverty. The median, after-tax income of Indigenous people in Canada, in 2016, varied among groups. First Nations had a median total income of \$21,875, and Inuit were listed at \$24,502 and Métis at \$31,916.<sup>68</sup> According to more recent data available through the First Nations Regional Health Survey (2015–16), nearly 30% of First Nations adults surveyed had a household income under \$20,000.<sup>69</sup> Not surprisingly, many First Nations people struggle to meet their basic needs. For example, only 67.2% of First Nations adult participants in the First Nations Regional Health Survey (2015–16) reported that they never struggle to meet their food-related expenses.<sup>70</sup>

### Housing, Health, and Wellness

For many Indigenous families, poverty acts as a barrier to securing safe and affordable housing. As researchers Yale Belanger, Gabrielle Weasel Head, and Olu Awosoga have argued, “adequate, affordable, and suitable housing contributes directly to improved health and well-being” and is “directly linked to an individual’s ability to participate in the economy and general society.”<sup>71</sup> The issue of unaffordable housing is linked, though not equivalent, to the concept of Indigenous homelessness. As researcher Jesse Thistle explains, “Indigenous homelessness is a human condition that describes First Nations, Métis and Inuit individuals, families or communities lacking stable, permanent, appropriate housing, or the immediate prospect, means or ability to acquire such housing.”<sup>72</sup> He cites a report from the Aboriginal Standing Committee on Housing and Homelessness about homelessness.

[It is] not defined as lacking a structure of habitation; rather, it is more fully described and understood through a composite lens of Indigenous worldviews.... Importantly, Indigenous Peoples experiencing these kinds of homelessness cannot culturally, spiritually, emotionally or physically reconnect with their Indigeneity or lost relationships.<sup>73</sup>



According to Statistics Canada, in 2016, one in five First Nations people lived in a dwelling that was in need of major repairs. While the proportion living in a dwelling that needed major repairs decreased for First Nations, Métis, and Inuit from 2011 to 2016, the proportion of on-reserve people living in these types of dwellings actually increased by 0.8%. Further, in 2016, 18.3% of Indigenous people lived in housing that was considered “crowded.”<sup>74</sup> For First Nations adults living in remote communities, the challenges in securing safe housing are significant, with more than one in three (37.9%) living in homes in need of major repairs and 31.8% living in crowded households.<sup>75</sup>

For many witnesses, these types of living situations can contribute to poor health. In 2016, 26.2% of Inuit, 24.2% of First Nations people and 11.3% of Métis lived in a home “in need of major repairs.” Among them, these rates were highest for Inuit in Inuit Nunangat (31.5%) and First Nations people living on reserve (44.2%). To compare, only 6.0% of the non-Indigenous population were recorded as living in a home in need of major repairs.<sup>76</sup> In her testimony, for example, Sandra L. spoke about how the condition of her granddaughter’s house creates significant health care concerns for Sandra and her family. She said:

When I went into my granddaughter’s house [for Christmas], it’s just full of mould. And I have three generations of my kids living under one roof. And I went, “Oh, my God, oh, my God.” I was their voice.... So I came home from Christmastime and I was sick because I got that mould and that I got the flu because my lungs are compromised. And I started to think my grandchildren are breathing that in every day.<sup>77</sup>

She also noted that her family has to purchase water, because the water in their home is not drinkable – a reality that also creates health risks for all family members, and one that impacts the more than one in four (27.5%) of First Nations adults who lack a safe water source for drinking year-round.<sup>78</sup>

Sandra’s story also illustrates research findings that indicate problems with mould and mildew in First Nations households identified in a 2018 report at a rate (39.7%) three times higher than the general population (13%),<sup>79</sup> and something that has been linked to lower incomes and overcrowding, as well as to poorer health. For instance, the First Nations Regional Health Survey (2015–16) found that “a higher percentage of First Nations adults with chronic health conditions, compared to those with none, reported living in homes where household mould or mildew was present.”<sup>80</sup>



## INFOGRAPHIC OVERVIEW

### DEMOGRAPHICS

While there have been some improvements over the past decade in the availability and quality of housing for Indigenous people, these have so far failed to keep pace with demographic pressures.

Estimated demographic projections by (Statistics Canada, 2015b)

**2036**  
between  
**1,965,000**  
and  
**2,633,000**

POPULATION INCREASE



Indigenous households projected increase between **986,000** and **1,214,000**

Indigenous on-reserve households projected increase between **191,000** and **208,000**

Indigenous people now comprise 4.3% of the total population of Canada, of which identify as (approximately):

First Nations	851,560
Métis	451,795
Inuit	59,445

(Statistics Canada, 2015a)

GROWTH RATE



Between 2006 and 2011, the collective Indigenous population growth rate of 20% far exceeded that of the non-Indigenous population of Canada at 5% (Statistics Canada, 2015a).

### AGE

The median age of Indigenous people is 28 compared to 41 years for non-Indigenous Canadians (Statistics Canada, 2015a). Inuit are the youngest of the three Indigenous groups, with a median age of 23.



### HOUSING CONDITIONS

**7x** Close to half (49.3%) of all First Nations people live on reserve (Statistics Canada, 2015a). Statistics Canada (2015a) reports that, "[m]ore than one-quarter (27%) of First Nations people living on reserve were living in **crowded conditions** in 2011, about 7 times the proportion of non-Aboriginal people nationally" (p. 14).

**10x** According to the most recent data, "nearly **4 in 10** (39%) Inuit living in Inuit Nunangat lived in **crowded homes**, about 10 times the proportion of non-Indigenous people (4%) nationally" (Statistics Canada, 2015a, p. 14).

Homes needing major repairs, compared to 7% nationally (Statistics Canada, 2015a).



Strategies to improve Indigenous housing for measurable health outcomes will require significant investments in housing and services that are congruent with population growth and with localized needs.



### SIGNIFICANT BARRIERS IN ACCESSING SERVICES AND

Indigenous women represent 35% of the homeless population in many of Canada's urban centres (Patrick, 2014).

HOMELESSNESS



Percent of homeless identifying as Indigenous\*



Hwang (2001) reports that the homeless are at risk of dying prematurely and suffer from a wide range of health problems stemming from the physical and social conditions under which they live. They are admitted to hospital up to five times more than the general population. (\*See pg. 6 of the accompanying fact sheet for citations.)

HEALTH CARE

### GROWING URBANIZATION

The number of urban Indigenous households jumped by 83.8% between 1996 and 2006 (CMHC, 2011). Growing urbanization over this ten year period has translated into an increase of 218,310 to 401,145 urban dwellings, of which were occupied by:

204,845	Métis
156,235	Status Indians
78,005	Non-Status Indians
15,950	Inuit

2011 home ownership for Status First Nations people living off-reserve was **51%** compared to 70% of non-Indigenous Canadians (CMHC, 2016).

**11%** of urban Indigenous households were overcrowded in 2011 compared to 4% of non-Indigenous households (Statistics Canada 2015a).

DISPARITIES IN HOUSING

### INVESTMENTS NEEDED

Source: National Collaborating Centre on Aboriginal Health, "Housing as a Social Determinant of First Nations, Inuit and Métis Health," 14.

Likewise, for Indigenous people living in urban centres, issues with housing persist. A number of initiatives were pursued in the 1960s and 1970s, alongside postwar efforts to relocate Indigenous people to urban centres, as discussed in Chapter 4, but, by the late 1980s and due to cutbacks, many of these programs were abandoned. The result was a general devolution of



involvement whereby “a coterie of private, public, and third sector parties filled the policy void with a complex array of still-operational programs that remain burdensome to navigate.”<sup>81</sup> Low-income First Nations who live off-reserve can apply for Canada Mortgage and Housing Corporation (CMHC) programs available to all Canadians, as well as the host of other programs funded by the federal government, including public housing, non-profit housing, rent supplement programs, the Rural and Native Housing (RNH) program, the Urban Native Non-Profit Housing program, and cooperative housing. There are relatively few urban Aboriginal housing-specific programs. This means that little money is available to improve housing conditions that, in many cases, contribute to poor health.

For many witnesses, without necessary resources and supports available, there are few options to improve these situations.

In her testimony, Verna W. described how this traditional way of life practised by her parents when she was a child enabled them to feed, house, and keep healthy a large family, as well as other members of the community.

We were a very happy family of 10 kids, and my mom and dad. Mom would take us picking berries in the summer, and Dad would take us out fishing... When we finished picking berries, we would help Mom wash the berries and she would show us how to can them. My sister ... and I, because my other sisters were too young, but – we were too young, too, but we had to learn at a young age. When my dad went out fishing for food, we had to give to the Elders first, but my dad would always make sure everyone got enough for the winter.<sup>82</sup>

For Verna’s family, like many other Indigenous families, this way of maintaining family and community health through traditional practice was undermined when Verna and her brothers and sisters were taken to residential school.

In other situations, destruction to traditional environment and territories has also interrupted the ability of Indigenous people to meet their basic needs within their own communities. In addition, there are many First Nations communities that have been directly threatened by development and pollution. Members of Grassy Narrows First Nation, for instance, subjected to mercury poisoning as of the 1960s through the dumping of chemicals into the river system, are, today, six times more likely to suffer from a wide range of debilitating health issues than those not living in the community. Those diagnosed with mercury poisoning as a result of living in the community are:

- almost six times more likely to have a neuropsychological disorder;
- five times more likely to have stomach and intestinal problems;
- four times more likely to suffer from a range of problems, including hearing loss and joint pain in people over 30 years old; and
- three times more likely to have blindness or vision problems.<sup>83</sup>



## Urban Migration, Health, and Wellness

As many witnesses shared throughout the Truth-Gathering Process, many First Nations, Inuit, and Métis make the decision to migrate to urban centres in order to access better services, including health care. The most common reasons for First Nations adults to move away from their community are education (45.3%) and employment (44.8%). However, housing (16.9%), marital/domestic problems (3.6%), other medical needs (1.5%), and support for disability (0.9%) are also factors that may prompt migration to an urban centre.<sup>84</sup> In 2011, 62.4% of First Nations people lived off-reserve, and one quarter of Métis in Canada lived in Winnipeg, Edmonton, Vancouver, and Calgary, as well as significant populations in Saskatoon and in Toronto.<sup>85</sup> Although, according to Statistics Canada's 2011 National Household Survey, most Inuit live within Inuit Nunangat, just over one quarter lived outside, with 37.5% of those in large urban population centres including Edmonton, Montréal, Ottawa-Gatineau, Yellowknife, and St. John's.<sup>86</sup> Again, however, despite their attempts at making a better life in a larger city, Indigenous people living in urban centres experience greater health inequities than those living on-reserve.<sup>87</sup> As health researchers Ashley Goodman and others observe in their research focusing on the health care experiences of Indigenous people living in downtown Vancouver, "with comparatively higher rates of homelessness, suicide, tuberculosis, HIV/AIDS, and diabetes, and an increased risk of substance use, urban Aboriginal peoples are likely to experience immense vulnerability to health-related harms."<sup>88</sup>

The health-related concerns of Indigenous Peoples are often compounded by the way poverty, homelessness, and other related barriers interfere with their ability to access health care services. Despite the praise Canada often receives for its provision of universal health care, as Goodman et al. observe, research of the experiences of Indigenous Peoples' access to such care demonstrates that the Canadian health care system "fails in meeting the healthcare needs of many of its most vulnerable citizens."<sup>89</sup> Doris G. provided an example of this inequality when she described the challenges she faced in meeting her financial needs after she received a diagnosis of cervical cancer.

So now my son takes care of me, and I get \$600 from Alberta Works, but I feel it's just not enough. They also cut my health benefits because – because I became First Nations. I used to have both – like, my First Nations was my primary coverage, and then the Province was my secondary coverage, but they're refusing to [cover] that [if] you have both coverages, you can only have one coverage. So now I'm down to the one, where First Nations coverage will cover certain things where the Province doesn't cover certain things, so I would like to have them both back.<sup>90</sup>

The health care needs of Indigenous women, girls, and 2SLGBTQQIA people in relation to their experiences of violence are often extensive. Nonetheless, accessing health care supports to meet these needs is often complicated within settings where few health care resources exist, but also where few other supports, such as safe housing and adequate and healthy food, necessary to healing from such injuries are available.

As a result, and as the National Inquiry heard, the issue of poverty is inextricably linked to the issue of health and well-being, linked to the issue of violence and abuse, and linked to the violation of the foundational right to health and well-being.



## DEEPER DIVE

# Understanding Distinctive Experiences of Danger in the Lives of 2SLGBTQQIA People

Included in the Truth-Gathering Process are the experiences of Indigenous people who identify as Two-Spirit, transgender, lesbian, bisexual, queer, questioning, intersex, asexual, and/or gender diverse or non-binary (2SLGBTQQIA). In some cases, these truths were shared by the family members of missing or murdered Indigenous 2SLGBTQQIA people. In other cases, Indigenous people who are part of the 2SLGBTQQIA community shared their own experiences as survivors of violence. Each of these truths offered unique accounts of the way gender identity and expression and sexual orientation intersect with race, socio-economic standing, geography, and ability, and with other identity factors, to shape the individual experiences of Indigenous 2SLGBTQQIA people living within dominant systems that are racist, sexist, homophobic, and transphobic. Common to these truths, however, was the call to prioritize 2SLGBTQQIA communities and immediately address the way members of these communities and their loved ones have been impacted by colonial violence in ways that are both similar to, and distinct from, the experiences of Indigenous cis-gender women and girls.<sup>A</sup>

Many witnesses also argued that 2SLGBTQQIA victims are most often forgotten in discussions about violence. As Jasmine Redfern, the past assistant director of Social and Cultural Development with Nunavut Tunngavik, pointed out:

I think what immediately comes to mind when a lot of people talk about violence against Indigenous women is immediately thinking about men harming women, and that can leave out some of the lateral violence that happens between women, but also, specifically, can leave out the violence in LGBTQ couples, or on trans bodies, or trans individuals, or people who are outside of the gender binary.<sup>B</sup>

In this Deeper Dive, we look more closely at those truths that draw attention to violence in the lives of Indigenous 2SLGBTQQIA people. We share the stories of some of the missing or murdered 2SLGBTQQIA people whose experiences were shared during the Truth-Gathering Process, and we acknowledge those whose stories remain hidden and unknown. We also share some of the teachings that family members, Knowledge Keepers, experts, and advocates offered about the distinct challenges Indigenous people in 2SLGBTQQIA communities encounter in their efforts to meet their needs for culture, identity, health, security, and justice in the face of discrimination and violence. Enforced colonial gender binaries, homophobia, and transphobia are symptoms – and effects – of colonization and assimilation, and occur in these areas both outside of Indigenous communities as well as within. The testimonies heard before the National Inquiry reinforce the point that, when Indigenous communities are homophobic or transphobic, they are reinforcing colonial actions. We consider how, despite these challenges, many Indigenous 2SLGBTQQIA people are resisting the marginalized positions the colonial state would have them occupy through reclaiming their traditional roles in community and culture, and taking up positions as effective advocates working to end colonial violence and its distinct impacts on gender and sexual minorities.

## Recognizing What Was, and What Is

The term “Two-Spirit” is a relatively new one, although gender- and sexually diverse people have existed in different communities since time immemorial. Expert Witness Albert McLeod explained how questioning these identities, historically, could be seen as a questioning of life itself.



And so, there was an understanding that animals had a process of being created through nature, and that plants as well had that process, and that humans was specific to humans, but it was understood – in the Ojibwe belief system, it was understood that each newborn child had a purpose, a role and a destiny, and we're known to possess a divine gift. The expression of gender, sex, and sexual orientation were pre-ordained by a life force in the spiritual realm. An important ethic that prevented homophobia and transphobia was that of non-interference. It was bad form to question another person's destiny or divine gifts as it implies you question life itself. Spirit naming is an important ritual that connects humans to the spirit world. The name Two-Spirit was introduced through ceremony at a gathering in 1990 in Manitoba. The name essentially affirms that LGBTQIA people are spiritual beings.<sup>C</sup>

As McLeod also explained, through Indian residential schools and other practices, the Canadian state enacted a policy that forcibly altered Indigenous gender norms and aimed to erase and exclude 2SLGBTQQIA identities and cultural roles – a policy of erasure and exclusion that continues today.

The imposition of colonial gender norms on Indigenous Peoples around the world has resulted in the rise of ultra-male and ultra-female or type of roles in colonial states. Social systems like health, justice, education, and politics extol these binary gender identities as ideal while discounting or erasing Indigenous values of inclusion and non-interference.<sup>D</sup>

## Leaving Home: Encounters with Lateral Homophobic and Transphobic Violence

The extent to which colonial gender systems have disrupted traditional Indigenous gender and sexual identities and cultural roles is most evident for some people in the way the sexist, homophobic, transphobic, and patriarchal beliefs upon which colonial gender systems rest have been internalized and taken up within Indigenous communities. For many Indigenous 2SLGBTQQIA people, the

pervasiveness of these beliefs has meant that they are often forced to leave their traditional territories and communities – sometimes because of the threat of violence directed toward them due to their gender identity or sexual orientation, and sometimes in search of acceptance and belonging that is unavailable to them in their community.

As Albert McLeod shared with the National Inquiry, the intersectional oppression faced by Two-Spirit Indigenous people can alienate them from both Indigenous and 2SLGBTQQIA communities, particularly in times of transition.

Well, in 1986 ... in our sort of little collective in Winnipeg at the time of gay and lesbian Indigenous People, we were kind of segregated from the broader LGBT community, and there was really no central place. We had a Friendship Centre in Winnipeg, but we really didn't feel aligned with the Indigenous organizations at the time, and because we had two youth suicides within two months, it really galvanized us to think about how can we support these youth so that they're dealing with whatever they're dealing [with] coming to the city, which is really not a friendly place to Indigenous people.... So, if you're First Nations, Inuit, or a Métis youth migrating to the city, you would be experiencing not only racism, but homophobia and transphobia.<sup>E</sup>

Anni P., a Two-Spirit woman who left her community for Edmonton at the age of 18, describes the difficult and mixed emotions that she grappled with upon leaving.

From the age of 18, after my father died, I left Saskatoon and I moved to Edmonton because – you know, finding my Two-Spiritness, I needed to find more Two-Spirited people and I knew there were some in Edmonton. So, I went to Edmonton to find another part of my tribe. You know, I was just searching for pieces of me and – but during that time – this is a sad part, you know? I go back, and I think about it and – I was 18, I didn't start my healing journey until I was 25.... So, when I went to Edmonton, the sad part of this is, in order to heal, I had to leave my Indigenous family, right? It was too hard.<sup>F</sup>



Albert McLeod said this about his decision to leave his home community:

I left The Pas when I was 19. I had come out as a gay male in high school when I was about 17. So, I was generally seeking a safe community. The Pas itself was a very homophobic, transphobic environment as well as a racist environment, and people really didn't have the skills or knowledge to deal with gender identity or sexual orientation.<sup>6</sup>

Viola Thomas spoke about how the long-term pain and isolation of being excluded from one's family and community make it imperative that homophobia and transphobia within Indigenous communities is addressed.

We also really need to address the homophobia within Indigenous communities. And I've witnessed so many of my dear friends who are Two-Spirited in the Downtown Eastside, you know, how they've shared – they would never ever – if they ever died, they would always tell me, "Don't ever bury me back home in my community because of how I've been treated because of who I am."<sup>4</sup>

Like Viola, National Inquiry Grandmother Blu emphasized the importance of welcoming Two-Spirit people back to their communities.

We have driven them out of our communities because we've accepted that gender binary, and our youth are suffering because of that, because our Two-Spirited people are not allowed to be who they are, they're not accepted in ceremonies, they're not accepted outside of ceremonies, they're not accepted in their own reserves, and they're not accepted in the city, from those Elders in the city, because they've been influenced through Christianity and through the colonial effects, and it's time we bring them back into the circle because they bring the balance, those Two-Spirited youth, and I'll go anywhere – I'll go anywhere to help them because I was fortunate enough to be who I am.<sup>1</sup>

## Barriers to Finding Community

For those who leave their community, moving to an urban centre can offer new opportunities and lead to a better sense of connection and community. In part, as Albert McLeod explained, this is because 2SLGBTQQIA communities often work to support those who may be isolated.

And so I think – so what we've done in the Two-Spirit community across Canada, we've created, sort of, chosen families where we have people from different age groups, generations, who kind of act as surrogate parents, grandparents, siblings. As I mentioned this morning, you know, I carry many names, you know, Grannie, Grannie Albert is one of them, Momma. So in that sense, I act as the surrogate of the absent family member.

Just because of geographic isolation, or it's difficult to go home, or if you are shunned from being in your home community, or it's risky to go back to your home community, that you know, the parents still love them but can't, because of the segregation or the distance, can't provide that safety. We as family members, surrogate family members play that role, so we informally adopt our peers into our subcultures in the rural, or in the urban context. There's a lot of Mommas around.<sup>2</sup>

For many Indigenous 2SLGBTQQIA people, however, the necessity of moving to find community, safety, and belonging is often fraught with many of the same challenges they faced at home, as well as many new ones. Poverty, homelessness, and barriers to accessing education, training, employment, child care, medical and psychological services, and transportation are all factors that many Indigenous people face in their efforts to find a safe community.<sup>6</sup> For Indigenous 2SLGBTQQIA people, these challenges can be compounded by discrimination related to gender and sexual identities.



For instance, in her testimony, Jamie Lee Hamilton talked about how she is forced to put up with racist and derogatory comments about her identity as a trans woman from other tenants in her building in order to live in affordable housing: “Right now, I have affordable housing downtown, but even in my building I encounter transphobia or phobia. I’m misgendered. You know, people trying to, you know, be nasty to me.”<sup>L</sup>

Others pointed out that the lack of access to gender-affirming health care, mental health counselling, and anti-violence services further marginalizes Indigenous 2SLGBTQQIA people and makes it difficult for them to get the support they need. As Jasmine Redfern explained:

For a lot of LGBTQ2S individuals, we can experience elevated rates of sexualized violence that can necessitate higher interactions with institutions. So trying to get health services, trying to get justice services to help deal with those interactions and – potentially exposing people to additional harm from those institutions themselves.<sup>M</sup>

This translates into many people not getting the help that they need. For example, in a research project that examined the experiences of Indigenous people who identify as Two-Spirit, lesbian, gay, bisexual, transgender, and/or queer, living in Winnipeg and Vancouver, researchers J. Ristock, A. Zoccole, L. Passante and J. Potskin found that the majority of those interviewed did not seek out anti-violence services when they experienced violence because of a lack of culturally specific resources and service providers equipped to acknowledge their gender, sexual, and cultural identities.<sup>N</sup>

Jasmine Redfern noted that these challenges impact all 2SLGBTQQIA people, but can be compounded in certain regions, or among certain groups. Redfern offered the following example of what these challenges might look like.

So I’ll use the example of here in Iqaluit we have a domestic violence shelter, and that domestic violence shelter is a space for women who are fleeing violence but doesn’t necessarily have the policies in place to deal with people who are fleeing a violent situation in which a woman is the

perpetrator of violence, or to deal with relationships amongst clients who are already staying there.<sup>O</sup>

In addition, T.J. Lightfoot, a Mi’kmaq, Two-Spirit person with front-line service delivery and research experience in mental health, sexual health, addictions, and crisis intervention, also offered the following observation about the challenges 2SLGBTQQIA people face in navigating health care and other systems.

Often LGBTQ2 people are dealing with complex intergenerational traumas that can be compounded within those systems. And so that we need to be cognizant of while racism plays a part in people’s experiences while they’re accessing help and health services, or even accessing justice, that the onus is double that on Indigenous people. And often we have – we find ourselves having to either come out multiple times, explain our realities, or make the decision that today I am going to shut down who I am as a person so that I can access the services I need in a safe way.<sup>P</sup>

In their<sup>Q</sup> testimony, Fallon Andy described how lack of access to appropriate health care and other supports creates challenges for Indigenous 2SLGBTQQIA youth, particularly those living in remote or northern communities.

A lot of them [youth living in northern communities] really do not have access to appropriate health care. So, for Two-Spirit and trans kids ... they wouldn’t have access to hormone restorative therapy or ... hits for – if they experience sexual violence – because Two-Spirit and trans kids are at an elevated risk for experiencing that type of violence.... How do you deal with that after, right, because of their gender identity or their orientation?

And then they also just wouldn’t have access to ... regular goods that Two-Spirit and trans kids need, like some Two-Spirit kids need binders or, like, other types of, like, clothing requirements. Yes. And, I think you would be able to find those on the Internet. But, in terms of access immediately, northern communities would not have that.<sup>R</sup>



Similarly, Lightfoot explained: “Often Inuit that are LGBTQ2 have to fight really hard in order to be visible in their everyday life. And so to access those services and being made invisible again is another form of violence on these people.”<sup>5</sup>

Nonetheless, when they move to the city in hopes of finding a community of belonging or a better life, 2SLGBTQQIA youth often experience significant economic instability and struggle to find shelter, making them more likely than cis-gender Indigenous youth to become street-involved.<sup>7</sup> In the 2014 British Columbia *Homeless and Street-Involved Youth Survey*, researchers found that “approximately one in three Indigenous 2SLGBTQQIA youth that were homeless or street involved had been sexually exploited as compared to 15% of heterosexual cisgender Indigenous youth.”<sup>8</sup>

In each of these examples, poverty and other forms of socio-economic marginalization occurring within racist, sexist, homophobic, and transphobic systems puts all Indigenous 2SLGBTQQIA people at risk for violence. In addition, those seeking help, particularly in health support, may face the same challenges they sought to escape in their own communities. As Jasmine Redfern explained, the reality of needing to “come out” to the service provider and sometimes having to educate that person can also be a particular burden on 2SLGBTQQIA people.

Sometimes when you’re going to services, especially in a crisis state, that can make that much more difficult for you, is to have to shift out of your immediate needs to be able to provide for the educational needs of the person who’s providing you with services. And this happens not only once, but every single time ... and it can be emotionally, spiritually, physically exhausting for the people that have to go through this.<sup>9</sup>

And, she added, the consequences of this type of challenge can be striking, resulting in what Redfern called “system burnout, where accessing systems, the burden becomes so high that the perceived benefit of accessing those services can seem to be outweighed by that burden ... some people can choose to completely disengage.”<sup>10</sup>

In addition, the realities of poverty and marginalization within racist, sexist, and homophobic or transphobic systems are also compounded by the reality that there are limited options for seeking protection from that violence.

In her testimony in Vancouver, for example, Jamie L. H. described an encounter with the police while she was being held on charges that were later dropped. Her description of the treatment she received while being booked demonstrates the way that police may use violent, transphobic, and discriminatory tactics to reinforce rather than challenge those systems that position her as at risk for violence.<sup>11</sup>

The intentional act of misgendering is a form of severe psychological violence and emotional abuse. As one of her first encounters with the police as a young Indigenous transwoman, the deliberate disregard – even ignorance – of her physical and emotional safety sends a clear message that Indigenous 2SLGBTQQIA people involved in the sex industry cannot assume that their rights to safety, justice, or gender identity and expression will be protected once they are in police custody. Moreover, it indicates that those rights may be further violated through additional acts of violence, threat, and degradation.

In her testimony, Alaya M. shared a similar story about her encounter with the police after she, too, was arrested under charges that were later dropped.

So, in 2007, I was, you know, I – again, this is one of my turning points in 2007. I came in confrontation with the Winnipeg Police Service ... who took me to District 3 here in Manitoba, and interrogated me and taunted me for my gender, as being a trans Indigenous woman. They were calling me brutal names and really rude names for people with an authority figure. They really, you know, took their power and used it to their ability to degrade someone who was very marginalized. But, one thing I told them, I looked at them when the whole district was standing there making fun of me, insisting that I had two ounces of powdered coke, that they would never get away with it, that they would never get away with it.<sup>12</sup>



The common experience of harassment and intentional misgendering of both of these transwomen's gender identities isn't an act of overlooking, or of ignoring – but of targeting. Many of those who shared about these difficult experiences have gone on to become strong advocates for Indigenous 2SLGBTQIA sex workers and to work collaboratively with police officers to build relationships that challenge these discriminatory attitudes toward sex workers. This fact offers a powerful teaching about the strength Indigenous trans and Two-Spirit women hold to lead change, even when they are targeted within systems that seek to erase that strength.

## Making Violence Visible

Researchers, advocates, survivors, and family members of those who are missing and murdered argue that Indigenous 2SLGBTQIA people whose lives have been impacted or taken by violence are often overlooked in public discourse, grassroots activism, and other broader discussions of missing and murdered Indigenous women and girls.<sup>z</sup> This erasure was evident in the scope initially set out for the National Inquiry to focus only on women and girls – parameters that, in echoing the federal government's terminology and understanding of what constitutes an Indigenous woman or girl, maintain a colonial binary view of gender.<sup>AA</sup> Fallon Andy noted the importance of expanding the mandate of the Inquiry to include a more inclusive understanding of gender identity.

I do think that the Inquiry should expand its mandate to include transwomen and gender-nonconforming people, just because I think that it is inherently discriminatory that people are excluded, even though they identify as women, are not included here. And I think that that is a systemic underinvestment of time and labour and funding and could ... signal a larger shift in Canada to say we do need these people in our communities because they have a lot of value and what they bring to us is specific and unique and we need this in our society.<sup>BB</sup>

For these reasons, the National Inquiry has worked to include the voices of 2SLGBTQIA advocates, survivors, and family members of missing and

murdered 2SLGBTQIA people as a step toward acknowledging the ways colonial violence impacts and violates the rights of those within these communities. At the same time, it heeds the advice given by Jasmine Redfern about the importance of remembering those whose stories have not been heard, and, as such, there remains much work to be done. Redfern commented, "Whenever we're in these positions of power to be able to have some control over the narrative [it is important to] always look around and take note of who's there, but most importantly, take note of who's not here."<sup>CC</sup>

In part, researchers suggest, one of the barriers to recognizing and acknowledging violence in the lives of 2SLGBTQIA people is a lack of information related to the nature and scope of that violence. For instance, researchers point out that while national data is collected on violence against Indigenous women and men, the same is not captured for those identifying as another gender.<sup>DD</sup> Accurate data about violence in the lives of Indigenous Peoples in general is difficult to find, due to data-collection methods that fail to disaggregate information by gender, sex, race, or Indigenous identity.<sup>EE</sup> Moreover, most statistical information related to violence is collected when a crime is reported to police; for many Indigenous Peoples, a deep mistrust in the criminal justice system that has historically harmed and continues to harm rather than help Indigenous Peoples means that they are unlikely to report incidents of violence.<sup>FF</sup> All of these factors impact what is known about the rate and nature of violence against Indigenous 2SLGBTQIA people.

For many researchers, advocates, and grassroots organizations working to support the Indigenous 2SLGBTQIA communities, taking steps to refine data-collection methods in order to accurately collect information about gender identity and expression is important to making visible gender-based violence specifically as it relates to the experiences of trans, Two-Spirit, and gender-nonconforming people. In their testimony, Shaun L., a Kaska Dena transman living in the Yukon, demonstrated that making these sorts of changes is possible. He and other advocates are in the process of introducing territorial legislation to change the *Vital Statistics Act* so that people have the option of identifying themselves according to their preferred gender identity.<sup>GG</sup>



Despite the lack of national statistical data, smaller-scale studies, needs assessments, and research carried out by grassroots organizations that focus broadly on the experiences and needs of Indigenous 2SLGBTQQIA people consistently identify homophobic, transphobic, and racist violence as a significant and common concern and reality. For example, in *An Introduction to the Health of Two-Spirit People*, one of the few studies to look specifically at the relationship between health and violence among Canadian Indigenous people who identify as Two-Spirit, lesbian, gay, bisexual transgender, and/or queer, researchers found that experiences of interpersonal or domestic violence are common and often occur in tandem with other forms of violence and/or as connected to the vulnerability of having moved from one community to another.<sup>HH</sup> While Indigenous women experience more frequent and more severe physical and sexual violence than non-Indigenous women,<sup>I</sup> Two-Spirit women are often additionally targeted because of gender identity and/or sexual orientation, creating what one researcher describes as “triple jeopardy” for various forms of interpersonal and institutional violence.<sup>JJ</sup>

Researchers focusing on the experiences of 2SLGBTQQIA people also point out that many confront acts of violence that target gender identity and expression. For instance, in a study of transgender people living in Manitoba, researchers found that transgender and gender-nonconforming people are more likely to experience violence in everyday situations such as accessing public washrooms, change rooms, or transportation, or filling out forms that require one to identify one’s sex/gender.<sup>KK</sup> T.J. Lightfoot offered an example of what this looks like in daily life.

So, an intake process for clinics or doctors’ appointments or hospital visits, often, the individual is asked right when they walk in for some basic information, for their name, their date of birth, and their gender, and that the identity of trans, Two-Spirit or gender-fluid individuals often don’t fit into the gender boxes that are listed on that intake form. And, the lack of space for those identities can result in individuals feeling erased or that they are not being treated with dignity or respect.<sup>LL</sup>

The presence of everyday violence targeting Two-Spirit and trans people was also identified in the Ristock, Zoccole, Passante and Potskin study, where it was found that, for them, simply walking down the streets of their neighbourhood often involves encounters with racist, homophobic, or transphobic violence.<sup>MM</sup> Fallon Andy offered a description of what some of these other “everyday” acts of violence look like in the daily lives of Indigenous trans and Two-Spirit youth.

I would even say some kids get, like, different kinds of traumas because of the discrimination they face, especially in relation to, like, hate crimes. Like, people will get jumped, people get punched, you know, they get sworn at. These are, like, some of the real types of violence that people experience. You know, they get things thrown at them from cars just for being gay, or just for being trans or just for being nonconforming, and I think that that ... can result in real trauma and real pain, poor self-esteem.<sup>NN</sup>

For 2SLGBTQQIA survivors who shared their personal stories, experiences of violence that began in childhood and extended throughout adolescence and into adulthood were common. In her testimony, Commissioner Audette’s Grandmother Bernie talked about the physical and sexual abuse she endured as a child, both within her family and while in foster care. As a young girl, Bernie was also sold to a trafficker working out of a hotel. As a means of survival and to escape the foster care system within which she had been repeatedly abused, Bernie explained, she entered into a marriage with a man, even though, as she said, “I – always knew in my life that ... I was very different.” Nonetheless, Bernie said, she believed marriage might offer some security, although it meant suppressing her identity as a Two-Spirit woman: “I just got tired of being a target, tired of running.” This sacrifice, however, was met only with further violence when her then-husband became, as she described, “the most violent man in my life.”<sup>OO</sup>

Like Bernie, other survivors and family members shared various stories of often severe physical and sexual childhood abuse, sexual exploitation, interpersonal violence, and sexual assault. In addition to these experiences of violence, however, witnesses



also described how the violence they encountered within their families, communities, and institutions that targeted their identity as Two-Spirit, trans, or lesbian, as in the following examples, further compromised their safety and well-being.

In speaking about her deceased daughter Deanna, a Two-Spirit First Nations woman, Ruth M. explained how Deanna was often a target for violence, beginning at age 13 when she was “brutally raped.”

It really had an effect on her life, and I don’t know if that had anything to do with her being Two-Spirit. She never wanted to be with a man. She always wanted to be with a woman. It seemed to me that she had a – oh, I don’t know – being an Indigenous woman, a girl, young girl, she was very dark in colour. And she had that already going against her because there was so much racism out there. And now she is a Two-Spirit woman. And that was another thing for them to beat her up for. She would be just walking down the street, and people would sucker punch her.<sup>PP</sup>

In her truth, Anni P., a lesbian First Nations woman, talked about how violence came as a threat from family members who did not accept her sexual orientation as lesbian. Fear for her own safety meant that she had to limit her connection to family, something she spoke about with sadness.

So, I severed ties with [my] family. I had to. There was too much pain there. And, my ... family, my brothers were trying to, you know, make connection, but I was afraid of them. I was afraid of them because I had no trust for Indigenous people. My brothers, if you’re listening to me, I’m sorry. I’m sorry to say this. I don’t want to hurt you with that, but I was afraid of you. So, you would come around and you would try to get to know me, but I was afraid of you, I had to keep you at arm’s-length.<sup>OQ</sup>

Jamie L. H., a transwoman and former sex worker, talked about how “violence began at an early age” when, as a 16- or 17-year-old, she was sexually assaulted by a police officer.

I was walking home late one night on Granville Street and a police squad car drove up and asked me to get in the car. There was a dog in the back;

and it, the officer asked for my ID, which I produced. And he insisted that he wanted to give me a ride home. I didn’t want to, because I was only two blocks away from home, living at Hemlock and Seymour.

But he insisted, and I didn’t know what to do, I’m very young. And the next thing I know, I’m in Stanley Park in this squad car, and of course, was forced to perform oral sex on the officer. It was a very terrifying time for me. I didn’t know whether I was going to survive. I thought, you know, he could kill me; like, I knew officers carried guns. And it was very, very difficult for me that night.

And I remember, something in his mind snapped and he thought that there was a police car coming up behind. And he said, “I’m going to quickly drive away, you’re going to get out of the car. I’m going to pretend that I’m talking to you. And if they stop, you know, that you’re just providing me information.” And so, he stopped. This was way over in the middle of the park, deep into the park; and it’s about three in the morning. And I got out and he drove away, along with my ID, which I never had again for a very long time.

But it was very terrifying, because not only had I been through a traumatic experience of this, what I consider a sexual assault, I also had to find my way out of the park, and I was pretty frightened; you know, that late, and young.<sup>RR</sup>

In her testimony, Jamie pointed at another type of violence – this time directed not specifically at 2SLGBTQQIA individuals, but, rather, at organizations that work to support them. She described how, following her efforts to create a much needed drop-in centre for Indigenous trans and Two-Spirit sex workers in Vancouver’s Downtown Eastside, her organization became targeted by police for not being properly zoned and was forced to relocate.<sup>SS</sup>

## Remembering Missing and Murdered 2SLGBTQQIA People

In addition to speaking about their own experiences of violence, survivors also spoke about Indigenous 2SLGBTQQIA people who are missing or who have lost their lives to violence. Like women and girls,



Indigenous trans, Two-Spirit, and gender-nonconforming people are also victims of the most severe forms of violence; rarely, however, are their stories shared or their lives acknowledged.

In speaking of her own experiences of violence as a young Two-Spirit woman, Alaya M. paid tribute to her best friend, Divas Boulanger. Divas was a transwoman originally from Berens River First Nation who moved to Winnipeg to pursue an education.<sup>TT</sup> In 2004, her body was discovered outside of a Portage la Prairie rest stop. Divas had died of blunt force trauma at the hands of Theodore Herntier, who was charged and is serving a life sentence. Alaya shared the following words about the impact Divas's death had on her.

She went missing September 29, 2004. November the 3rd or 4th that year, her body was found eight kilometres outside of Portage la Prairie at a rest stop. Her name was Divas Boulanger. She came from a northern community, Berens River First Nation. She was a transwoman. I lost it, and I lost my best friend. It was so traumatizing. It was so traumatizing that I was asking every perpetrator that would pick me up if they were going to murder me, to murder me now, because – excuse me. Because society had so much and [would] rather judge us than understand us. You know, we couldn't go get proper supports from the general public ... the way we can today.<sup>UU</sup>

In her testimony, Alaya also asked for other missing and murdered Indigenous trans and Two-Spirit women to be remembered, including those whose names and stories remain unknown. In particular, Alaya drew attention to the death of a Two-Spirit individual who was tied to a tree and murdered in her community.<sup>VV</sup>

In his testimony, Albert McLeod shone a light on the 2008 murder of Rose Osborne, a transwoman who was murdered in Winnipeg. That Rose's sister, Helen Betty Osborne, was also murdered almost 40 years earlier in 1971 shows, as Albert McLeod observed, "how pervasive even after 30 years; her sister was murdered on racist ideals, by racist murders, and her herself [Rose] as a transwoman was murdered decades later. And [it shows] how pervasive that violence is in our society."<sup>WW</sup>

In addition to these people, family members, friends, and families of the heart identified other missing or murdered Indigenous 2SLGBTQQIA people. Muriel D. shared the story of her sister Judy D., a First Nations woman and lesbian who has been missing for over a decade. Muriel observed:

I think that is why my sister is missing because she didn't know how to handle life, how to talk to anybody or how to be open or to, really – I always felt like an outsider. And I always felt like to be – I had to make myself invisible, because I never felt good about myself. And I think my sister, I think was the same. And I – she was lesbian, and I think that is another thing too that. Traditionally in our family that is really looked down on. And she was not accepted by my brothers for that.<sup>XX</sup>

Leona W. drew attention to the story of her niece Brandy, a trans First Nations woman who is also missing. Leona recalled the following memory of Brandy as "kind and caring and funny ... and that she, too, was taken and that her life mattered, too."<sup>YY</sup>

In each of these stories, family members talked about how transphobia, homophobia, sexism, and racism intersected in the lives of their loved ones in ways that created serious challenges in the areas of culture, health, security, and justice. Many were living in poverty at the time of their disappearance or death; many were unable to find safe and accessible housing and were instead living on the street; and many were unable to access health care, mental health support, or gender-affirming services to address the trauma they were carrying.

While these truths begin to give voice to the stories of missing and murdered 2SLGBTQQIA people, they are only the beginning. As witnesses described, many of the pieces of these stories are unknown; others have been completely forgotten. Substantive efforts to treat each life with value is imperative to ending violence and restoring the place of Two-Spirit people in their communities. In their testimony, Fallon Andy pointed to an Indigenous-led and community-based website and database called "It Starts With Us," which is working to build a record to honour the missing and murdered, including 2SLGBTQQIA people, as one intervention that aims to make visible those still missing or those who have been murdered.<sup>ZZ</sup> The list devoted to "2-Spirit & Trans" includes Colten Pratt as



a missing person, and Edward Denecheze, Divas Boulanger, Rose (Kelvin) Osborne, Charlene Two Hearts, Derek Boubard, and (Edgar) Gordon Badger as murdered. A community-led database, the project is seeking stable funding and support to continue and expand its work.

## Resilience and Change

In sharing their truths, Indigenous trans and Two-Spirit people demonstrated that, despite the systemic violence that seeks to erase their experiences and to make invisible the violence they confront, many are working to resist colonial narratives, policies, and structures that deny the identities and cultures of 2SLGBTQQIA communities. As Albert McLeod observed, “Despite that 400 years [of colonization], Two-Spirit people are now at a place of resurgence within Canadian society generally, but also within the Indigenous populations, cultures, as well as families and communities.”<sup>AAA</sup>

Witnesses provided a number of examples of that resurgence when speaking of individual and collective efforts to restore culture, health, safety, and justice to 2SLGBTQQIA communities.

As Jeffrey McNeil-Seymour, artist and associate professor at Ryerson University, explained, he created an art piece to complicate artist Jaime Black’s “REDress Project,” noting that “not all bodies wear red dresses.”<sup>BBB</sup> As he said, the piece was intended to “speak to the invisibilization of Two-Spirit presence and, you know, gatekeeping.” He described the show, which also included work from celebrated artists Kent Monkman, Dayna Danger, and Preston Buffalo, as amazing and impactful.<sup>CCC</sup>

Many of the 2SLGBTQQIA people who spoke with the National Inquiry occupy influential roles in creating change through organizations that work to protect the rights of gender and sexual minorities. For McLeod, evidence of some of the positive changes that have come about can be found in growing acceptance of Two-Spirit people in traditional ceremonies, such as Pow-Wows and Sun Dances, where they were, in the past, excluded.<sup>DDD</sup> Fallon Andy, likewise, described innovative ways social media is being used to connect Indigenous trans and

Two-Spirit youth to community and traditional teachings.

So, instead of – like for Two-Spirit and trans youth, sometimes they may not have access to a lot of ceremony or a lot of Elders like I mentioned earlier, or a lot of aunties who are safe who will respect and love their identities. A way to give values to those youth is using memes and using social media, and Instagram, and Twitter and stuff to get people to just understand that they’re not alone in fighting these anti-violence movements or within the fight of the anti-violence movements, and that they’re not alone when they believe something.<sup>EEE</sup>

In other instances, witnesses like Shaun L. demonstrated how individual acts of bravery and honesty are creating changes within remote communities to be more accepting of those who identify as Two-Spirit or trans. Shaun described what happened when an article about his experience of transitioning from a person assigned female at birth to a transman was published in the *Yukon News*.

I had already come out as trans to my family, and I had family friends who encouraged me to go to the media because there's probably other people in the Yukon who were trans who are struggling. So they did a newspaper article on me and it's called “Becoming a Man” in the *Yukon News*. And so this was published. It's a nice picture of me and a good story. It was done very well. And I go back home and Ross River is a bit of a tough town sometimes. You know, if you're a bit different, you might not be well accepted, and I was a little bit concerned, you know. And I noticed that somebody had taken it out of the newspaper and posted it on the – on the community bulletin board. There was no marks on it. It was just up there. And I thought ... if the rough guys in town see this, they might just kick my ass, you know, heterophobia, homophobia, that type of stuff.

And I walk out the door and there was about five or six of the tough guys in town are in front of the judge every two months and, you know, drinking lots and stuff and I'm going, “I can't run fast enough and I didn't bring the truck,” and they go,



“Shaun, Shaun, come over here. Come over here.” I’m, like – so I sort of slide over towards them, “Hey, guys.” They start clapping me on the back, “Right on, man. Right on, being your true self.” They – “We respect you for that.” One of the guys, a little guy but he’s tough, he looks at me and goes, “Anybody give you shit, you come tell us, we’ll kick their ass for you.” Okay. This is – this is the kind of respect you can get when people acknowledge your authentic self and it feels good, you know.<sup>FFF</sup>

## Healing through Knowledge and Relationships

For those who shared their truths, finding ways to celebrate and honour the diverse experiences of Indigenous 2SLGBTQQIA people is important to culturally safe healing in communities and within traditions. Viola Thomas spoke about the importance of restoring traditional Indigenous ways of understanding gender.

I think, it’s critical that the LGBTQ community have appreciation of our connectedness to our people, to the land that we’re born from and all of my traditions and ceremonies and songs and dances, it speaks to our identity from when you’re born as a baby to when you go to Mother Earth. There is no he/she in our language – in Tk’emlúps te language, so, therefore, there is no, in my opinion, gender distinctions within our ceremonies, our songs and our dances. We celebrate and honour our diversities through our traditions. And, I think, that’s really, really, important.<sup>GGG</sup>

Witness Shaun L. spoke about how being accepted as a transman within his community has allowed him

to reconnect with his traditional culture and to draw on his distinct experiences that have brought him to where he is today. His words offer a vision of healing that is possible when relationships allow for people to embrace and express their full identities.

And those are my unique perspectives in growing up, you know, being seen as this colourful white child because I grew up in a middle-class white home, and also as a girl, and then transitioning and going back home and living in my traditional territories and learning how to hunt and learning how to keep a wood stove going all winter when it’s minus 40 and building my own house, you know, those types of things. And a lot of people have come to me and said, “Since you changed, you’ve changed.” And what they’re trying to say is since I have transitioned I’m at peace with myself, of who I am. There is no struggle there anymore. I am a Kaska Dena man and that’s how it is.<sup>HHH</sup>

In addition, and as T.J. Lightfoot pointed out, the solutions aren’t about money: “We don’t have ... a silver bullet to say ... if you put money in this pot, this is going to fix it for us; that’s not the reality. But having people included and visible, and making safe spaces everywhere so that people can just be who they are – that’s very important.”<sup>III</sup> Similarly, Jeffrey McNeil-Seymour noted how important it is to bring back those “accepted spaces, forcing interruptions,” and confronting “embedded heteropatriarchy in our governance structures and ceremonial spaces.”<sup>JJJ</sup> Ultimately, expressions like Shaun’s, Jasmine’s, and Jeffrey’s reinforce the ideas the National Inquiry heard from many witnesses: acceptance, protection, and love can work to ensure security for 2SLGBTQQIA people, and must come from families, from communities, and from all levels of government.



## Findings:

- 2SLGBTQQIA individuals have been impacted by colonial violence in ways that are both similar to, and distinct from, cis-gender women and girls.
- 2SLGBTQQIA individuals face distinct challenges in their efforts to meet their needs for culture, identity, health, security, and justice in the face of discrimination and violence, both within and outside of Indigenous communities (that is, transphobia and homophobia within Indigenous and non-Indigenous communities, as well as racism outside of Indigenous communities, including racism from mainstream 2SLGBTQQIA organizations and services), which can alienate 2SLGBTQQIA people from both Indigenous and 2SLGBTQQIA communities.
- Many traditional Indigenous cultures held an honourable place for 2SLGBTQQIA persons. This honourable place was destroyed by cis-normative and heteronormative colonial policies that aimed to erase and exclude 2SLGBTQQIA identities and cultural roles. As a result, there is a lack of awareness of the distinct roles of 2SLGBTQQIA people in Indigenous culture and ceremony.
- Colonization also led to tensions within First Nations, Inuit, and Métis communities regarding differing perspectives on gender identity and sexual orientation, and the associated barriers to accessing culture and ceremony, as a result of colonization.
- While some 2SLGBTQQIA individuals are embraced and supported by their communities, which allows them to participate in ceremonies in a way that aligns with their gender identity, others face discrimination, marginalization, and harassment. Some are permitted to take on only roles in ceremonies that correspond with their biological sex, instead of with their gender identity.
- Despite challenges, many 2SLGBTQQIA people are resisting and reclaiming their traditional roles in community and culture, and taking up positions as effective advocates working to end colonial violence.
- Even though many 2SLGBTQQIA individuals are reclaiming their traditional roles, they are often forced to leave their traditional territories and communities, sometimes because of the threat of violence directed toward them due to their gender identity or sexual orientation. For many 2SLGBTQQIA people, moving to find community, safety, and belonging is often fraught with many of the same challenges they faced at home, as well as many new ones.
- For example, 2SLGBTQQIA individuals face barriers and discrimination in accessing a broad range of services and in accessing services that are appropriate to their needs, including housing (emergency shelter and safe long-term housing); health, mental health, and addictions treatment; child welfare; Elder care; policing; corrections; criminal justice; and victim and other support services.
- In particular, there is a lack of appropriate emergency housing and shelters and safe housing to meet the needs of 2SLGBTQQIA individuals in all communities. Therefore, 2SLGBTQQIA people are forced to live in unsafe conditions.
- There is also a lack of access to appropriate health care that specifically meets the needs of 2SLGBTQQIA individuals, particularly in remote and northern regions.
- 2SLGBTQQIA individuals experience marginalization that is evidenced by poverty, limited education, and limited employment opportunities. This marginalization forces some 2SLGBTQQIA individuals into the sex industry. As a result, 2SLGBTQQIA individuals must contend with further violence. Racist, homophobic, and transphobic attitudes of police make it difficult for 2SLGBTQQIA individuals to seek and receive police protection.
- Indigenous 2SLGBTQQIA youth face particular barriers and discrimination with child welfare systems.
- Indigenous 2SLGBTQQIA people, and trans people in particular, face barriers and discrimination in federal and provincial correctional systems.
- Current data collection methods and practices lead to inaccurate or incomplete data on violence against 2SLGBTQQIA people, contributing to the erasure or invisibility of 2SLGBTQQIA individuals and their experiences.



- A The term “cis-gender” refers to a person whose sense of personal identity and gender corresponds with their birth sex.
- B Jasmine Redfern (Inuit), Mixed Parts 2 & 3, Public Volume 3, Iqaluit, NU, p. 143.
- C Albert McLeod (Nisichawayasihk Cree Nation/Métis community of Norway House), Part 3, Public Volume 8, Toronto, ON, pp. 54–55.
- D Albert McLeod (Nisichawayasihk Cree Nation/Métis community of Norway House), Part 3, Public Volume 8, Toronto, ON, p. 64.
- E Albert McLeod (Nisichawayasihk Cree Nation/Métis community of Norway House), Part 3, Public Volume 8, Toronto, ON, pp. 47–48.
- F Anni P. (Cree), Part 1, Public Volume 80, Vancouver, BC, p. 14.
- G Albert McLeod (Nisichawayasihk Cree Nation/Métis community of Norway House), Part 3, Public Volume 8, Toronto, ON, p. 44.
- H Viola Thomas (Kamloops Tk'emlúps te Secwepemc), Part 1, Public Volume 104, Vancouver, BC, p. 13.
- I Blu W. (Cree/Mi'kmaq/Métis), Part 1, Public Volume 117, Vancouver, BC, pp. 43–44.
- J Albert McLeod (Nisichawayasihk Cree Nation/Métis community of Norway House), Part 3, Public Volume 8, Toronto, ON, p. 156.
- K Hunt, “An Introduction to the Health of Two-Spirit People”; Lyons et al., “Experiences of Trans Women”; Taylor, “Health and Safety Issues.”
- L Jamie Lee Hamilton (Indigenous/Irish), Part 1, Public Volume 104, Vancouver, BC, pp. 20–21.
- M Jasmine Redfern (Inuit), Mixed Parts 2 & 3, Public Volume 3, Iqaluit, NU, p. 140.
- N Ristock et al., “Impacts of Colonization.”
- O Jasmine Redfern (Inuit), Mixed Parts 2 & 3, Public Volume 3, Iqaluit, NU, p. 143.
- P T.J. Lightfoot (Mi'kmaq), Mixed Parts 2 & 3, Public Volume 3, Iqaluit, NU, p. 140.
- Q Fallon Andy indicated that their preferred pronoun is they/them. Witnesses testifying as part of 2SLGBTQIA communities emphasized the importance of respecting and using their preferred pronoun.
- R Fallon Andy (Anishinaabe, Couchiching First Nation), Part 3, Public Volume 8, Toronto, ON, p. 190.
- S T.J. Lightfoot (Mi'kmaq), Mixed Parts 2 & 3, Public Volume 3, Iqaluit, NU, p. 141.
- T Saewyc et al., “Homeless and Street-Involved”; Hunt, “An Introduction to the Health of Two-Spirit People.”
- U Saewyc et al., 24.
- V Jasmine Redfern (Inuit), Mixed Parts 2 & 3, Public Volume 3, Iqaluit, NU, p. 142.
- W Jasmine Redfern (Inuit), Mixed Parts 2 & 3, Public Volume 3, Iqaluit, NU, p. 142.
- X See, for instance, the experience Jamie shared about being strip-searched by the police as documented in Chapter 1. Jamie L. H. (Indigenous/Irish), Part 1, Public Volume 78, Vancouver, BC, pp. 12–13.
- Y Alaya M. (Sandy Bay Ojibway First Nation), Part 1, Public Volume 13, Winnipeg, MB, pp. 23–24.
- Z Jasmine Redfern (Inuit), Mixed Parts 2 & 3, Public Volume 3, Iqaluit, NU; T.J. Lightfoot. (Mi'kmaq), Mixed Parts 2 & 3, Public Volume 3, Iqaluit, NU; Hunt, “An Introduction to the Health of Two-Spirit People,” pp. 15–16.
- AA Albert McLeod (Nisichawayasihk Cree Nation/Métis community of Norway House), Part 3, Public Volume 8, Toronto, ON, p. 53.
- BB Fallon Andy (Anishinaabe, Couchiching First Nation), Part 3, Public Volume 8, Toronto, ON, p. 263.
- CC Jasmine Redfern (Inuit), Mixed Parts 2 & 3, Public Volume 3, Iqaluit, NU, p. 174.
- DD Hunt, “An Introduction to the Health of Two-Spirit People,” 15.
- EE Canada, Department of Justice Canada, “Data Sources on Indigenous Victimization.”
- FF Kassandra Churcher, Mixed Parts 2 & 3, Public Volume 7, Quebec City, QC, pp. 239–240.
- GG Shaun L. (Kaska Dena, Crow Clan), Part 1, Public Volume 3, Whitehorse, YT, p. 23.
- HH Ristock et al., “Impacts of Colonization.”
- II Sinha, “Measuring Violence against Women,” 19.
- JJ Lehavot et al. as quoted in Hunt, “An Introduction to the Health of Two-Spirit People,” 15.
- KK Taylor, “Health and Safety Issues.”
- LL T.J. Lightfoot (Mi'kmaq), Mixed Parts 2 & 3, Public Volume 3, Iqaluit, NU, p. 81.
- MM Ristock et al., “Impacts of Colonization.”
- NN Fallon Andy (Anishinaabe, Couchiching First Nation), Part 3, Public Volume 8, Toronto, ON, pp. 189–190.
- OO Bernie W. (Haida/Nuu-chah-nulth/Coast Salish), Part 1, Public Volume 115, Vancouver, BC, pp. 17, 18.
- PP Ruth M. (Dene), Part 1, Statement Volume 214, Yellowknife, NWT, pp. 3–4.
- QQ Anni P. (Cree), Part 1, Public Volume 80, Vancouver, BC, pp. 14–15.
- RR Jamie L. H. (Indigenous/Irish), Part 1, Public Volume 78, Vancouver, BC, pp. 5–6.



- SS Jamie L. H. (Indigenous/Irish), Part 1, Public Volume 78, Vancouver, BC, pp. 26–31.
- TT Alaya M. (Sandy Bay Ojibway First Nation), Part 1, Public Volume 13, Winnipeg, MB, p. 18.
- UU Alaya M. (Sandy Bay Ojibway First Nation), Part 1, Public Volume 13, Winnipeg, MB, pp. 18–19.
- VV Alaya M. (Sandy Bay Ojibway First Nation), Part 1, Public Volume 10, Winnipeg, MB, p. 36.
- WW Albert McLeod (Nisichawayasihk Cree Nation/Métis community of Norway House), Part 3, Public Volume 8, Toronto, ON, pp. 64–65.
- XX Muriel D. (Cree), Part 1, Statement Volume 98, Edmonton, AB, p. 2.
- YY Leona W. (Nakaneet First Nation), Part 1, Statement Volume 127, Saskatoon, SK, p. 51.
- ZZ Fallon Andy (Anishinaabe, Couchiching First Nation), Part 3, Public Volume 8, Toronto, ON, pp. 109–110. To visit the database, see <http://itstartswithus-mmiw.com/community-lists/#1485456734282-51068426-c39f>.
- AAA Albert McLeod (Nisichawayasihk Cree Nation/Métis community of Norway House), Part 3, Public Volume 8, Toronto, ON, p. 50.
- BBB Jeffrey McNeil-Seymour (Tk'emlups te Secwepemc/English), Mixed Parts 2 & 3, Public Volume 3, Iqaluit, NU, p. 191.
- CCC Jeffrey McNeil-Seymour (Tk'emlups te Secwepemc/English), Mixed Parts 2 & 3, Public Volume 3, Iqaluit, NU, p. 192.
- DDD Albert McLeod (Nisichawayasihk Cree Nation/Métis community of Norway House), Part 3, Public Volume 8, Toronto, ON, p. 51.
- EEE Fallon Andy (Anishinaabe, Couchiching First Nation), Part 3, Public Volume 8, Toronto, ON, p. 131.
- FFF Shaun L. (Kaska Dena, Crow Clan), Part 1, Public Volume 3, Whitehorse, YT, pp. 22–23.
- GGG Viola Thomas (Kamloops Tk'emlups te Secwepemc), Part 1, Public Volume 104, Vancouver, BC, p. 6.
- HHH Shaun L. (Kaska Dena, Crow Clan), Part 1, Public Volume 3, Whitehorse, YT, p. 16.
- III T.J. Lightfoot (Mi'kmaq), Mixed Parts 2 & 3, Public Volume 3, Iqaluit, NU, p. 149.
- JJJ Jeffrey McNeil-Seymour (Tk'emlups te Secwepemc/English), Mixed Parts 2 & 3, Public Volume 3, Iqaluit, NU, p. 195.



## Pathway to Violence: Lack of Will and Insufficient Institutional Responses

Despite widespread recognition of the health problems faced by Indigenous Peoples, as well as the significant health consequences that all forms of interpersonal violence hold for Indigenous women, girls, and 2SLGBTQQIA people in particular, the systems and institutions that Indigenous people might reach out to for health care-related services often fail to provide the support needed, and, in doing so, often deepen these health concerns. In describing their efforts to receive much-needed health care, including in situations connected to experiences of physical and sexual abuse or violence, families and friends of missing and murdered Indigenous women, girls, and 2SLGBTQQIA people, and survivors, drew attention to the insufficient institutional responses and the associated lack of will for change.

These responses and the encounters they represent are both structural and individual, and deal with attitudes of health care providers, emergency or first responders, and police. In addition, some witnesses identified the challenges of medical relocations, or the separation of families due to medical issues, as contributing to violence as a result of compromising their ability to have their health care needs met. This section examines deaths associated with negligence within the context of health services, as well as racism and insufficient mental health services that contribute to the targeting of Indigenous women, girls, and 2SLGBTQQIA people by creating or driving them into dangerous situations.

“I WAS VISITING A COUSIN IN THE NORTHWEST AREA OF THE CITY. THERE WAS JUST THE TWO OF US, AND WE WERE WATCHING A HOCKEY GAME. A WOMAN SHOWED UP AND SHE PROVIDED ME WITH MARIJUANA THAT HAD BEEN LACED WITH SOMETHING, AND I DIDN'T KNOW. I OVERDOSED. I STOPPED BREATHING. I HAD A GRAND MAL SEIZURE, AND I WAS TRANSPORTED TO THE [DELETED] HOSPITAL. DESPITE THE FACT THAT I HAD NO JACKET, NO SHOES, NO MONEY, I WAS ASKED TO LEAVE AT 6:30 A.M. ON THAT COLD FALL ... MORNING. IT WAS DARK AND IT WAS COLD AND I WAS ALONE. NOBODY KNEW WHERE I WAS. AND I LINGERED IN THE ENTRANCE BECAUSE WHEN I WENT OUTSIDE, I WAS SO COLD, AND I HAD NO SHOES, AND I DIDN'T KNOW WHAT I WAS SUPPOSED TO DO OR WHERE I WAS SUPPOSED TO GO .... THE NEXT MONTH, THEY FOUND A BODY RIGHT WHERE I WAS, WHERE I WAS SUPPOSED TO WALK BY.... AND THEY TOLD ME THAT I HAD TO WALK WITH NO SHOES AND NO MONEY.”

Melissa C.

### Negligent Treatment from Health Care Service Providers

In describing their interactions with various facets of the health care system, the families of missing and murdered Indigenous women, girls, and 2SLGBTQQIA people, as well as survivors, Knowledge Keepers, and other researchers, highlighted how the racism Indigenous Peoples encounter within these systems directly contributes to lower quality care, or lack of care



altogether. In some of these cases, one of the consequences of this lack of care was the disappearance or death of a loved one. Dr. Barry Lavallee, former director of student support and education for the Centre for Aboriginal Health Education at the University of Manitoba, gave an example of how racism works within the Canadian health care system to create barriers for all Indigenous Peoples.

[A person] who is identified as Indigenous either by their brown skin, or their name, or if they identify themselves is that an Indigenous person cannot enter a health care system except in stereotype.... It means that if you're a brown skin Indigenous man and you may have had a beer at a barbeque, but you're not an alcoholic, and you go to emerg[ency], there's a chance that you will be assigned the stereotype of being a drunken Indian. And, [they'll assume that] the chest pain you're experiencing has nothing to do with your heart, but with alcoholic gastritis. And so, the differential access for particular treatments as well as investigations are harnessed on stereotyping.<sup>91</sup>

In many of the stories shared by witnesses, coping mechanisms, such as drugs and alcohol, that they had been using to manage previously unaddressed health-related concerns, including trauma, are used against Indigenous people in ways that at times further undermine their health. As we heard, for Indigenous women, girls, and 2SLGBTQQIA people who have experienced or are experiencing violence and may be using drugs or alcohol to cope with that violence, the consequences of negligence within the health care system can be severe.

“DUE TO MY HISTORY WITH ADDICTIONS AND MY SISTER’S HISTORY WITH ADDICTIONS, WE WERE BOTH DISCRIMINATED AGAINST WITHIN THE HEALTH CARE SYSTEM. I WAS LUCKY ENOUGH TO FIGURE OUT WHAT WAS GOING ON AND GET THE PROPER HEALTH CARE, AND SHE WASN’T. BECAUSE OF THAT SHE PASSED AWAY. IF SHE WASN’T DISCRIMINATED AGAINST AND THEY HAD HELPED HER AND DIDN’T LOOK AT HER AS AN ADDICT, SHE MAY STILL BE HERE TODAY.”

Jaylene D.

In describing what happened when she was discharged from the hospital following a drug overdose, Melissa C. demonstrated how she was placed in an extremely dangerous situation that could have led to further harm or violence, were it not for her assertiveness.

I was visiting a cousin in the northwest area of the city. There was just the two of us, and we were watching a hockey game. A woman showed up and she provided me with marijuana that had been laced with something, and I didn't know. I overdosed. I stopped breathing. I had a grand mal seizure, and I was transported to the [deleted] hospital. Despite the fact that I had no jacket, no shoes, no money, I was asked to leave at 6:30 a.m. on that cold fall ... morning. It was dark and it was cold and I was alone. Nobody



knew where I was. And I lingered in the entrance because when I went outside, I was so cold, and I had no shoes, and I didn't know what I was supposed to do or where I was supposed to go. So, I went back and I begged them to help me. And the worker at that time only got annoyed with me, but I was persistent, because I didn't want to go walking by myself. I still had the heart monitor stickers attached to me. After a lot of begging and asking, I was granted a taxi slip....

The next month, they found a body right where I was, where I was supposed to walk by.... And they told me that I had to walk with no shoes and no money.<sup>92</sup>

For other witnesses, stereotypes about Indigenous Peoples and addictions such as those described by Barry Lavallee can play into the kind of treatment they can access. For example, Doris G., a survivor of childhood abuse, domestic abuse, and family violence, was forced into sex work as a teenager and became addicted to crack and alcohol. As she reported, “I started getting sick. My sister worked at [the] hospital, and she red-flagged my name, so when I came in for help, they treated me like an addict and just heavily medicated me and just sent me home.” Ultimately, doctors performed emergency surgery to remove her gallbladder, and found a type of cervical cancer that could have been prevented with proper vaccination.<sup>93</sup>

In Jaylene D.'s case, these assumptions likewise impacted the level of services offered to her sister and ultimately drove her back to danger. Jaylene, whose sister eventually overdosed, reports how her sister had bad sores on her feet where she was in her early 30s and used a walker because she couldn't walk on her own. She would go to the hospital to find relief to manage the pain and heal her feet.

Due to her history with addictions, she wasn't getting the help she needed. They weren't properly medicating her to accommodate her pain. Because of that, she resorted to using drugs.... On one of her trips to Edmonton, her last trip, she connected with one of her friends from school, and she ended up buying crystal meth. That crystal meth killed her. She went into cardiac arrest seven times within half an hour, and then was, I think, dead on arrival at the hospital.<sup>94</sup>

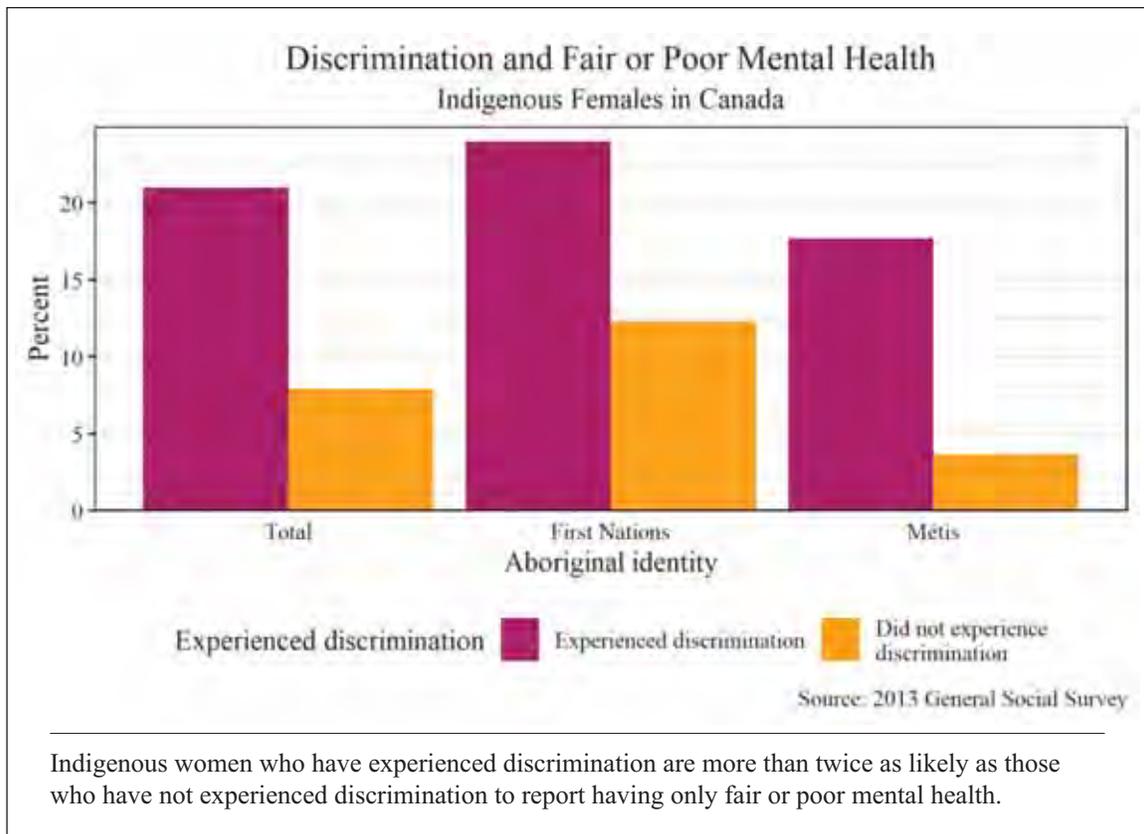
Jaylene herself had a similar experience in trying to secure proper medical care.

I was in the hospital at one point ... I was in so much pain, I couldn't handle it. I, as well, have a history with drug addictions. When I was asking the doctors to properly medicate me – as well, on my file the history with addictions is there – one of the doctors had told me that he is not going to give me anything just to get me high.<sup>95</sup>

Jaylene links her sister's discriminatory experience within the system to the violence she experienced later on.



Due to my history with addictions and my sister's history with addictions, we were both discriminated against within the health care system. I was lucky enough to figure out what was going on and get the proper health care, and she wasn't. Because of that she passed away. If she wasn't discriminated against and they had helped her and didn't look at her as an addict, she may still be here today.<sup>96</sup>



As these testimonies demonstrate, when the health care needs of Indigenous women, girls, and 2SLGBTQQIA people are interpreted through a racist belief system that includes inaccurate stereotypes about Indigenous Peoples, their health is further compromised.

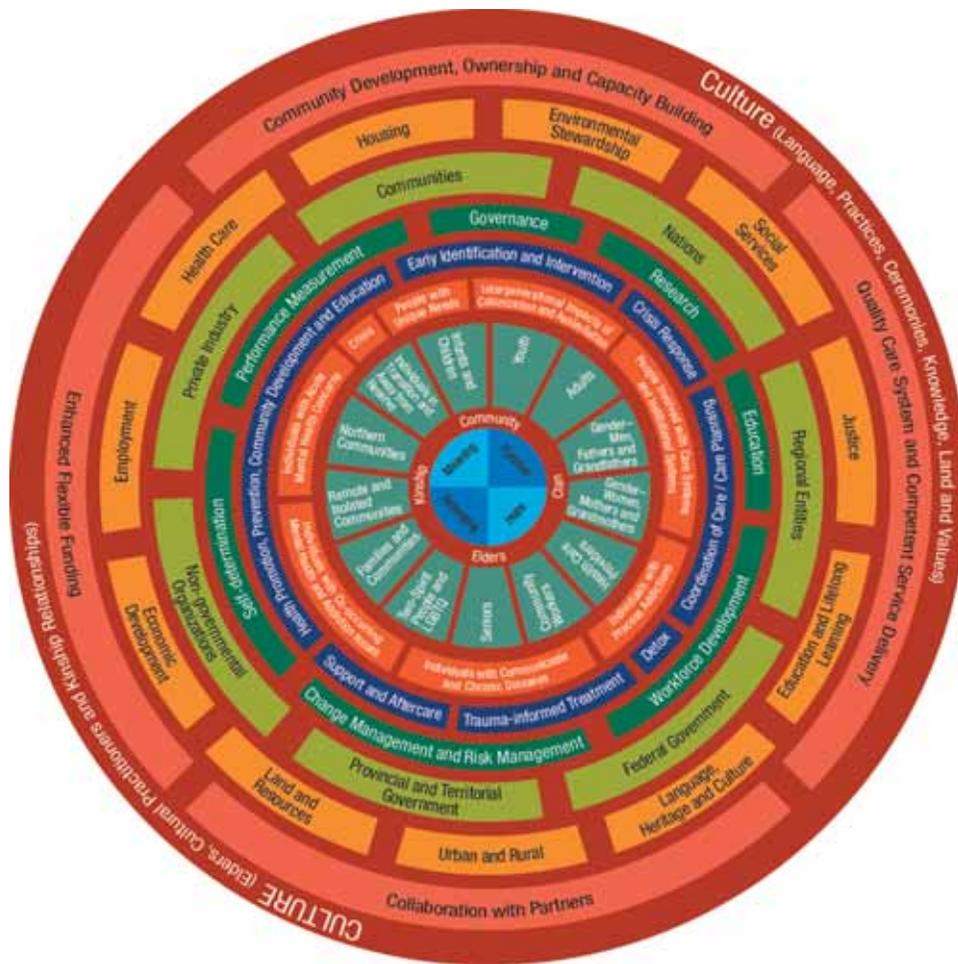
### Reporting Gaps in Mental Health Services

When describing their encounters with providers of mental health services, some witnesses described similarly troubling experiences that often served to compound rather than minimize the mental health challenges they faced. As the First Nations Information Governance Centre's National Report explains,

Comparisons between mental health conditions in First Nations populations and in the general population are complicated by cultural differences in the understanding of mental wellness. First Nations cultures see a strong connection between mental wellness



and strong physical, spiritual and emotional health; a connection to language, land, beings of creation and ancestry; the support of caring family and environment; and an interconnectedness enriched by hope, belonging, purpose and meaning. On the other hand, Western biomedical models view mental wellness as the absence of mental illness.<sup>97</sup>



Source: "Mental wellness is supported by culture, language, Elders, families, and creation and is necessary for healthy individual, community, and family life." – First Nations Mental Wellness Continuum Framework, <https://thunderbirdpf.org/first-nations-mental-wellness-continuum-framework/>.

Expert Witness Allan Wade said that the poor treatment many Indigenous people receive when seeking mental health support should not be surprising, given the colonial roots of dominant approaches to mental health and psychiatric care.

So, you know, the cultures that gave us the prison camps that are called residential schools also gave us the talking cure, they also gave us psychiatry. So, it would be, kind of, surprising if there were not linkages, wouldn't it, between the discourse and the



concepts of the helping professions and the colonial practices past and present. The helping professions, the system of professions is part of the colonial project. Colonialism is written into the genetic code of the mental health industry.

As Wade goes on to explain, the dominant mental health care system is rooted in colonial values.

So, when you think about what is colonialism, what does it boil down to, what is the link between colonialism and the helping professions, this might be a way to explain it. You could say it consists of a ... message: you are deficient. Disordered, ill, heathen, Indigenous, queer, savage, non-white, female, poor, uneducated, suffering, drug addicted. You are deficient. There is something the matter with you.

The second part of the message is, I am proficient. Christian, European, male, white, closer to God, expert, mentally well, educated, elected, wealthy, secure. And we know that I am proficient because I am the one that gets to say that you are deficient. My proficiency requires your deficiency, therefore I have the right and duty to perform certain operations upon you, steal your land, destroy your culture, abduct and rape your children, diagnose, prescribe, educate, isolate, maim, and theorize all for your own good. So, I think that, kind of, distills the kind of colonial ethic or the colonial code of relationship.<sup>98</sup>

In describing their encounters with mental health professionals, witnesses offered many examples that illustrate the power, hierarchy, racism, and limited notions of what constitutes expertise inherent in the “colonial code of relationship” Allan Wade describes.

“THERE IS AN EXPONENTIAL HUGE BREAKDOWN IN MENTAL HEALTH SERVICES. TRUST ME, I’VE LIVED IT. I’VE SEEN THERAPISTS THAT LOOK AT THEIR CLIENT AND – AND THE WORST OF IT, AT A CHILD, AND MAKE THEM FEEL SO BAD THAT THEY DON’T WANT TO TALK. AND MY THEORY IS IF YOU’RE NOT IN YOUR JOB TO DO YOUR JOB, IF YOU DON’T WANT TO WAKE UP AND DO WHAT YOU BELIEVE YOU’RE TRYING TO DO AND HELPING SOMEBODY, GET THE HELL OUT OF IT BECAUSE YOU’RE DOING MORE HARM THAN YOU ARE DOING GOOD.”

**Vanessa B.**

For example, Sharna S. described the patronizing and dismissive treatment she received from a helping professional within a mental health facility at a point when she was in need of support following a drug relapse. She described what happened when she returned to the mental health unit with instructions from the court.

I don’t even know if he was a nurse, but he was always on the unit ... [and he] wouldn’t let me back into the mental health unit. Because it says on it there’s some type of wording that says “if” or something like that. And he’s reading it and he’s being cocky. And he says, “It doesn’t say here that I have to let you back in here.”



And I said, “You're letting me back in here.” I said – he had my stuff all packed. He said, “Well, you didn't come back here last night.” I said, “I was removed here by the police last night...”

[The worker] wouldn't let me in. Hands me all of my stuff in a white plastic bag and says, “We have already given your room to somebody else.”

In response, Sharna, by her own description, “became desperate,” taking all of the medication she could find and admitting herself to the hospital for an overdose so that she could get back in.<sup>99</sup>

Paula P. described a similar experience in which the negligent mental health treatment she received created further health problems and deepened rather than alleviated her suffering. Paula reported that, at one point, she went for counselling for help dealing with her sexual abuse. After six months, the counsellor told her that everything Paula had told her in the beginning was true. She said, “Now I'm going to begin helping you.” Paula felt “psychologically raped” because she hadn't been believed and the counsellor had to investigate everything before she would help her. Paula was still a teenager at that time. As she explained, she gave up, stopped reporting rapes, and quit standing up for herself.<sup>100</sup>

Paula's experience reflects the particular challenges Indigenous women, girls, and 2SLGBTQQIA survivors of violence may encounter when seeking mental health support, and the way in which the “colonial code of relationship” described by Allan Wade plays out in the specific context of counselling for those who have experienced interpersonal violence. As Wade explained:

We have developed all kinds of models in the interpersonal violence field that continue to blame victims, particularly women, and that hide the nature of violence. A good example is the so-called cycle theory of violence.... The three-part cycle, there is, like, an explosion, honeymoon phase, tension building. You will notice in this model there is no social context, there is no reference to culture, we do not know where the people are. And, why – if the man has been committing violence, why do we have the women sitting in the middle?

You will see this over and over again. What happens is instead of focusing on the violence by the man, we focus on the brain, body of the woman. We have been inside the minds of women for 125 years, trying to change the behaviour of men. It has never worked. It cannot work. It will not work.<sup>101</sup>

Vanessa B., speaking for her sister, who was murdered, leaving behind five children, also identified significant problems in mental health services.



There is an exponential huge breakdown in mental health services. Trust me, I've lived it. I've seen therapists that look at their client and – and the worst of it, at a child, and make them feel so bad that they don't want to talk. And my theory is if you're not in your job to do your job, if you don't want to wake up and do what you believe you're trying to do and helping somebody, get the hell out of it because you're doing more harm than you are doing good. And I believe that if our workers are – are getting so overworked both in the social services and the mental health aspect of – of the jobs, then you need [a] break because you're not – you're no longer helping. And it's the same thing I found with Tanya. She didn't – she could have used these services and she could have had these services, but if she felt at some point that she wasn't getting what she needed, you're not really helping her, are you? So ... there we go. We have failure right there.<sup>102</sup>

In addition to the challenges many Indigenous women, girls, 2SLGBTQQIA people and their families face in terms of accessing unbiased and culturally appropriate mental health services, many witnesses also talked about the difficulties of accessing any mental health services due to long wait-lists and a lack of options. As Adrienne B. noted, in an urban context:

You know, if I was to access these resources in Edmonton, there's a two-month wait to see a mental health worker. I booked an appointment with a psychiatrist because I knew what I was feeling was coming up. I started getting, you know, triggers, flashbacks. That appointment was rebooked for next month. Like a lot of these resources here need to be put in place to help the parents and relatives who are dealing with missing and murdered women.<sup>103</sup>

“SO WHEN THE AMBULANCE CAME, AND THIS IS WHAT MY MOM TOLD ME, WHEN THE AMBULANCE CAME SHE WAS ON THE GROUND AND IN EXCRUCIATING PAIN. AND SHE THOUGHT THEY WERE TREATING HER AS THOUGH SHE HAD FALLEN OVER BECAUSE SHE WAS DRUNK. AND THEY PICKED HER UP – AND SHE WAS A FAIRLY HEAVYSET WOMAN – THEY PICKED HER UP AND PUT HER ON HER FEET, AND SHE FELL AGAIN, BECAUSE SHE HAD A BROKEN HIP IN THE BEATING. AND THEY LAUGHED AT HER. AND THEY PICKED HER UP AGAIN. SHE SAID, “I CAN'T. IT HURTS. MY HIP HURTS.” AND WHEN SHE FELL AGAIN THEN THEY THOUGHT MAYBE THERE WAS SOMETHING ELSE WRONG, SO THEY – I GUESS THEY PUT HER ON A STRETCHER AND THEY TOOK HER AWAY TO THE HOSPITAL.”

Dianna B.

Lorna B. spoke of a particular case in one centre in British Columbia where services are severely limited.

I work at Canada's First Nations Radio and we service 42 communities throughout the northwest, so we're talking from Haida Gwaii, Terrace, Kitimat, Prince Rupert. Those are the bigger centres so we have a lot of people that come in from those communities.



And there's – that is not enough people to be helping that many First Nations people, 42 communities that are surrounding the northwest. One counsellor? That's absurd.<sup>104</sup>

As each of these examples demonstrate, the knowledge and wisdom held by Indigenous women and girls themselves as to what they need to support their mental health and well-being are ignored, minimized, or dismissed by those to whom they have reached out to help. For Wade, these types of attitudes and responses are a reflection of how what he refers to as the “colonial code of relationship” is embedded within the training and language many people working in the mental health field receive. Wade shared some of the instructions offered to psychiatrists about conducting a clinical interview.

Show expertise. Empathy goes a long way, but empathy is not enough. Convince him you are an expert. Use three techniques to convince him that you understand his disorder. Make him understand that he is not alone. Communicate to him that you are familiar with his illness. Show knowledge. And, third, deal with his distrust – mistrust. This expertise sets you above well-meaning family and friends, it distinguishes you as a professional.

As Wade asked, “Does that sound colonial at all?”<sup>105</sup>

### **Seeking Health and Safety through Emergency Service Providers and Police**

In describing institutional responses to Indigenous women's, girls', and 2SLBTQQIA people's health care needs, witnesses offered examples that demonstrated that racist, dismissive, or otherwise inadequate responses to their needs occurred not only in health care facilities, such as hospitals, but also extended to those times when, after experiencing violence, they reached out for emergency health care to the police or other emergency responders.

For example, Dianna B. and others shared disturbing stories about how the health care needs of their loved ones or themselves were minimized when those needs were a result of violence. As Dianna explained, in relation to the death of her nearly 80-year-old mother, who was severely beaten:

So when the ambulance came, and this is what my mom told me, when the ambulance came she was on the ground and in excruciating pain. And she thought they were treating her as though she had fallen over because she was drunk.

And they picked her up – and she was a fairly heavyset woman – they picked her up and put her on her feet, and she fell again, because she had a broken hip in the beating. And they laughed at her. And they picked her up again. She said, “I can't. It hurts. My hip hurts.” And when she fell again then they thought maybe there was something else wrong, so they – I guess they put her on a stretcher and they took her away to the hospital.<sup>106</sup>



When police came to investigate the crime, Dianna said, similarly dismissive treatment occurred. Although the police came to see her mother, they never took a statement. When Dianna called to ask why, they told her that they couldn't get one: police said they couldn't get a statement because she was so "out of it." As Dianna said:

I don't know. But she was on pretty strong medication, but I know I would – I was able to visit with her. I was able to talk to her. She was able to give me a statement. She was able to give my husband a description of what happened. So she was coherent and she was able to speak to people. So I don't know how much they really tried.<sup>107</sup>

In her testimony, Robin R. described how, after finding her two-year old daughter badly beaten by her partner, she called an ambulance. However, as Robin described, when the emergency responders arrived, they refused to take her daughter to the hospital until she found her daughter's health card.

[The] ambulance came into my house and they checked my daughter's vitals. They went to get a stretcher and they asked for her care card. I didn't know the number of her care card off the top of my head and we didn't have a family doctor. But the ambulance insisted that they needed the care card before they drove her to the hospital. And it was like, they refused to leave my house unless I had her care card to go to the hospital.

So I went into every drawer in my house and I ripped everything else out of the drawers. I ripped everything off the shelves. I ripped everything open. I was panicked. I was scared. And my house was in disarray after. I ripped apart my house looking for the damn care card because the ambulance said they wouldn't leave unless they had that number.<sup>108</sup>

Robin's daughter later died of her injuries. In addition, detectives interpreted the disarray caused by her looking for the care card as her house being "strewn with garbage" – a characterization that Robin believes contributed to her losing custody of her other child.<sup>109</sup>

Cecil J., whose mother died when he was very young, remembered a similar problem with police attitudes and the failure to provide proper care.

The circumstances, she was out, basically walking down the street and got into an altercation with the women. The officers apparently thought she was drunk, but she wasn't. And, I guess this must be prior to ... there being a drunk tank. So, they took her home. They said, "Oh, she's drunk." But she wasn't. She had a brain injury. They took her home, she fell asleep, and basically didn't wake up.<sup>110</sup>

Stephanie H., whose mother was murdered, recalled what happened when her mother was found at the bottom of a set of stairs with blunt-force trauma to the head. Her mother was taken to a hospital and two police officers came to visit her later on. As she remembered:



And then there were two officers in the kitchen just, kind of, off to the side, and I heard one whisper to the other ... under their breaths, “Another drunken Indian just fell down the stairs.” And I, like, all the colour and all everything just left me – my – my blood. Everything left me. I didn’t want to react because I was scared I wouldn’t get help. This made it so much harder because, oh my god, do I have a chance? Does my mother have a chance? Just – does she have a chance here? I don’t even know if she has a chance. I – I was so outraged. I was so hurt. I was – I was disgusted. I was in mourning, and that ripped my heart out.<sup>111</sup>

In her testimony, Sharna S. explained how the fact that she was receiving care in a mental health unit wasn’t enough to protect her from harassment from the police.

I managed to get back in the hospital before the cop came. I get back into the mental health unit, which is all, you know, like, you have to be buzzed in and stuff. That night two cops showed up at the hospital demanding that the mental health nurses, that they have – they’re going to remove me.... And I said, “I’m not leaving.” Because actually my psychiatrist – because I had a fear of the police, so he wrote in my records on every page under no circumstance is Sharna to be released to – in the police custody unless there’s a warrant, unless there’s something he can’t override. Well, they didn’t have a warrant. They wouldn’t let them in at first into the unit. Then they threatened the nurses with obstruction and a bunch of other stuff. So the one nurse finally caved, buzzed them in.... They threw me in a police cell for the night. They laughed at me; they thought it was funny. Well, the one cop laughed at me; the other guy didn’t laugh so much.<sup>112</sup>

As these situations shared by witnesses demonstrate, health care professionals and emergency responders fail in their responsibility to provide adequate health care services to Indigenous women and girls at some of the most vulnerable and dangerous moments in their lives. In failing to recognize the transformative potential that exists in these opportunities to promote health, to restore relationship, and to find a way forward that protects the right to health and safety held by all Indigenous people, these individuals and the systems in which they work serve to reinforce rather than challenge the racist, sexist, and discriminatory foundation that structures and defines so many of the experiences that Indigenous women, girls, and 2SLGBTQQIA people have with the health care system.



## DEEPER DIVE

# Issues Specific to Inuit and Remote Communities

Throughout the Truth-Gathering Process, the National Inquiry collected truths from Inuit, as well as from other First Nations and Métis people living in remote and northern communities. While the truths these witnesses shared held similarities with those shared by Indigenous Peoples across the country, there were also aspects of these truths that spoke to the cultural, historical, and geographical realities distinct to Inuit and to living in remote and northern locations. In this Deeper Dive, we take a closer look at what witnesses shared with the Inquiry about their unique experiences as Inuit who are living with, or who have been impacted by, violence. We also look at testimony that speaks to some of the challenges connected to life in remote and northern communities and the way these geographical realities shape issues related to violence.

While it is impossible to provide a detailed discussion of the rich and nuanced culture of Inuit here, one of the key features of that cultural life that Inuit families, Elders, and Knowledge Keepers spoke about as central to the nurturing of relationships that protect Inuit women and girls from violence is *ilagiinniq*, or “being family.” As these witnesses emphasized, it is crucial to have an understanding of the way Inuit conceive of *ilagiinniq* and, with it, the kinship relations and how these help in forging the identity of the Inuk individual. *Tursurautiniq* is the Inuit term to describe kinship relationships of kin and individuals that exist by the name they share with someone. In *The Inuit Way: A Guide to Inuit Culture*, Pauktuutit Inuit Women of Canada described the importance of kinship bonds: “These bonds ensured that virtually all the people in the camp were related to each other in some way. Combined with an intricate system of reciprocal obligations and responsibilities, the community was tightly knit and interdependent.”<sup>A</sup>

In the “Parnasimautik Consultation Report” – a report that was prepared by Inuit organizations of Nunavik

after listening to Inuit in Nunavik on their views about a northern economic strategy in Quebec – *ilagiinniq* was considered a top priority. In summary, the greatest concern about *ilagiinniq* was the risk of losing *tursurautiniq*, the use of kinship terms so important to Inuit families in keeping bonds together and, thus, the community thriving.<sup>B</sup>

Many who came to share their truth with the National Inquiry did so with the intent of talking about a missing or murdered loved one. In doing so, however, the stories of violence they ended up sharing revealed a much longer and multi-layered account of the context in which that violence took place. As many witnesses who spoke about missing and murdered Inuit women and girls made clear, the violence that took the life of their loved one was in many ways another iteration of a long history of colonial violence directed against Inuit. For many witnesses, the starting point of any explanation or understanding of the violence that took the lives of their loved ones are those influences that contributed to the weakening of *ilagiinniq* and *tursurautiniq*.

## Disruption of a Way of Life

As witnesses explained, it was this destruction of *ilagiinniq* and *tursurautiniq* through residential and day schools, hostels, forced resettlement, medical relocation, and, more recently, child welfare apprehensions that has contributed in such damaging ways to the health, safety, and well-being of all Inuit, and Inuit women and girls in particular. Here, we take a closer look at some of the stories Inuit witnesses shared with the National Inquiry related to their experiences of residential and day schools, resettlement and relocation, and interactions with child welfare, and the impacts of these experiences on multiple generations of Inuit, as well as on Inuit culture, family, and kinship systems.



## Residential Schools, Day Schools, and Hostels

As we discussed in more detail in Chapter 4, the history of the residential and day school and hostel systems in relation to Inuit families and communities begins more recently than for First Nations and Métis living in more southern locations. Nonetheless, the operation of residential and day schools and hostels throughout the 1950s, 1960s, and 1970s meant that Inuit children, like First Nations and Métis children elsewhere, were forced to attend schools at often great distances from their families and traditional land. For instance, while approximately 15% of Inuit children attended the schools in 1955, by June 1964, 75% of Inuit school-aged children were enrolled in these schools.<sup>C</sup> The structure of these schools varied, and they were referred to variously as “missions,” “hostels,” and “boarding schools.” However, they were ultimately the same as residential schools in the South in terms of the manner in which they served to separate children and youth from their families. As anthropologist Marie-Pierre Gadoua explains:

Most of the ... [schools] were considered “federal day schools” by [the Department of] Northern Affairs. The Inuit children stayed in nearby small or large hostels that could accommodate eight to a hundred children. Although the federal government did not use the term “residential school,” the children who attended these institutions and lived in the hostels, far away from their original homes, were considered residential school students.<sup>D</sup>

As we heard from Inuit witnesses and survivors or relatives of survivors, the residential school system continues to have widespread impacts on *ilagiiniq* and *tursurautiniq*. Pauktuutit Inuit Women of Canada outlines that these impacts include the erosion of Inuit language, culture, and spiritual beliefs, and the disruption of cultural continuity or the passing on of traditional knowledge, practical skills, and cultural values from one generation to the next. In particular:

Traditional Inuit skills includ[ing] hunting, meat and pelt preparation, sewing, building igloos and navigating the land and water [have been threatened]. The rich tradition of oral storytelling, music, dance and craft and a respect for the

environment that were an integral part of Inuit knowledge and way of life was eroded as a result of the Residential School experience.<sup>E</sup>

In sharing their truths with the National Inquiry, witnesses such as Elder Elisapi Davidee Aningmiuq – an Inuk Elder from the South Baffin region with a lifetime of experience working for cultural and community well-being programs in Iqaluit – talked about the devastating and long-lasting impact of the residential school system on cultural identity and family. She described the resentment and anger she felt as a result of her experiences as a student in federal day schools, and how she inadvertently projected this anger on to her children when she was a young adult. Of her time in the day school, she said:

And, growing up these are the things that we first experienced, putting us down as Inuit, because we were speaking only Inuktitut. And, it was feeling of that we were not normal, or that we were treated maybe, if we had a sign, it was like not good enough sign on your chest. I never thought of it when I was a very young girl, but at the older age I’ve experienced those feelings.<sup>F</sup>

The result, she maintained, is inter- and multi-generational for Inuit, as well: “What I see and what we know, is that there is a lot of [low self-] esteem. Really, people who don’t know their Inuit identity, who don’t know their Inuit background.”<sup>G</sup> Elder Elisapi spoke about how her attendance at residential school impacted her choices about what language to teach her children.

When I start having children, my children were not allowed to speak English at home. If they did I would scold them. The tears are because I’m sorry to my children. I’m sorry that I scolded my children in a very unhealthy way. I didn’t know where that was coming from. You know, I would say, don’t speak in English. And it wasn’t just friendly words, it was like scolding words to them. I didn’t know where that was coming from, like I said, until so many years later. It was that coming from, you know, the schooling, it was me revenging. It was me going against those that were telling me not to speak my language. It was me that was angry. It was stuff that was coming out from the deepest part of me, from the deepest part of me that was damaged.<sup>H</sup>



## Group Relocations, Medical Relocations, and Distinctive Inuit Realities

In addition to the impact of the residential and day school system on family, kinship, and culture, group relocations, such as the 1953 High Arctic relocation, as well as medical relocations, were identified by witnesses as an important part of the context within which violence became more prevalent.

In Chapter 4, we provided a more in-depth consideration of government-led relocations of Inuit families between 1940 and 1970 from their traditional land and territories. As we discussed, these relocations occurred without proper planning or information and led to significant distress for those affected. They also increased the disruptions to family, culture, and tradition, all of which were deeply interwoven with their environment. For example, when Canadian government officials, together with the Royal Canadian Armed Forces (RCAF), moved seven Inuit families from Inukjuak Nunavik to Ellesmere Island in 1953, these Inuit families were not informed that they would be brought to three different spots. Only after some time had passed during their travel by boat were they told that they would be separated, and this caused distress among the families who had fully expected to remain together in their move to Ellesmere. According to the 1994 *Report on the 1953–55 High Arctic Relocation of the Royal Commission on Aboriginal Peoples*, not only was their relocation coerced, but the families were also forced to separate. Having considered what the relocated Inuit recounted about their experiences many years later, the Royal Commission found that their separation – clearly a forced separation – had been a painful and distressing experience for them. Over the years, these Inuit families struggled to adapt to a totally new environment, and the neglect of the government and inability to visit family in Inukjuak made their life extremely difficult.<sup>l</sup>

Due to their relatively recent past with relocations, many Inuit witnesses talked about the struggle to restore familial and kinship bonds as a way to improve safety for Inuit women and girls. In her testimony, Laura M. talked about how forced relocations and the transition from a nomadic,

traditional lifestyle to centralized communities had safety and security implications, particularly through the introduction of drugs and alcohol.

When the communities came and the style to offer a wage and a free shack to live in was offered.... Many opportunities came and the colonial lifestyle provided an advanced and easier way of living where the family could support themselves with the wage economy. All this type of living included the drugs, alcohol, and lots of sexual promiscuity that was rampant with the little Hudson Bay Liquor Store. This was the many problems that added to the dysfunction of a family home.<sup>j</sup>

As Hagar Idlout-Sudlovenick, director of social development for Qikiqtani Inuit Association, explained:

After the relocation they felt a sense of loss, of ... their kinship to the land, or where they belong or they belong certain areas of the land. And being removed from the area that is known to them, like hunting grounds, the place where the ... families, where [*ilagiit*] would normally have Inuk camps or hunting grounds, it would be like seasonal, they would move from one area to another. So by being relocated to the area sometimes really faraway places, they felt the sense of loss because they were not familiar with those areas, or they had to get to know the new hunting areas. And sometimes there's different game that were – that they were used to, now, with being relocated to different areas, they had to change their hunting strategy based on the games that were available to that area. So they had to relearn some of these hunting practices because they were in unfamiliar areas. I think that was the impact that had on those families that were relocated. And it had long-lasting effect on the members and including their families.<sup>k</sup>

In addition, Hagar Idlout-Sudlovenick said that, after relocation, people didn't get access to the services and to the help they were promised. She explained how this history and its impact on family and kinship became the starting point for social and economic conditions that allow for violence against Inuit women and girls.



They were told that they would have a job, they would be provided with housing and very low rent, and that the government will be assisting them for everyday life necessities. And, some of them were told if you move to the community, you will have a house with everything in it. So, if you leave your thing, it's okay. You can leave your things out in the camp, because they believed what they were told. When they moved to the community, there were no houses ... once they got into the community, they didn't have anything to do, just waiting around as to what the RCMP or the government wants them to do. They were just waiting for them to be told. And, this is where the life started changing.<sup>L</sup>

In addition to the stories of these relocations, Inuit witnesses also shared their experiences of the impact of medical relocations through which individuals were sent to southern locations to receive medical care for tuberculosis (TB), often with very little understanding or information about where they were going or for how long. Elder Elisapi Davidee Aningmiuq talked about the impact of medical relocations, and how the forced separation of children from their families resulted in emotional trauma for Inuit and alienation from their families because of the length and distance of separation.

When you don't have that bond anymore with parents or family, then you can be seen as an outcast. I guess in your culture you would say black sheep of the family.... So, in the times where people were being sent out for TB, and probably residential schools too, you know, that bond that should have been there was lost. And, I can give one example. A friend who said when a child was crying, she just watched her because she didn't know what to do. She said she never had any hugs, so she didn't know that she could have hugged that child.<sup>M</sup>

In addition, for Inuit relocated to the South for years at a time, the impacts on patients and families were devastating. As Micah A. told the National Inquiry, her mother, who died in a southern sanatorium, was never found.<sup>N</sup> She explained:

They never informed us, only when the ships came up, we got that information. It was a while before we were informed of her death. And I haven't seen Martha [T.]'s [her grandmother's] grave; I never seen her. Only my mother used to tell stories about her. When my mother was alive, she wanted us to find her body, and I found it. However, it's in Winnipeg, and they were moved to Moose Jaw; from Moose Jaw and buried in Winnipeg on Indian land. And we've heard different stories. I haven't seen the gravesite myself.<sup>O</sup>

In her testimony, Annie B. described being taken from her community of Pangnirtung at age four or five and being transported to a hospital in Toronto for treatment for TB without any understanding of why she was being moved and without the accompaniment of her parents or anyone she knew. She stated, "No, my parents were not there at all. Not even my mother. I can't remember anything of how I leave my camp. But all I remember is the two men came to pick me up.... My parents were too far away to be down there [in Toronto]. No. No family members. Nothing."<sup>P</sup> Instead of returning to Pangnirtung, however, Annie was moved to a residential school where she experienced abuse. As she put it, "There was so much abuse. We were so abused. And I totally forgot who I was."<sup>Q</sup> When Annie was eventually returned to her family, she learned that they had believed that she was no longer alive because of the lack of any communication with them about Annie's whereabouts.

Elder Abraham Arnakak took some time to explain how the relocation of Inuit groups led to a rise in violence against Inuit women, specifically because it led to a breakdown of family.

After [being relocated], after our lives started to go down, because Pangnirtung had some things, and there were was some gambling, and when we started to go into these communities, we started to turn back from our relatives, and we started mistreating our spouses. So, we started to break our family unit because of moving into these communities. That's how broken we were, and that's what I'm telling you.<sup>R</sup>



For some, the trauma of breaking families apart continues in new and modern relocations. Amy Hudson, manager of Research, Education and Culture for the NunatuKavut Community Council, told the National Inquiry that the coerced relocation of Inuit communities continues into the present day, with a community's being relocated the previous fall. As she explained:

The government in our province promised that they would not do that to Indigenous people anymore, that they wouldn't forcibly remove people from their homes because they recognize the connection between Indigenous people and the land and their ancestors, and that tie, and how that's integral for their health and well-being, and for not perpetuating those same colonial injustices.

To accomplish relocating the community, Hudson said, the government began to eliminate

significant and necessary services ... whether that be school, or health, housing, whatever the case may be, and bit-by-bit, once all these resources are gone, families can't live there anymore, or families are broken up and torn apart because someone has to go away to go to school, or someone is sick and has to stay away for health care reasons.<sup>5</sup>

Some witnesses spoke about how the necessity to leave the community to access health and social services means that individuals are forced to relocate in ways that continue to compromise family relationships and well-being. In her testimony, Sarah B. shared a story describing how she had to travel to Montréal to care for her son, who was dying of leukemia, but because of a lack of other resources was forced to leave her other children behind. It was while she was away that one of her daughters was murdered.

I took my child to hospital and left my daughters at home. I was supposed to leave the same day that I was notified, to leave for hospital. I was there for a long time and I was unable to leave my child.

Once I was told by the doctor to take my child to hospital out of my community, I cried when I heard. I didn't think it would be of any use. It was only in the evening that I became able to cry. Not to anyone else, but I was unable to leave Montreal Hospital when I heard; it was strange to not be able to go home.

In the morning, in the early morning, I was summoned; I was told that a social worker wished to see me. It was then I would be told [that her daughter had been murdered], as it turned out. I couldn't cry. Mary Ann was so important to me and I couldn't accept that she was gone.... I was sad that I had to leave my two girls behind to be in the hospital with my son, with the youngest child in my family. I had no choice in the matter.<sup>7</sup>

## Inuit and Child Welfare

In describing recent and contemporary experiences with child welfare, witnesses shared accounts of the ways this system, and the removal of Inuit children and youth from their families and communities, continues the breakdown of culture, kinship, and family, with far-reaching impacts. For instance, many Inuit families whose children are under child welfare services outside of Inuit Nunangat deal with the same feelings of isolation and the loss of connection to culture and family as described by those speaking about residential school attendance or forced relocations and resettlement. Nonetheless, despite the known hardships associated with familial separation and breakdown, systemic responses continue to look to relocation as a solution to a lack of services and resources rather than working to meet those needs in the community. As Tom Sheldon, Inuit Tapiriit Kanatami's (ITK) director of policy advancement, stated: "If a youth is not able to access those services in their community, they're often sent out of community and even out of region.... But there's very limited information on how many Inuit children and youth are in care, and where they're in care. We need better access to those numbers."<sup>8</sup> Even in situations where family- or community-based solutions exist that could keep a child in the community, witnesses described instances of these being overlooked.



Within Inuit communities, the crisis of child welfare is exacerbated by distance and the way in which Inuit children and youth are often sent south to encounter a completely different way of life. The mistrust of many Inuit for the *qallunaat*, or “white people’s” systems and laws is also heightened by the relatively recent experiences of relocation and colonization in the North. Harriet (Rutie) and her husband Johannes L. of Nain, Labrador, spoke to this, in memory of their daughter Kimberley J., who was murdered by her boyfriend at age 20. Johannes shared about how families in Inuit communities are under threat.

And then there are, like, certain families who live in poverty, who don’t have the means to support their children and grandchildren and do not have enough money to support their families. And this is because the education system has taken children away from their Inuit families as if education – the education system has become more responsible for the children, for the education of the children, so that responsibility has been taken away from Inuit; so our culture, our language is no longer being taught to our Inuit children and grandchildren. Our Inuit way of being – is being used less and so our way of life has been diminished. There are youth who have forgotten whether they are Inuit. They ask, “Am I Inuit or am I not?”<sup>v</sup>

In their testimony, Gordon and Silpa O. described how the separation of children and breakdown of family through government intervention create unforeseen repercussions for Inuit parents, and in particular for the safety and well-being of women. In Nain, northern Labrador, Gordon and Silpa O. tragically lost their daughter-in-law, Katie. Their son, her husband, had died previously from tuberculosis. They had four children who were already under the care of child welfare services before the parents died and the children were fostered by non-Inuit away from their hometown. In talking about the impact child welfare services had on the children, Gordon O. explained:

I had [written] a letter ... to the minister of Health and Social Development of Nunatsiavut Government ... of what happened and how we tried to intervene as a family ... knowing that my

son and his wife had – had problems at the time. There we sort of tried to ask for help to – for them to intervene and see if they can prevent – help prevent from our grandsons being taken out of town, but we did not hear back from them. Eventually they were ... permanent care children. ... My son and his wife were called to court, and we were there to listen to their hearing.... Our son and his wife – we were asked to speak, and I did speak. What we had to say or wanted to say did not seem to have an impact whatsoever. The lawyer for the Child, Youth, and Family services was the only person who spoke with authority.<sup>w</sup>

The loss of their children and the lack of control or say over how long they could have visitation rights impacted children, parents, and grandparents. That the children were being fostered outside of their community made it particularly hard for Katie after her husband and the children’s father had died. Gordon explained that he felt it important that children be reconnected to their parent, especially when a parent was mourning, and that it is best when they grow up at home. For Katie, this separation from her children was very difficult; she missed her children, and she was grieving and lonely. Already alienated, she isolated herself even further from her in-laws. Those encounters in her life made her particularly vulnerable during that time.

## Contemporary Social and Economic Contexts

The impact of colonial policies and practices on Inuit family and kinship systems, as well as on Inuit connection to the land and traditional practices, extends beyond the emotional well-being of Inuit families and communities to also hold significant social, economic, and health consequences. Despite the strength and resilience of Inuit families and communities, the barriers many face in meeting basic needs for housing, food, and health are significant. As witnesses and research demonstrate, many of these barriers to adequate social and economic infrastructure contribute to conditions that increase the likelihood of violence and other threats to health and well-being.



## Housing

As with First Nations and Métis people living elsewhere in Canada, Inuit face significant challenges in accessing safe and affordable housing. In the case of Inuit and those living in northern communities, some of these common challenges are exacerbated by the small size and remoteness of communities. According to the most recently available data from Inuit Tapiriit Kanatami (ITK), 52% of Inuit in Inuit Nunangat live in crowded homes. This is a vast difference from the only 9% of all Canadians who live in such conditions. In addition, almost one-third of Inuit live in homes that need major repair, while only 6% of non-Indigenous people in Canada do.<sup>X</sup> The challenge of undertaking repairs is complicated by the cost of, and access to, materials in remote locations. Given these numbers, it is not surprising that organizations like ITK believe that the housing situation for Inuit in northern and remote communities has reached a “crisis” level.<sup>Y</sup> As many witnesses throughout the Inquiry described, overcrowded, unsafe, and unaffordable housing is often the catalyst for further problems. Inuit Tapiriit Kanatami reports that overcrowded housing is “associated with high rates of communicable disease (such as tuberculosis), stressors that can lead to friction and violence between family members, poor conditions in which children must learn and study, and other challenges.”<sup>Z</sup>

In addition, and as some witnesses shared, there are restrictions on housing as it is built or exists in many communities. For one, culturally inappropriate architecture, as manifested in the absence of communal spaces required for traditional transmission of language and culture, or single-family dwellings not built to accommodate multiple generations, can generate increased hardship. As well, and as one witness shared, the restrictions on the use of housing in Nunatsiavut, for instance, according to the housing authority, mean that some women who rely on selling crafts are not allowed to make them in their home. As Kim C.-M. explained,

They are not allowed to make a pair of slippers to sell to their neighbour to make that money to go to the store to feed their children. That has been very impactful... As we know, many of our

women are still very much traditional craft-makers, and for many of our women, that is their only source of income, and for that stipulation to be put on our women, that causes more economic hardships for families.<sup>AA</sup>

As Tim Argetsinger, executive political advisor with Inuit Tapiriit Kanatami, explained, poor or inadequate housing conditions create additional opportunities for, and vulnerability to, violence and other threats to safety.

Since we’ve been talking about housing, safety and security ... is linked to things like ... the stress that is often more prevalent in households that are crowded, in the ability of people who are experiencing violence to leave and to seek alternative housing, whether that’s in their community or elsewhere. It’s in part what anecdotally we know is safety and security is a pressure that people talk about when they talk about the reasons why they may have relocated to an urban centre, to seek safety and security elsewhere, which in some cases may ... contribute to them becoming more vulnerable and facing other challenges.<sup>BB</sup>

## Food Insecurity

In addition to housing, many Inuit face challenges in ensuring they have adequate food. Recent data from the Inuit Statistical Profile shows that food insecurity is a major concern across Inuit Nunangat: in Nunatsiavut, 44% of households are food insecure; in the Inuvialuit Settlement Region, 46% are food insecure; and in Nunavut, 70% of households are food insecure. These numbers are a stark contrast to the 8% of households in Canada that struggle to have adequate food.<sup>CC</sup> Again, the causes of food insecurity in remote and northern communities are connected to the remoteness of the communities combined with the ongoing impact of colonial practices that have disrupted traditional ways of gathering food. These causes include, as the Inuit Statistical Profile indicates, the “high cost of food in Inuit communities, poverty, cost of supplies required for harvesting food, and the decline in some animal species such as caribou.”<sup>DD</sup>



In the same way that inadequate housing creates further challenges, so, too, is food insecurity a catalyst for other health-related problems. Food insecurity is connected to poorer physical and mental health; cognitive, academic, and psychosocial development delays in children; and disruptions in cultural continuity and cultural well-being connected to practices of harvesting and consuming country foods, such as seal, whale, and fish.<sup>EE</sup> Kim C.-M., the executive director of the AnânauKatiget Tumingit Regional Inuit Women's Association of Nunatsiavut, talked about the fears she carries related to this move away from traditional hunting and gathering practices and the importance of these practices to the health and well-being of her community.

So my fear is that this generation will not have any of the knowledge of what my generation had because we are on a caribou-hunting ban. We can no longer hunt our caribou. Our salmon is in jeopardy due to methylmercury concerns. Our seals are in jeopardy due to methylmercury concerns, and we know that development takes away from the natural habitat of our animals and sometimes their breeding grounds, and I'm fearful, I really am, that the more Labrador gets exploited, the more our culture will diminish, and that's a fact.... Many of us here are [afraid], and that would be a very sad day for me.<sup>FF</sup>

For many Inuit, the challenge of securing housing and food is made more difficult by poverty resulting from low-paying employment and barriers to education. For example, the median income of Inuit living in Inuit Nunangat in 2015 revealed an almost \$70,000 difference between Inuit (\$24,485) and non-Indigenous people living in the region (\$92,011). For many Inuit families, low income creates challenges unique to the geography of the region where basic necessities, such as food, clothing, and hunting and fishing supplies, are more expensive.<sup>GG</sup>

As Laura M. described, in speaking about her aunt Betsy, who was murdered, poverty remains a significant barrier for women who may want to leave their community to seek out new opportunities or who need to leave their community in order to escape violence.

Women such as Betsy never was given the opportunity to have a better life. Those opportunities came to those who may have had family in higher levels of government or who hold high levels of office or maybe people who have good paying jobs. You have no chance of escaping. If you don't have the means or family relations to climb the success ladder. Very few are fortunate to climb but do with a lot of barriers, you know, such as the glass ceiling. I'm sure you guys all understand that.<sup>HH</sup>

## The Cumulative Effects of Marginalization Among Inuit

In understanding the cumulative effect of these social and economic factors on the physical and mental health and wellness of Inuit, it is important to approach health and wellness as a holistic concept – one that “encompass[es] every area of life ... and is grounded in expectations to contribute, share, care, belong, live well, be respectful and celebrate life.”<sup>II</sup> Of particular concern are the high rates of tuberculosis compared with rates in other people in Canada. Inuit Tapiriit Kanatami reports that “the average rate of active TB among Inuit Nunangat was over 300 times the rate for Canadian-born non-Indigenous population.”<sup>JJ</sup> This reality is rooted in the economic marginalization of Inuit that creates inadequate housing, food insecurity, and poverty, as well as in the ongoing legacy of past government-led responses to TB and the ongoing lack of effective approaches – an issue that will, we hope, be addressed by the government of Canada's commitment to the elimination of TB across Inuit Nunangat by 2030.<sup>KK</sup>

Another health issue closely connected to the socio-economic conditions and multigenerational traumatic impacts of colonial violence is suicide: as ITK reports, “the four Inuit regions in Canada have rates of suicide that range from five to 25 times the rate of suicide for Canada as a whole.”<sup>LL</sup> Inuit Elders again return to the loss of culture and connection to the land as a contributing factor to the mental health struggles facing Inuit youth. Kim C.-M. observed:



Well, that's our identity. That makes us who we are. Youth need to [know] their culture, and they need to be able to embrace it, and they need to be able to embrace all aspects of their culture, and when we talk about traditional food sources, you know, if young people can no longer do those things that we have done, and we cannot teach them what we have been taught and to pass it on as we are obligated to do as human beings on this earth, what will be left of our children? Where will they be without their connection to the land and to our animals and to the cultural practices that comes along with that? Culture's everything.<sup>MM</sup>

### **When Services Don't Exist: Isolation in Remote or Northern Communities**

The physical, mental, emotional, and spiritual health challenges facing Inuit in Inuit Nunangat and other Indigenous people living in remote and northern communities are compounded by a lack of resources and supports to address these concerns. For instance, not only is mental health counselling not available, but there is also a lack of treatment centres for Inuit in Inuit Nunangat. For someone wishing to receive treatment for alcohol or drug abuse, one must leave home and family to go to a treatment centre in an urban area. For a mother with young children, for example, this is nearly impossible unless she has the full support of her family. Addictions services are also identified by Inuit, particularly in remote communities, as being of high priority.<sup>NN</sup>

On the question of prevention and the type of support needed in a community, Benigna A. shared the following:

In Nain, I have to say that there are services – like you know, there's never enough, but we do have a shelter, but the counsellors and stuff – like I said, they're always outsiders. They come to Nain, they stay maybe six months and then they're gone again. And then by that time the people who have been seeing them are opening ... their can of worms ... and then nobody's there to help them after they've already opened up their wounds. They're left hanging till the next counsellor comes maybe a year later.<sup>OO</sup>

The transient nature of much of the workforce in the helping professions – such as police, nurses, counsellors, and teachers – creates significant challenges related to the quality of care and the continuity of care and services. In particular, when helping professionals, such as the counsellors Benigna described, are present in the community only for limited periods of time, it becomes difficult for community members to build safe and trusting relationships necessary for healing.<sup>PP</sup> Benigna felt that proper training and capacity building of local people would be helpful: “People who already live there, who love the community, who love their people, who want to help.”<sup>QQ</sup> Once again, however, access to necessary training and qualifications is often difficult to obtain without leaving the community, as well as access to the necessary financial means to do so. In her testimony, Dr. Pertice Moffitt talked about this challenge in relation to the nursing profession and the challenges faced in seeking the basic educational requirements in math and science to gain entry into a nursing program.<sup>RR</sup>

For expectant mothers, the lack of adequate obstetric care within many communities carries distinct repercussions when women have to leave their homes and families to give birth. The long-standing practice of evacuating Indigenous women living in remote communities from these communities to more southern locations to give birth is done under the auspice of ensuring the safety and well-being of both mother and baby. It is a practice that many people feel carries significant negative impacts on both the expectant mother and her family.<sup>SS</sup> As Tracy Denniston, a social worker and executive director of Nain Transition House, explained:

Our pregnant women have to leave a month in advance for their babies unless they sign a waiver to say they're allowed to stay for another two weeks. I think that impacts some women's decisions because sometimes they may have other children that they're taking care of, even though the husband or the partner is involved. Sometimes it may mean that they're putting their child – unborn child at risk because they need to stay to help for the other two because it's too long of a time frame for them to be gone for a month versus the two weeks.<sup>TT</sup>



Social and economic factors, such as lack of housing, food insecurity, and inadequate support and care, contribute in significant ways to the challenges facing Inuit communities and others living in remote and northern communities. These factors intersect in ways that contribute to violence directed against Inuit women and girls.

## Confronting Violence in Northern and Remote Communities

In discussing the problems and challenges of confronting violence in northern and remote communities, witnesses once again emphasized the importance of understanding the role of family, kinship, and culture in relation to the safety of Inuit women and girls living in this environment, and the way colonialism has fundamentally disrupted this safety net. Inukshuk Aksalnik, Qikiqtani Truth Commission coordinator, described some of the distinct historical, socio-economic, and geographical factors that can spur violence in these communities.

Contributing factors to violence experienced by girls and women included Qallunaat demographics, namely, the prevalence of young single men living together with little supervision, no parents or spouses that would have regulated their behaviour, drunkenness as a form of entertaining, and drunkenness as a defence for criminal acts. The breakdown of Inuit family units that could protect Inuit girls and women from harm. Families were split up when parents were taken south for health treatments as one important example. Other contributing factors were alcohol consumption within Inuit families, and as well, inadequate and crowded housing. In addition to assaults by police ... violence experienced by girls attending residential schools and living in hostels and confined to hospitals in the South. Women and men spoke about domestic assaults of all kinds.<sup>UU</sup>

In sharing her truth with the National Inquiry, Susan A. reflected on her own experience of enduring violence within a small community. Susan explained how she survived the sexual abuse of a predator who had also abused many others in the Inuit community

of Kangirlliniq/Rankin Inlet. She was a child when she was assaulted, and it was years later, as a young adult, that she felt she had to leave her community after particularly trying times.

It took almost a year from the point of giving my statement to that first court hearing. [The circuit court delayed the court proceedings], and in that year, we're living in the same community. This is when all of the mental health issues that I believe could be managed got worse up to that point, beside the isolation. I've always had amazing family support. This is when, in that year, waiting four months, "Oh no, he didn't get a lawyer." Next time, "Another four months." ... In that year, the following mental health conditions developed. Small ticks, the twitching got worse. Hyper-awareness of my surroundings. Are you a threat? Do you hate me? What are you going to say to me? It's no longer your community. You don't belong here anymore. Anxiety attacks. And the biggest one for me was trust. Who do you trust in your community? Who do you talk to? Everybody knows everybody. The isolation makes you socially inept.... All relationships struggle.... I stayed on here in Rankin trying to get back my life until he showed up in church after serving his time, and he wanted to shake my hand, and I knew then that I had lost the community. Not because the people chose, but the system makes us choose. It protects him more than it protects the victim. And I had to leave.... Searching out anything, something better, whatever it is.<sup>VV</sup>

Despite winning the case, Susan lost her sense of belonging in the small community, because "everything had changed." As she explained, "The whole process left me unsettled.... I left because there was no emotional support. There was no place to go for an overall sense of safety.... There was no place to go to understand that I had lost the sense of self ... that is where I was at when I left roughly 27 years ago and moved to Ottawa."<sup>WW</sup> This sense of vulnerability never left her – a "constant companion," as she described it, common to many survivors: "We feel always vulnerable, so we create a life around protecting ourselves from that vulnerability, and this is a normal state in many of our communities."<sup>XX</sup> Had she had access to support, Susan said, she would have stayed to create a life in her community and among Inuit.



As this account demonstrates, for Inuit women living in a small northern community where most people know one another and who are bound to be related through kin, custom adoption, or marriage, obtaining justice has its particular set of challenges. Among Inuit in the past, abusive behaviour was often stopped, and if it did not stop or if it worsened, the parents of an abused daughter would remove her. Sandra Omik, lawyer at the Nunavut Tunngavik Incorporated based in Iqaluit, said:

They resolve the problem right away.... If there was violence they would split them, if it's [going on] too long. So they would just split them. Looking at their future, it's not going to be beneficial for the future if that keeps up.... So we have to use the laws.... They always protected things before – before something happens. But Canada's law works afterwards, like they arrest them and they try to fix the person after they arrested him or her ... I think it's jumbled up.<sup>YY</sup>

With kinship bonds weakened through colonialism, and the RCMP's being a fundamental part of colonialism, Inuit deal with laws that do not work for them in the northern context. For women living in remote or northern communities, turning to the police for help may put them at risk of further violence from community members. Farida Deif, the Canada director of Human Rights Watch, spoke about some of these distinct challenges.

In the North, the remoteness of many of the detachments that are there, the feeling of sort of isolation, of the real fear of filing a complaint because there are only, you know, two police officers in that detachment. The community is very, very identifiable. They're – you know, if you suffer any kind of abuse at the hands of police officers, if you file a complaint in a remote part of northern BC, it'll be very clear who you are to the community. And you are, you know, in many ways a lot more vulnerable when you are in a remote setting with only, you know, two police officers, for the most part two male police officers. And so in that sense, I think that there was an added level of, you know, potential, in a way, for abuse, because of the remoteness, because of the isolation, the less options for remedies that you might find in a city environment.<sup>ZZ</sup>

In sharing their truths before the National Inquiry, Emilia and Arsene A. illustrated the barriers they and their daughter faced in receiving services and protection that may have saved their daughter's life. Emilia and Arsene A.'s daughter had had two children from a previous relationship, and was close with her parents. She had always wanted to be out on the land, and enjoyed on-the-land activities and joking around, and was able to confide in her father about her life. Her current partner, however, was violent, and she experienced significant violence within the relationship. Her mother, Emilia, said:

I felt very much that she couldn't stay home anymore, even though I felt – I know that she was being controlled. And when they started arguing and she would get beat up ... and told her dad she thought she was going to be killed. I wrote a statement to the RCMP ... they went there to go see them and they said they were fine.<sup>AAA</sup>

The abuse went on; Emilia and Arsene described how, at different points, their daughter would have bruises; another time, she had a broken nose and a broken wrist. She would tell her father. However, Emilia and Arsene said that they were told that if she needed help, she would have to make the call herself. Emilia explained why it was difficult for her daughter to report the violence, and how her decision not to do so was motivated by a desire to protect her family: "Yes, she had to go ask for help for herself as they said she was an adult now. But she was afraid and ... she mentioned one time that if she tells on him, that he would come after us, too, us family. So because she was afraid, then she couldn't speak out.... she was trapped."<sup>BBB</sup>

As her mother recalled, she started calling social services to ask for support for her daughter in fear for her safety, and was told by social services that she could do things on her own. They also directed her to the RCMP, who said they couldn't help. In the aftermath of her daughter's murder, Emilia recounted her feelings when the RCMP came to see them.

The RCMP started coming to our place. The one RCMP officer called me and probably came to visit us [after she had been murdered], but myself, I didn't want to see them anymore.... I was too angry. They were – it was too late. We didn't want



the RCMP to come around anymore because when we asked for their help they never came.... Like where was the help when I needed it? Why wait so late – like so late for it after?<sup>CCC</sup>

As Arsene also said:

Because we are here in a small community, we're not living in the city – my wife used to ask for help, but there's too much red tape. They're using – we're using the same rules and laws as down south, it shouldn't be like that. They probably would have been able to help and we probably wouldn't have gone through this. They already knew, the RCMP, what was happening. But because of the laws and they're using the laws, they couldn't do anything.<sup>DDD</sup>

Inuit families and Elders continue to express how today's laws do not work in Inuit communities. The enforcement of these laws, especially as seen in the example of the non-interference of RCMP and their inability to act unless they receive a call from someone whose life is in danger, goes against what Inuit parents see. Inuit parents watch helplessly as their daughters' lives deteriorate and end in violence under their very eyes. Yvonne Niego, deputy minister of the Department of Family Services with the Government of Nunavut and a former RCMP officer, spoke about the difference between traditional Inuit values and RCMP values.

The RCMP has six core values, Inuit have eight core principles, and comparatively, there's a lot of similarity, but the difference is that ... [Inuit ways are] very much holistic and there's a lot more depth and feeling to it. Consensus – the social decision making, the working together for a common cause, that is so much more pronounced in our Inuit ways I find than with the RCMP values, which are based on general Canadian values.<sup>EEE</sup>

The ability of Inuit parents to remove their daughters from violent relationships is also hampered by the change in Inuit society. Parents no longer have full authority over their children like they used to, so it is very difficult for parents to remove their daughter from a man she is living with, especially if he remains in the same community and could pose further danger. In the many cases where the RCMP had been

called by the mother of a daughter before her murder, requesting that her daughter be helped, the stories also show that young Inuit women were not offered any kind of resources for help. They were not offered counselling programs and, most important of all, no safety networks were made available to them. And, in the majority of Inuit women killed by their spouses, intergenerational trauma is connected. Although the Nunavut Court of Justice decisions clearly show that link, the police do not bring this knowledge to their work in protecting Inuit women from violent spouses.

As Sophie N. put it:

Why is it that men hurt and beat women? I thought the point of our union was love and caring. We as women are happy when we are loved, it's a very joyous relationship. It's very, very fearful when we get beaten up in a drunken state. There is no place to go, there is no shelter, there is no one to talk to, and so we lose our strength and our train of thought as to plan some sort of escape.... I have walked out of the mental health service offices and I was struggling. What we need ... is good mental health support in the communities where we don't have to get flown out every time there's a tragedy of some nature. You can then have access for health support, including mental health support, in the communities. We are the landowners of our communities. It would be ideal for those who suffer not to have to fly out for counselling every time there's a tragedy.<sup>FFF</sup>

## Restoring Family, Kinship, and Culture

To be sure, restoring health and well-being is deeply connected to restoring family and kinship relationships within community, and to exercising self-determination. Yvonne Niego spoke about the need for, and challenges of, reconciliation in the Inuit context: "We can't go back to the way we used to live as nomadic Inuit, strong, resilient as we once were. We're rebuilding that, reclaiming that, but I really feel strongly that there's a federal responsibility to reconcile. So, whatever that looks like, it has to reach into the community."<sup>GGG</sup> The testimony gathered



from Inuit families and survivors of violence, as well as Elders and Knowledge Keepers, wove together the many contributing factors to violence in the lives of Inuit women and girls and others living in remote and northern communities. To end acts of violence that take the lives of women and girls requires action

that reflects an understanding of the distinct history, culture, and geography of those living in these communities; it also requires an acknowledgement of past and present acts of colonial violence that have fundamentally disrupted family and kin systems so integral to safety, health, and well-being.

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## Findings:

- The interference in the lives of Inuit and the imposition of laws, policies, and systems on Inuit by the Canadian state have largely been motivated by Canada's assertion of sovereignty over Inuit lands and waters in order to secure political positioning and economic resources. This has been a disruptive, tragic, and painful experience for Inuit. Throughout this time, Inuit have always asserted their rights and their place as the rightful people of the land. As a result, and after years of legal and political battles, Inuit within Inuit Nunangat have entered into various land claims and self-government agreements with the Crown. These agreements define the rights, benefits, roles, and responsibilities of the Crown and Inuit. The agreements reflect the desire and the commitment of Inuit to be a part of Canada, and the agreements define and govern part of Canada's commitments and obligations to Inuit. Canada's sovereignty is entirely reliant and predicated on these agreements with Inuit.
- The adherence to the obligations, commitments, intentions, and objectives of the agreements is an imperative. The objective is the self-determination and the social, economic, cultural, and political prosperity of Inuit within Canada. If Canada wishes to benefit from Inuit lands and continue to assert sovereignty over Inuit Nunangat, then Canada must uphold and protect the human rights and Indigenous rights of Inuit and must ensure substantive equality for all Inuit. This is in the best interest of all Canadians.
- Social and physical infrastructure deficits within Inuit communities are an impediment to the economic, social, political, and cultural development and well-being of Inuit. This infrastructure deficiency directly contributes to maintaining and perpetuating the high rates of violence experienced by Inuit women, girls, and 2SLGBTQIA people, and their social, economic, political, and cultural marginalization. All governments and government agencies have failed to recognize and take effective action to substantively remedy these deficits.
- Although most Inuit communities have settled land claims and self-government agreements with the hope of ensuring Inuit self-determination and the economic, social, and cultural well-being of Inuit, governments have failed to meaningfully uphold and protect Inuit rights and have failed, in many cases, to ensure the agreements have met their intended objectives. These failures impede Inuit self-determination and directly contribute to maintaining and perpetuating the conditions that lead to the high rates of violence and the denial of safety for Inuit women, girls, and 2SLGBTQIA people.
- The recognition of the rights of Inuit to be self-determining in all aspects of their lives is imperative. The development of safe and healthy families and communities will be best met through Inuit self-determination that is respected and supported by the Canadian state.
- Culture, language, and strong kinship and community ties are integral to the empowerment and revitalizing of Inuit communities and are critical sources of support, healing, and safety for Inuit women, girls, and 2SLGBTQIA people. This includes the well-being and unity of families and the strength of kinship ties, which are central to the safety and well-being of individual Inuit women, girls, and 2SLGBTQIA people.



- Childhood is a critical period in life that can strengthen and protect a child from harm, or can cause lasting trauma and risk of violence and exploitation. The number of Inuit children in state care is unclear. Child welfare agents within Inuit communities have tremendous power and can exert largely unchallenged control over Inuit families. Accountability and oversight of child and family services, and of apprehensions and placements in care, remain a serious concern.
- For the most part, laws in force within Inuit communities do not reflect Inuit laws and values. This is particularly the case in the areas of child welfare, criminal law, and law enforcement. As such, most laws in force are not reflective of Inuit values and therefore largely fail to provide the effective and meaningful services, supports, and protections these systems are intended to provide.
- Deep intergenerational trauma and family disruption exist as a result of colonialism and the numerous human rights violations the Canadian state has committed against Inuit. The unaddressed human rights violations and the deep trauma are a root cause of the violence to which Inuit women, girls, and 2SLGBTQQIA people are subjected. There is an urgent need for the restoration of Inuit self-determination and governance and the need to address the trauma by facilitating the healing and well-being of all Inuit.
- All measures to ensure the safety and well-being of Inuit women, girls, and 2SLGBTQQIA people must be inclusive and holistic, and include Inuit men and boys. The loss of traditional roles for Inuit men and boys due to the impact of colonialism coupled with high rates of unemployment and intergenerational trauma all contribute to low self-worth among men and boys and an increased risk of resorting to violence.
- Inaccessibility of services is a contributing factor in the violence that Inuit women, girls, and 2SLGBTQQIA people experience. Specifically, gaps in accessible services and infrastructure deficits in Inuit communities result in Inuit women, girls and 2SLGBTQQIA people not having access to essential services or having to travel out of their communities to access services. The services that are lacking in Inuit communities are essential services that most Canadians have access to within their reach and communities. The absence of services increases the risk of violence because it results in the separation of Inuit women, girls, and 2SLGBTQQIA people from the safety and security of family and community. Further, the inadequacy of services within Inuit communities exposes Inuit women, girls, and 2SLGBTQQIA people to predation in urban centres where they are sent for treatment. This is particularly true for those seeking mental health and health services, addictions treatment, and educational services outside of their communities. Further, the lack of maternity, prenatal, and postnatal care in most Inuit communities and the loss of traditional birthing practices force many Inuit women to travel out of their community to give birth. This has been found to have long-term negative impacts on the mother and the child, and, in some cases, the disruption of the family has led to violence and risk of violence against the mother or the children she is forced to leave behind.
- A lack of cultural appropriateness and effectiveness of services is a contributor to the violence, including the failure of service provision, lack of Inuit design, and services that are not Inuit-led and -delivered. Services that are Inuit-led, using Inuit values, practices, and laws, delivered by Inuit, and are accessible and holistic, are the most meaningful and effective services.
- Quality and effectiveness of services within Inuit communities are compromised by a largely transient workforce occupying these positions and implementing and operating services that are not developed or designed by Inuit. Effective service provision requires long-term, trusting relationships with the community they serve. This is particularly true in the areas of social work, education, health provision, and law enforcement.
- Socio-economic inequality directly contributes to the violence and the lack of safety experienced by Inuit women, girls, and 2SLGBTQQIA people. The lack of safe and affordable housing and overcrowding in Inuit communities are factors that increase the risk of violence and harm, and are barriers to fleeing violence. Low educational achievement and the general lack of educational and training opportunities are a barrier to the



ability of Inuit women, girls, and 2SLGBTQIA people to gain economic independence. Further, economic insecurity, poverty, and food insecurity are factors that increase the risk of violence and represent barriers to fleeing violence.

- The absence of Inuit women in decision-making positions within governments and Inuit representative organizations is a barrier to advancing laws, policies, and programs designed to combat violence against Inuit women, girls, and 2SLGBTQIA people.
- There is a growing population of Inuit living outside of the Inuit homeland, often referred to as “urban Inuit,” who are not fully counted or provided services due to deficiencies in the current census process and methods employed. The number of Inuit outside of their homeland is far larger than the current data reflects. The failure to understand the reasons for the scope of the movement and of the urban Inuit population greatly limits our understanding of the needs and services required to address this issue.
- For many urban Inuit, reasons for moving south to urban centres include the pursuit of services such as treatment and education, or to flee circumstances of violence or economic disparity, for which they would not need to relocate if those services were available in their communities. Due to lack of facilities and services in the Inuit homeland, Inuit are sent south for addictions treatment, to serve federal jail terms, and to reside in foster and group homes, and, more recently, Elders are sent south to assisted living facilities. Many Inuit don’t return home because of their ongoing needs, and get stuck in the South, especially in reference to correctional and treatment facilities.
- Urban Inuit, including women, girls, and 2SLGBTQIA people, face additional discrimination and exclusion in exercising their rights and accessing culturally appropriate services when they are outside of their Inuit homeland. Being separated from their homeland, their families, community ties, and culture, urban Inuit are in turn denied the safety and security that family and culture provide. Further, urban Inuit experience political marginalization once they are outside of their homelands.

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|---|---------------------------------------------------------------------------------------------------------------------------------------|---|-------------------------------------------------------------------------------------------------------------------------|
| A | Pauktuutit Inuit Women of Canada, <i>The Inuit Way</i> , 30.                                                                          | K | Hagar Idlout-Sudlovenick (Inuit), Mixed Parts 2 & 3, Public Volume 1, Iqaluit, NU, pp. 36–37.                           |
| B | Makivik Corporation et al., “Parnasimautik Consultation Report.”                                                                      | L | Hagar Idlout-Sudlovenick (Inuit), Mixed Parts 2 & 3, Public Volume 1, Iqaluit, NU, p. 42.                               |
| C | King, “A Brief Report of the Federal Government,” 10.                                                                                 | M | Elder Elisapi Davidee Aningmiuq (Inuit, Lake Harbour/Iqaluit), Mixed Parts 2 & 3, Public Volume 1, Iqaluit, NU, p. 112. |
| D | Gadoua, “The Inuit Presence,” 169.                                                                                                    | N | Micah A. (Inuit, Talurjuaq), Part 1, Public Volume 46(b), Rankin Inlet, NU, p. 2.                                       |
| E | Pauktuutit Inuit Women of Canada, “Violence and Abuse Prevention.”                                                                    | O | Micah A. (Inuit, Talurjuaq), Part 1, Public Volume 46(b), Rankin Inlet, NU, p. 2.                                       |
| F | Elder Elisapi Davidee Aningmiuq (Inuit, Lake Harbour/Iqaluit), Mixed Parts 2 & 3, Public Volume 1, Iqaluit, NU, p. 10.                | P | Annie B. (Inuit, Pangnirtung), Part 1, Public Volume 16, Winnipeg, MB, p. 6.                                            |
| G | Elder Elisapi Davidee Aningmiuq (Inuit, Lake Harbour/Iqaluit), Mixed Parts 2 & 3, Public Volume 1, Iqaluit, NU, pp. 14–15.            | Q | Annie B. (Inuit, Pangnirtung), Part 1, Public Volume 16, Winnipeg, MB, p. 5.                                            |
| H | Elder Elisapi Davidee Aningmiuq (Inuit, Lake Harbour/Iqaluit), Mixed Parts 2 & 3, Public Volume 1, Iqaluit, NU, pp. 17–18.            | R | Elder Abraham Arnakak (Inuit, Pangnirtung), Mixed Parts 2 & 3, Public Volume 4, Iqaluit, NU, pp. 7–8.                   |
| I | For more on the aftermath of the relocations, see Canada, Royal Commission on Aboriginal Peoples, <i>The High Arctic Relocation</i> . | S | Amy Hudson (Inuit, NunatuKavut), Part 3, Public Volume 9, Toronto, ON, pp. 161–162.                                     |
| J | Laura M. (Inuit, Rankin Inlet), Part 1, Public Volume 46(a), Rankin Inlet, NU, p. 4.                                                  |   |                                                                                                                         |



- T Sarah B. (Inuit, Iqaluit), Part 1, Public Volume 65, Montréal, QC, pp. 31–32.
- U As cited in Rogers, “Ottawa moving fast.”
- V Johannes L. (Inuit, Nain), Part 1, Public Volume 57, Happy Valley-Goose Bay, NL, p. 27.
- W Gordon O. (Inuit, Nain), Part 1, Public Volume 50, Happy Valley-Goose Bay, NL, pp. 9–10.
- X Inuit Tapiriit Kanatami, “Inuit Statistical Profile,” 13.
- Y Ibid.
- Z Ibid.
- AA Kim C.-M. (Inuit, Labrador), Part 1, Public Volume 49, Happy Valley-Goose Bay, NL, pp. 26-27.
- BB Tim Argetsinger (Inupiaq), Part 3, Public Volume 4, Quebec City, QC, pp. 75–76.
- CC Inuit Tapiriit Kanatami, “Inuit Statistical Profile,” 16.
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- II Tagalik, “*Inuitsiaqpagutit*,” 4.
- JJ Ibid., 14.
- KK Ibid.
- LL Ibid., 18.
- MM Kim C.-M. (Inuit, Labrador), Part 1, Public Volume 49, Happy Valley-Goose Bay, NL, p. 11.
- NN Jennisha Wilson, Mixed Parts 2 & 3, Public Volume 16, St. John’s, NL, p. 59.
- OO Benigna A. (Inuit, Nain), Part 1, Public Volume 58, Happy Valley-Goose Bay, NL, p. 22.
- PP Benigna A. (Inuit, Nain), Part 1, Public Volume 58, Happy Valley-Goose Bay, NL, p. 22.
- QQ Benigna A. (Inuit, Nain), Part 1, Public Volume 58, Happy Valley-Goose Bay, NL, p. 22.
- RR Dr. Pertice Moffitt, Mixed Parts 2 & 3, Public Volume 16, St. John’s, NL, p. 101.
- SS Lawford and Giles, “Marginalization and Coercion.”
- TT Tracy Denniston (Inuit, Hopedale), Part 3, Public Volume 5, Quebec, QC, pp. 244–245.
- UU Inukshuk Aksalnik (Inuit, Rankin Inlet), Mixed Parts 2 & 3, Public Volume 1, Iqaluit, NU, pp. 55–56.
- VV Susan A. (Inuit, Arviat), Part 1, Public Volume 48(a), Rankin Inlet, NU, pp. 49-52.
- WW Susan Aglukark (Inuit, Arviat), Mixed Parts 2 & 3, Public Volume 12, Winnipeg, MB, pp. 197-198.
- XX Susan Aglukark (Inuit, Arviat), Mixed Parts 2 & 3, Public Volume 12, Winnipeg, MB, p. 198.
- YY Sandra Omik (Inuit, Pond Inlet), Part 3, Public Volume 2, Winnipeg, MB, pp. 131-132.
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- BBB Emilia A. (Inuit), Part 1, Public Volume 47(b), Rankin Inlet, NU, p. 5.
- CCC Emilia A. (Inuit), Part 1, Public Volume 47(b), Rankin Inlet, NU, p. 6.
- DDD Arsene A. (Inuit), Part 1, Public Volume 47(b), Rankin Inlet, NU, pp. 4, 6.
- EEE Yvonne Niego (Inuit), Part 2, Public Volume 8, Regina, SK, pp. 12–13.
- FFF Sophie N. (Inuit, Pond Inlet), Part 1, Public Volume 47(a), Rankin Inlet, NU, p. 4, 6.
- GGG Yvonne Niego (Inuit), Part 2, Public Volume 8, Regina, SK, p. 27.



## Pathway to Violence: Denying Agency and Expertise in Restoring Health

Although many witnesses talked about the deficits and dangers within health care systems, and the violations of their individual and collective rights to health, they also repeatedly cited the need to recognize their own strength. As Danielle E. shared, “I do feel the pain, but I also do feel the strength.”<sup>113</sup>



*Sandra DeLaronde, co-chair of the MMIWG Coalition in Manitoba, speaks with Commissioners in Winnipeg, Manitoba.*

Part of recognizing this strength means listening to the women, girls, and 2SLGBTQQIA people who share their experiences and who have expertise to offer about health and wellness. Karen C. emphasized the importance of understanding and raising Indigenous voices.

Having a voice is huge. I used to be the little girl, me and my sister, whose mom used to sit in the back. Never had a voice because we were always told to be quiet. What happens in our house stays in our house.... Today and since I've come into recovery, I have a voice and I'm very loud and proud about it. And that's just who I am today.<sup>114</sup>

### **Accessing Culturally Appropriate Health Care Services and Supports**

One of the priorities that many witnesses shared, as part of recognizing their expertise and agency, was the need to create and to support culturally appropriate health care services, regardless of location.

Carla and Moses M. spoke about how the parameters placed on government funding often conflict with Indigenous concepts of health care provision that is rooted in community and culture. Carla described what happened when her husband, Moses, attempted to secure funding and open a health care centre in their community.

Moses fought really hard for funding for a health centre for our community, and he got it, and the – and in some ways I just want to call it evil. In some ways the process was hijacked by evil and greed.... And most recently hijacked by a white guy from INAC



[Indigenous and Northern Affairs Canada]... The intention of the building was for a health centre. It was supposed to have a doctor's office, a dentist's office. It was supposed to have a kitchen area with a room so we could rebuild our families, where people could come for their family dinners because a lot of times our home are too small, where we could have dance practice. And it was supposed to have an area for first responder supplies because we live in an isolated community where if we have like a big earthquake we're probably going to be cut off from everybody else. It was even supposed to have an ambulance.

[Now] it has no ambulance, no first responder supply, and nobody can access the building. And they've set up video cameras all over the place so they video everybody. And our families – unless you're part of that chief councillor's family and a friend of that white guy who's the band manager, we can't access the building for our family dinners.

So then when I talk about the language and that kind of funding, that's the kind of stuff I'm talking about. We need help and how do we get services to all our community members and not allow any one person or one group to hijack it from everybody else. And I don't have the answers to that. It's something I'm sure lots of communities struggle with.<sup>115</sup>

Witnesses shared some of the innovative ways they have found, despite these barriers, to provide culturally appropriate health care support and services. Barb L. discussed her work with pride, underlining the way in which culturally appropriate services can provide a way forward.

I belong to a fabulous organization now, and they have opened a medical clinic. So they started with housing, it's Lu'ma Native Housing. We started with housing, and then now we have all these subsections of what kind of the gaps that are being created around Vancouver.

So my program is, you know, helping the youth that are aging out of care, and we have a medical centre as well. That medical centre practises both Western medicine and our traditional medicine. So we have healing rooms, we have Elders, and anybody in the city has access to that. So that makes me proud. That's a great place to be and take care of yourself in all areas, so it's good.<sup>116</sup>

At the same time, and as some witnesses noted, the support for these services must be sustained. Indigenous-led solutions are an important part of this. Sadie C. advocated, "It's so important, you know, to let us know that we matter, that our opinion matters, that the suffering we went through is real, and we're not the only one. And there is help." Speaking of her experience at the Native Education College, she added: "They have the counsellors. They have the prayers. They have



the crafts ... and the courses that help them along the way, bringing us out to other resources where we can continue on this journey, this Red Road and common ground of leaning upon our Creator.”<sup>117</sup>

Ceremonies and traditional teachings play a role in this. As Sonia B. remembered, while attending an upgrading class, she met a woman who came to do a fire ceremony. After participating in the ceremony, the group talked about treatment centres, and the woman who provided ceremony discussed that with her. She explained:

So she did what she could to get me in. She said it’s a six-month to a year waiting list, and I was kind of sad about that because I was just tired of drinking. I wanted to end it yesterday. That was February 13, 1991. On February 14, she came to my school and asked me to come outside. They had a date for me March 10. I went to the treatment centre and pretty much didn't look back.<sup>118</sup>

As Barb L. argued:

So for people that are living – that [have] lived experience of the hardship, we focus a lot on taking care of what we see, so we focus on addictions. We focus on, you know, education, employment, getting them housed. But the underlying barrier there is even once you do that, you haven’t taken care of the spirit. Until our spirits are taken care of and held and feel safe, secure and actually able to take our breath in and practise our culture – if culture is what you choose, some don’t ... you still need to take care of the inner being, not just the superficial stuff.<sup>119</sup>

To “take care of the inner being,” Ann M. R. advocated for a renewed understanding of culture and of cultural strength as a way to restore health, well-being, and safety.

With addictions, the government needs to put their money where their mouth is. First Nations, our people, our community want to heal, they want to learn their culture. They want to go on the land. That’s where they want to be. That’s where they want to heal. They want the Elders, they want to heal, they want to live our culture.<sup>120</sup>

Like Ann, Lillian H. echoed the importance of “on the land” programs as a way of promoting health and healing.

So just in terms of support, funding is really important, but I think one of the most important things is the Indigenizing the space. For example ... be creative in terms of ... Indigenizing the space from a Tla-o-qui-aht or a Nuu-chah-nulth approach, and I think that relates to the land-based healing, it relates to the cultural relationships that as Tla-o-qui-aht/Nuu-chah-nulth [we] have with the land, and all our regalia, all our songs come from the land, the resources, so that’s a real healing – kind of land-based healing approach.<sup>121</sup>



*Many witnesses identified land-based healing as a key part of their journey to wellness.*

For other witnesses, learning and maintaining languages are deeply connected to health and well-being. Carla M. said:

He's teaching the language now, and our two youngest sons are working on learning the language, and his daughter Carol is facilitating the language in the preschools now.... We talked before we came and one of the things that we'd recommend is continued support for the language revival in our communities as a health issue as well. It's in the language that the teachings in our communities are encompassed, including the spiritual teachings, values. And I think already it's been statistically shown that communities that lose their language, things like suicide rates go up significantly.<sup>122</sup>

“SO FOR PEOPLE THAT ARE LIVING – THAT [HAVE] LIVED EXPERIENCE OF THE HARDSHIP, WE FOCUS A LOT ON TAKING CARE OF WHAT WE SEE, SO WE FOCUS ON ADDICTIONS. WE FOCUS ON, YOU KNOW, EDUCATION, EMPLOYMENT, GETTING THEM HOUSED. BUT THE UNDERLYING BARRIER THERE IS EVEN ONCE YOU DO THAT, YOU HAVEN'T TAKEN CARE OF THE SPIRIT. UNTIL OUR SPIRITS ARE TAKEN CARE OF AND HELD AND FEEL SAFE, SECURE AND ACTUALLY ABLE TO TAKE OUR BREATH IN AND PRACTISE OUR CULTURE – IF CULTURE IS WHAT YOU CHOOSE, SOME DON'T ... YOU STILL NEED TO TAKE CARE OF THE INNER BEING, NOT JUST THE SUPERFICIAL STUFF.”

Barb L.

As these examples demonstrate, access to health care that reflects an understanding of the role of culture, ceremony, land, and language can be transformative in promoting both individual well-being and collective healing. In her research, Amy Bombay emphasizes how access to culturally appropriate and relevant services that allow for Indigenous healing practices has been identified as one of the most important factors in healing for residential school survivors.<sup>123</sup>

The following reflection offered by Patrick S. underlines how powerful the link is between culture and health.



That has been what has stabilized my life, you know, learning about, you know, my culture. And I have a great – a great debt of gratitude to the Dakota, Lakota and Nakota people who adopted me into their ceremonies, you know, and taught me how to pray and how to heal and, you know, look after myself, you know.<sup>124</sup>

“WITH ADDICTIONS, THE GOVERNMENT NEEDS TO PUT THEIR MONEY WHERE THEIR MOUTH IS. FIRST NATIONS, OUR PEOPLE, OUR COMMUNITY WANT TO HEAL, THEY WANT TO LEARN THEIR CULTURE. THEY WANT TO GO ON THE LAND. THAT'S WHERE THEY WANT TO BE. THAT'S WHERE THEY WANT TO HEAL. THEY WANT THE ELDERS, THEY WANT TO HEAL, THEY WANT TO LIVE OUR CULTURE.”

Ann M. R.

### **The Ties that Bind: Prioritizing the Family Unit and Future Generations**

Of the most important aspects of health services and of healing that we heard about, the need to focus on youth and future generations is key. Chrystal S. noted:

I think that's just a – really a universal teaching is talking to your children, teaching them, and I think many of our First Nations people have lost that tradition because there's so much trauma in the way. You're just surviving, you're just dealing with hour by hour, sometimes day by day of how to get through, and so we don't have the safety and the space and the time to pass down teachings to our children.<sup>125</sup>

Verna W. likewise talked about how one of the lasting effects of residential schools is the breakdown in communication between Elders and youth. For Verna, repairing this connection is an important part of restoring health and fostering well-being in youth.

Get the Elders and the young people together. Got to encourage that, because you know, when I look at our – on our reserves today ... our youth aren't with the Elders anymore, and I feel that it has a lot to do with the Indian residential school, Indian day school, Sixties Scoop, that's what it all has to do with. That's how I feel.<sup>126</sup>

Other witnesses demonstrated the efforts they are undertaking in their communities to support youth. Paul T. said:

We always keep reminding our kids, you know.... There's always kids ... at our house because we just – because we do stuff with the kids, and the kids, they – they like coming to our house because or whatever reason. You know, we – we have fun with the kids. We – it's a safe place, you know. We feed them, we do sports with them, we – we talk to them about their life.... We try to encourage them.<sup>127</sup>



## Connecting to International Human Rights

As the testimony cited in this chapter has identified, the right to health, and its connection to missing and murdered Indigenous women and girls, is complicated. The right to health engages standards of living and of well-being that are often connected to other rights, such as economic, social, and political rights, and that connect globally with the well-being of families and what happens to these units when these rights are threatened.

Overt or implicit discrimination violates one of the fundamental principles of human rights and often lies at the root of poor health status. Discrimination against ethnic, religious, and linguistic minorities, Indigenous Peoples, and other marginalized groups in society both causes and magnifies poverty and ill-health. As the Inter-Agency Support Group on Indigenous Peoples' Issues (IASG) notes:

Data indicates that circumstances of extreme poverty are significantly more prevalent among indigenous peoples than non-indigenous groups, and are rooted in other factors, such as a lack of access to education and social services, destruction of indigenous economies and socio-political structures, forced displacement, armed conflict, and the loss and degradation of their customary lands and resources. These forces are determined and compounded by structural racism and discrimination, and make indigenous women and children particularly vulnerable to poor health.<sup>128</sup>

The IASG also adds:

These health inequities are of grave concern from a public health perspective, but also from a human rights perspective. All peoples have the right to the highest attainable standard of physical and mental health, and states have the responsibility to promote, protect, and fulfil all human rights.<sup>129</sup>

The United Nations World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance encouraged states to adopt action-oriented policies and plans, including affirmative action, to ensure equality, particularly in relation to access to social services such as housing, primary education, and health care.<sup>130</sup>



## KEY CONVENTIONS: RIGHT TO HEALTH

The National Inquiry considers as foundational to all of human and Indigenous rights violations the conventions associated with genocide. In health and wellness, these relate specifically to killing members of the group, causing serious bodily or mental harm, deliberately inflicting conditions of life calculated to bring about destruction, and imposing measures to prevent births. In addition, the forcible transfer of children from the group has direct impacts on health and on wellness.

For reference, the complete Article II of the *Convention on the Prevention and Punishment of the Crime of Genocide*, which provides a definition of genocide, includes “any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:

- (a) Killing members of the group;
- (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;
- (d) Imposing measures intended to prevent births within the group;
- (e) Forcibly transferring children of the group to another group.”

<p><b>IESCR:</b></p> <ul style="list-style-type: none"><li>- widest possible protection to the family</li><li>- protection to children from exploitation</li><li>- right to enjoy highest attainable standard of physical and mental health</li><li>- guaranteeing this right includes creating conditions to access health care</li></ul>	<p><b>ICCPR:</b></p> <ul style="list-style-type: none"><li>- family is the natural and fundamental group unit of society</li><li>- every child has right to protection, without discrimination</li></ul>	<p><b>CEDAW:</b></p> <ul style="list-style-type: none"><li>- calls on States Parties to eliminate discrimination against women in field of health, to ensure access to health services and appropriate pre and post-natal care, and adequate nutrition and health during pregnancy</li></ul>	<p><b>ICERD:</b></p> <ul style="list-style-type: none"><li>- condemns racial discrimination in all areas of service delivery</li><li>- pledges to prevent and prohibit all forms of apartheid and discrimination</li></ul>	<p><b>CRC:</b></p> <ul style="list-style-type: none"><li>- child has the right to enjoy highest standard of health</li><li>- States Parties are responsible for lowering child mortality, ensuring necessary medical care, combatting malnutrition and ensuring clean drinking water, and developing preventative health care</li></ul>
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IESCR: International Covenant on Economic, Social and Cultural Rights

ICCPR: International Covenant on Civil and Political Rights

CEDAW: Convention on the Elimination of all Forms of Discrimination Against Women

ICERD: International Covenant on the Elimination of All Forms of Racial Discrimination

CRC: Convention on the Rights of the Child



## KEY DECLARATIONS: RIGHT TO HEALTH

The following international human rights instruments hold States accountable in the area of health.

<p><b>DEVAW:</b></p> <ul style="list-style-type: none"><li>- women entitled to highest attainable standard of physical and mental health</li><li>- includes the right not to be subjected to torture or other cruel, inhuman or degrading treatment</li></ul>	<p><b>UNDRIP:</b></p> <ul style="list-style-type: none"><li>- Indigenous Peoples have the right to life, physical and mental integrity</li><li>- right to traditional medicines and health practices</li><li>- right to highest attainable standard of health</li></ul>	<p><b>VIENNA PROGRAMME:</b></p> <ul style="list-style-type: none"><li>- states have responsibility to eliminate gender-based violence through legal measures and by taking action in relevant fields, including safe maternity and health care and social support</li><li>- states must create measures to promote and protect rights of vulnerable sectors of the population and ensure the participation of those affected in generating solutions</li></ul>	<p><b>BEIJING:</b></p> <ul style="list-style-type: none"><li>- knowledge of traditional medicines, treatments and practices should be respected, preserved, and promoted</li><li>- national policies, regulations and standards to ensure appropriate, safe and effective use of traditional medicine should be part of comprehensive national health systems</li></ul>
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DEVAW: Declaration on the Elimination of Violence Against Women

UNDRIP: United Nations Declaration on the Rights of Indigenous Peoples

Vienna Programme: The Vienna Declaration and Programme of Action

Beijing: The Beijing Declaration



There are a number of human rights instruments that support the various aspects of the right to health. Signatories to the *International Covenant on Economic, Social and Cultural Rights* (ICESCR) agree that protection and help should be given to the family as a fundamental unit in society, “particularly for its establishment and while it is responsible for the care and education of dependent children” (Article 10). This includes that special measures be taken on behalf of children without discrimination with respect to who the child’s parents might be, or any other condition. In addition, the ICESCR recognizes the right to an adequate standard of living, which includes key determinants of health. In particular, the covenant cites adequate food, clothing, and housing, and “continuous improvement of living conditions” (Article 11) – all key elements of physical and mental health. As Brenda Gunn noted in her testimony, the overseeing committee of this covenant has also noted that a failure to protect women from violence or the failure to prosecute perpetrators does, in fact, represent a violation of the right to health.<sup>131</sup>

The covenant also explicitly makes reference to health in Article 12, identifying that everyone has a right to the “highest attainable standard of physical and mental health.” The steps to achieve full realization of this right may include “the creation of conditions which would assure access to all medical service and medical attention in the event of sickness.” Particularly within the context of communities without health resources, or remote communities including those in the North, the lack of access to health services was frequently cited as a reason that people left the relative security of the community to get treatment in larger centres. For many people, this relocation – whether temporary or permanent – created conditions in which they were unsafe.

The *Convention on the Elimination of All Forms of Discrimination Against Women* (CEDAW) also specifically mentions health, in reference to women’s rights. It asserts that states should take all measures available to eliminate discrimination against women in the field of health, including access to services, such as family planning. Signatories further agree that women should receive appropriate services in connection with pregnancy and in the postnatal period, including proper nutrition during pregnancy and when breastfeeding (Article 12).

The *United Nations Convention on the Rights of the Child* (UNCRC, or CRC) is devoted to the well-being of children and also specifically addresses health. Like CEDAW, the UNCRC recognizes the rights of children to the highest attainable standard of health and to facilities devoted to the treatment of health conditions. Its Article 24 makes this clear: “States Parties shall strive to ensure that no child is deprived of his or her right of access to such health care services.” This raises the question of access in remote or northern communities. In addition, UNCRC calls upon States Parties to take action with respect to reducing rates of child and infant mortality, to provide necessary medical assistance and health care, to combat disease and malnutrition, and to ensure pre- and postnatal care for young mothers.

Preventative health care is also identified as a priority, along with access to education and basic knowledge about health. Under Article 24, States Parties are also directed to take measures to help parents or others responsible to ensure this right, including help with programs or money. In the case of child victims, Article 39 provides that States Parties should make every effort to promote recovery, both physical and psychological, of child victims, including those within its



own care, in child welfare. Considering the number of missing and murdered loved ones who emerged from child welfare systems in Canada, the need to foster recovery and reintegration from the system itself is both a present and a future priority, in terms of dealing with trauma in one's own lifetime, as well as intergenerational trauma.

## Conclusion: Creating a New Normal

A cruel twist in many of the accounts that we heard is what happens when a lack of community and personal well-being persists over time. In many cases, this kind of trauma and trauma over generations has led to a normalized view of health and well-being as “poor.” As Chrystal S. reflected, of her own experience:

I didn't know I had depression. I guess because it's so normalized to experience trauma for Indigenous [people]. It's normal. It's like the norm to witness violence, family separation, poverty, violence. It's normal, I think, in every Indigenous family across Canada. We all have experienced losing somebody. We've all experienced and know somebody in our family that has been murdered. We've experienced seeing our cousins or our nephews and nieces or our neighbours' children taken away. We've experienced violence, lateral violence, and we experience racism, discrimination. And those are all somehow normal for Indigenous Peoples.<sup>132</sup>

We maintain that barriers to health and well-being for Indigenous people should never be considered normal, and neither should the violence that ensues in cases where Indigenous women, girls, and 2SLGBTQQIA people are refused service, provided with discriminatory service, or abused by service providers in ways that render them targets to violence later on.

Our hearings demonstrated how many of the solutions to health and well-being already exist, and are being tirelessly pursued by advocates often dealing with precarious or time-limited funding and exhaustion. In addressing healing, the restoration of the right to culture, and to health, is the restoration of safety.

“I DIDN'T KNOW I HAD DEPRESSION. I GUESS BECAUSE IT'S SO NORMALIZED TO EXPERIENCE TRAUMA FOR INDIGENOUS [PEOPLES]. IT'S NORMAL. IT'S LIKE THE NORM TO WITNESS VIOLENCE, FAMILY SEPARATION, POVERTY, VIOLENCE. IT'S NORMAL, I THINK, IN EVERY INDIGENOUS FAMILY ACROSS CANADA. WE ALL HAVE EXPERIENCED LOSING SOMEBODY. WE'VE ALL EXPERIENCED AND KNOW SOMEBODY IN OUR FAMILY THAT HAS BEEN MURDERED. WE'VE EXPERIENCED SEEING OUR COUSINS OR OUR NEPHEWS AND NIECES OR OUR NEIGHBOURS' CHILDREN TAKEN AWAY. WE'VE EXPERIENCED VIOLENCE, LATERAL VIOLENCE, AND WE EXPERIENCE RACISM, DISCRIMINATION. AND THOSE ARE ALL SOMEHOW NORMAL FOR INDIGENOUS PEOPLE.”

Chrystal S.



## Findings: Right to Health

- Intergenerational and multigenerational trauma negatively impacts every aspect of an Indigenous person's life and well-being and includes the individual's family, community, and Nation.
- Unresolved trauma is a root cause of high rates of chronic health problems, interpersonal violence, and substance abuse. Trauma flows through generations and is cyclical. Trauma contributes directly to the decreased safety, security, and violence experienced by Indigenous women, girls, and 2SLGBTQQIA people, and ultimately to the disproportionate rates of their going missing and/or being murdered.
- To stop the cycle of intergenerational trauma, we must focus on healing individuals, families, and communities. Healing from trauma, compound traumas, and, in many cases, multi-generational and intergenerational trauma can be a lifelong process, and often requires healing work that involves individuals with their families and community members. Healing programs and services should be Indigenous-led or in partnership with Indigenous communities. In order to be successful, trauma care cannot be bound to specific time limitations or approaches.
- Canada has failed to ensure that the health and wellness needs of Indigenous women, girls, and 2SLGBTQQIA people have been met, and has failed to ensure that Indigenous women, girls, and 2SLGBTQQIA people have access to services and resources that are equitable to those received by non-Indigenous people. Current health and wellness services are grossly lacking and often inappropriate and inaccessible, which contributes directly to the decreased safety and security of, and the violence experienced by, Indigenous women, girls, and 2SLGBTQQIA people.
- The current system of health and wellness services provision for Indigenous women, girls, and 2SLGBTQQIA people is largely designed and delivered by non-Indigenous people. Efforts to train, hire, and retain Indigenous health and wellness services providers have been inadequate, due to systemic barriers within educational institutions and due to challenges in delivering culturally appropriate services. As a result, there is a lack of language speakers and cultural knowledge in some locations.
- There are not enough financial supports and sustainable funding models to encourage Indigenous individuals to enter into health and wellness fields. Existing health and wellness services fail to encourage Indigenous health care professionals to work within urban, rural, remote, and northern communities. The result is high turnover in staffing and lack of continuity of care.



- Health and wellness services are most effective when they are designed and delivered by the Indigenous Peoples they are supposed to serve, in a manner consistent with and grounded in the practices, world views, cultures, languages, and values of the specific communities they serve. There are not enough culturally relevant treatment and healing centres for Indigenous Peoples, based on the distinct needs and perspectives of diverse Inuit, Métis, and First Nations communities, and stable, sufficient, and reliable funding is a barrier for the ones that do exist.
- Gaps in social and physical health and wellness infrastructure and services within First Nations, Inuit, and Métis communities often require women, girls, and 2SLGBTQQIA people in need of health and wellness services to leave their communities to obtain these essential services. In many Inuit and northern communities, women have to leave their communities to give birth. These forced and coerced relocations to access services contribute to heightened exposure to harm and risk. This kind of relocation removes women, girls, and 2SLGBTQQIA people from the safety net of their communities and families, and separates women from their children. Relocation for health and wellness services often involves travelling alone, and being housed or placed in culturally and physically unsafe environments that fail to provide the supports for Indigenous women, girls, and 2SLGBTQQIA people to be safe while accessing services. These factors create risk and expose Indigenous women, girls, and 2SLGBTQQIA people to targeting by gangs or human traffickers for exploitation and abuse.
- Jurisdictional neglect results not only in the failure to properly address important policy issues but also in the failure to uphold and respect human rights through the inconsistent and unregulated manner of services delivered through a patchwork of program delivery, rather than the provision of essential services grounded in rights.
- First Nations, Inuit, and Métis people, including 2SLGBTQQIA people, have the solutions and knowledge to care for and heal themselves, but their strengths and knowledge are undervalued by the current system of health and wellness services.



## Notes

- 1 World Health Organization, "Constitution," 1.
- 2 Mazel, "Indigenous Health and Human Rights," 10–11.
- 3 World Health Organization, "Health of Indigenous Peoples."
- 4 Pan American Health Organization and World Health Organization, "Harmonization," 22.
- 5 First Nations Information Governance Centre, "National Report," 8. The First Nations Regional Health Survey collects information about on-reserve and northern First Nations communities.
- 6 Timothy Argetsinger (Inūpiaq), Part 3, Public Volume 4, Quebec City, QC, p. 70.
- 7 United Nations Permanent Forum on Indigenous Issues, "Report on the Inter-Agency Support Group," as quoted in World Health Organization, "Health of Indigenous Peoples," Fact sheet N°326, October 2007.
- 8 Inter-Agency Support Group on Indigenous Peoples' Issues, "The Health of Indigenous Peoples," 1.
- 9 Ibid., 9.
- 10 Canada, "History of Providing Health Services." Parentheses in quote from source material.
- 11 Dr. Valérie Gideon (Mik'maq Nation of Gesgapegiag) Part 2, Public Volume 3, Calgary, AB, p. 12.
- 12 Dr. Valérie Gideon (Mik'maq Nation of Gesgapegiag) Part 2, Public Volume 3, Calgary, AB, p. 13.
- 13 Dr. Valérie Gideon (Mik'maq Nation of Gesgapegiag) Part 2, Public Volume 3, Calgary, AB, p. 51.
- 14 Dr. Valérie Gideon (Mik'maq Nation of Gesgapegiag) Part 2, Public Volume 3, Calgary, AB, pp. 194-95.
- 15 Dr. Valérie Gideon (Mik'maq Nation of Gesgapegiag) Part 2, Public Volume 3, Calgary, AB, pp. 198-99.
- 16 Dr. Valérie Gideon (Mik'maq Nation of Gesgapegiag) Part 2, Public Volume 3, Calgary, AB, p. 276.
- 17 Dr. Valérie Gideon (Mik'maq Nation of Gesgapegiag) Part 2, Public Volume 3, Calgary, AB, p. 278.
- 18 Dr. Valérie Gideon (Mik'maq Nation of Gesgapegiag) Part 2, Public Volume 3, Calgary, AB, pp. 51-52. The Métis Nation has since signed an MOU with the Government of Canada for the development of a 10-year health accord (August 2018).
- 19 Dr. Valérie Gideon (Mik'maq Nation of Gesgapegiag) Part 2, Public Volume 3, Calgary, AB, p. 72.
- 20 Dr. Valérie Gideon (Mik'maq Nation of Gesgapegiag) Part 2, Public Volume 3, Calgary, AB, p. 279.
- 21 Dr. Valérie Gideon (Mik'maq Nation of Gesgapegiag) Part 2, Public Volume 3, Calgary, AB, p. 74.
- 22 Sharna S. (Blackfoot, Blood Tribe), Part 1, Statement Volume 397, Richmond, BC, p. 3.
- 23 Lateral violence is violence directed against one's peers instead of their adversaries.
- 24 See First Nations Information Governance Centre, "National Report." See also Reading and Wien, *Health Inequalities and Social Determinants of Aboriginal Peoples' Health*.
- 25 First Nations Information Governance Centre, "National Report," 41.
- 26 Duong, "Canada has the least universal."
- 27 Canada, Statistics Canada, "Life Expectancy."
- 28 Canada, Statistics Canada, "Aboriginal Statistics at a Glance."
- 29 Canada, Health Canada, "A Statistical Profile on the Health of First Nations in Canada," 4.
- 30 Sheppard, et al., "Birth Outcomes," 13.
- 31 Ibid.
- 32 Smylie, et al., "A Review of Aboriginal Infant Mortality."
- 33 First Nations Information Governance Centre, "National Report."
- 34 Ibid., 40.
- 35 Ibid.
- 36 University of Ottawa, "The Health of Indigenous Peoples in Canada."
- 37 Inuit Tapiriit Kanatami, "Inuit Statistical Profile," 14.
- 38 Hunt, "An Introduction to the Health of Two-Spirit People," 15-17.
- 39 Kumar, "Aboriginal Peoples Survey, 2012, Lifetime Suicidal Thoughts."
- 40 Canada, Statistics Canada, "First Nations People, Métis and Inuit in Canada."
- 41 Ibid.
- 42 Canada, Health Canada, "A Statistical Profile on the Health of First Nations, 2006 to 2010," 2.
- 43 University of Ottawa, "The Health of Indigenous Peoples in Canada."
- 44 Ibid.
- 45 Canada, Statistics Canada, "Aboriginal Peoples Survey."



- 46 Goodman, et al., “They treated me like crap.”
- 47 Dr. Amy Bombay (Ojibway, Rainy River First Nations), Mixed Parts 2 & 3, Public Volume 10, Winnipeg, MB, p. 149.
- 48 Dr. Amy Bombay (Ojibway, Rainy River First Nations), Mixed Parts 2 & 3, Public Volume 10, Winnipeg, MB, p. 149.
- 49 Chief Vivian T. (Wet’suwet’en), Part 1, Public Volume 4, Smithers, BC, p. 60.
- 50 Viola Thomas (Kamloops Tk’emlúps te Secwepemc), Part 1, Public Volume 104, Vancouver, BC, p. 19.
- 51 Shara L. (Dene), Part 1, Statement Volume 101, Edmonton, AB, p. 51.
- 52 Shara L. (Dene), Part 1, Statement Volume 101, Edmonton, AB, pp. 52–53.
- 53 Carol M. (Nisga’a Gitanyow), Part 1, Statement Volume 357, Richmond, BC, p. 76.
- 54 Dr. Amy Bombay (Ojibway, Rainy River First Nations), Mixed Parts 2 & 3, Public Volume 10, Winnipeg, MB, pp. 165-166.
- 55 Chrystal S. (Musqueam), Part 1, Statement Volume 385, Richmond, BC, p. 26.
- 56 Stephanie H. (First Nations, Fort McKay), Part 1, Public Volume 20, Edmonton, AB, p. 103.
- 57 Kim C.-M. (Inuit, Labrador), Part 1, Public Volume 49, Happy Valley-Goose Bay, NL, p. 23.
- 58 Campbell, “Health Consequences.”
- 59 Nikki K. (Inuit), Part 1, Public Volume 46(a), Rankin Inlet, NU, p. 45.
- 60 Sonia B. (First Nations), Part 1, Statement Volume 371, Richmond, BC, pp. 4-5.
- 61 Sonia B. (First Nations), Part 1, Statement Volume 371, Richmond, BC, p. 6.
- 62 Sonia B. (First Nations), Part 1, Statement Volume 371, Richmond, BC, p. 6.
- 63 Paula P. (Cree/Lakota/Scottish), Part 1, Statement Volume 374, Richmond, BC, p. 20.
- 64 Dr. Allan Wade, Mixed Parts 2 & 3, Public Volume 14, Winnipeg, MB, p. 19.
- 65 First Nations Information Governance Centre, “National Report.”
- 66 Goodman, et al., “They treated me like crap.”
- 67 Wien, “Tackling Poverty in Indigenous Communities,” 1.
- 68 Canada, Statistics Canada, “Data Tables, 2016 Census.”
- 69 First Nations Information Governance Centre, “National Report,” 24.
- 70 Ibid., 25.
- 71 Belanger, et al., “Housing and Aboriginal People,” 4.
- 72 Thistle, “Definition of Indigenous Homelessness,” 6.
- 73 Ibid.
- 74 Canada, Statistics Canada, “The Housing Conditions of Aboriginal People in Canada,” 1.
- 75 First Nations Information Governance Centre, “National Report,” 16, 27.
- 76 Canada, Statistics Canada, “The Housing Conditions of Aboriginal People in Canada,” 1-2.
- 77 Sandra L. (Cree/Dakota), Part 1, Public Volume 41, Yellowknife, NT, pp. 193-194.
- 78 First Nations Information Governance Centre, “National Report,” 15.
- 79 Ibid., 31.
- 80 Ibid., 39.
- 81 Belanger, et al., “Housing and Aboriginal People,” 7.
- 82 Verna W. (Cape Mudge), Part 1, Public Volume 88, Vancouver, BC, pp. 5-6.
- 83 Prokopchuk, “Grassy Narrows mercury victims.”
- 84 First Nations Information Governance Centre, “National Report,” 33.
- 85 Canada, Statistics Canada, “Aboriginal Peoples in Canada,” 11.
- 86 Ibid., 15.
- 87 Goodman et al., “They treated me like crap.”
- 88 Ibid., 88.
- 89 Ibid., 87.
- 90 Doris G. (Cree, Driftpile First Nation), Part 1, Statement Volume 79, Edmonton, AB, p. 14.
- 91 Dr. Barry Lavalley (First Nations/Métis), Part 3, Public Volume 9, Toronto, ON, pp. 38-39.
- 92 Melissa C. (Fisher River Cree Nation), Part 1, Public Volume 15, Winnipeg, MB, pp. 114–115.
- 93 Doris G. (Cree, Driftpile First Nation), Part 1, Statement Volume 79, Edmonton, AB, p. 13.
- 94 Jaylene D., Part 1, Statement Volume 220, Yellowknife, NT, pp. 1, 2.
- 95 Jaylene D., Part 1, Statement Volume 220, Yellowknife, NT, pp. 2-3.
- 96 Jaylene D., Part 1, Statement Volume 220, Yellowknife, NT, p. 3.



- 97 First Nations Information Governance Centre, "National Report," 71.
- 98 Dr. Allan Wade, Mixed Parts 2 & 3, Public Volume 14, Winnipeg, MB, pp. 47-49.
- 99 Sharna S. (Blackfoot, Blood Tribe), Part 1, Statement Volume 397, Richmond, BC, pp. 55-57.
- 100 Paula P. (Cree/Lakota/Scottish), Part 1, Statement Volume 374, Richmond, BC, p. 38.
- 101 Dr. Allan Wade, Mixed Parts 2 & 3, Public Volume 14, Winnipeg, MB, p. 50-51.
- 102 Vanessa B. (Millbrook First Nation), Part 1, Public Volume 19, Membertou, NS, pp. 88-89.
- 103 Adrienne B. (Cree), Part 1, Public Volume 23, Edmonton, AB, p. 66.
- 104 Lorna B. (Wet'suwet'en), Part 1, Public Volume 4, Smithers, BC, p. 165.
- 105 Dr. Allan Wade, Mixed Parts 2 & 3, Public Volume 14, Winnipeg, MB, p. 49.
- 106 Dianna B. (Mohawk, Six Nations), Part 1, Statement Volume 376, Richmond, BC, p. 12.
- 107 Dianna B. (Mohawk, Six Nations), Part 1, Statement Volume 376, Richmond, BC, p. 17.
- 108 Robin R. (Nakota Sioux), Part 1, Public Volume 92, Vancouver, BC, pp. 16-17.
- 109 Robin R. (Nakota Sioux), Part 1, Public Volume 92, Vancouver, BC, p. 15.
- 110 Cecil J. (First Nations from Rolling River), Part 1, Public Volume 14, Winnipeg, MB, pp. 5-6.
- 111 Stephanie H. (First Nations, Fort McKay), Part 1, Public Volume 20, Edmonton, AB, pp. 119-120.
- 112 Sharna S. (Blackfoot, Blood Tribe), Part 1, Statement Volume 397, Richmond, BC, pp. 53-54.
- 113 Danielle E. (Kawacatoose First Nation), Part 1, Public Volume 31, Saskatoon, SK, p. 105.
- 114 Karen C. (Kwakwaka'wakw), Part 1, Public Volume 94, Vancouver, BC, p. 59.
- 115 Carla M., (Nuu-chah-nulth), Part 1, Public Volume 82, Vancouver, BC, pp. 16-17.
- 116 Barb L. (Heiltsuk/Nisga'a First Nations), Part 1, Statement Volume 360, Richmond, BC, p. 15.
- 117 Sadie C. (Wet'suwet'en), Part 1, Statement Volume 395, Vancouver, BC, p. 32.
- 118 Sonia B. (First Nations), Part 1, Statement Volume 371, Richmond, BC, pp. 3-4.
- 119 Barb L. (Heiltsuk/Nisga'a First Nations), Part 1, Statement Volume 360, Richmond, BC, p. 10.
- 120 Ann M. R. (Kaska Dena), Part 1, Public Volume 3, Whitehorse, YT, p. 39.
- 121 Lillian H. (Mowachat from the Mowachat Tribe/Nuu-chah-nulth/Kwakwaka'wakw), Part 1, Public Volume 82, Vancouver, BC, p. 14
- 122 Carla M. (Nuu-chah-nulth), Part 1, Public Volume 82, Vancouver, BC, p. 6-7.
- 123 Dr. Amy Bombay (Ojibway, Rainy River First Nations), Mixed Parts 2 & 3, Public Volume 10, Winnipeg, MB, p. 180.
- 124 Patrick S. (Kwagu't, Fort Rupert, Qualicum), Part 1, Public Volume 102, Vancouver, BC, p. 10.
- 125 Chrystal S. (Musqueam), Part 1, Statement Volume 385, Richmond, BC, p. 9.
- 126 Verna W. (Cape Mudge), Part 1, Public Volume 88, Vancouver, BC, p. 27.
- 127 Paul T. (Mikisew Cree Nation), Part 1, Public Volume 20, Edmonton, AB, pp. 38-39.
- 128 Inter-Agency Support Group on Indigenous Peoples' Issues, "The Health of Indigenous Peoples," 2.
- 129 Ibid.
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## Confronting Oppression – Right to Security

### Introduction: “We’re not safe. Nobody is safe.”

Across the country, the right to security held by Indigenous women, girls, and 2SLGBTQQIA people is routinely compromised. As families, survivors, and others shared their truths with the National Inquiry, it became clear that, for the majority of Indigenous women, girls, and 2SLGBTQQIA people living in all settings and regions, security is a key area where violence against Indigenous women and girls can and should be addressed. As we heard, Indigenous women, girls, and 2SLGBTQQIA people live with an almost constant threat to their physical, emotional, economic, social, and cultural security. As Bernice C., who spoke in Winnipeg, observed when speaking about her daughter, who went missing on her 18th birthday in 2008: “We’re not safe. Our women are not safe anymore. Nobody is safe.”<sup>1</sup>

This chapter examines the right to security with reference to the four pathways that maintain colonial violence. We examine the ways that the security of Indigenous women and girls is compromised by interpersonal violence, and how the risk of interpersonal violence is heightened by such factors as intergenerational trauma, poverty, homelessness, addictions, and barriers to education, training, and employment, as well as a lack of anti-violence services and supports. In addition, we explore how the absence of basic economic, social, and political rights that can guarantee security contributes to the targeting of Indigenous women and girls. We then explore how an unwillingness on the part of institutions to address these issues maintains a status quo that ensures that the crisis continues, and how, ultimately, the solutions required to restore security, as understood in a holistic way, lie within the experiences and the knowledge of Indigenous women, girls, and 2SLGBTQQIA people themselves.



Like many of the witnesses who shared their story of a lost loved one, Cee-Jai J. talked about her sister, Norma, who went missing from Vancouver’s Downtown Eastside on September 28, 1992, and was found deceased a few days later. Twenty-five years later, to the day of her sister’s death, Cee-Jai’s daughter Shayla J. died after a car accident on September 28, 2017, when police took her home, rather than taking her to a hospital. As in the lives of so many of the other families and support people who shared their truths, the violent act that took the life of their loved one was only one of many incidents of violence in their lives. When Cee-Jai spoke about her sister’s murder, she contextualized this act of violence as part of her own story of violent encounters and relationships she had experienced and witnessed, beginning from when, as she puts it, “I was just a baby in the crib.”<sup>2</sup>

Like many of the witnesses, Cee-Jai experienced repeated acts of physical, sexual, and psychological violence throughout her entire life. From witnessing her father stab her mother when she was very young, to witnessing her mother being physically beaten and abused by men as a young girl, to repeated sexual and physical abuse and neglect in various foster homes, to the sexual assault and physical violence she experienced as a teenager and adult, violence permeates Cee-Jai’s life story, and her relationships reflect a truth that is unfortunately not uncommon. She shared, “I feel like my spirit knows violence,” summarizing what many Indigenous women, girls, and 2SLGBTQQIA people experience as the almost constant presence of violence that contributes to an overall absence of basic human security.<sup>3</sup>

## Defining “Human Security”

In many of the Indigenous world views presented within the context of the Truth-Gathering Process, the right to security includes both a physical right and a social right. International covenants and conventions also take a broad look at the concept of “security” as being both physical and social.

This broad sense of human security draws from an approach that places well-being at its very centre, and that recognizes complex economic and social interactions – encounters – that work to shape security, or a lack of security, in a person’s life.<sup>4</sup> It moves human security beyond the agenda of the state alone, and instead considers other factors or “non-traditional” threats such as poverty, disease, and the roots of issues such as the crisis of missing and murdered Indigenous women, girls, and 2SLGBTQQIA people.

“I FEEL LIKE MY SPIRIT KNOWS VIOLENCE.”

Cee-Jai J.



## STATE SECURITY VS. HUMAN SECURITY

State Security

- Protects the state and its boundaries, as well as its institutions.
- Defends the state from external aggression; ability to defeat an attack.
- The state works to ensure its own survival.
- State security relies on military strategies and defense, including armament, alliances, and other state-level structures and processes.

- People-centred and focused on security of individuals and of groups within the state.
- Expanded definition of threats, which can include things like environmental threats, as well as economic and social threats, food insecurity, and more.
- Involves not only governments but also internal organizations, including government organizations, community groups and other organizations.
- Based on the idea of going beyond protection to empower people as participants in ensuring security; in this model, people affected are direct contributors to solutions.

Human Security

The concept of human security was redefined in the 1990s, after a focus on military or traditional state security that went hand-in-hand with the Cold War period. As researcher Taylor Owen explains, the fall of the Berlin Wall made it clear that the biggest threats to human security might not come from militarized states anymore. Instead, citizens in the post-Cold War period “were being killed by the remnants of proxy wars, environmental disaster, poverty, disease, hunger, violence and human rights abuses.”<sup>5</sup> In this context, the focus on the state as the only means for human security actually served to mask many of the ongoing human security crises targeting people all over the world.



In 1994, the United Nations Development Programme's (UNDP) "Human Development Report" (HDR) laid out four primary characteristics of human security, including that it is universal, that its components are interdependent, that it is best ensured through prevention, and that it is people-centred.<sup>6</sup> Importantly, it is *not* focused on militarized or state security apparatus, but on the safety of persons living in states, as conceived broadly and within the context of human rights. More specifically, the 1994 HDR listed seven "essential dimensions" of human security:

- economic security threatened by poverty;
- health security threatened by injury and disease;
- personal security threatened by various forms of violence;
- political security threatened by political repression;
- food security threatened by hunger and famine;
- environmental security threatened by pollution, environmental degradation, and resource depletion; and
- community security threatened by social unrest and instability.<sup>7</sup>

These elements are not comprehensive, as the HDR pointed out, but are dynamic and could be analyzed to understand the "particular threats experienced by particular groups of people, as well as the participation of those people in the analysis process."<sup>8</sup> They are also all interconnected, in that the threat to economic security is also linked, for instance, to threats to personal and political security, as well as to health. As Secretary-General of the United Nations Kofi Annan explained in 2000:

Security can no longer be narrowly defined as the absence of armed conflict, be it between or within states. Gross abuses of human rights, the large-scale displacement of civilian populations, international terrorism, the AIDS pandemic, drug and arms trafficking and environmental disasters present a direct threat to human security, forcing us to adopt a much more coordinated approach to a range of issues.<sup>9</sup>

As it is commonly understood today, and as adopted by UN Resolution in 2012, the common understanding of human security now includes:

- the right of people to live freely and with dignity, free from poverty and despair, including freedom from fear and freedom from want;
- a people-centred and comprehensive approach that understands context-specific threats and that contributes to the empowerment of people;
- an approach that recognizes the connections among peace, development, and human rights, and that considers civil, political, economic, social, and cultural rights as interdependent and indivisible;



- an approach that does not include the threat or use of force or coercion, and that does not replace state security;
- national ownership, or, in other words, programs and policies that consider the distinctions among nations, and that work to strengthen national solutions that “are compatible with local realities”;
- a primary responsibility for government to ensure the “survival, livelihood and dignity of their citizens”; and
- a full implementation of human security with respect for the UN Charter and the sovereignty of nation-states.<sup>10</sup>

As UN Deputy Secretary-General Asha-Rose Migiro remarked in 2012,

Let us remember that human security is more than an abstract concept. For a hungry family, human security means dinner on the table. For a refugee, human security is shelter and safe haven from the storms of conflict or disaster. For a woman caught in conflict, human security is protection from harm. For a child living in poverty, human security is the chance to go to school.<sup>11</sup>

## DEFINING HUMAN SECURITY





For Indigenous women, as the testimonies showed, threats to human security and to their basic human rights occur on a daily basis. For them, human security means the ability to live in the world without being under a constant threat of violence or harm; the ability to say goodbye to children going out with their friends, and not wonder if they will ever return; and, among other issues, the ability to start a family, to raise children, without worrying about their being targeted by racism and discrimination, or being apprehended unfairly. Witnesses discussed security in a physical sense, as the right to life, liberty, and personal safety, including control over one's own physical and mental health. They also identified the need for protection and social assistance through essential services in areas of health, housing, access to water, food, and education, and, most notably, the overall reduction of poverty, as it impacts levels of violence. In this context, safety and security are guaranteed through the pursuit and maintenance of relationships that are respectful, equal, and safe. Security is more than a physical condition; it is also a deeply felt experience of belonging, purpose, trust, connection, and harmony with the broader human, natural, and spiritual world.

Looking to what families and survivors told us about violence and the lack of safety in their daily lives challenges attitudes and beliefs that often blame Indigenous women themselves for the lack of safety in their lives, because it becomes clear that the source of that lack of safety is in the colonial structures within which Indigenous women live, rather than in the women themselves.<sup>12</sup> This way of thinking about security also makes clear that restoring security – as we will discuss in the upcoming chapter – requires much more than band-aid solutions, and requires creating substantive and systemic change in areas this report has identified and that are at the root of violence against Indigenous women, girls, and 2SLGBTQQIA people. As we heard from the voices of families and survivors, restoring security requires collective, Indigenous-led solutions that start by addressing the root causes of violence that so pervasively deny this basic human right.

## Pathway to Violence: Intergenerational Trauma and Interpersonal Violence

As Cee-Jai's story demonstrates, the security of Indigenous women and girls is threatened in ways that include, but go far beyond, a single act of physical violence. Addressing the violence that has caused the disappearance or death of Indigenous women, girls, and 2SLGBTQQIA people must consider how these specific acts of violence are the outcome of the long-term, multi-faceted denial of measures that foster and protect the security of Indigenous women throughout their lives.

Drawing on her many years of experience working with Indigenous women and their families whose lives have been impacted by violence, Expert Witness Josie Nepinak, executive director of Awo Taan Healing Lodge Society, an Indigenous women's emergency shelter in Alberta,



provided an important reminder that any discussion about interpersonal violence that removes or compromises Indigenous women's safety must be grounded in an understanding of other forms of colonial violence.

Violence for Indigenous women is a result of colonization, and the whole experience around colonization and the dispossession of our sacred ways, the dispossession of our grandmothers and the dispossession of our – of our Elders. And it is manifested through oppressive policies such as the *Indian Act* for First Nations women, and it is manifested through the residential school by killing the Indian in the child and killing the spirit of the child. And it is manifested in those abuses that we have suffered through, whether it's being placed in a dark room or being told that we're savages or being told that we cannot speak our language.<sup>13</sup>

As Josie Nepinak makes clear, meaningful conversation and change aimed at ending interpersonal violence and restoring security to Indigenous women, girls, and 2SLGBTQQIA people must acknowledge the much broader historical context of colonial violence that actively targets Indigenous women and normalizes violence of all forms committed against them. This begins with recognizing the “dispossession of our sacred ways” as an initial act of violence that continues to play out in the lives of Indigenous communities, families, and relationships marked by intergenerational trauma.

Like many of those who shared their truth, Marlene J., who shared the story of the disappearance of her sister Doreen, described how violence has been an almost constant presence in her and her sisters' lives. Marlene began her story by recalling a moment from her childhood when she and her sisters hid under the stairs to avoid violence.

I remember us being at home. There's [my sister], and myself, Doreen and our mom. It was quiet and all of a sudden we hear these loud banging. We had no idea what it was. And our mom got scared and told us to hide. So us being so small we could hide in the smallest areas where adults don't get into. The loud noises scared me so bad that I could remember that night how dark it was in the place 'cause we had those – what do you call those lamps that ... yeah, kerosene. They burn the plastic, or the bag.... I can still remember how dark it was in the place. And I was hiding under the stairs. And then all of a sudden the door swung open and I can hear screaming, yelling, banging, and then I can hear the voices leaving our place going down the road.<sup>14</sup>

Marlene's description of this act of violence and intimidation as the “*first*” traumatic event<sup>15</sup> in her life aptly sets up what she went on to describe as many more acts of violence committed against her and her sisters by family members, family friends, foster parents, and, later on in her life by boyfriends, acquaintances, and strangers. Her description of the threats of sexual violence



made by family friends demonstrate how she and her sisters – like so many Indigenous women, girls, and 2SLGBTQQA people living with those who commit violence – would devise ways of creating safety even while it was being taken away from them by those who are supposed to protect them.

Well, our dad would be partying or away one o'clock, two o'clock in the morning. We'd have men come down and they want to have sex. They tried with me and Doreen wouldn't allow it. She said, "I'm older, you can try with me." She was too young, too, and they said, "Is there anybody else here that I can do this with," they asked. I don't even know who these guys were.... I don't know. I know I was trying to fight them off. Like I'm small, I tried to hit them, bite them, whatever I could to get them off, and they just shoved me across the room. They'd give up because they can't get anywhere, too small.<sup>16</sup>

Like Marlene and her sisters, many of the witnesses who spoke about their own life or the lives of their missing or murdered loved ones remarked on the repeated acts of physical, sexual, and emotional violence that denied them any sense of safety from childhood onward. Survivors, such as Cee-Jai, also described those encounters in which they first realized as young Indigenous girls that violence was to be an expected part of their lives.

I was playing in the playground and I remember this little boy, same age as me, he wanted me to sit on his lap and go down the slide. And I didn't want to. I wanted to go on the slide by myself. He ended up beating me up. I was in kindergarten. And I got a big, black eye. And I remember crying and running home, running home to try to get the – my parents – my mom, or somebody to protect me. And all they said was – all the adults around me said that, "Look how cute. Her boyfriend beat her up." And they all laughed, and thought it was funny, or cute. And maybe that was the first time I really believed that it was okay for someone to beat me up, and hurt me. So today, I know that's – was wrong. I would never have my nieces, I would never do that to my nieces today. It was instilled in my – my mind, and in my memory, my belief system, that this was okay to – to be hurt. Another way of not giving me my voice. And learning that ... the people that I think are going to protect me, are not going to do that.<sup>17</sup>

In addition to her learning that "it was okay for someone to beat me up and hurt me," her parents' reaction communicated another harsh truth about the way others respond to violence against Indigenous girls: rather than responding in ways that repair relationship, their response normalizes relationships that lack safety and, in doing so, does further harm. This lesson that "the people that I think are going to protect me are not going to do that" was one that would be confirmed over and over again throughout Cee-Jai's life, not only by her parents but also by professionals, such as child welfare workers and the police.



For example, Cee-Jai described how, when she was a little bit older, her mother's boyfriend deliberately targeted and manipulated Cee-Jai in order to sexually abuse and exploit her and her four cousins.

When we went to Vancouver, my mom befriended a white, Frenchman. He took us in, and he would buy us anything that we wanted. Cookies, ice cream, he fed us, and he housed us. I was a little girl. I started to trust this person, thinking he's going to protect me, we're safe. This man – I lost my voice, and bad things started to happen to us. I remember being so scared, and making us watch those movies – it was adult movies.<sup>18</sup>

Again, however, when one of her cousins spoke out about the sexual abuse, nothing was done. Cee-Jai remembered:

I think one of my cousins did tell on that Frenchman. But they didn't come and talk to us about what he did to us. No one came and told. We all knew it was happening, but we're silence. But my one cousin, she finally said something. But they never came to talk to us. Being a little girl, I was shamed – ashamed of myself. I don't know what ever happened to that court case with that – no idea.<sup>19</sup>

Later on, when Cee-Jai's first boyfriend repeatedly physically abused her, she was again left on her own, despite being in the care of child and family services: "I don't know if the foster homes, or the group homes, or my social workers, I don't remember them trying to help me." Having learned early on, through repeated violent encounters that violated her safety, that each encounter would be met with indifference by those to whom she reached out for help, Cee-Jai understandably came to the conclusion as a young teenage girl that she held no right to safety, and that her physically violent boyfriend "really loved me, and I just kept going back."<sup>20</sup>

In speaking about the repeated acts of physical and sexual violence she experienced throughout her life, witness Michele G. also emphasized the lack of any response to the violent encounters in her life that would have indicated that her right to security mattered.

So let me summarize where we're at up to this point. They ripped me out of my mother's arms to put me into a system to protect me. But where was the protection? I had been sexually abused in every single home they put me in up to that point. I did what I thought was right. I reported the sexual abuse to my parents. Nothing happened. I reported sexual abuse to my social worker. Nothing happened. I had been examined by Ministry of Health doctors to put me on birth control. I had been picked up by the police a few times. Yet no one, no one asked if I had ever been sexually abused. The first one to ask was the Mountie who showed up at my door in Musqueam when I was 30 years old.<sup>21</sup>



In her testimony, Monique F. H. talked about the confusion created by living in a situation in which violence became equated with love.

When I was ... [a] young person, I started to experience sexual abuse and that was really hard for me to understand why that was happening. And living that life ... that story was – was very difficult because I always believed that, you know, your family is supposed to take care of you. There's no doubt in my mind my – my abuser loved our family, but it was just very confusing for me.

So I guess from a young age I started to realize and – and understand that I linked it – a very unhealthy link – [that] linkage was that sexual abuse, or sexual, anything sexual meant love.<sup>22</sup>

As their stories illustrate, the normalization and denial of violence against Indigenous girls, women, and 2SLGBTQIA people hold serious repercussions. According to Allan Wade:

The single best predictor of the level of a victim's distress is the quality of the social responses they receive from others. That's a better predictor than is the severity of the violence.... The term "social response" refers to how do your family, friends, colleagues, people who know you, how do they respond when they learn about violence?

"SO LET ME SUMMARIZE WHERE WE'RE AT UP TO THIS POINT. THEY RIPPED ME OUT OF MY MOTHER'S ARMS TO PUT ME INTO A SYSTEM TO PROTECT ME. BUT WHERE WAS THE PROTECTION? I HAD BEEN SEXUALLY ABUSED IN EVERY SINGLE HOME THEY PUT ME IN UP TO THAT POINT. I DID WHAT I THOUGHT WAS RIGHT. I REPORTED THE SEXUAL ABUSE TO MY PARENTS. NOTHING HAPPENED. I REPORTED SEXUAL ABUSE TO MY SOCIAL WORKER. NOTHING HAPPENED. I HAD BEEN EXAMINED BY MINISTRY DOCTORS TO PUT ME ON BIRTH CONTROL. I HAD BEEN PICKED UP BY THE POLICE A FEW TIMES. YET NO ONE, NO ONE ASKED IF I HAD EVER BEEN SEXUALLY ABUSED. THE FIRST ONE TO ASK WAS THE MOUNTIE WHO SHOWED UP AT MY DOOR IN MUSQUEAM WHEN I WAS 30 YEARS OLD."

Michele G.

As Wade said – and as is evident in the experiences shared by Cee-Jai, Michele, and many others – “Unfortunately, a vast majority of victims when you ask when you reported violence did your life get better or worse, most will tell you their life got worse.”<sup>23</sup>

The normalization of violence within this context includes other serious repercussions in terms of Indigenous women's ability to protect themselves when it is necessary to do so. In her testimony, Josie Nepinak shared:

It [colonial violence] is manifested in all of those areas [residential schools, Sixties Scoop, child welfare], and our vulnerabilities are then pushed into these unsafe environments and – and in these domains where we are at further risk to the extent where we don't even realize anymore that we're in a violent situation or that we are at risk of violence.<sup>24</sup>



The denial and normalization of interpersonal violence in the lives of Indigenous women, girls, and 2SLGBTQQIA people – and the extent to which that denial, as Josie outlined, keeps Indigenous women in danger or removes their security – are another form of colonial control exercised by the state, which, instead of recognizing its complicity in a long history of perpetrating and then denying or hiding violence, simply ignores that violence, or – more commonly than not – blames or further punishes Indigenous women for being victimized. To help in understanding the way violence violates the rights to security of Indigenous women, Wade offered the following observation:

Canada is an actively colonial nation. We're not in a post-colonial era; not even close, in my humble opinion. And so it's very important to understand that, because in my view, you can't understand gender-based violence outside of understanding the role of gender-based violence in a colonial society, because one of the hallmarks of colonial societies are extraordinary efforts to conceal the truth, to conceal the facts.<sup>25</sup>

### **Residential and Day Schools, and the Sixties Scoop**

The stories shared by Cee-Jai, Marlene, and so many others provide a sobering picture of the extent to which the physical and emotional security of Indigenous women, girls, and 2SLGBTQQIA people is violated through acts of interpersonal violence. The insight and context that each woman brings to their story, however, are equally important in explaining the relationships that enable such a gross violation to their security. For example, as Cee-Jai pointed out, the lack of safety that characterized her childhood cannot and should not be talked about without also understanding her mother's attendance at residential school, and Cee-Jai's own relationship with her mother as the child of a residential school survivor.

And I remember my upbringing is – my mom is a survivor of residential school, Lejac. And she did, like, I think, 12 years or 14 years in Lejac Residential School. And she endured all the things that happened to people in residential school. She – I remember, like, her sharing to me about the story of residential school and what happened to her, and I didn't understand the impact that it had on her. My mom's – was – is a recovering alcoholic. And my mother would be drinking and she would start talking about her experience. And she would cry. And I was just a little girl and I didn't understand until I got much older.<sup>26</sup>

Cee-Jai also talked about how, because of these experiences, she believes her mother was targeted by violent men who took advantage of the ways that trauma impacted her emotional and mental health, her active addiction to alcohol, and her poverty – a situation that, in turn, increased the likelihood of violence and diminished safety for Cee-Jai and her siblings.



I think my mom took us off the reserve, and she left the reserve because of my dad and his family, which is my family. She brought us to Prince George and same thing, violence. I learnt that. I learnt how to be afraid at such a young age. I remember my mom, being a single mother, she would have boyfriends. And they weren't very nice men that came into our home. My mom being vulnerable. Must have been hard for her. Think we lived off welfare all my life, in poverty.<sup>27</sup>

Cee-Jai's mother's use of alcohol to cope with the abuse she experienced at Lejac Residential School is a common long-term effect of being in the residential schools system, according to research that considers the long-term traumatic effects of residential school attendance on survivors and their families. There is also a connection between residential school attendance and interpersonal violence.<sup>28</sup>

In her testimony, Grace T.'s understanding of her stepfather's violent behaviour and treatment of her mother as a consequence of his attendance at residential school was in keeping with research that documents how residential schools systematically socialized its students into violence and abuse.

Any love or the happiness that my grandfather instilled in his family and us was taken away from us because he [Grace's stepfather] moved us here to abuse my mother, to abuse us with his hatred and his violence and sexual abuse, the things that were instilled in him from his family, from the secrets no one was supposed to talk about, and from the residential school. The monster was born, and the monster thrived.<sup>29</sup>

In her testimony, Michele G. connected the violence and abuse she experienced throughout her childhood while in foster care due to her removal from her mother during the Sixties Scoop, to the break this caused in a fundamental relationship in her life.

I'm the proud daughter of the late Beverly [G.]. And today I dedicate my testimony to my mom and I will speak for both of us and about how the system stole our relationship... I was apprehended in 1963 during the Sixties Scoop, taken from my mother's arms right out of the hospital... The foster care system failed to protect me... Forty years later the system continues to fail Indigenous girls and women.<sup>30</sup>

In sharing their truths, Cee-Jai, Grace and Michele asked for consideration of how colonial practices such as the residential and day school system and the Sixties Scoop, as well as the ongoing apprehension of Indigenous children into the foster care system, are, in fact, to blame for the lack of safety that characterized both their own and their mothers' lives.

Because intergenerational trauma resulting from residential and day schools and other colonial policies and practices is one of the root causes that undermines security and safety for Indigenous women and girls, understanding the contexts surrounding that violence are integral. As Allan



Wade commented in describing the unique and culturally specific dynamics that are at play in understanding the violence directed toward Indigenous women, girls, and 2SLGBTQQIA people, “You have not only the experience of violence, but the experience of violence being written out of history, or you are blamed for it if you are the victim of violence. So you have had those negative responses from authorities, from many people their entire lives.”<sup>31</sup>

In her testimony, Amy Bombay echoed the stories of witnesses who emphasized how Indigenous people continue to live with and experience the effects of residential and day schools. Bombay’s research demonstrates that, among other things, attendance at a residential or day school severely violated the physical, emotional, and social security of residential and day school survivors through a lack of food, harsh living conditions, poor education, and lack of proper clothing, as well as extensive physical, sexual, and emotional abuse.<sup>32</sup> She explained, “There is consistent evidence showing that the children and grandchildren of those affected by residential schools are at risk for various negative mental, physical and social outcomes.”<sup>33</sup>



*Girls in the dorms at Moose Factory Residential School, located in Moose Factory, Ontario.*

As many witnesses’ descriptions of substance use, poverty, and repeated victimization make clear, these adversities did not simply end upon the person leaving residential or day school. Rather, as the National Inquiry heard, the violation of basic rights to security and safety within the residential school setting continues to hold long-term, negative effects. For instance, Bombay

“ANY LOVE OR THE HAPPINESS THAT MY GRANDFATHER INSTILLED IN HIS FAMILY AND US WAS TAKEN AWAY FROM US BECAUSE HE [GRACE’S STEP-FATHER] MOVED US HERE TO ABUSE MY MOTHER, TO ABUSE US WITH HIS HATRED AND HIS VIOLENCE AND SEXUAL ABUSE, THE THINGS THAT WERE INSTILLED IN HIM FROM HIS FAMILY, FROM THE SECRETS NO ONE WAS SUPPOSED TO TALK ABOUT, AND FROM THE RESIDENTIAL SCHOOL. THE MONSTER WAS BORN, AND THE MONSTER THRIVED.”

Grace T.



cited statistics indicating that 80.5% of those who attended residential school for three or more years perceived the emotional and verbal abuse they experienced there as having a negative impact on them, as compared with the 58.8% of those who attended for under three years.<sup>34</sup>

The role the residential school system plays in contemporary acts of violence against Indigenous women, girls, and 2SLGBTQQIA people, and in other forms of violations to their safety and security, cannot be underestimated. To emphasize this point, Allan Wade described residential schools as “prison camps that we euphemistically and ... wrongly call residential schools. They weren’t residences, they weren’t schools.”<sup>35</sup>

For Amy Bombay, a significant part of the harm done through the residential school system is that it fostered aggression and abuse between students and it modelled and normalized abuse, while at the same time removing the cultural practices that would offer another way of relating. Bombay observed:

After generations of children ... experienced ... this residential school context, children went back to their community with neither traditional skills nor access to dominant group resources. Victims and perpetrators were sent back to the same communities, and the effects of trauma and altered social norms also contributed to ongoing cycles that were catalyzed in residential schools.<sup>36</sup>

Speaking of her own experience, Josie Nepinak explained how forced residential and day school attendance was the starting point for many stories of family violence and stories that demonstrate the repeated denial of security to Indigenous women, girls, and 2SLGBTQQIA people, because it was there where the “dynamics” that lead to violence were first played out and those factors that foster safety and security were undermined.

And I’d like to say, I’ve often been asked, well, how long have you been involved in family violence? And I say, since I was five years old. And I say that because previous to that, I’d only known the tradition, the culture, and the language, and a ... safe and secure environment with my family. So upon entrance into the residential school, then you begin to feel the – the dynamics and the destruction of one’s spirit when it comes to the residential schools.<sup>37</sup>

Paul T. participated in the Truth-Gathering Process to share the story of his sister Amber, who was found deceased in 2012 after being missing for two years. As part of providing context for the violence that marked Amber’s life, Paul talked about the impact residential school had on his family while he and Amber were growing up.

My mom was in the residential school. My dad was, but I think he was only there for a couple days, I think. And then he got kicked out. But my mom – my mom was in there for a few years. And – and that’s the sad part because I never got the mom that I – usually I don’t cry for anything. But yeah ... like, you only have one mom. And in my



case, for my mom, you know, she raised us the only way she knew how and, you know, it's like ... for me anyways, I think, you know, if we didn't get all we can get from my mom because the residential screwed her up so much, you know.

And also, there's a lot of other people, and it affects even – to this day it still affects me. And my – and my other brothers because it's like, you know, my mom knows what – what she went through. Doesn't really talk to us about it. But it ... took away the, I won't say the best years, but it took a lot – a lot of good time away from – from me and my siblings.... But for my family, it just screwed up my whole – my – especially my mom's side. And it's almost like you – you want to talk about it, but you – some people aren't ready to talk about it. And it's hard because of what the residential school, there's so much stuff that went on, and then it happened even with their own families, and it's – it impacted everybody.<sup>38</sup>

Paul's experiences and Bombay's research connect women's experiences of violence within their communities with an existing culture of "silence regarding residential school experiences and silence regarding some of the consequences of residential school, including things like violence and abuse that are happening in communities."<sup>39</sup> Her research emphasizes how those who had at least one parent who attended residential school reported more traumatic experiences throughout their lifetime.<sup>40</sup> In her studies focusing on the legacies of student-to-student abuse in the context of residential school, Bombay's work also identifies the ways in which disclosing violence in many communities left people feeling as if they had nowhere to go: some were afraid to report the abuse or talk about their experiences and reopen the trauma, while others were afraid to name the person because they were afraid of retaliation.<sup>41</sup> As a direct consequence of the residential school and day school experience, some students turned into abusers, returned to their communities, and in turn abused others: "abuse begat abuse."<sup>42</sup>

Similarly, based on her research focusing on Indigenous women's health in the Northwest Territories, Expert Witness Pertice Moffitt spoke about how the denial of resources to address the ongoing effects and impacts of trauma associated with residential school attendance, combined

"I WENT BACK THE NEXT DAY AND TOLD [T.] WHAT HAPPENED AND AFTER HE SAW MY INJURIES HE DROPPED ME OFF AT [THE POLICE STATION] AND I FILED CHARGES. THIS BROUGHT HELL TO MY LIFE. MY GRANDMOTHER [G.] INSISTED I NOT LAY CHARGES BECAUSE IT WOULD CAUSE PROBLEMS FOR THE [G.] CLAN. MY SOCIAL WORKER AVOIDED ME FOR AS LONG AS SHE COULD AND THEN EVENTUALLY I WAS GIVEN A LAWYER. I WAS TERRIFIED OF THE INDIVIDUAL AND WAS CONSTANTLY BEING THREATENED AND I SPENT MUCH OF THOSE WEEKS AND MONTHS TERRIFIED.... HOWEVER, BEFORE THE TRIAL THE WIFE OF THE MAN WHO HAD ASSAULTED ME CAME AND SAT AT MY KITCHEN TABLE PREGNANT AND ASKED ME TO DROP THE CHARGES AND SO I DID."

MICHELE G.



with the unique limitations and challenges of the geography of the North, is another way in which violence experienced by Indigenous women is denied and normalized. In describing what she called “a culture of violence and silence,” Moffitt noted that, because of the lack of adequate supports available for them to leave violent relationships or situations safely, women strategically use silence in response to violence as a means of self-protection.

I do believe for Indigenous women, it’s a protective, self-preservation thing that women are not talking about what’s going on. It’s a reason why there’s a lot of unreported violence.... There is community retribution in our small communities where families will blame each other and they’ll experience backlash if they report on the perpetrator from their family. So retribution includes things like harassment, isolation, restricted access to housing when there is very limited housing, or limited employment opportunities within the community. So, it’s not – it’s understandable why victims use a lot of self-preservation in circumstances like these in a community. Women remain silent in an abusive relationship. They may be working from that position. They might realize the lack of services that are available in their community, which increases their risk to successfully leave.<sup>43</sup>

In describing the response from her family and community after she reported a violent attack she experienced by her husband’s friend, Michele G. demonstrated this pressure to remain silent.

I went back the next day and told [T.] what happened and after he saw my injuries he dropped me off at [the police station] and I filed charges. This brought hell to my life. My grandmother [G.] insisted I not lay charges because it would cause problems for the [G.] clan. My social worker avoided me for as long as she could and then eventually I was given a lawyer. I was terrified of the individual and was constantly being threatened and I spent much of those weeks and months terrified.... However, before the trial the wife of the man who had assaulted me came and sat at my kitchen table pregnant and asked me to drop the charges and so I did.<sup>44</sup>

While silence is one manifestation of the trauma resulting from residential and day schools, the Sixties Scoop, and other colonial policies, the continued lack of government accountability for providing the necessary resources and supports that would make it possible for women to break that silence in a safe and meaningful way instead maintains the cycle of violence and pathologizes women themselves for not leaving abusive relationships. As long as we continue to live in and uphold a context that “refuses to tell the truth about violence,”<sup>45</sup> as Allan Wade described, the security of Indigenous girls, women, and 2SLGBTQQIA people is under threat and their lives are seen as inconsequential.



As will be explored in the next section, the violence that marks the lives of the survivors who shared their stories, and the violence that led to the disappearance or death of those who were not able to share their stories and its connection to intergenerational trauma, need to be discussed in relation to the various ways that the social security of Indigenous women and girls continues to be violated within a colonial state. As witnesses made clear, the social, economic, and political marginalization of Indigenous Peoples within Canadian society is an equally important part of the story of understanding the violence that leads to the disappearance or death of Indigenous women and girls.

## Pathway to Violence: Social and Economic Marginalization

As Jeffrey McNeil-Seymour explained in his presentation to the National Inquiry, prior to colonization, the Secwepemc Nation had practices that ensured economic security for all community members:

I think that prior to contact, that say if a family in our nation didn't have enough to make it through the winter that a family that had excess would bring to that family. And how we would take care of that would be to host a feast. That family would then have to host a feast to honour the family for helping them out in the winter.<sup>46</sup>

This concept is directly challenged by the barriers that threaten security in all of its forms today. In sharing their stories about the ways that relationships and specific encounters within those relationships created the conditions that allowed violence to take place, families, survivors, and supporters looked beyond individual relationships between their missing and murdered loved one and the perpetrator of violence. As part of the stories of violence that family members and survivors shared, many also talked about the significant economic hardship faced in their own lives or in the lives of their loved one. For these family members and survivors, social and economic marginalization, generally speaking, contributes to, or is directly connected to, the violence they or their loved one experienced. As we examine the stories shared by and about missing and murdered Indigenous women, girls, and 2SLGBTQQIA people, we learn more about the ways poverty and the barriers to getting out of poverty function as an underlying condition that supports and enables the violence directed toward them. In addition, we learn about how the barriers to economic security impact social and political security. Specifically, we learn how poverty forces Indigenous women, girls, and 2SLGBTQQIA people to exist in situations that increase the likelihood for violence. Moreover, we learn how society's indifference to and contempt of those who experience social and economic hardship further marginalizes Indigenous women in ways that not only increase the level of risk or danger, but also increase the impossibility of accessing the economic resources that would decrease that risk.



## Poverty

First Nations, Métis, and Inuit experience higher levels of economic poverty than non-Indigenous Peoples in Canada. According to the Canadian Poverty Institute, one in four Indigenous people are living in poverty.<sup>47</sup> This number is even higher for children, where 4 in 10, or 40%, of children off-reserve and 6 in 10, or 60%, of children living on-reserve are affected by poverty.

As compared with non-Indigenous Canadians and Indigenous men, Indigenous women are more likely to experience poverty. Approximately 44% of Indigenous women living on-reserve and 47% living off-reserve live in poverty. In addition, Indigenous women make less money than Indigenous men and non-Indigenous women. The average annual income for Aboriginal women is \$13,300, compared with \$18,200 for Aboriginal men and \$19,350 for non-Aboriginal women.<sup>48</sup>

As researchers Gérard Duhaime and Roberson Édouard observe, in Inuit Nunangat, poverty is due in part to the relatively sudden change in way of life, beginning in the 1950s with the introduction of a new kind of economy. They explain:

The shift from nomadism to a sedentary way of life in the late 1950s not only transformed the Inuit mode of land use; it also caused an upheaval in their social organization, making the market their main vehicle of access to goods and services, money their primary means of exchange, and government the main hub of most industries.<sup>49</sup>

The wage payment system has directly impacted traditional activities that used to form the basis of Inuit life, including for the provision of shelter, food, clothing, and transportation. As Duhaime and Édouard point out, “Though they remain very much alive, hunting, fishing, trapping, crafts, and the traditional institutions of sharing have undergone major changes in role and status. The pursuit of such activities has become more and more dependent on the market economy,” and has “thoroughly transformed the configuration of social arrangements and relationships.”<sup>50</sup> Residents of Inuit Nunangat have become more dependent on expensive imported goods and services, with significant consequences for poverty.



# Economic Insecurity and Government Neglect in Inuit Nunangat

In Inuit Nunangat, the problem of economic insecurity is exacerbated by the failure of government to promote diversified economic development and honour its commitments under Inuit land claims.

Economic development in Inuit Nunangat is usually associated with mining and oil or gas extraction. These extractive industries are often assumed to be the major driver of economic development for most northern territories. However, non-renewable resource extraction is one of several sectors in the northern economy.<sup>i</sup> The economic benefits to Inuit communities are generally not as large as promised, as most jobs, revenues, and contracting opportunities continue to accrue to other jurisdictions.<sup>ii</sup> Moreover, extractive development can pose additional threats to Inuit women's security, as the high number of transient workers at mining camps can create working and living environments where sexual harassment and abuse of Inuit women take place.<sup>iii</sup> It is therefore important that government promote diversified economic development to ensure women's and 2SLGBTQIA people's economic security in their homeland.

Unfortunately, government is failing to promote diversified development in Inuit Nunangat. For example, the northern fisheries are an important component of community economies in Nunavut that provide seasonal employment and supplementary income for many residents of Nunavut, including Inuit women. Fisheries also provide significant revenues to Inuit organizations and community hunters' and trappers' organizations through ownership of fishing companies.<sup>iv</sup> There is currently significant potential for expansion of Nunavut's fisheries, which would positively contribute to the economic security of Inuit women. However, numerous hurdles remain in place due to government inaction. For example, a signifi-

cant share of the quota for offshore areas adjacent to Nunavut continues to be held by companies based outside of the Arctic. A lack of infrastructure also limits expansion. The expansion of inshore fisheries requires significant investments in community infrastructure, such as small-craft harbours and fish-processing plants. Because Nunavut lacks large-craft harbours, it is unable to benefit from the processing of offshore catch.<sup>v</sup>

The failure to honour some provisions of modern Treaties is another instance of government's failing to promote economic security for Inuit women, girls, and 2SLGBTQIA people. For example, the government has not fulfilled the objectives of Article 23 of the Nunavut Agreement, which was intended to achieve a representative civil service for Nunavut. Because 85% of Nunavut's population is Inuit, 85% of government employees in Nunavut should be Inuit, according to the logic of Article 23. In 2006, Nunavut Tunngavik Incorporated (NTI) commenced legal action against the Government of Canada, alleging numerous breaches of the Nunavut Agreement, including that government failed to take adequate measures to promote a representative workforce.<sup>vi</sup> The case slowly moved toward a trial,<sup>vii</sup> but an out-of-court settlement was reached in 2015 that provided new funding for Inuit education and training initiatives.<sup>viii</sup> However, despite this settlement, the damages to Nunavut's economy due to government inaction will be long-lasting. As of September 2018, only 51% of Government of Nunavut employees were Inuit.<sup>ix</sup>



The problem of a representative workforce runs deeper than the proportion of Inuit employees within the workforce, and also includes significant pay gaps. Inuit employees, and especially Inuit women, earn significantly less money than the Government of Nunavut (GN) average wage. For example, in 2015, the average GN employee earned roughly \$90,000, the average male Inuit employee earned roughly \$82,000, and the average female Inuit employee earned roughly \$79,000.<sup>x</sup>

In addition, with the private housing and rental markets being overpriced and public housing being highly inaccessible, housing through employment is key. For example, according to Garrett Hinchey, reporting for *CBC News* in 2017, average rents in Iqaluit were among the highest in Canada, with a two-bedroom house costing, on average, \$2,597 per month.<sup>xi</sup> The Canadian Mortgage and Housing Corporation's Northern Housing Report for 2018 also contended

that two-thirds of Nunavut's population could not afford market housing without assistance from their employer or the government.<sup>xii</sup>

Both the government of Canada and government of Nunavut provide subsidized housing to their full-time employees. The public sector, the largest employer in Iqaluit, leased 39% of the Iqaluit rental market in 2017. Private companies leased 24% of the rental market to provide employees with housing. Private tenants pay the landlord directly in only 10% of rental situations, and public housing provided by the Nunavut Housing Corporation (NHC) accounts for 23% of tenancies.<sup>xiii</sup> As the NHC reports, "the stock of public housing units needs to increase by 193 units or 37% in Iqaluit to meet housing needs."<sup>xiv</sup> Living up to Article 23 of the Nunavut Agreement by both governments within the Nunavut Settlement Area would help address the housing crisis.

I Nunavut Economic Forum, "Nunavut Economic Development Strategy."

II Bernauer, "The Limits to Extraction."

III Czyzewski, Tester, Aaruaq, and Blangy, *The Impact of Resource Extraction*.

IV Nunavut Economic Forum, "Nunavut Economic Development Strategy."

V Nunavut, Department of the Environment, "Nunavut Fisheries Strategy, 2016–2020."

VI Nunavut Tunngavik Incorporated, "Amended Statement of Claim," NUCJ File No. 08-06-713 CVC.

VII In 2012, the Nunavut Court of Justice gave a summary judgment on one of NTI's allegations: that the Government of Canada breached the Nunavut Agreement by failing to establish a general monitoring plan for the territory. The court ruled in favour of NTI. See *Nunavut Tunngavik Incorporated v. Canada (Attorney General)*, 2012, NUCJ 11.

VIII Nunavut Tunngavik Incorporated, Government of Nunavut, and Government of Canada, "Moving Forward in Nunavut."

IX Nunavut, Department of Finance, "Towards a Representative Public Service."

X Nunavut, *Public Service Annual Report: 2014–2015*.

XI Hinchey, "Iqaluit is one of the most expensive cities."

XII Canada Mortgage and Housing Corporation, "Northern Housing Report 2018," 12–13.

XIII *Ibid.*, 13.

XIV Canada, Canada Mortgage and Housing Corporation, "Northern Housing Report," 13.

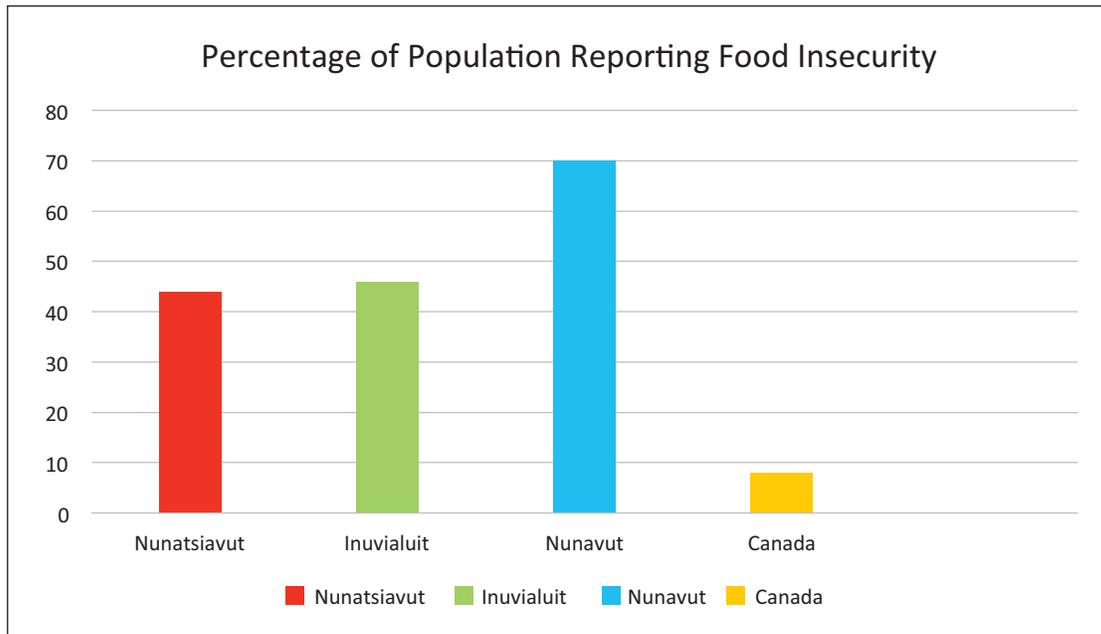


Many people in Inuit Nunangat also experience food insecurity at a higher level than elsewhere in Canada. “Food insecurity” refers to a situation when the food purchased doesn’t last long enough, or when there isn’t enough money to buy more food or healthy food. It can also apply in situations when members of the household cut the size of their meals or skip meals due to lack of the ability to purchase more. According to Statistics Canada, “in 2012, more than one-half (52%) of Inuit in Inuit Nunangat aged 25 and over lived in a household that experienced food insecurity in the previous 12 months.”<sup>51</sup> Further, “in 2012, nearly one-third (32%) of Inuit adults in Inuit Nunangat ate less than they should have eaten because they could not afford to buy food. Furthermore, 27% of Inuit adults reported that they had been hungry because they could not afford enough food.”<sup>52</sup> Inuit adults had a higher chance of being food insecure, especially women, families with children, those living in a crowded dwelling, and those with weaker family ties. According to Inuit Tapiriit Kanatami’s (ITK) statistical profile of the region, “In Nunatsiavut, 44% of households are food insecure, similar to the 46% for households in the Inuvialuit Settlement Region. The rate of food insecurity is highest in Nunavut where 70% of households are food insecure. Conversely, 8% of all households in Canada are food insecure.”<sup>53</sup>



*A group of residents raise awareness about high food prices. Facebook, Feeding my Family Public Group, June 21, 2012, Pangnirtung, NU. No copyright infringement intended.*

Poverty and food insecurity are rooted in both access to education and access to employment – or lack thereof. As the government’s own statistics make clear, Indigenous people in Canada have historically had lower rates of labour-force participation and employment, as well as lower incomes, than non-Indigenous people.



In a 2015 survey focused on the situation of people living off-reserve in 10 provinces, Indigenous people were underrepresented in what the government classified as “knowledge occupations,” including management, business, finance, natural and applied sciences, health, art, culture, recreation, and sport. However, as the 2015 survey identified, Indigenous Peoples were more highly represented, compared with the non-Indigenous population, in education, law, and social, community, and government services, with a rate of 15.1% compared with 12.8%. Indigenous people showed a high level of employment in trades and in natural resources, as well as in sales and services, compared with non-Indigenous people.<sup>54</sup>

The employment data varied per region, but, of note, the gap in employment rates between Indigenous and non-Indigenous people for 2015 was widest in Manitoba and in Saskatchewan, at 17.4% and 18.5%, respectively, the provinces where the rates of child apprehension, unsafe housing, and criminalization of Indigenous women are also among the highest.<sup>55</sup> Statistics have also made it clear that Indigenous women suffer from underemployment and unemployment at a greater rate than men. Between 2014 and 2015, for instance, the employment rates for Indigenous women declined by nearly 3%, while the rates for Indigenous men were mostly steady.<sup>56</sup> The fact that many women become the single parents in single-parent homes further jeopardizes economic well-being, as well as related aspects of security.

Women, girls, and 2SLGBTQQIA people living in reserve communities also face challenges related to poverty. According to income data from the 2016 census, four out of every five reserves had median incomes that fell below the poverty line. This means that for the 367 reserves for which there was data available for this measurement, 297 communities fell below the low-income measure, and many more landed very close to it.<sup>57</sup> And, as journalist Jordan Press reported, “At the lowest end, 27 communities reported median total incomes below \$10,000.”<sup>58</sup>



In Inuit Nunangat, and although most Inuit (79%) reported a permanent job in 2016, 21% of Inuit who were employed worked part-time, and women were more likely to work part-time than men.<sup>59</sup> While most respondents said that more jobs were needed, 11% of Inuit women said child care assistance would help them most.<sup>60</sup> According to ITK's 2018 Statistical Profile, data from 2015 shows the median income for those aged 15 years and over was \$23,485, compared with \$92,011 for non-Indigenous people in the region, and an income gap of almost \$70,000. As the report points out, "The cost of living in Inuit Nunangat is high with many Inuit struggling to buy healthy food, hunting and fishing supplies, clothing and other necessities. In addition, many Inuit families are large and low incomes must be spread thin in an effort to meet the basic needs of family members."<sup>61</sup>

As the National Inquiry heard, lack of financial means has serious consequences and places First Nations, Métis, and Inuit women at a greater risk of food and housing insecurity as well as a greater risk of mental and physical health issues. As Mavis Windsor commented, poverty and the insecurity that it brings are at the root of many of the challenges facing Indigenous women and girls today: "Many of our people, including our women and our children live in poverty, suffer from social inequality and breakdown of families, addiction, premature mortality rates, and low levels of literacy and education, and high levels of mental illness and physical diseases."<sup>62</sup>

In describing the economic challenges southern Inuit women face, Jennisha Wilson, manager of programs with Tungasuvvingat Inuit in Ottawa, explained what it means to live in poverty.

I think one of the realities for Inuit that are vulnerable is that they live under the poverty line or just at the poverty line, which means that on an everyday basis, you're sacrificing a certain aspect of your well-being, whether it be access to food to sustain yourself in order to cover rent, or you're couch surfing because you can't afford rent. You're always sacrificing something, and it's, I think, to a certain extent, you're violating your own human rights because of poverty, structural poverty and violence, right? So, I think that's one of the major forerunners for why individuals become vulnerable, become groomed and [conned] ... by traffickers to say, "I can provide you somewhere to sleep," and that covers one of the vulnerabilities, right?<sup>63</sup>

**"MANY OF OUR PEOPLE, INCLUDING OUR WOMEN AND OUR CHILDREN LIVE IN POVERTY. SUFFER FROM SOCIAL INEQUALITY, AND BREAKDOWN OF FAMILIES, ADDICTION, PREMATURE MORTALITY RATES, AND LOW LEVELS OF LITERACY AND EDUCATION, AND HIGH LEVELS OF MENTAL ILLNESS AND PHYSICAL DISEASES."**

**Mavis Windsor**

As witnesses shared their experiences about the ways poverty creates challenges in finding safety, they also demonstrate how a failure to address the significant lack of social and economic security experienced by Indigenous women, girls, and 2SLGBTQQIA people is directly linked to the violence that may take their life.



## DEEPER DIVE

# Understanding Intersectional Métis Experiences

In the testimonies from families and from survivors, the National Inquiry heard about how much Indigenous women, girls, and 2SLGBTQQIA people have in common: how the violence directed toward them permeates and invades almost every aspect of their lives, and how understanding the violence requires looking at how systems operate to oppress them. At the same time, we also heard of many experiences that speak to the need to apply a distinctions-based approach in some aspects of analysis to better understand the unique barriers facing those who encounter violence as a particular group.

This Deeper Dive captures some of these distinctions as shared through the stories of Métis families and witnesses. Within many Métis communities, the principle of *wahkohtowin*, which translates directly to English as “kinship” or “being related to each other,” is an important touchstone for understanding self and one’s place in the world. Within the distinctive context of Métis nationhood, as well as history, the principles of *wahkohtowin* remind us about our responsibilities and obligations to maintain good relationship with all of creation. As scholar Matthew Wildcat, Nehiyaw (Plains Cree) from the community of Maskwacis Alberta and a member of Ermineskin Cree Nation, explains:

First, [*wahkohtowin*] references the act of being related – to your human and other than human relatives. Second, it is a worldview based on the idea that all of existence is animate and full of spirit.... Third, there are proper ways to conduct and uphold your relationships with your relatives and other aspects of existence.<sup>A</sup>

As we heard during the course of the National Inquiry from many Métis families, maintaining these good relationships is challenging within the context of a Nation that has, for so long, been ignored. But, as Janet Smylie, Métis family doctor and Public Health Chair at St. Michael’s Hospital and at the University of Toronto, testified, “preserving *wahkohtowin* or our ancestral ties ... has built in ways to making sure that

we can access blood memory, which helps us live a good and thriving life and is key to who we are as people.”<sup>B</sup>

As Smylie shared, remembering and understanding the protocols are key to confronting violence that occurs in Métis families and communities, and building relationships with the non-Métis world.<sup>C</sup>

## The Forgotten People

The history of Métis women within the context of a distinct social, political, and economic order is briefly discussed in Chapter 4, largely as it relates to policing and to administrative structures that sought to cast the Métis aside and to separate them from their First Nations kin. While the distinctive nature of Métis experiences is bound with their existence as a separate and distinctive Nation, it is also worth highlighting how an important measure of group consciousness is bound in the Métis as the “forgotten people,” ignored by various orders of governments in particular between 1885 and 1982, when constitutional recognition was achieved.

To some extent, the lack of recognition of the Métis lies in the important administrative structures that erased them from the pages of history, or reduced them to the concept of “mixedness.” As Métis scholar and Associate Professor in the Faculty of Native Studies at the University of Alberta Adam Gaudry explains, the Métis weren’t always known as the “Métis”:

Contemporary usage of Métis is also different from its historical meaning. At Red River in the 19th century there were two prominent communities of mixed-descent people. In addition to a sizeable French-speaking and nominally Catholic Métis population, there was a large group of English-speaking “Half-breeds” who were mainly Anglican agriculturists.

He adds that, while these interrelated groups were distinct populations with strong connections, “the



derogatory nature of the term 'Half-breed' has caused it to fall largely into disuse."<sup>D</sup> In fact, the records created by colonial governments throughout the late 19th and early 20th centuries reveals that the term "Half-Breed" was used almost exclusively by the federal government during this time. According to an explanation from Library and Archives Canada, "The term completely pervades departmental memoranda, reports, registers, federal statutes, orders-in-council, and official publications. Indeed, it is possible for researchers to use the federal record of this period without ever encountering the term 'Métis.'"<sup>E</sup> The contemporary meaning of the term "Métis" includes people of both French and Scottish or English backgrounds. Some individuals, including at least one witness who appeared before the National Inquiry, do still identify as "half-breed" as a way to reclaim the label.

A good example of the usage of the term "half-breed" in government discourse is what is known as the "Half-Breed Adhesion to Treaty #3." As senior historian at Manitoba Metis Federation's Louis Riel Institute since 2006, author and researcher Lawrence Barkwell explains, "In 1875, the first and only numbered treaty between Canada and the Metis was signed as an adhesion to Treaty Three.... The Metis community at Fort Frances ... signed an adhesion to Treaty 3 in 1875 as 'Half-Breeds.'"<sup>F</sup> Though never ratified by the Department of Indian Affairs, the agreement, signed by Nicolas Chatelain, a Métis Hudson's Bay Company trader and manager hired by the federal government as an interpreter for Treaty #3 at Lake of the Woods, "set aside two reserves for the Metis and entitled them to annuity payments, cattle and farm implements."<sup>G</sup> As Smylie testified, "a large majority of us, we're not Treaty people but we're related to and we come from Treaty people."<sup>H</sup>

Most Métis were excluded from Treaty negotiations and cheated out of scrip, and, essentially, written out of the administrative history of Canada, with important effects. As Gaudry explains, "From 1885 to the mid-1900s, poverty, demoralization and racism commonly connected to being identified as a 'half-breed' led many Métis to deny or suppress that part of their heritage if they could."<sup>I</sup> After the passage of the *Manitoba Act*, 1870, and the subsequent bungling of the land distribution formula within it, the Métis experienced heightened hostility from a

number of new settlers, as well as the military, who arrived in the province. Some Métis remained in Manitoba to form their own communities, though not on the lands promised to them.

The story of Ste. Madeleine, Manitoba, encapsulates many of the themes that have come to define the Métis relationship with the Canadian state. It demonstrates the social and economic marginalization of Métis Peoples, the refusal of governments to recognize Métis, and the effects of government dispossession on the health of communities and Métis women specifically.

Founded in the 1870s, Ste. Madeleine was situated about 15 kilometres south of the village of Binscarth.<sup>J</sup> Ste. Madeleine was established by Métis from old Red River parishes such as Baie St. Paul, St. François-Xavier, and St. Norbert. Many of the families in these parishes had once held river lots in the older districts, but had been forced to abandon their land as a result of the failures of the scrip system, which is explored in greater detail in Chapter 4.<sup>K</sup> As such, many who settled in the area were required to apply for homestead grants under the 1872 *Dominion Lands Act*.<sup>L</sup> The land, however, was not as suited to farming as the Red River river lots that these families had been forced to leave. Former residents directly connected the dispossession at Red River with the move to the Ste. Madeleine area,<sup>M</sup> but also situated their community within a long tradition of Métis land tenure more broadly speaking, that stretched back generations.<sup>N</sup>

Despite the hardships at Ste. Madeleine, by the 20th century, a thriving community had emerged. In 1913, the community had built a church, and by 1922, Beliveau School was opened to teach grades 1 through 8. By 1935, the community had grown to about 250 inhabitants, who were mainly employed as farm labourers in the surrounding communities, but who nonetheless continued to locate home at Ste. Madeleine. These Métis continued to practise their traditional lifestyles; to continue "just living the old way."<sup>O</sup> However, encroaching Canadian authority brought with it a whole system of taxes and land surveys,<sup>P</sup> which established a new bureaucratized landholding system that left traditional Métis landholdings unrecognized and imposed debilitating financial restrictions.<sup>Q</sup>



By 1935, at the height of the Great Depression, the Métis residents of Ste. Madeleine found themselves bound up at the confluence of government policies. The federal government in Ottawa passed the *Prairie Farm Rehabilitation Act* (PFRA) in 1935 to alleviate the impacts of drought for prairie farmers and ranchers.<sup>R</sup> An army of government agricultural scientists descended on the region to plan a response.<sup>S</sup> Their solution was to categorize the area as pasture land and have it cleared and reseeded for cattle grazing.<sup>T</sup> This meant that the Métis families would have to leave. Under the provisions of the PFRA, those whose homes were to be cleared could apply for compensation. However, compensation would be paid only if families had kept up with their tax payments – the vast majority were in arrears.<sup>U</sup> In 1938, the residents were evicted, their homes were burned,<sup>V</sup> the church and school were burned; some people even lost their dogs as the police shot them.<sup>W</sup> As one former resident put it, “Prior to 1938, people may have been poor, but they were happy. They still had their independence, their own ways of doing things. After 1938, people were less independent. There was a loss of self-respect and self-determination. When you’re kicked out like that, you lose everything.”<sup>X</sup>

The impacts on Métis women who experienced the Ste. Madeleine evictions were particularly pronounced. As the government forcibly evicted families from their homes and sent them off with no compensation, many were forced further into cycles of precarity that would harm their safety. The centrality of Ste. Madeleine as home<sup>Y</sup> and its sudden, violent removal destabilized the lives of many Métis women. Traditional practices that had held the community together and had made the lives of women safe and fulfilling could not continue. As former residents recounted, the old ladies, especially those who acted as midwives, were central to the health of Métis women in Ste. Madeleine. They would not only attend births, but were the holders of deep community cultural knowledge. After the evictions, as the community was dispersed far and wide, many women lost access to the old ladies who had kept them safe during childbirth and had grounded them in the cultural knowledge of their community.<sup>Z</sup>

The community itself was never recognized by provincial or federal authorities and thus never incorporated as a town or village – it remained off the

map. This was a similar pattern to that across the prairies, where Métis communities formed along what were known as “road allowances.” These road allowance communities were often thriving centres of Métis culture and social activity, but were unrecognized by federal, provincial, or municipal governments, which kept these communities in a constant state of precarity.

The story of Ste. Madeleine is not exceptional. Rather, it is part of a larger history across the prairie provinces. As Gaudry points out, of the estimated 10,000 people of mixed ancestry in Manitoba in 1870, two-thirds, and by some estimates more than that, left in the next few years.<sup>AA</sup> They headed to many different areas, including existing Métis settlements like Lac Ste. Anne, St. Albert, and Lac La Biche, as well as St. Laurent, Batoche, and Duck Lake.

The higher concentration of Métis people in Saskatchewan and the growing frustration with the Canadian government’s ignoring their concerns while, at the same time, negotiating Treaties and pursuing its plans for rail development, led to the Northwest Resistance in 1885, and the defeat of the Métis at Batoche. The dispersal of the Red River Métis, and the quashing of the resistance, provided the federal government much of the justification it needed for “forgetting” the Métis for over 100 years. As scholar in Métis history and politics and historian Fred Shore has argued, “The years after 1885 were literally the ‘Forgotten Years’ as the People disappeared into the backwaters of Western Canada.”<sup>BB</sup> As Prime Minister Sir John A. Macdonald maintained, “If they are Indians, they go with the tribe; if they are half-breeds they are whites.”<sup>CC</sup>

The subsequent dispersal of many Métis families, as well as the rising level of poverty that came with the government’s abdication of responsibility, meant that Métis people came to live within a jurisdictional vacuum. While the provinces claimed that Métis were the responsibility of the federal government, the federal government – and the Department of Indian and Northern Affairs – claimed no such responsibility. A good example of this kind of treatment is in the distribution of veterans’ benefits under the *Soldier Settlement Act*, following World War I. The *Soldier Settlement Act* of 1917 provided for the establishment of a Soldier Settlement Board, which could purchase land for returning veterans and often did so, from



First Nations reserves, for a total of approximately 85,000 acres (34,400 hectares) in western Canada.<sup>DD</sup> To access their benefits, Métis veterans tried to claim their lands from the program, but they were sent back to the federal government and to the Department of Indian and Northern Affairs. The Department of Indian Affairs claimed it was not responsible for the Métis, and many were ultimately never able to access any veterans' benefits.<sup>EE</sup> In 2002, Métis veterans who had served in the Second World War and in Korea launched a class action lawsuit over the lack of compensation when they returned home, and their exclusion from the compensation deal offered to Treaty First Nations.<sup>FF</sup>

This example, while not specific to women, indicates the degree to which the Métis, after 1885 and prior to constitutional recognition in 1982, were ignored by different orders of government. The economic and political marginalization detailed in Chapter 4 further highlights the degree to which the Métis were “forgotten” and, in this way, further marginalized.

## The Challenges of Understanding Violence in the Absence of Data

As many of the testimonies heard by the National Inquiry make clear, this problem still persists in some areas today. As researchers Allard-Chartrand et al. maintain with respect to education:

The provinces generally maintain that the federal government has full jurisdiction for all Aboriginal peoples while maintaining education as a provincial authority. This has left the Métis nation in a policy vacuum between the federal and provincial governments and resulting in Métis concerns not been addressed effectively by either level of government.<sup>GG</sup>

This vacuum, in turn, means that many Métis are left struggling to access essential services that may help to meet their needs and, ultimately, create safety. In 2016, the Supreme Court of Canada ruled in *Daniels v Canada (Indian Affairs and Northern Development)* that Métis and non-Status Indians are “Indians” for the purpose of section 91(24) of the *Constitution Act*,

1867. This means that the federal government does have important obligations to the Métis, as “Indians.”<sup>HH</sup> In the aftermath of that decision, and while many Métis governments are working on new frameworks and agreements with the different levels of government, the ongoing negotiations, and the long road to reach substantive and concrete agreements, mean that many people are simply left waiting.

In addition, the lack of clear data available on issues affecting the Métis on a national scale is an important barrier to upholding the rights of Métis women, girls, and 2SLGBTQQIA people to safety. As Emma LaRocque, Métis scholar, has argued:

Since it is considerably more difficult to get precise statistics on Métis people, it is virtually impossible to say with any exactness the extent of sexual violence in Métis families or communities. However, as more victims are beginning to report, there is every indication that violence, including sexual violence, is just as problematic, just as extensive as on reserves.

Speaking of a gathering held over 25 years ago, LaRocque adds, “The stories shared by the 150 or so conference participants indicated that Métis women ... have been suffering enormously – and silently – from violence, including rape and child abuse.”<sup>II</sup>

The idea that Métis women have been suffering enormously and silently is linked to the findings of many previous reports on the issue of violence against Indigenous women and girls that cite the need for better disaggregated data that takes into account distinctions between groups. For instance, the 2017 Human Rights Watch submission to the Government of Canada “Police Abuse of Indigenous Women in Saskatchewan and Failures to Protect Indigenous Women from Violence” recommended the collection and public availability of accurate and comprehensive race- and gender-disaggregated data that includes an ethnicity variable on violence against Indigenous women, as well as on use of force, police stops, and searches, with the guidance of Indigenous women leaders and in cooperation with Indigenous community organizations and the National Centre for Missing Persons and Unidentified Remains (NCMPUR).<sup>JJ</sup> Human Rights Watch’s *Those*



*Who Take Us Away: Abusive Policing and Failures in Protection of Indigenous Women and Girls in Northern British Columbia, Canada*, made a similar recommendation.

One of the challenges of compiling accurate data with regards to Métis realities refers to what the government of Canada terms “ethnic mobility” as a key factor in the growth of the Métis population, especially since 2006, when the census began to allow self-identification as Métis. As defined by the government, “ethnic mobility” refers to an increasing number of people who are newly reporting an Indigenous identity on the census, over time, and represents a “major contributor to the high growth rate of the Aboriginal population in general and the Métis population in particular.”<sup>LL</sup> In 2002, the Métis National Council (MNC), which is represented by elected, province-wide governance structures from Ontario and west, including the Métis Nation of Ontario, the Manitoba Metis Federation Inc., the Métis Nation – Saskatchewan, the Métis Nation of Alberta, and the Métis Nation British Columbia, adopted the following definition of Métis:

**“‘Métis’ means a person who self-identifies as Métis, is distinct from other Aboriginal peoples, is of historic Métis Nation Ancestry and who is accepted by the Métis Nation.”**

In late 2018, at the MNC’s Annual General Assembly, representatives also noted the rising number of people claiming to be eastern Métis. The MNC’s President Clément Chartier argued that these groups were guilty of appropriating Métis culture and symbols, adding that if the only criterion for Métis was mixed ancestry, nearly everyone would be Métis. As he explained, “They’re stealing our identity. They’re using our Métis Nation flag and they’re calling themselves Métis Nations.”<sup>MM</sup> Interestingly, at the same assembly, a new map of the Métis homeland was presented, which excluded the only community (Sault Ste. Marie) recognized as a rights-bearing Métis community in the Powley Supreme Court decision of 2003. In the 2003 decision, the Supreme Court had provided a “test” for Métis communities and individuals for claiming Aboriginal rights under section 35 of the *Constitution Act*, with respect to hunting and harvesting, the charges under which the case was launched. According to the 2003 decision, to be considered Métis under the Powley test, the

person or the community must: self-identify as Métis; have family ties to a historic Métis community where harvesting occurs; prove that the practice of harvesting occurred before European control; prove that the practice was integral to claimant’s distinct culture and demonstrate continuity of that right today; and be recognized as Métis by a contemporary Métis community having ties to a historical one.

In response to the new map – which did not include Sault Ste. Marie, (characterized as a Métis rights-bearing community as the Supreme Court laid out), Margaret Froh, president of the Métis Nation of Ontario, explained, “It’s certainly a narrowing of ... what’s been recognized as the historic Métis Nation homeland.” She added, “We’ll talk with our citizens and make sure people understand the decisions that have been made and we’ll continue to move forward.”<sup>NN</sup> The map sparked discussion and, in some cases, outrage, in many communities, who argued that the map was restrictive and unrepresentative.

For those who haven’t always identified as Métis, or for those who come from areas whose connections to Indigenous cultures are clear, despite their lack of official recognition from the national, provincial, and territorial organizations, these kinds of conversations are challenging, and may only reinforce some of the lateral violence that many people face as a result of their desire to belong to a community. In addition, many Métis report discrimination from both non-Indigenous and Indigenous Peoples. As scholar Cathy Richardson’s research participant, Julie, shared, “Prejudice is such an evil thing, and as Metis we often get it from both sides of the blanket. A feeling of never quite belonging anywhere haunts me.”<sup>OO</sup> As another participant, Susan, shared in the same study, “Well, I feel like I’m going to be looked at as a White person unless I self-identity, at which point I assume I’m going to be looked at as a ‘Wannabe’ Indian.”<sup>PP</sup>

Michele G. is a Métis woman who shared similar experiences with the National Inquiry. Originally from The Pas, Manitoba, she now lives in Dartmouth, Nova Scotia. Her Métis father died young of cancer. According to Michele, her mother wasn’t identifying as Indigenous at the time, though she went to residential school and this affected her deeply. Michele’s mother died when Michele was 15. At this point, Michele remembers that her mother’s side wouldn’t take her and her siblings in: “My mom’s side,



a lot of them had married, kind of, privileged. And they, sort of – we were always seen, sort of, as the half-breed kind of people. So, yeah, they didn't really want to take us on."<sup>QQ</sup>

Michele shared that she internalized a lot of family violence growing up from her mother's second husband, also a Métis man. Michele became a survivor of intimate partner violence herself, including one man who thought it was funny to call her squaw. At the same time, she wrestled with whether or not she should even share her story with the Inquiry because of where she lives and the colour of her skin: "You know, I wrestled about coming here because I'm not Mi'kmaq. I'm not from this territory.... And I'm not brown skinned, you know. But I've had these experiences and it's like ... I care about this. Like, you know? You know, so I sort of forced myself to come here."<sup>RR</sup>

Another witness, Sharon P., didn't even realize she was Métis when she was younger and dealing with child abuse and intimate partner violence, or try to access any of the resources that could have come from that knowledge: "I didn't find out until ... after I was 40 that I was Métis. I feel ripped off that all my life, I – I feel cheated, right?"<sup>SS</sup> She shared that her brother did research into their family before he passed away, but that she still doesn't know a lot of her own story.

Métis witness S.A., who is a Sixties Scoop survivor, started her statement by saying how thankful she was not to have to prove that she was Indigenous to be able to share with the National Inquiry:

In that moment right there, that was healing... when I actually started my job, I was a temp at my current employer, and I applied for a position, and they were like, "Can you prove you are Aboriginal?" So, I had to dig out my Ministry file that I had just gotten, and dig out that sheet that said I was Aboriginal, to be recognized to get my job. And then when my work expanded, the recruiter, at this point I'm working in the HR department, it's just an administrative position, was like, "Well, we can't all be lost abandoned Cherokee princesses."

So, even in my adult life I have that systemic disbelief or, you know, you're not Aboriginal enough, or you're too Aboriginal ... it's been a journey of trying to forgive and forget and put behind, and just, like, live your life and move forward. So, yeah, that moment when I called you and said, "Okay, do I need to bring my Ministry file, do I need to bring whatever identifies me as, you know, allowed to be here?" And, you were like, "No, you don't need to, you're fine," that was huge for me. So, I just wanted to say I'm grateful and thank you for the respect."<sup>TT</sup>

The many dimensions of identity that characterize discussions about the Métis Nation as an entity, or Métis self-identification, make clear that these groups face distinct challenges due to the legacies of colonialism, and they want their views represented. Noting the particular histories of Métis settlements and communities, as well as the histories of those disenfranchised through colonialism – namely the *Indian Act* – who may now identify as Métis but who do not fall within the definition of the MNC, the National Inquiry recognizes the need for a distinctions-based approach to these unique histories.

Within the National Inquiry's hearings, we received over 100 recommendations focused on disaggregated data, through the testimony of witnesses in Part 1 of our hearings, who cited the need to collect data, including disaggregated data, as a necessary way to define the true scope and parameters of the crisis, as well as to understand the distinguishing issues between groups and distinct geographical needs and experiences.

The aggregation of data can oversimplify the picture and flatten necessary dimensions of analysis. Collectively, witnesses cited how appropriate data collection and dissemination has to be informed by Indigenous knowledge, definitions, and experiences, within a distinctions-based approach. Indigenous Peoples, organizations, and communities need to lead and inform processes, even by governments, service providers, and organizations that are not their own, as well as leading their own processes within their governments, service providers, and organizations.



## Economic, Political, and Social Factors of Distinction

Part of the challenges of understanding the common grounds of Métis experiences with violence is the geographic span of communities and people, and the diversity of those who live in them. For instance, many Métis people live in urban centres, and others live in specifically designated Métis settlements. These distinctions point to the need to better understand the various lived realities of violence in the lives of Métis people.

Métis people living in urban situations face unique stressors and barriers. As an example, a statistical review of Métis in Manitoba explains the important socio-economic barriers faced by Métis living in Winnipeg: Winnipeg has noticeably higher proportions of younger Métis people compared with all other residents. According to census data released in 2018, Winnipeg had the highest population of Métis, about 52,000 residents. Among these, Métis youth in Winnipeg (zero to 24 years) comprise over 40% of the population, compared with nearly 29% percent for all other residents. Métis children (under 15 years) comprise 23% percent of the Métis population in Winnipeg compared to 16% of all other residents. In contrast, those aged over 65 years comprise nearly 7% of the Métis population in Winnipeg compared with nearly 16% of all other residents. The differences in population demographics for Métis is most pronounced at the two ends of the age distribution.<sup>uu</sup> Edmonton, Vancouver, and Calgary had significant populations of Métis, as did Ottawa, Montreal, Toronto, and Saskatoon, as well as Regina and Sudbury, relative to their size.

The circumstances faced by Métis in other jurisdictions depend on the specific laws in place there, as well. For instance, Alberta is the only province to recognize a Métis land base. In 1934, the provincial government of Alberta established the Ewing Commission to inquire into the “problems of the health, education, relief and general welfare of the half-breed population.” The Ewing Commission defined the Métis as “a person of mixed blood, white and Indian, who lives the life of an ordinary Indian and includes a non-treaty Indian,”<sup>vv</sup> but not those who have settled as farmers or do not need public

assistance. In 1938, and building on the work of the commission, the Alberta government passed the *Métis Population Betterment Act*. This established reserve land for Métis communities in central Alberta, known as “settlements.” In 1985, the Alberta Legislature unanimously endorsed a resolution to transfer lands to the Métis settlements and establish new legislation for greater local autonomy. This resulted in the Alberta-Metis Settlements Accord of 1989. In 2018, a group representing all eight Métis settlements signed a framework agreement with the government of Canada to serve as the basis for “ongoing negotiations toward a reconciliation agreement with the eight Métis settlement councils representing the people of Buffalo Lake, East Prairie, Elizabeth, Fishing Lake, Gift Lake, Kikino, Paddle Prairie, and Peavine.”<sup>www</sup>

In Saskatchewan, Métis launched a statement of claim challenging the validity of the scrip system as a legitimate means of extinguishing the Aboriginal title of the Métis in the 1990s, which is still not settled. The Statement of Claim was filed in the Court of Queen's Bench in Saskatoon in May 1994. Through the Statement of Claim filed on behalf of the Métis National Council, the Métis Nation of Saskatchewan and the Métis Locals of Northwest Saskatchewan sought declarations related to the continuing existence of Métis title to land and resources in that region; to the rights to hunt, trap, fish, and gather; as well as the inherent right to self-government. No further court action has taken place since 1994, though many people are hopeful that the recent memoranda of understanding mean a change of direction. As Max Morin of Île-à-la-Crosse, who was a plaintiff in the Statement of Claim, explained in 2017, “I’m hoping the federal government will deal with us with an out-of-court settlement. In good faith, they should sit down with us to see what we can come up with.”<sup>xx</sup> In part, some plaintiffs are hopeful, since the Supreme Court’s decision with regards to Métis in Manitoba not receiving their lands under the *Manitoba Act* and the scrip system was ruled to be a violation of the principle of the Honour of the Crown, whereby a persistent pattern of error and/or indifference that impacts on the delivery of a solemn promise, such as the *Manitoba Act* and scrip, can represent betrayal of the Crown’s duty to act honourably in fulfilling its promise.



The distinctions in geographies and in community connection and identity are evidenced in the many different experiences that Métis witnesses shared with respect to the violation of economic, political, and social rights. As Virginia C. explained:

Mom was one of ... the Métis that were – they kept getting moved from location to location, so ... there was no permanent land base for the Métis, and I know both villages that I lived in as a child, Molanosa, in the geographical centre of Saskatchewan, no longer exists. The people who lived in that community [were moved from] that community to across the lake, Weyakwin, because I don't know if there was mineral resources in that area or what.<sup>YY</sup>

To Virginia, the history of disenfranchisement and of marginalization of her mother through various stages of her life was connected to her experience as a Métis person.

Harold R. is Métis and originally from Edmonton. His aunt Julie was beaten to death when he was 15, and he remembers the day that his family found out she was dead. The family received a phone call one evening and his mother answered the phone, falling to the floor when she was told that her sister, Julie, had been beaten to death by her partner. Seeing the immediate impact of that loss on his family members has stuck with him to this day. As he put it, "in one phone call that part of my mother was just stripped away."<sup>ZZ</sup>

He also spoke of the silence that followed her loss. "We were robbed of her laughter, we were robbed of her, you know, great zeal for life. My mom was robbed of a friend and a sister. So that stuck with me and the rest of our family and we saw ... the impact of that call." Harold remembered that the family couldn't afford a casket and he had to put all of the money he made that winter as a 15-year-old toward that. They couldn't afford a gravestone for another 15 to 20 years. He described having to grow up quickly to deal with these things.<sup>AAA</sup>

The experience of poverty shaped the aftermath of his aunt's death, and also affected his mother, impacting her well-being and health for the remainder of her life.

## Experiences with Justice Systems

The distinctions in lived experiences in different settings and communities, as well as within very different life contexts, were also conveyed with many of the stories the National Inquiry heard from Métis witnesses with respect to law enforcement and with the justice system.

Fallon F. told the story of her family's loss. Sherry and Maurice lived with their daughter, Fallon, and two sons on a farm in St. Eustache, Manitoba. Both parents worked in Winnipeg but were very involved in their community. Sherry and Maurice were murdered in 1993, on the same day that the perpetrator – her mother's stalker – was released from custody for breaking a restraining order, when Fallon was just 9.

On the night of the murders, Fallon was awoken by a noise to find her mother struggling with the perpetrator, while her little brother, five years old, stood crying nearby. Fallon tried to call for help on the regular seven-digit assistance line, since 911 service was not available in the area, but was chased from the phone by the killer. Eventually, and after having her three children trapped, the perpetrator threatened to kill one of them if Fallon's mother didn't agree to go upstairs with him.<sup>BBB</sup>

Eventually, Fallon was able to try to call for help several more times, but not before the perpetrator killed both of her parents, then turned the gun on himself.<sup>CCC</sup> The children called for help from 12 a.m. on, but the police officer fell asleep and didn't respond until 3 a.m. Fallon and her younger brother sat in the house, with their parents' bodies, until help finally arrived at 8:30 a.m.<sup>DDD</sup>

Métis mother Cathy C. came to the Inquiry with her husband David and granddaughter Ashley to share about her daughter, who went missing from 2014 to 2017, and is now missing again. Their biggest frustration with the authorities are the rules around not releasing information about missing people except in certain circumstances, since some people disappear of their own accord. However, a complicating factor is that their daughter was



diagnosed with schizophrenia, and has experienced severe drug-induced psychosis in the past.

The one time they heard from their daughter, in 2017, was when she was incarcerated in Los Angeles. There, when she was given medication for her schizophrenia, she began to remember her family's phone numbers and called her parents. She stayed in contact with them while she was in jail and receiving medical support, until she was released in September 2017. She became homeless, and by October they lost contact with her again.

She is still missing, and both Canadian and American authorities continue to say they are unable to release any information to her family, including if she is alive or dead. They feel that the prevailing attitude from the authorities is that no one really cares.

In another situation, Karin S.'s mother drowned in the Yukon River. However, Karin never felt that the question of how her mother ended up in the river was properly investigated – there were too many unanswered questions.

The authorities also improperly identified Karin's mother as non-Indigenous. Karin would like to see this formally fixed on her mother's death certificate. As she says, "She wasn't Caucasian – not that that's an insult, but my mom was very proud of her First Nations heritage, Tseil-Waututh and Manitoba Métis."<sup>EEE</sup>

The experience of many Métis with law enforcement varies greatly. In some cases, experiences with law enforcement and the justice system are linked to geography, to community, and to perceived identity of the victim or perpetrator. While the evidence tendered before the National Inquiry does not provide a basis for broad generalization, the diversity of experiences, as well as the common perception of being forgotten or cast aside, points to the need to support greater awareness on the part of the justice system about the need to track and record these crimes and the identities of victims and of perpetrators, and the need for greater relationship building in whatever context Métis people interact with these agencies.

## Conclusion: Reframing the Diverse Experiences of Métis Women to Restore Safety

There is a great diversity, both among Métis women's, girls', and 2SLGBTQQIA peoples' experiences, as well as between the experiences of Métis women and other Indigenous women in Canada. In concert with this, there is a lack of data to support thorough analysis concerning the ways in which Métis women's, girls', and 2SLGBTQQIA people's experiences and rates of violence may differ from those of other Indigenous people. While these experiences may reflect, in many ways, those of other Indigenous people in Canada, the need to understand how a lack of services, and an abdication of governmental responsibility, may have contributed to these issues remains of vital importance in fully understanding how best to combat violence in this distinctive context.

Overwhelmingly, Métis witnesses testifying about their family loss pointed to the characteristics they missed the most of their loved ones. For instance, Karin S. testified that her cousins remembered her mother as someone who made people feel special and loved. Her mother also made special efforts to care for older people in her life, bringing them meals, making sure they got out to events and always being ready with a sympathetic ear.

Virginia C.'s mother, Madeline, was described by family as someone who had survived "so much violence and poverty"; she "had an ability to endure and make the best of her circumstances." She "left a great legacy of love." She was "very kind, merciful, gentle, generous, hospitable, industrious, and resourceful." Also, she was "a meticulous housekeeper, provid[ed] food and clean clothing and she was an entrepreneur selling lovely beadwork over many years. But above all, she was the best of mothers."<sup>FFF</sup>

But witnesses also pointed to the strength and power of their communities and relationships in providing the way forward after these losses. For example, despite moving to Ontario to live with her aunt in the aftermath of her parents' deaths, Fallon pointed out that she continues to have a bond with friends and



family in the community because of the “upbringing that I had attached to my community and to everyone.”<sup>GGG</sup> These bonds of social cohesion are important among Métis people, particularly in the diversity of experiences – social, economic, political, and others – that characterize the lives of the loved ones we heard about.

Métis witnesses before the National Inquiry offered distinctive solutions to confronting violence based in strength-based solutions. As Janet Smylie said, “What

if we imagine ourselves richly.... So, this gift that we have, we are who we imagine ourselves to be.”<sup>HHH</sup> A strength-based approach includes understanding and celebrating culture, optimizing family and community well-being, celebrating and encouraging good relationships, and recognizing that answers lie within Métis communities, if people only bother to ask. As she pointed out, “If relationships [are] the fabric and glue that [hold] us together, then this investment is a critical thing.”<sup>III</sup>

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## Findings

- Métis people were ignored by various orders of government for many years, particularly between 1885 and 1982. Related to this, there has been a lack of government responsibility for issues affecting Métis people, often framed in terms of jurisdictional issues, that persists today. This includes a lack of programs and services that meet the needs of Métis people in an equitable manner consistent with substantive human rights standards.
- The provision of services under the First Nations and Inuit Health Branch (FNIHB) is discriminatory and violates the rights of those excluded, including Métis and non-Status First Nations Peoples.
- There is an under-representation and sense of erasure, or invisibility, of Métis communities under broader umbrella terms such as “Indigenous” or “Aboriginal.”
- There is a lack of clear data available on issues affecting Métis people on a national scale, such as disaggregated data concerning violence and sexual violence experienced by Métis women, girls, and 2SLGBTQQIA people, as well as data related to the particular barriers that Métis women, girls, and 2SLGBTQQIA people face in accessing their rights to safety.

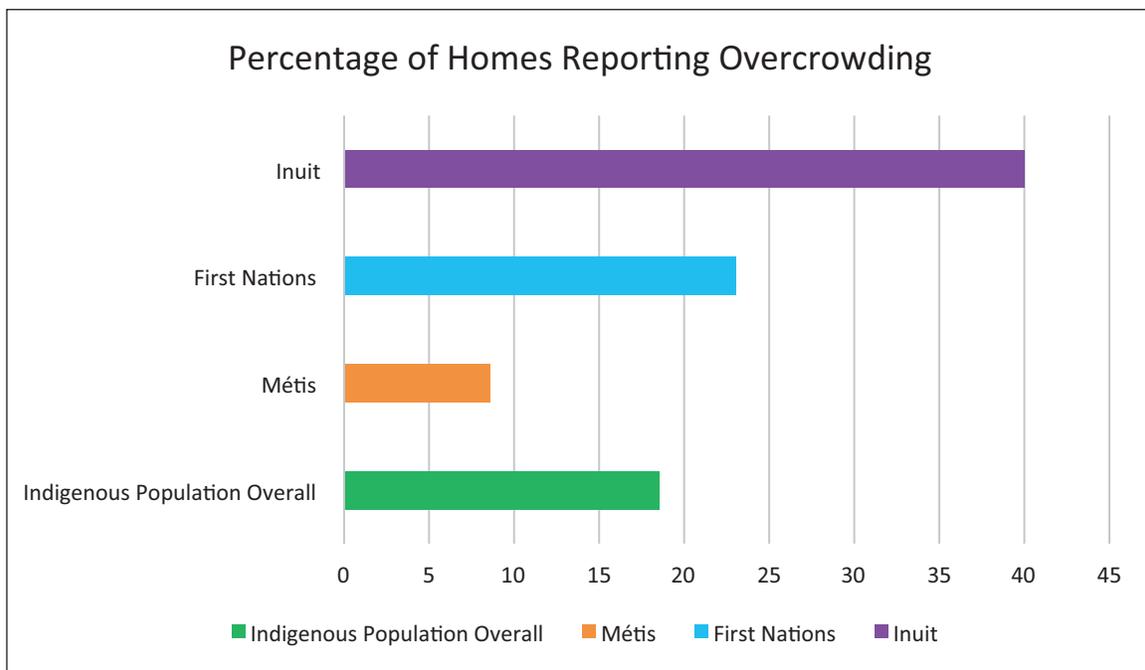


- A Wildcat, "Wahkohtowin in Action," 14.
- B Dr. Janet Smylie (Cree/Métis), Mixed Parts 2 & 3, Public Volume 3, Iqaluit, NU, p. 18.
- C Dr. Janet Smylie (Cree/Métis), Mixed Parts 2 & 3, Public Volume 2, Iqaluit, NU, p. 148.
- D Gaudry, "Métis."
- E Library and Archives Canada, "Métis Scrip Records," <https://www.collectionscanada.gc.ca/metis-scrip/005005-4000-e.html>.
- F Barkwell, "Metis Adhesion to Treaty Three."
- G Ibid.
- H Dr. Janet Smylie (Cree/Métis), Mixed Parts 2 & 3, Public Volume 2, Iqaluit, MU, p. 109.
- I Gaudry, "Métis."
- J Sammons, "Leaving Ste. Madeleine," 152.
- K Herriot, *Towards a Prairie Atonement*, 49.
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## Housing

For First Nations, Métis, and Inuit women, one of the ways poverty impedes them in seeking safety is in their search for safe, affordable, and accessible housing. Across the country, family members, survivors, Knowledge Keepers, and others drew attention to the link between the lack of access to safe housing and violence. The lack of availability of safe and affordable housing in many First Nations, Métis, and Inuit communities is well documented. In 2016, according to Statistics Canada, close to one-fifth (18.5%) of the Indigenous population lived in housing that was considered not suitable for the number of people who lived there.<sup>64</sup> Specifically, of those living in crowded housing, 8.6% of Métis, 23% of First Nations, and 40% of the Inuit population lived in these conditions.<sup>65</sup>



For Indigenous women, girls, and 2SLGBTQIA people living in poverty, access to housing, especially within remote or isolated communities, is especially difficult. Violence may be compounded by both crowded living arrangements, as well as the difficulty in accessing housing at all for a variety of different reasons including economic capacity and availability of housing. For instance, according to Statistics Canada data for 2016, Inuit living in Nunangat were more likely to live in crowded housing than those who lived elsewhere in Canada, and within Inuit Nunangat, half (51.7%) of the Inuit population lived in crowded housing.<sup>66</sup> Inuit families of loved ones who died from intimate partner violence often mentioned the shortage of housing in Inuit Nunangat, the overcrowding, the incidence of infectious diseases, and the violence that inevitably follows overcrowded homes. According to ITK, “Crowded housing is associated with high rates of communicable disease (such as tuberculosis), stressors that can lead to friction and violence



between family members, poor conditions in which children must learn and study, and other challenges.”<sup>67</sup> The 52% of Inuit in Inuit Nunangat who live in crowded homes do so at a rate about six times greater than the rate for non-Indigenous People in Canada, and nearly a third of Inuit live in homes in desperate need of repair. As ITK points out, “This clearly shows the inequity between Inuit and others with regard to housing suitability and gives concrete evidence to what most Inuit already know anecdotally: that Inuit face a housing crisis which needs to be addressed.”<sup>68</sup> This echoes testimonies heard by the National Inquiry where, repeatedly, families referred to the lack of housing and shelters for Inuit women seeking refuge from abuse and violence at home.

The report of the Standing Senate Committee on Aboriginal Affairs, *We Can Do Better: Housing in Inuit Nunangat*, documented the threat to the health and safety of Inuit families due to the housing crisis in 2017. The housing crisis in Inuit Nunangat has been of deep concern for Inuit families for many years. Within the communities, the lived experiences of Inuit men, women, and children stem from the reality of overcrowded housing: the lack of affordable homes, hidden homelessness, infectious diseases such as tuberculosis, respiratory infections, mental illness, vulnerability of children in experiencing or witnessing violence and abuse, and high rates of domestic violence. The issue of safe housing came up over and over again among Inuit who told their truths about themselves or their loved ones to the National Inquiry in Inuit Nunangat.

While the issue of safe housing in Inuit Nunangat was prominent, First Nations and Métis Peoples also face their own challenges. First Nations people were also more likely to live in a crowded dwelling on-reserve than off-reserve: 36.8% living on-reserve and 18.5% living off-reserve lived in crowded housing.<sup>69</sup>

In his testimony, Lance S. spoke about the condition of housing on reserves in Saskatchewan and how these conditions impact the health and well-being of community members.

The poverty line that’s out there, you know, the housing that’s out on the reserves, the water that’s out there – you know, there’s a lot of things that us First Nations people on reserves, we still live like that today, that we lived 30 to 40 years ago, we still live that today. We still live in those old houses. Those old houses that are on these reserves are still being used. People, the Elders are getting sick from all that stuff.<sup>70</sup>

Minnie K. echoed these same concerns about safety and overcrowding in her description of housing in her community.

Yes. Well, I did kind of look around at things like the families that are living in homes today. The homes they’re living in today are not suitable for them. They’re living in these homes that – well, their homes are crowded. Their homes are built, and so many families are in homes today that there’s no room. And, also, that they built places they shouldn’t be built and in rock piles and things and whatever. There’s no spaces for kids to play even or anything like that.<sup>71</sup>



During the Heiltsuk Women Community Perspective Panel, Mavis Windsor spoke about how overcrowded and otherwise unsafe housing put First Nations women and girls in her community of Bella Bella, British Columbia, at an increased risk for violence.

More often than not we have homes in our community where there are three or four families living together in very crowded circumstances and that affects the health and well-being of – of not only you know, the women in the family, but the men and the children, it can create situations where there’s tension and you know, just it’s not a very healthy situation.<sup>72</sup>

In her testimony, Rebecca M. talked about the housing-related challenges faced by Indigenous women living in Halifax, and how these challenges create a sense of insecurity.

Housing security is a big issue for a lot of the Indigenous women that I know back home. So, like, for me and my family, we’re always sort of, like teetering on whatever.

Yeah, so I think that housing security – well, I can only speak of Halifax really, but that’s a reoccurring issue that I always see our women struggle with. And it’s for all kinds of different reasons, you know. It’s not always just financial, you know. Like, a lot of the times I have a full-time job, or I’ll have the money, but it’s just either difficult to get one, find one.... Yeah. Or – or you have to leave one that you’re at for whatever reason. Like, it could be, like I said, domestic, or it could be – it could be unsafe in some way, or – or it could have like, problems, but housing is – is a big issue.<sup>73</sup>

As scholars Ian Peach and Kiera Ladner point out, such conditions of vulnerability are direct corollaries to the urban migration of women, which, in turn, creates the conditions for women to go missing and be murdered, therefore perpetuating marginalization, rather than addressing it.<sup>74</sup>

“THE POVERTY LINE THAT’S OUT THERE, YOU KNOW, THE HOUSING THAT’S OUT ON THE RESERVES, THE WATER THAT’S OUT THERE – YOU KNOW, THERE’S A LOT OF THINGS THAT US FIRST NATIONS PEOPLE ON RESERVES, WE STILL LIVE LIKE THAT TODAY, THAT WE LIVED 30-40 YEARS AGO, WE STILL LIVE THAT TODAY. WE STILL LIVE IN THOSE OLD HOUSES. THOSE OLD HOUSES THAT ARE ON THESE RESERVES ARE STILL BEING USED. PEOPLE, THE ELDERS ARE GETTING SICK FROM ALL THAT STUFF.”

Lance S.

Speaking about housing in the Northwest Territories, Pertice Merritt provided an example of the way the loss of even one residential structure can create significant challenges for the population, especially for women experiencing violence.

And, I want to particularly mention transitional housing because that’s what came to my mind to draw me back to this, because you may have heard in the news recently that [transitional housing apartments] in Yellowknife burned to the ground. This is where the



YWCA was housed. This was where transitional housing occurs. This has displaced 33 families. And, as I was preparing my – for the conference and to resolve the emergency protection orders, I said to ... the executive director, “This is an emergency protection order waiting to happen.” And she said, “Pertice, it’s already happened. They’ve moved people into other housing across Yellowknife, not with a security guard, and one woman has recently had her door kicked in and does not feel secure.”

So, what they were providing in 2017–18, the YWCA provided transitional housing up to one year to 57 families and 94 children, and there were 21 youth in Hope’s Haven, as we said, and the Yellowknife’s Women’s Society opened eight semi-independent units for single women.

So, I think we have a further crisis brewing for our small population. And the numbers may not seem large to you, but we’re a small population really spread across the North, and as an Elder said to me once in the community, “I count as a person.”<sup>75</sup>

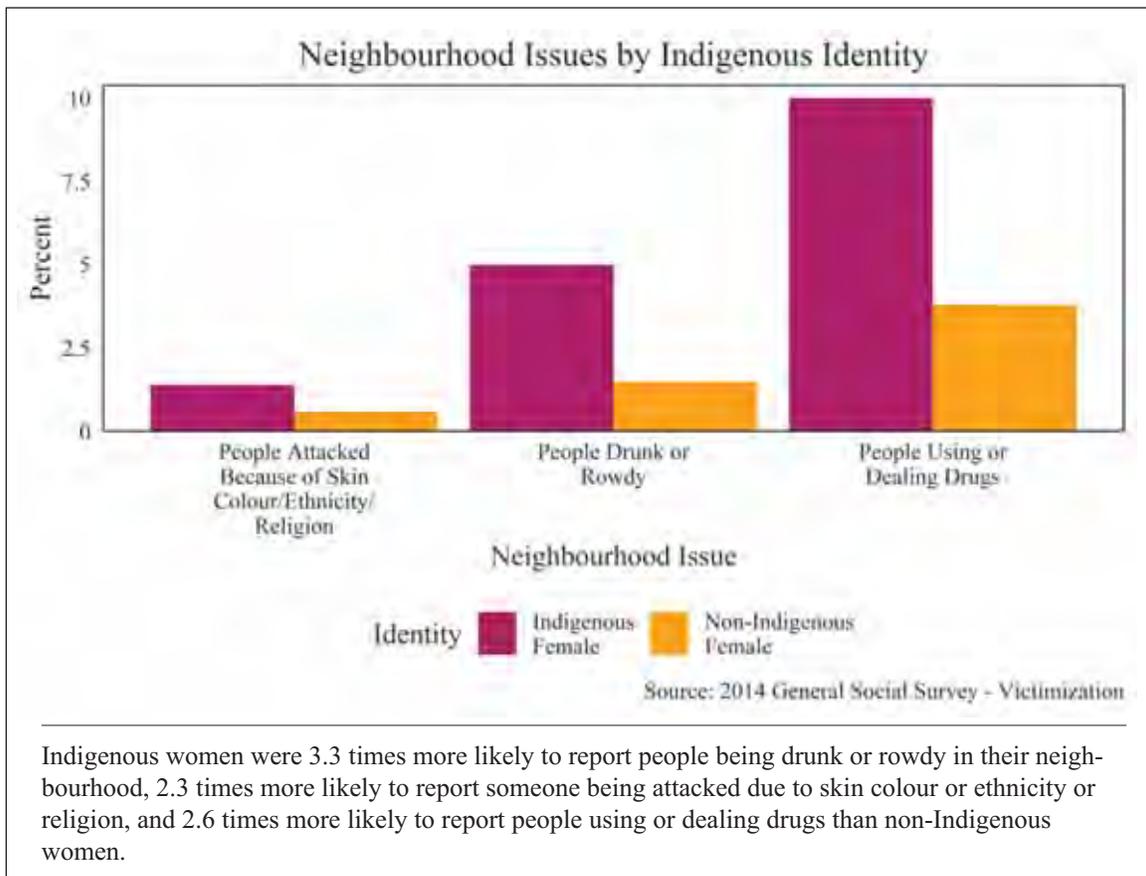
In other testimony, we heard how women whose relationships break down because of violence are then faced with challenges related to housing because of community policies or practices. Michele G. described how, because of band policy, she was not allowed access to her marital home.

Soon we decided to separate and divorce and it became a fight for who would get the marital home on the reserve that was in both our names. Because you can’t sell the land on reserve – it’s Crown land – you have to revert to band policy. I remained living in the house with my three kids and I became subjected to violence by some members of his family who didn’t want me in there. One day I had 100 rotten fish dumped on my yard and a bicycle thrown through the front window. I wasn’t home but my six kids were and they phoned 911 and hid in an upstairs closet terrified, but the police didn’t attend. When I got home I was livid. Talked to some sergeant in [a police department] who apologized and said they thought it was a prank. I went to Chief in Council about the lack of policy to protect women from being shoved out of homes on the reserve to go live in poverty in the east end. They had no answer for me. I left the reserve at that time.<sup>76</sup>

For Indigenous women living in urban settings, or for the many Indigenous women, girls, and 2SLGBTQQIA people who decide to leave their community, access to safe and affordable housing continues to be a problem that puts them at additional risk for violence. For example, Jenisha Wilson, programs manager with Tungasuvvingat Inuit, talked about how, for Inuit women who resettle in the South, the only options for affordable housing are often in neighbourhoods where there are higher levels of violence and police presence: “Within Ottawa, Vanier tends to be one of the hubs where a lot of Inuit live. It also tends to be the number one spot that has the highest rates of sexual assault within the province. It also happens to be a place where surveillance and policing happens constantly.” For Wilson, again, it is important to position these challenges in accessing safe and affordable housing within a colonial context that continues to jeopardize



women's security and safety. For her, the high number of First Nations, Métis, and Inuit women living in low-income, high-crime neighbourhoods is an example of “how violence is rearticulated through geography.”<sup>77</sup>



In her testimony, survivor Rebecca M. talked extensively about the difficulties she faced as a low-income First Nations woman seeking housing in Halifax. She spoke about how she perceived a connection between living in an unsecure public housing unit in Halifax and the increased likelihood of violence.

[T.] Housing, that's Native housing in Halifax, so it's like public housing for Native people. And – and they're really slummy. They're like slum lords, so they have a lot of problems. The apartment – me and [my sister] lived there, we lived there for five years. The back door ... was insecure, so like the wind could blow it in, and stuff, and it was like that the whole five years.

From before we moved in to after, and it eventually led – so it was insecure the whole time, and even though I stressed to them, “You know, it's – it's me and my sister, my younger sister, like, we're young women and we live on our own, and you know, it's really unsafe,” they never fixed it.

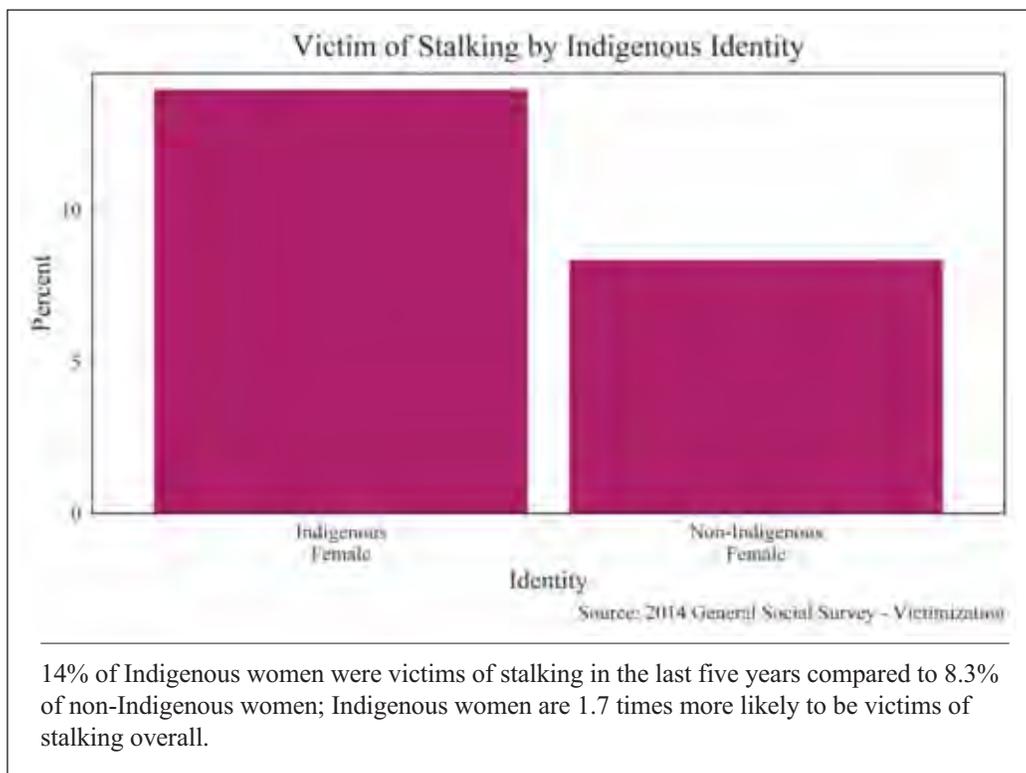


There was one time when I caught – we caught somebody trying to break into our place, and – like, I chased him down the road and everything. And then I called [T.] Housing, flipping out, because our back door wasn't secure. And they sent someone in and they just – I said they put an Indian lock on it, because they cut a two by four and then they put it between the back stair and the back door and they left it like that.

They said that they were going to order another door and – and it never came, never showed up. They never did anything about it, so needless to say they didn't really give a – a crap about me and my sister's safety at all.<sup>78</sup>

For Rebecca, unsafe housing was even more troubling because of other violence she faced in her life from a partner who was violent and who had previously breached orders to stay away from her. Not surprisingly, Rebecca's sense of a lack of physical and emotional security was compromised because of the threat of violence compounded by unsafe housing. As she described:

And so I kept on having nightmares of that person breaking in to my house because they knew where I lived. And so I couldn't really sleep well there, so when they were – they were in jail for a month, until their court date. And during that time, because I was really worried about what this person might do when they got out, I ended up ... moving to the other end of the country. So I moved to Vancouver.<sup>79</sup>





When Rebecca – like so many other Indigenous women – is forced to move in an attempt to restore safety, she is placed in additional danger.

For 2SLGBTQQIA people, access to safe housing within their territory or community may be complicated by sexism, transphobia, homophobia, and other discriminatory beliefs about gender identity, expression, and sexual orientation. Marge H. described how, as a lesbian, she was pressured to leave her community.

I was outed from my community because I was a lesbian. I'd – there was no room ... it was suggested by various family members for me to take a vacation. So I was working in the cannery at the time. And I was – saved up a couple of cheques. And I got on the – the ferry boat to Vancouver. And it really hurt because [of] the way I was treated. I had no – I lost friends really quick. And there was, of course, rumours and gossip, and stuff like that. And – so I left.<sup>80</sup>

Viola Thomas also commented on the lack of safety faced by 2SLGBTQQIA people in their communities and the pressures this puts on them to move.

For many Two-Spirited people, they end up being displaced from their territory and from their communities because they're – they don't feel safe and they don't feel welcome because of their uniqueness. And so you have a large population of Two-Spirited peoples across the country that end up moving to urban areas, so that they have a space where they can feel a likeness to other folks and feel welcome for who they are.<sup>81</sup>

For many who are pressured or forced to move, these same problems exist within the city. For Jamie L. H., these concerns about finding safe, affordable housing are also complicated as she gets older and realizes the lack of housing options for aging transwomen and Two-Spirit people.

I've been studying a model down in Mexico for Indigenous, retired women and they – and they have this home and it's a place that they live together in community. And I would like to see places like that for our LGBTQ+ communities. And, you know, we need that because I think right until you exit physically this earth, you need that sense of love and belonging. And so I fear the most that, you know, if I get really ill, where am I going to be put? And you know, so I think we need to address that.<sup>82</sup>

## Homelessness and Exploitation

For many Indigenous women, girls, and 2SLGBTQQIA people, poverty makes access to any form of housing impossible, and they are forced to live in shelters, on the street, or in other forms of precarious housing. In sharing the circumstances leading up to the disappearance or death of their loved one, many family members described how their loved one was homeless or precariously housed at the time of her disappearance or death. For example, Cee-Jai explained that it was when



her sister was living on the street that she was murdered. Despite Cee-Jai's efforts to protect her sister, the vulnerability she faced as an Indigenous woman living on the street was too great.

Monique F. H., who now works as an advocate with an AIDS organization, drew on her own memories of her life as a young homeless girl living on the streets and the fear she lived in as a result of the almost constant threat to her security and safety.

The violence that I experienced in my life has made me I think, more understanding to the women that I work with. A lot of them don't realize when I hear their stories, I hear myself, so when I was – when I was younger and on the street it was very – very difficult.

I remember seeing girls getting beaten up all the time. Shooting up. Living that lifestyle. Always fearful of what was going to happen next. And I was scared even though I may not have acted scared, I was scared.<sup>83</sup>

In sharing her experiences of living on the streets, Marlene J. talked about how violence becomes a way of life – and often something she endured to meet her basic needs for housing and food.

I would say I was raped three sometimes four times a week... I was just trying to survive. I was drinking a lot to not have the pain. I was always drunk. I drank pop to kill the pain of hunger. I'd steal. Go in the liquor store and steal bottles of booze. I'd be drunk and then I ended up with these men. They figured oh yeah we're going to have a party and then end up being raped. How many parks I had to crawl out of. I was always alone.<sup>84</sup>

Poverty can also contribute to violence because of the way people may use drugs and alcohol to cope with the challenges associated with having no money or home. As Marlene explained, alcohol allowed her to survive the violence, hunger, and emotional pain she endured on the streets, even though it increased the risk that others would target her for violence.

These people that had raped me, they pretended to be my friend. They said, "We can just sit and talk." Because I was homeless they decided that they would take advantage of the situation. Sometimes I'm drunk I don't remember, but I do know – I don't know. Like I said, being in residential school what they tell you every day that you'll amount to nothing sort of sticks with you and then you just don't care about yourself the way you should.<sup>85</sup>

Mealia Sheutiapik, an Inuk woman who shared her experience of homelessness on the streets of Ottawa, talked about how drug use became a way of surviving not only the harsh living conditions but also the trauma she carried with her as a result of the violence she had witnessed and the separation she felt from her family and culture.

I was smoking hash. I didn't know any other drug that time. He got me into smoking hash. So, I tried to kill that pain when I was a witness to that murder. So, I just ended up



carrying on and smoking hash, and it escalated to other drugs just to kill the pain and just to get numb, just to forget about that thought and what happened before. And, thinking about my grandma and my siblings, leaving them behind, I ended up using more hard drugs. And that also escalated me to go on the street and try and get more money to get high.<sup>86</sup>

Hearing from witnesses about the challenges poverty poses for First Nations, Métis, and Inuit women, girls, and 2SLGBTQQIA people demonstrated how the violation of their right to social security directly contributes to, and underlines, the many stories of violence, disappearance, and death shared by families and survivors.

### **Barriers to Education and Training**

In the same way that poverty denies Indigenous women, girls, and 2SLGBTQQIA people access to housing, so, too, does it create barriers to education, training, and employment – the very tools that might stop the cycle of poverty in many Indigenous families and communities, and are known protective factors against violence.<sup>87</sup>

Access to education and to training and meaningful employment is a factor known to decrease the likelihood of perpetrating and being victimized by violence. In her testimony, Robyn Bourgeois, a Cree professor at Brock University and a survivor of trafficking, talked about how, for her, education empowered her and became a way of understanding her culture and the ways she might challenge colonial violence.

I grew up feeling really empowered with school. I know that sounds funny, because for so many Indigenous Peoples, school isn't empowering. But, for me, it had always been. And I saw an opportunity.... I remember reading scholarly work by Indigenous thinkers and thinking, "This is amazing." Like, just how they can use the words of the government in particular, because I'm always obsessed with the government of Canada, and I've been struggling, you know, how to make sense of what goes on in this country in relation to Indigenous Peoples. And so, I remember thinking, "I can do that. I could do that." And so I went back to university.<sup>88</sup>

Likewise, in describing her experience growing up in foster care, Cheylene Moon, who participated on the Youth Panel in Vancouver, talked about how school offered a sense of security: "I loved school growing up, because it was like my safe place away from my foster homes."<sup>89</sup>

Security through education will become more and more important in Inuit Nunangat, as the Inuit population increases at a greater rate than in southern Canada. This makes for a very young society: Inuit children under 14 years of age comprise about 33% of the Inuit population.<sup>90</sup> One of the consequences of such a young population is a greater number of young Inuit mothers, and they are often single mothers. Sometimes these young mothers stop going to high school because of pregnancy. The financial strain on young single mothers makes life difficult for them and even



more difficult for them to achieve goals like higher education or to get their own home where they would be safe from harm. Many young Inuit mothers' stories highlight the importance of financial security. Having support programs would help these parents support their children and gain further education with the financial security needed to do so. They have fully expressed their right to financial security.

For Amy Bombay, education offered a path to pursuing research that would help better explain the ongoing impact of colonial violence and residential schools on Indigenous Peoples: "It was in my undergrad – in high school, my mother encouraged me to do a project on residential schools, and that was the first time I really learned about it. And, for me, it was a lightbulb went off in explaining many of the things, you know, that I had been thinking about growing up."<sup>91</sup> As their testimony demonstrates, for Bourgeois, Cheylene, and Bombay, access to education, training, and employment not only fostered security in their own lives, but also offered a means of challenging the social, economic, and political marginalization within colonial structures that contributes to violence against Indigenous women, girls, and 2SLGBTQQIA people.

As survivors and family members of lost loved ones described, the barriers they or their loved ones faced in accessing education, training, and employment played a role in the violence they experienced. Despite the federal government's responsibility to provide adequate education for all Indigenous Peoples, the disparity in funding for Indigenous educational systems, especially in rural and remote areas where access to schools and education may be extremely limited, continues to be one of main barriers to education and learning.<sup>92</sup> Despite a growing population of Indigenous people and other inflationary pressures on them, the National Collaborating Centre for Aboriginal Health found increases in funding for Indigenous and Northern Affairs (INAC) programs for First Nations and Inuit have remained capped at 2% annually since the mid-1990s.<sup>93</sup>

In his testimony, Chief Roddy S. talked about the challenges that living in a remote community in British Columbia pose for his children in terms of education and employment.

So something has to be done in the communities. And there's no jobs. And I never, ever had to depend on welfare. I worked all my life. Back then it was nice going and everybody was working. Now it's really tough. And I feel for the people, my kids. My daughter has to work at Smithers here. My other daughter, she's trying to get a truck driving ticket. My son ... works in [security].

So we had to move our kids off the reserve in order to get educated. And they're feeling sorry because they've lost their language and their tradition a bit. My wife is trying to get them back on track, and our little ones are learning.<sup>94</sup>

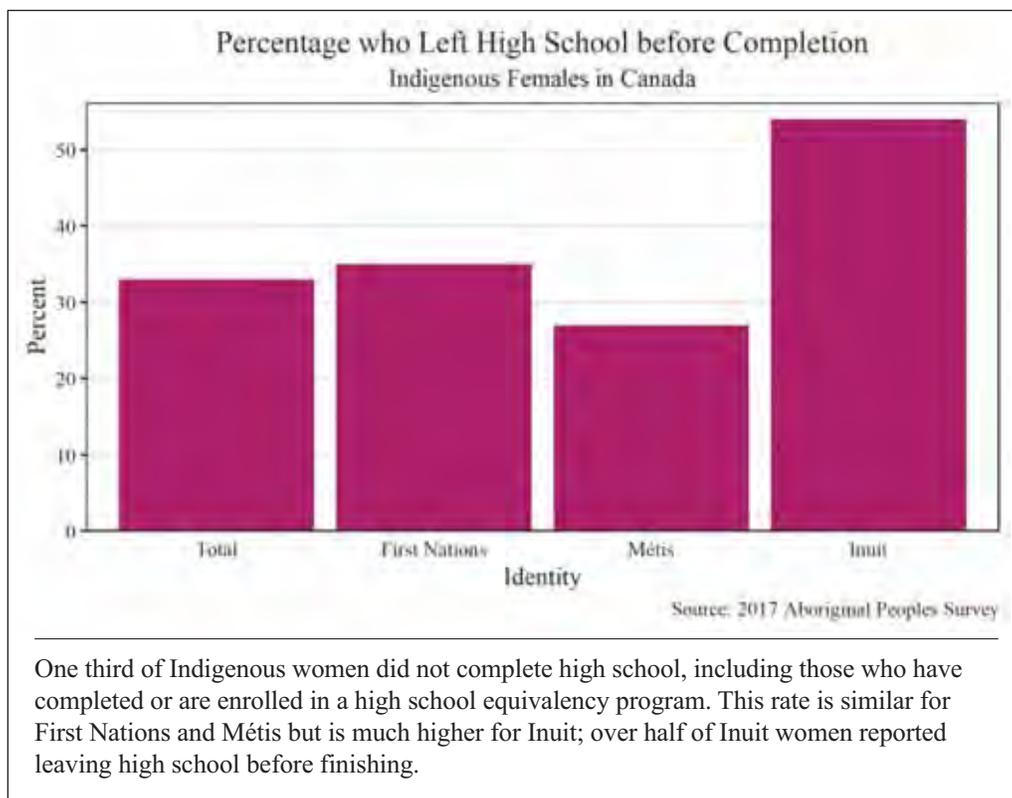
Because of the lack of adequate educational facilities on reserves, especially in rural or remote areas, many Indigenous children and youth have to leave their home communities in order to attend high school or a post-secondary institution. The 2012 Aboriginal Peoples Survey, for instance, revealed that, in 2011, approximately 31% of First Nations students attended off-reserve

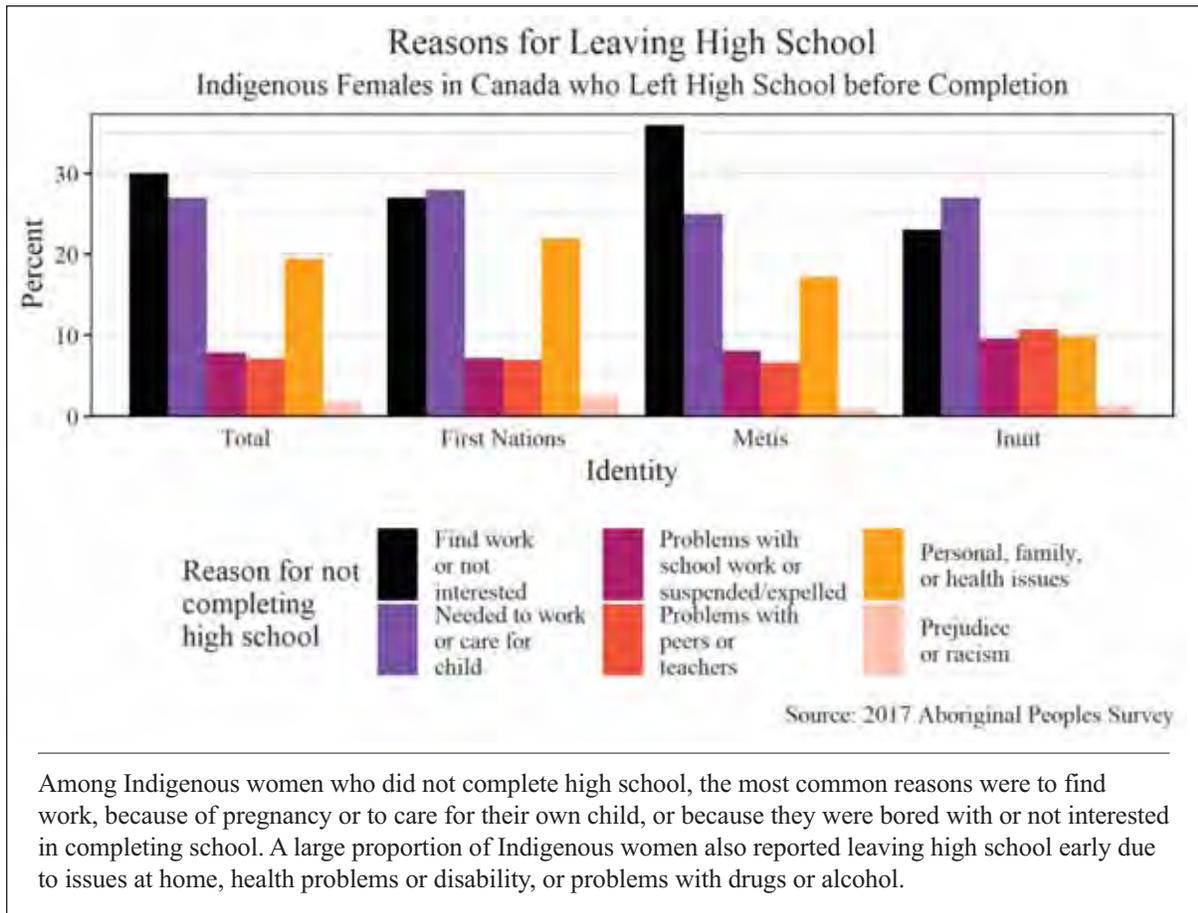


provincial schools.<sup>95</sup> In addition to being a significant barrier to high school completion,<sup>96</sup> the requirement of having to travel a significant distance from a home community in order to attend school also creates distinct risks for violence. As Pertice Moffitt explained, while education can enhance the social and economic security of Indigenous girls and women, the realities of accessing that education may at the same time create additional risks or violations to their physical security.

Women say there is nowhere to go. How do they get out of that community? So, that is what shuts them down. That's what silences them; that's what isolates them. And then some women, there is an opportunity to come and get a better education. And, when they do that, they bring their families. There is some assistance. But, then, for example, even in the nursing program, there is difficulty, because of – to get your basic education in preparation, your math and science that you would need to come into a nursing program.

There's difficulty in the small communities where there's – formal education was not something that was useful for grandparents, for example. And, because of all this schooling and the residential school, there is a distrust for going to school. I think these things contribute to a poor attendance. So, it's – women need better education so that they can get better jobs so that they can get better housing so that they can care for their children. And there is an intersection of all of these things.<sup>97</sup>





In addition to barriers in accessing education, and the distinct dangers that can exist for Indigenous women, girls, and 2SLGBTQQIA people who seek education outside of their communities, witnesses described how racism within the institutions and a lack of understanding of the history and impacts of colonialism can create further barriers to learning.

In her testimony, Lisa B. J. talked about the bullying her young son encounters at school, not only from students but also from teachers who, she believes, target him as First Nations. For Lisa, the bullying her son endures – and that has led to his changing schools multiple times – is particularly troubling because of what she recognizes as the important role education can play in creating relationships that foster safety. For Lisa, the violence in her sister’s life was directly connected to her inability to receive education.

If she only would have completed her education and not – not been taught the way that her life should have never happened....

She was young, you know? She – she could have been prevented from – from a lot of things. They could have you know, she could have finished her school, and she could have been anything that she wanted to be....



And she – she picked that life because when she tried to reach out to the system, and the system didn't want to be there for her, and to – to acknowledge any of the concerns that she tried to – to talk about.<sup>98</sup>

For Mealia Sheutiapik, a lack of understanding and awareness about her experiences as an Inuk woman made pursuing an education and getting a job even more difficult.

Well, when I started taking the courses and got the certificates from doing the courses, then I started looking for work, because I didn't want to be on the street anymore, and I knew I could do better. I was looking for work, but since I've been off work for so many years that I was not accepted. Even though I hand out my resumé, I was not accepted. It took how many years to find another job, a normal job, like – and then after almost 18 years, I went back to Inuit Broadcasting and I worked as an editor. I went back to acting, and then I started editing. And, I was there for almost four years. But, something triggered me again, and I just went right back to the drugs, the alcohol and drugs. And I got laid off. And it was not easy to find another job after getting laid off. And getting laid off, that led me to drinking again, and that took over me again, that drinking.<sup>99</sup>

In sharing the story of her daughter, who was murdered by a man unknown to her who had a long history of violence, Connie L. talked about how Jarita had been a student, travelling approximately 50 kilometres each day from her home community of Onion Lake to Lloydminster. Jarita's mother described the role of education in Jarita's life and in supporting her children.

They'd [Jarita's children] stand at the window and watch her walk away to go to school, and they got used to her going to school. She – her education meant a lot to her, and the two, they'd stand at the window and they'd watch her leave, and they'd be waving at her, and she would stand and wave back. She had to go down to the confectionery to catch the shuttle to go to school in Lloyd[minster], and that was the time of her death, so it was really hard to watch my grandchildren stand there and wait for their mom to come back, and she never came back, and they'd ask me questions. Where's my mom? I didn't know how to explain. That was really hard to explain that she wasn't going to come back.<sup>100</sup>

At the time of her murder, Jarita had been unable to get a ride home from Lloydminster and had rented a hotel room for the night. It was in this hotel room where she was brutally murdered by a stranger who, despite being charged, was never convicted, due to a technicality in the court proceedings. As her mother described, the scholarship at Lakeland College established in Jarita's memory is a testament to her value as an "honoured student"; it is also a poignant reminder of the loss of those accomplishments and possibilities Jarita would have surely achieved, had she been able to complete her education free from violence.

Many family members who spoke about the disappearance or death of their loved ones also spoke passionately about the way violence had stolen the potential accomplishments their loved ones were pursuing at school and work at the time of their disappearance or death.



In their testimony, the Potts family talked about the educational pursuits and achievements of sister Misty P., who, at the time of her disappearance, was a teacher at a First Nations college, and she was pursuing her PhD at the University of Manitoba and undertaking important research on the environment and traditional culture.<sup>101</sup>

In her testimony, Leslie K. remembered her daughter's, Candace O.'s, skill as a welder: "There was nothing, I guess, in my girl's way that she wouldn't – if somebody told her you couldn't do it, she would do it. She was stubborn like that I guess, like me."<sup>102</sup> As her sister, Raylene K., remembered, "[Candace] was driven with education, her goals. She made me who I am today, strong, independent."<sup>103</sup>

These stories paint a troubling picture of the pervasiveness of violence in the lives of all Indigenous women, girls, and 2SLGBTQQIA people. Even in those circumstances where Indigenous girls and youth manage to overcome the many barriers placed in their way in order to pursue education, the threat of violence is ever present.

For Jenny L., whose mother, Linda B., was murdered by her husband, who later died by suicide when Jenny was four years old, violence that leads to the death and disappearance of Indigenous women, girls, and 2SLGBTQQIA people impacts access to education in a unique way for their children "left behind."

Another thing that is really important for me, I'm almost done my first degree, and I've had a really hard time with funding and, you know, having enough resources for myself, because I have no parents to support me. And I think that there should be more bursaries and scholarships available for families of MMIWG who want to start their education, or continue their education, because they're the ones who are going to be very helpful in the future for family members to change how this happens to people, and to support those who have been affected by it, because they've been through it themselves. I think that's really important.<sup>104</sup>

Enabling women, girls, and 2SLGBTQQIA people to access education as a way to increase security is an important way to combat violence at its very root.

"THEY'D [JARITA'S CHILDREN] STAND AT THE WINDOW AND WATCH HER WALK AWAY TO GO TO SCHOOL, AND THEY GOT USED TO HER GOING TO SCHOOL. SHE – HER EDUCATION MEANT A LOT TO HER, AND THE TWO, THEY'D STAND AT THE WINDOW AND THEY'D WATCH HER LEAVE, AND THEY'D BE WAVING AT HER, AND SHE WOULD STAND AND WAVE BACK. SHE HAD TO GO DOWN TO THE CONFECTIONERY TO CATCH THE SHUTTLE TO GO TO SCHOOL IN LLOYD[MINISTER], AND THAT WAS THE TIME OF HER DEATH, SO IT WAS REALLY HARD TO WATCH MY GRANDCHILDREN STAND THERE AND WAIT FOR THEIR MOM TO COME BACK, AND SHE NEVER CAME BACK, AND THEY'D ASK ME QUESTIONS. WHERE'S MY MOM? I DIDN'T KNOW TO EXPLAIN. THAT WAS REALLY HARD TO EXPLAIN THAT SHE WASN'T GOING TO COME BACK."

Connie L.



## Threats in Moments of Transition

Many Indigenous women, girls, and 2SLGBTQQIA people whose safety is routinely compromised through violence, poverty, homelessness, barriers to education and employment, and other forms of economic and social marginalization, make decisions with the hope of improving their safety. Economic and social marginalization often means people have to move in order to mitigate these forms of oppression and violence. Jennisha Wilson listed the various reasons why an Inuk woman or girl might choose to leave her community.

Some of these items are in search of higher education or educational opportunity, job prospects, visiting family by choice or to reconnect with relatives, foster care relocation, incarceration, mental health and addiction supports, primary medical care needs and supports, poverty reduction, so looking for a better life, access to better housing, affordable food and things that would empower one's well-being to the best status possible.<sup>105</sup>

For many Indigenous women, girls, and 2SLGBTQQIA people, the decision to move or relocate is made in order to escape ongoing violence. For some, this means leaving a remote community to go to urban centres; for others, it means running away from foster homes and living on the streets; and, for others, it means running to precarious or violent partners because no other option exists.

Speaking as a survivor and advocate with the Canadian Aboriginal AIDS Network, Monique F. H. – who began her testimony by saying, “I’m a mother, and a grandmother. I’m also a survivor of violence, many forms of violence”<sup>106</sup> – talked about how, at age 13, in her effort to escape the sexual abuse she was experiencing at home, she ran away and lived on the streets – a move that was only to be met with further sexual abuse.

Well, because of the sexual abuse that I went through and not really feeling like anybody would help me ... I left. And I didn't want to look back. I wanted to just escape from all of that pain and all of that stuff. I don't know what you want to call it. I just wanted to run and get away from it and it just took me to a deeper level of sexual violence. A deeper level of violence that I was not expecting. You know, many years – many of those years being on the street I was raped a number of times. Drugged, raped.

And I tell this story today because I never want that – my daughters and my granddaughters to ever go through that. I'm very protective over my daughters. Probably too protective. But I pity anybody who comes and hurts them.<sup>107</sup>

Like Monique's story, one of the prominent stories that witnesses shared was that in their efforts to restore safety and escape violence or to seek a better life, they often encountered more violence. Inadequate infrastructure and transportation, or transportation that itself becomes a site for violence, punish Indigenous women trying to “make a better life” through efforts to escape



violence or improve their lives or find safety. The lack of supportive infrastructure and transportation further violates that safety. Rather than the safety and protection she sought, Monique found what she aptly described as a “deeper level” of violence.

As witnesses described, in moving from one place to another, Indigenous women, girls, and 2SLGBTQQIA people face significant risks for violence. As Jennisha Wilson said, in speaking of the journey Inuit women take in resettling in the South:

And, in that 1,000 kilometres, a lot can happen, right? This is what contributes to missing and murdered Indigenous women, right? Having to go out of your way, which is a significant barrier, to accessing services will often push individuals to either not access services and continue being vulnerable. You will see people become really resilient in the sense where they will come up with their own alternatives, which may or may not be the best solution and/or they will go to services that will – that are harmful just because it’s closer. So, I think that, and what I’m trying to say is that, yes, we can look at St. John’s as a place, but we also have to look at where those other factors are that may or may not contribute to provoking unsafe access to resources and increasing vulnerability and trafficking of women and girls.<sup>108</sup>

In part, the additional risks to safety that Indigenous women, girls, and 2SLGBTQQIA people face in their attempts to relocate or move result from a lack of adequate, safe transportation. A lack of safe and affordable transportation can mean that people may be forced to rely on other methods, such as walking or hitchhiking, not only to escape dangerous situations but simply to travel for education or employment.

As Josie Nepinak explained, the lack of resources for transportation mean that women already in extremely vulnerable and dangerous situations as they leave violent relationships are sometimes forced to put themselves at significant additional risk in order to access a safe house or emergency shelter – for example, by hitchhiking in order to reach a safe space. Nepinak spoke about how proper funding for transportation to support the needs of Indigenous women, girls, and 2SLGBTQQIA people in those moments when they are trying to escape violence would be a meaningful way of preventing further violence.

“ANOTHER THING THAT IS REALLY IMPORTANT FOR ME, I’M ALMOST DONE MY FIRST DEGREE, AND I’VE HAD A REALLY HARD TIME WITH FUNDING AND, YOU KNOW, HAVING ENOUGH RESOURCES FOR MYSELF, BECAUSE I HAVE NO PARENTS TO SUPPORT ME. AND, I THINK THAT THERE SHOULD BE MORE BURSARIES AND SCHOLARSHIPS AVAILABLE FOR FAMILIES OF MMIWG WHO WANT TO START THEIR EDUCATION, OR CONTINUE THEIR EDUCATION, BECAUSE THEY’RE THE ONES WHO ARE GOING TO BE VERY HELPFUL IN THE FUTURE FOR FAMILY MEMBERS TO CHANGE HOW THIS HAPPENS TO PEOPLE, AND TO SUPPORT THOSE WHO HAVE BEEN AFFECTED BY IT, BECAUSE THEY’VE BEEN THROUGH IT THEMSELVES. I THINK THAT’S REALLY IMPORTANT.”

Jenny L.



If someone calls us from – you know, from another province, even, which we often have women come from other provinces, but they have no way to get to us and they have no resources where they are. They may be in the city of Saskatoon or Regina. So, you know, if we had, you know, an ability to be able to say, you know, we're going to send through the bus depot, you know, et cetera, and to be able to do those things.<sup>109</sup>

For some of the family members who shared the stories about loved ones who had been murdered by a violent partner, the lack of access to housing – and particularly transition houses and shelters – stands as a pivotal moment in understanding the circumstances surrounding the death of their loved one. The compounded threats created by targeting Indigenous women, girls, and 2SLGBTQQIA people in moments of transition, or in moments of vulnerability, are an important reminder of the role that prevention and detection services can play. In her testimony, for instance, Jenny L. talked about how a failure to recognize her mother's vulnerability after leaving a transition house became a catalyst for the violence that later took her life.

I personally feel that my mother would not have been murdered if someone had went with her to visit me and my sister. She was in a transition home at the time.... It's for women who are suffering domestic violence. I had stayed there a while with her. And, I just – I don't understand how come no one went with her.

She just came back from Thompson and, you know, she was going to tell my father that she wanted to take me and my sister. And they should have known. They should have known, and they should have – should have been smart enough to know the history of domestic violence that they had with each other. And they should have provided maybe even a police officer, or someone just to go with her to get us, or to visit us. They shouldn't have allowed her to go alone, because I feel like she would still be alive if they didn't let her go alone.<sup>110</sup>

In offering testimony related to human trafficking, Diane Redsky, the executive director of Ma Mawi Wi Chi Itata Centre, talked about the way predators target Indigenous girls at bus depots or airports in order to take advantage of their vulnerability during a period of transition such as aging out of care.

We [the Youth Task Force] highlighted that one of the key risk factors is the inconsistent provincial child protection policies in Canada. We had six provinces in our country where child welfare taps out at 16. So if you're 15 and a half and you are in need of protection, chances are there's actually a risk that you could be denied service. And, in fact, we heard from survivors that they were denied service because of their age. Given a bus ticket and an address to the closest co-ed youth shelter where we know traffickers just park outside. They are just waiting to recruit and lure from these.<sup>111</sup>



Sexual exploitation and anti-human trafficking advocates such as Jennisha Wilson and others emphasized that there exists an important opportunity to prevent violence and trafficking by intervening at these points of transition – for instance, by

making sure that awareness and information is being utilized and provided through airlines and different forms of transportation between urban spaces, so that folks know that if they are being provided with a plane ticket to come to the South and being promised employment that, that may or may not be true, but it may also be a form of being groomed and then being trafficked. And, it's better to know that information before you get off a plane and where you can access information than when it's too late. And, unfortunately, many of the individuals that we have seen, it's been after the fact that they've been trafficked, and they've been groomed that we are providing crisis support.<sup>112</sup>

Jamie Lee Hamilton also spoke about how, when Indigenous women, girls, and 2SLGBTQQIA people are forced to move, it can disrupt their connection to a community that helps protect them and keep them safe. She spoke about the impact of her displacement from her community in Vancouver's West End.

You know, I always feel safe in community where I'm part of and accepted and welcomed and loved. And that's very, very important. I know, you know, I would – I could go way back in 1984, you know, I was one of the young people expelled from our west end community by a court injunction of July 1984 granted by Judge McEachern, which displaced us for – state mass evicted us from the west end. Whether, you know, that was because we were sex workers or was it because we were queer people? Whether we were Two-Spirited people? There was so many intersections.

But they wanted a cleansing of the community to make it more white and middle class. The west end at that time was very working class. It – it was affordable. And I find that when you are displaced, it has a profound effect. You're going to for sure encounter more violence, usually often resulting in murder. You're going to be targeted by predators, such as, you know, pimps or – or those that are going to hurt you.

And so I find my survival, I believe was the result of being connected to a community and – and remaining firmly rooted, but when I was displaced, I had to find a new community. And sometimes that's not always easy. And it gets harder as Mark alluded to as you age, and especially in our LGBTQ+ community, you know, it just seems that more of the emphasis is on the young. And Elders of the community are put out to pasture. And so displacement has a profound effect on our lives.<sup>113</sup>



## Child Welfare and Aging Out of Care

For Indigenous girls and 2SLGBTQQIA youth, the dangers associated with moving from one place to another or with being displaced from a safe community are significantly heightened. However, given the extensive violence and abuse experienced by many youth in care, leaving a foster home or other living accommodation may be the only option that seems to exist in order to escape violence.

In recounting the violence and abuse her sister, Laney E., experienced while in foster care, Danielle E. reflected on her sister's efforts to create safety for herself in a world where it was otherwise unavailable: "I don't believe my sister in her entire life ever felt safe, that the only safety that she had was what she could create when she was able to get out of care."<sup>114</sup> Like the stories we heard of many other Indigenous and 2SLGBTQQIA girls, youth, and young adults whose disappearance or death occurred while displaced from or living in the foster care system, Danielle's story about her sister was echoed in various ways by other witnesses, whose truths demonstrated how many of those factors that impede safety in the lives of adults – such as poverty, homelessness, addiction, seeking or travelling to find services or meet basic needs, and fleeing violent situations – are most prevalent or heightened for young Indigenous girls, youths, and young adults in foster care or those who have "aged out of care." Erin Pavan, the manager of STRIVE Youth in Care Transition Program, poignantly described the lack of security that exists for Indigenous girls, youth, and 2SLGBTQQIA people in these contexts: "So, aging out of care is really like a euphemism for the abrupt termination of all ... services. Like, this 'aging out,' I don't even like this term, I think it's too gentle for what the experience is; it's like being pushed off a cliff, right?"<sup>115</sup>

For many of the family and friends who shared their truths, the failure to address the realities of abuse and violence experienced by children and youth within child welfare forces many youth, in their attempts to escape violence, to enter into more dangerous situations, which usually begin with running away. Even for those youth who do remain in care, aging out of care and the lack of support are akin to – as Erin puts it – pushing them off a cliff. In both cases, poverty, housing, barriers to education, and unique vulnerabilities to drugs, trafficking, and other forms of interpersonal violence collectively remove safety. As we heard from many families, recognizing what happens at the edge of this cliff and how basic economic and social security is undermined here is key to understanding the violence that leads to the disappearance and death of Indigenous women and girls.

In speaking about the experiences of aging out of care, members of the Youth Panel in Vancouver talked about the daily realities of poverty and the constant threat of homelessness. Fialka Jack talked about her struggle to find housing.

A month after aging out of care, my social worker moved me to the Downtown core of Vancouver into an SRO [single room occupancy]. And until that day, I didn't know what the word SRO stands for. And it was horrifying to see, so fresh into my adulthood, to see that this is where people were living. Like, I couldn't imagine how people could live



happily in those types of places, and it was horrifying and it, to be honest – I did some things that I promised I would never do, and I regret it. But like, from there, I’ve grown and to be honest, I don’t think social workers should be putting their children into SROs. I think, like, looking for housing and teaching us how to look for housing, should be an important piece. Because you shouldn’t have to worry about homelessness every second of your life after aging out of care. And that is something that at almost 25, I still fear, every day.

And I live in a house, I live in South Van, I live with a lot of people, people that love me. But I have been homeless twice since aging out of care. I was homeless for a year; I lived in downtown Vancouver, I lived in Stanley Park. Like, I slept in Stanley Park. That’s how bad it was, aging out of care.<sup>116</sup>

In addition, as Erin Pavan explained, Indigenous youth must also contend with discrimination.

And the youth are facing also discrimination, too, right? If you’re on income assistance you’ve got to bring this paper ... showing that you’re on welfare, and people just slam the door in your face. And same with, no one wants to rent to young people either, right? And also people of colour experience discrimination when they’re renting. So, they’ve got a lot stacked against them trying to rent here, and having that money coming in for their rent from Agreements with Young Adults while they’re attending STRIVE helps us to actually be able to say, “Okay, now you’ve got your housing. What do you actually want to do?” You know, like, “What are you passionate about, or what do you want to do with your life? Or, what other help do you need, like maybe you need mental health supports or whatever it is. Do you want to go back to school?” And that’s been really helpful.<sup>117</sup>

“SO, AGING-OUT OF CARE IS REALLY LIKE A EUPHEMISM FOR THE ABRUPT TERMINATION OF ALL ... SERVICES. LIKE, THIS ‘AGING-OUT,’ I DON’T EVEN LIKE THIS TERM, I THINK IT’S TOO GENTLE FOR WHAT THE EXPERIENCE IS; IT’S LIKE BEING PUSHED OFF A CLIFF, RIGHT?”

**Erin Pavan**

Understandably, the challenges of daily survival mean that, for many youth in foster care or those who have aged out of foster care, completing high school, pursuing post-secondary education, or finding employment become impossible. Erin Pavan put things into perspective.

They’re not graduating high school; I think that by age 19, like 32% of youth aging out of care will have a high school diploma, compared to 84% for the general population. And, so they’re not finishing school.



They're also less likely to have a job. They're going to make less money. A lot of them are relying on income assistance right off the bat, 40% will go right onto income assistance.

The income assistance rate just finally got raised in BC, but for Vancouver it is not even near enough money to live off of. You can't even pay rent with it, never mind buy food. So they're going into extreme poverty right off the bat, with no high school diploma, not enough supportive people in their lives. Obviously, by definition, anyone who's been through care is going to have trauma. So they've got trauma; they're more likely to have issues with their mental health, with substance use, more likely to be involved with the criminal justice system, become young parents. They're more likely to die young. Of the 1,000 youth who age out of care in BC every year, three to four will be dead before they turn 25.

So I think you can really see the connection, right, between the missing and murdered young women and the care system.<sup>118</sup>



# In Care, In Danger:

## Understanding the Risks to Safety in the Context of Child Welfare

While the National Inquiry heard many testimonies related to the abuses of child welfare as related to culture, it also heard about the ways in which disconnection from culture and from family could work to target children for violence. Of these experiences, many testimonies were in-camera, in order to protect witnesses' privacy. These testimonies often featured particularly egregious accounts of violence and abuse within a system that, by mandate, is intended to protect, across different provinces and territories.

While many of these accounts are in-camera, others exist, which are already public, that help to reveal how the four pathways identified by the National Inquiry work together to maintain colonial violence. Angel's story, as documented by the Manitoba Advocate for Children and Youth, is just one.

### Historical, Multigenerational, and Intergenerational Trauma

Angel suffered from various forms of trauma throughout her life; she was exposed to traumatic childhood events that were never appropriately identified or addressed.<sup>i</sup> Her first encounter with Child and Family Services (CFS) in Manitoba began in 1999 when she was 17 months old. By the time she was 17 years old, CFS had apprehended Angel 14 times<sup>ii</sup> and placed her in 46 different homes.<sup>iii</sup> The constant instability in Angel's life is itself a form of trauma. Further, Angel was sexually assaulted first at 21 months old and again at seven years old, and was subsequently sexually exploited during her time in foster care. Her mother's addiction, which affected her ability to care for her children and consequently led to CFS involvement in Angel's life, is also a sign of intergenerational trauma.

### Social and Economic Marginalization

Angel and her family were never given the opportunity to succeed. Angel's family lived in poverty, often in local crisis centres in between CFS apprehensions and placements.<sup>iv</sup> Despite the intense trauma that Angel and her family experienced, there were no appropriate support systems in place in their community. Angel and her mother would have to travel out of their communities to access addiction programs, mental health support, or sexual assault centres.<sup>v</sup> This further isolated Angel and her mother from each other and their communities.

### Maintaining the Status Quo and Institutional Lack of Will

The institutions set in place to protect and help Angel utterly failed her. CFS did not meet or follow the provincial standards in Angel's case: namely, assessments, case planning, service provision, and evaluation.<sup>vi</sup> Each time Angel was apprehended or placed with CFS, she was eventually returned to her mother's care, but the required supports to assist her



mother were never in place.<sup>vii</sup> CFS was aware that Angel's mother suffered from addiction, yet placed Angel back in her care, continuing the cycle of Angel's apprehension and placements with CFS.<sup>viii</sup> Similarly, once she was in her teenage years and in foster care, whenever Angel was allowed to visit her mother, CFS made no plans for her safety,<sup>ix</sup> despite knowing that she had been sexually abused by three members in her community<sup>x</sup> and that she spiralled further into her substance abuse and self-harming after each visit home.

CFS also ignored signs of sexual abuse, substance abuse, and mental health issues throughout their many interactions with Angel. On two occasions in 2013, CFS was made aware by Angel's school and her foster family that she was being sexually exploited for drugs and alcohol; however, CFS never followed up on these concerns.<sup>xi</sup> Similarly, CFS was aware of Angel's substance abuse. As young as 10 years old, Angel began sniffing glue and gasoline as a coping mechanism for her trauma.<sup>xii</sup> In her teenage years, Angel was hospitalized and fined multiple times for underage substance use and public intoxication. CFS recommended that Angel be placed in a drug treatment program, yet they never followed up on their recommendations, and Angel continued to abuse substances.<sup>xiii</sup>

Further, CFS was keenly aware of Angel's mental health issues. Angel expressed thoughts of suicide as young as eight years old.<sup>xiv</sup> Throughout her life, Angel was hospitalized for serious mental health issues. In 2007, a mental health worker recorded that Angel's mental health was suffering and recommended to CFS that Angel be monitored and encouraged to return to counselling; CFS never followed up on these recommendations.<sup>xv</sup> Despite all of this, Angel's 2014 case plan blamed Angel for her life circumstances and demonstrated no understanding of the trauma that Angel was experiencing.<sup>xvi</sup> Angel was described as "out of control" and that her behaviour was a result of her mother's drinking while pregnant.<sup>xvii</sup>

## Ignoring the Expertise and Agency of Indigenous Women, Girls, and 2SLGBTQIA People

CFS ignored the expertise and denied the agency of Angel and her mother in numerous instances. In 2006, Angel's mother told CFS that she did not want to send Angel to a therapist who was outside of the community; she did not trust that confidentiality would be maintained and that a therapist outside the community would not be sensitive to the specific needs of Angel.<sup>xviii</sup> Angel's mother was not opposed to Angel's receiving mental health support, but there was limited support for that in their community.<sup>xix</sup> Still, CFS determined that Angel would meet with the outside therapist biweekly for six months.<sup>xx</sup> CFS failed to listen to the expertise of Angel's mother and provide culturally appropriate mental health solutions for Angel.

In 2007, after another CFS apprehension, Angel was returned to the care of her mother, despite the fact that Angel expressed concern to CFS about her mother's ability to care for her and her siblings.<sup>xxi</sup> Angel told CFS that her mother often left her and her siblings unattended, yet CFS declared Angel's claim unfounded without looking into it. CFS failed to listen to Angel and continued the cycle of instability in her life by placing her back with her mother. However, in her teenage years, while living in foster care and after being made a permanent ward of CFS, Angel explicitly expressed her desire to connect with her mother. She stated that much of the sadness she felt, and, subsequently, her desire to use substances and her self-harm, was because she was not with her mother.<sup>xxii</sup> Despite this, CFS made no efforts to connect Angel with her mother.



## Setting a New Course

In March of 2019, the Manitoba Advocate for Children and Youth released its report into the death of Tina Fontaine entitled *A Place Where it Feels Like Home*. It is the story of teenager Tina Fontaine, who was murdered in August of 2014. As the report notes, Tina's story echoes that of many others, and its themes identify some of the important ways in which child and family services fail to keep families and children safe. They are evidence of a wider reality, and need for a broader change. As the report notes,

Tina's experiences of family fracturing, domestic violence, exploitation, addiction, loss, grief, resilience, determination, hope, and searching for belonging, must not be viewed in a vacuum. Tina's life, in many ways, echoed experiences lived by others, including her parents and the many members of her extended family, some whom she knew, others whom she did not. This context is important because only when we come to a universal acceptance and understanding of the realities of historical and current discrimination, injustices, systemic racism, and that not all people are allowed access to opportunities on equal measure, will we ever have a hope to correct historical, long-standing, and ongoing injustice.<sup>xxiii</sup>

- I Manitoba Advocate for Children and Youth, *Angel's Story*, 56.
- II Ibid.
- III Ibid., 82.
- IV Ibid., 40.
- V Ibid., 21.
- VI Ibid., 19.
- VII Ibid., 8.
- VIII Ibid., 20.
- IX Ibid., 22, 40, 43, 45.
- X Ibid., 41.
- XI Ibid., 45, 42.
- XII Ibid., 26.
- XIII Ibid., 31, 32.
- XIV Ibid., 24.
- XV Ibid.
- XVI Ibid., 49.
- XVII Ibid.
- XVIII Ibid., 21.
- XIX Ibid., 23.
- XX Ibid., 22.
- XXI Ibid., 24.
- XXII Ibid., 47.
- XXIII Manitoba Advocate for Children and Youth, *A Place Where it Feels Like Home*, 14.



## DEEPER DIVE

# Enhancing Interjurisdictional Cooperation to Promote Safety

As our *Interim Report* revealed, there are over 1,200 recommendations logged with various reports and commissions linked to combatting violence against women, girls, and 2SLGBTQQIA people. The need for greater interjurisdictional cooperation is a crucial recommendation in existing reports concerning violence against Indigenous women and girls. In these reports, important areas highlighted for cooperation include national awareness campaigns; national action plans; better public transportation services; reform of legal instruments; improved social services and programming; and reforms of the criminal justice system, including criminal law provisions concerning sex work and trafficking, policing, and the administration of prisons and penitentiaries.

Of the recommendations aimed at only one jurisdiction, the majority were directed at provincial and territorial governments, followed by those directed at the federal government. The fewest recommendations were directed at Indigenous governments. At the same time, it is important to note that even recommendations that involved only one jurisdiction could still include the need for greater communication, cooperation, and collaboration among different agencies and regions within that single jurisdiction.

In this Deeper Dive, the National Inquiry takes a systems-level approach to understand how the lack of cooperation and coordination in complex jurisdictional landscapes maintains violence against Indigenous women, girls, and 2SLGBTQQIA people. The prominence of recommendations concerning the need for greater interjurisdictional action is important to note for two reasons in particular. First, confusion or disputes between federal and provincial governments over their respective jurisdictions vis-à-vis Indigenous Peoples has contributed to the inadequate provision of funding and services to Indigenous communities. Second, one of the unique, and perhaps most important, opportunities for the

current National Inquiry (given its national scope, federal authority, and support from the provinces) is to address and make recommendations for the future concerning greater interjurisdictional cooperation in efforts to address violence against Indigenous women, girls, and 2SLGBTQQIA people.

The need for greater interjurisdictional cooperation is necessary to close gaps in services that lead to greater targeting of, and violence toward, Indigenous women, girls, and 2SLGBTQQIA people. The difficulties in accessing these services, as the National Inquiry heard, are important factors that, according to many witnesses, served to place them or their loved ones in danger. Many of the concerns the National Inquiry heard about included the idea that many Indigenous Peoples and their territories do not fit neatly within jurisdictions. These realities represent important challenges; for instance, the Algonquin of Quebec and of Ontario share the same traditional territories and ancestors, but are divided by the provincial border and do not enjoy mobility and freedom within their territories. In other cases, Inuit in Nunavut must travel to Manitoba, Ontario, and Alberta to access services; it is within those centres that women, girls, and 2SLGBTQQIA people are often targeted for violence.

## Defining Interjurisdictional Neglect

“Interjurisdictional neglect” refers to situations in which groups or individuals might “fall through the cracks,” due to a lack of interjurisdictional cooperation. As is documented in part in the Deeper Dive focusing on the Métis, cases of interjurisdictional neglect have important consequences for safety. In many cases and as the testimonies reveal, the lack of coordinated services due to the failure of governmental jurisdictions to work with each other to solve problems and to enhance safety can mean the difference between life and death.



Canada has failed, partially through a lack of interjurisdictional cooperation, to ensure that Indigenous Peoples have access to adequate resources and the supports necessary to have their human dignity, life, liberty, and security protected. As this report has already shown, the particular constitutional responsibilities for First Nations, associated with the long-time lack of constitutional recognition of other Indigenous groups, alongside the realities of provincial and territorial service delivery in key areas like education and health, have all resulted in a complicated jurisdictional landscape. The complexity of the landscape, however, doesn't mean that rights can simply be ignored.

Interjurisdictional neglect represents a breach of relationship and responsibility, as well as of a constitutionally protected section 7 *Charter* right to life, liberty, and security of the person. Denials of protection and the failure of Canada to uphold these rights – specifically, the right to life for Indigenous women, girls, and 2SLGBTQQIA people – are a breach of fundamental justice. These deficits, then, are about much more than the organization of services, or the specifics of their delivery: they are about the foundational right to life, liberty, and security of every Indigenous woman, girl, and 2SLGBTQQIA person.

## Complex Jurisdictional Landscapes

Multiple jurisdictions have overlapping authority over, and responsibility for, many aspects of Indigenous Peoples' well-being, based in foundational human rights to liberty and security. In many cases, this overlapping has resulted in the direct denial of services that could have saved lives.

Indigenous Nations and governments have maintained their inherent right of self-government, which predates colonization. Self-government includes the administration of social and other services. The origins or source of Indigenous jurisdiction is in Indigenous Peoples' persisting sovereignty. As such, it can be considered independent from Canadian governments. This fact is recognized in different ways and to different extents in both Indigenous and Canadian legal systems. The Royal

Commission on Aboriginal Peoples (RCAP) report found that section 35(1) of the Canadian Constitution included the right to self-government, affirmed that this right was inherent, and noted it was recognized in the Constitution and federal constitutional common law. Thus, RCAP asserted that more explicit recognition of the right, or of its constitutional protection, was therefore not required. RCAP made a series of recommendations concerning Indigenous self-government in Volume 5 of its final report.

In practice, Indigenous self-government and the exercise of Indigenous jurisdiction can take different forms: Indigenous governments are recognized in historical and modern Treaties with Canadian governments, and they can constitute First Nations band governments under the *Indian Act*. Other Indigenous governments (those not parties to Treaties or registered under the *Indian Act*) can advocate for, and attempt to exercise, their inherent jurisdiction with varying extents of recognition by Canadian governments. Ultimately, depending on the capacity of Indigenous governments, as well as their legal and political relationships with Canadian governments, gaps between, and conflicts over, their respective jurisdiction can arise and impact Indigenous Peoples' rights and well-being.

Most recently, the current federal government committed to Nation-to-Nation relationships with First Nations and Métis peoples and an Inuit-to-Crown relationship, recognizing that "all relations with Indigenous Peoples need to be based on the recognition and implementation of their right to self-determination, including the inherent right of self-government."<sup>A</sup> Several provinces have similarly recognized Indigenous rights to self-government.<sup>B</sup> In addition, at least in its rhetoric, the current federal government (in contrast to the previous government) appears to be pursuing what some have called "reconciliatory federalism," in which it has been emphasizing the importance of greater cooperation and partnership with provincial and Indigenous governments.<sup>C</sup> However, the extent to which this has been achieved in practice appears limited.

Second, under the Canadian Constitution, both provincial and federal governments have overlapping jurisdiction over a variety of services for



Indigenous Peoples. The federal government is authorized by section 91(24) to govern “Indians and Lands reserved for Indians.” This legally applies to those with Indian Status as well as Inuit communities. More recently, in 2016, the *Daniels* decision from the Supreme Court of Canada has also asserted that Métis and non-Status people are “Indians” within the meaning of section 91(24). This has resulted in, as scholar Julie-Ann Tomiak explains, “a patchwork of fragmented services, problems with coordinating programs, underfunding, inconsistencies, service gaps, and a lack of integration.”<sup>d</sup> It appears as though Métis and urban non-Status Indigenous populations are especially adversely impacted by jurisdictional disputes,<sup>e</sup> although growing constitutional recognition of Métis governments may result in greater equality for Métis people.<sup>f</sup>

The federal government also has authority over “Marriage and Divorce” under section 91(26); aspects of criminal law under section 91(27); and the establishment, maintenance, and management of penitentiaries under section 91(27). The provinces have authority over the establishment, maintenance, and management of provincial prisons under section 92(6); authority over hospitals and other health institutions under section 92(7); municipal institutions under section 92(8); the “Solemnization of marriage in the province” under section 92(12); broad authority over “Property and Civil Rights in the Province” under section 92(13); and authority over the administration of justice, including provincial civil and criminal matters, under section 92(14).<sup>g</sup>

These constitutional sections (referred to as constitutional “heads of power”) are very comprehensive, affecting most aspects of daily life for Indigenous Peoples in Canada. They can also lead to interjurisdictional neglect and conflicts that prevent the timeliness and comprehensiveness of social and other services for Indigenous Peoples, which in turn constitute barriers to Indigenous women’s, girls’, and 2SLGBTQQIA people’s rights. These gaps and conflicts over jurisdiction are due to the fact that there is very limited legal or political infrastructure to facilitate and support consistent coordination and cooperation among all of these jurisdictions.

## Consequences of the Lack of Interjurisdictional Coordination and Cooperation

Interjurisdictional neglect and interjurisdictional conflicts continue to present a major contributing factor to current deficits in the development and delivery of services to Indigenous Peoples, services that could otherwise promote safety in areas related to culture, health, human security, and justice. This lack of interjurisdictional coordination and cooperation concerning measures to address the root causes of violence against Indigenous women, girls, and 2SLGBTQQIA people remains a significant barrier to their safety, and thus infringes their rights.

There are four general and interrelated ways in which this lack of coordination presents.

1. Program policies, service plans, and strategies tend to be made by separate agencies and jurisdictions in isolation from one another. The result is that they fail to comprehensively address Indigenous Peoples’ needs, especially when Indigenous representatives are not adequately included in the development of policies and plans.
2. Provincial and federal governments tend to legislate separately from one another, even in areas in which their jurisdiction overlaps. The result is that there can be gaps or inconsistencies involved for Indigenous people who must navigate provincial and federal regimes to obtain basic services.
3. In instances in which provincial and federal jurisdictions overlap, conflicts between governments over which one should fund these services can effectively deprive Indigenous Peoples of receiving the services.
4. There is a significant lack of data collection and information sharing across jurisdictions (especially with Indigenous jurisdictions) concerning the current challenges faced by Indigenous populations, including the exact



incompatibilities and underperformance of programs. The result is that there is no consistent evaluation of existing programs and services across jurisdictions.

Two federal auditor general's reports concerning the performance of federal programs in addressing First Nations, Inuit, and Métis peoples' disproportionate unemployment rates, education, health, and income gaps found the government was failing to adequately report on the progress of initiatives or measure their outcomes. Further, the government was failing to use adequate data to improve program performance, and failed to share what information it had with First Nations, thus preventing informed cooperation or consultation between their respective jurisdictions.<sup>h</sup> The federal government has since responded to the reports, noting that it is in the process of working with Indigenous representatives on formalizing broader data gathering and sharing protocols to ensure better-informed cooperation between federal and Indigenous governments concerning program delivery and monitoring.<sup>i</sup>

A slowly increasing number of policies and laws have been instituted to address some of the issues associated with interjurisdictional cooperation in the context of service delivery to First Nations populations, though there is still a lot of progress left to make. Generally, initiatives to address interjurisdictional conflicts for Indigenous and non-First Nations populations are more limited. There are some examples of potential improvements in this area, such as Saskatchewan's Framework for Cooperation, which coordinates provincial programming to address the needs of Métis and off-reserve members of First Nations in that province.<sup>j</sup> However, the implementation of these policies often leaves much to be desired.

Further, the use of Memoranda of Understanding (MOUs) between Indigenous and Canadian governments concerning the provision of health and social services has been increasing as a mechanism to iron out jurisdictional responsibilities and how member governments will work together to achieve identified priorities and goals. Several MOUs concerning education and health care initiatives are discussed in more detail below. While these can represent a greater degree of self-determination,

MOUs and similar agreements do not facilitate self-government, as the power (financial, especially) remains with the government(s) issuing them. They may also be operative for limited time periods that require renewals and renegotiation, which can be a place for Indigenous governments to gain more control, but can also serve to limit powers.

## On the Ground: Examining Interjurisdictional Neglect in Human Trafficking Cases

One of the areas in which the National Inquiry heard about the need to better coordinate across jurisdictions, in particular, was policing. Many families testified about the difficulties of navigating among jurisdictions when trying to find information about the case of a loved one, or when the case was transferred from one jurisdiction to the other in light of the facts, without necessarily a good understanding of the process by families. In cases where victims of crime might be moving around the country a great deal, such as human trafficking, this is a particularly difficult problem.

*The United Nations Protocol to Prevent, Suppress, and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention Against Transnational Organized Crime, defines human trafficking as:*

the recruitment, transportation, transfer, harboring, or receipt of persons, by means of threat or use of force or other forms of coercion, of abduction or fraud, of deception, of the abuse of power of a position of vulnerability or of the giving or receiving of payment or benefits to achieve the consent of a person having control over other persons, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labor or services, slavery or practices similar to slavery, servitude or the removal of organs.<sup>k</sup>

Although often referred to in an international context, human trafficking is a real problem in Canada, especially as it impacts Indigenous women,



girls, and 2SLGBTQQIA people, and is largely a domestic issue. As a report by the Native Women's Association of Canada (NWAC) argues:

Canada's colonial legacy has forced Indigenous women and girls into dangerous and precarious social and economic conditions, which in turn has made them more vulnerable to different kinds of violence. This includes situations of exploitation and human trafficking, a prevailing concern that has yet to be properly addressed and recognized.<sup>L</sup>

In Canada, human trafficking often occurs between larger urban centres and communities. As of 2016, the Royal Canadian Mounted Police's (RCMP) statistics showed that 94% of human trafficking cases were domestic in nature.<sup>M</sup> Further, while statistics reveal that Indigenous women represent only 4% of the Canadian population in 2016, they comprised nearly 50% of victims of human trafficking. Of those, nearly one-quarter were under the age of 18.<sup>N</sup>

The National Inquiry heard about instances of human trafficking from First Nations, Inuit, and Métis witnesses, who often spoke about their experiences within the context of their history within child welfare, or the need to find medical care not available in home communities. As the National Inquiry heard, those who exploit women, girls, and 2SLGBTQQIA people are well aware of how to target these people; they go so far as to station themselves outside of group homes or places where they know these potential victims might be, in order to bring them into human trafficking rings. In addition, studies have pointed to key recruitment areas including airports, where, as researcher Anupriya Sethi explains, "traffickers often know someone in the community who informs them about the plans of the girls moving to the city. Upon their arrival at the airport, traffickers lure the girls under the pretext of providing a place to stay or access to resources."<sup>O</sup> Other key recruitment zones include schools, the boyfriend method (where a trafficker approaches a woman as a suitor, rather than as a trafficker),<sup>P</sup> other girls or women, hitchhiking, and virtually any place that is away from home where victims can be isolated.<sup>Q</sup>

One of the main difficulties in enforcing laws against human trafficking, however, is its mobility. The

National Inquiry heard from law enforcement about the jurisdictional challenges that can arise to follow human trafficking activity and crimes over different jurisdictions. For instance, in her testimony, Ontario Provincial Police (OPP) Inspector Tina Chalk discussed how cross-jurisdictional challenges within policing can create problems in tracking victims.

But, you could have, for example, someone lured from a community like Whitedog, then go to Kenora, which is OPP [Ontario Provincial Police] level, then you would go to maybe Thunder Bay to be trafficked, where now it's a municipal police service, and end up maybe in Toronto Police, another municipal police service. So, you might have four or five police services that now have to ensure that they coordinate and collaborate and talk and ensure they share that information. And, now you're dealing with three or four possible courts, and now you have three or four possible Crowns. So, all of these cases need to be led by someone, they need to be organized, all the witness information and evidence has to be put together. So, you can imagine how this can become challenging to ensure that police get this right.<sup>R</sup>

In Canada, there are also human trafficking patterns, where victims are shipped between cities in different provinces, for instance. These are known as "city triangles" and include cities in relatively close proximity, such as the Saskatoon–Edmonton–Calgary–Saskatoon triangle and the Saskatoon–Regina–Winnipeg–Saskatoon triangle.<sup>S</sup> Many factors contribute to the patterns in trafficking, including oil and gas developments where a largely male, transient workforce travels for short periods of time for work.<sup>T</sup>

The Human Trafficking Coordination Centre, as RCMP Assistant Commissioner Joanne Crampton explained, provides some help in this matter, but the reality remains that police agencies across all jurisdictions are not mandated to report to the Human Trafficking Coordination Centre. As a result, it isn't always possible to track files across jurisdictions. Since, as Crampton said, reporting is based on "relationships, really, with different police departments," the accuracy of the data depends on the quality of reporting. What is more, looking at the statistical data may not necessarily always be helpful, since it doesn't



indicate which files are ongoing. As she pointed out, “We don’t know what’s being investigated right now, because there’s not mandated reporting by police agencies to the Human Trafficking Coordination Centre.” She explained, “If we had better reporting, better coordination in that manner, we would have a better picture and then be more able to track files as they move from jurisdiction to jurisdiction as well. So that would be a great help if all agencies were reporting.”<sup>U</sup>

This deficit, linked to issues in cross-jurisdictional cooperation within policing services, is an important problem that is also associated with the lack of disaggregated data, in seeking to understand how different groups experience the realities of human trafficking differently. As Sethi explains:

There is no national-level data that tracks the transient Aboriginal population and their trafficking in the sex trade. A lack of focus on and/or clear understanding of domestic trafficking, the underground nature of the crime, and the mobility of the trafficked persons across various cities often make it difficult to assess the actual numbers.<sup>V</sup>

Outside of policing, as well, the implications are serious. As NWAC points out;

This has created significant difficulties for Indigenous organizations, advocates, and community members in conducting research that is cognizant of the varying experiences among and between First Nations, Inuit, and Metis women impacted by human trafficking, and developing policies and strategies that are responsive to those experiences.<sup>W</sup>

Attempting to find solutions for a crime for which the scope and dimensions remain largely unknown is an important cross- and interjurisdictional challenge for law enforcement and justice systems, as well as for those services that the families of those missing and murdered require as a result of their being trafficked and that fall within the confines of one or multiple streams of government.

## Coordinating Responses in Upholding Human and Indigenous Rights

As the National Inquiry heard throughout the Truth-Gathering Process, and as the brief look at the issue of human trafficking demonstrates, the lack of interjurisdictional cooperation, practically speaking, results in the denial of basic human and Indigenous rights as related to culture, health, security, and justice, and as explored in detail in chapters 5 through 8. These problems are not new, and have been documented at length in previous reports.

### Education and Employment

Eleven existing reports<sup>X</sup> spanning from 1996 to 2015 address the education gap between Indigenous and non-Indigenous people. Reports identify the education and employment gap as a major contributing factor to Indigenous women’s economic marginalization, which in turn makes them more dependent on others, including potentially abusive partners or other unhealthy relationships, and thus more vulnerable to violence and less able to leave violent circumstances.

The largest number of recommendations that address this directly or indirectly require greater inter-jurisdictional cooperation concerning the provision of education and skills training. This included the 2016 Thunder Bay Youth Coroner’s Inquest, which contained many recommendations concerning the safety of Indigenous youth who are forced to leave their home communities to pursue an education – another specific area in which interjurisdictional coordination and cooperation of services is urgently required – and this appears to be in progress in certain provinces.

One mechanism that appears to be used to varying degrees across the country concerns formal agreements among Indigenous, federal, and provincial governments, which outline responsibilities and mechanisms for cooperation and coordination of education services for Indigenous students. For example, British Columbia has entered into Aboriginal Education Enhancement Agreements concerning improvements to Indigenous children’s



access to quality education from kindergarten to grade 12.<sup>Y</sup> However, these agreements appear to apply to specific First Nations, and thus can exclude many Indigenous students – including those off-reserve or without Status.

Other methods are being pursued, as well. To address the lack of provincial assistance in northern Saskatchewan, nine First Nations are working to create a unified school system, seeking to close the gap by folding their schools into mainstream boards.<sup>Z</sup> Manitoba instituted a First Nations school system in 2017, designed and operated by Indigenous communities. Educators determine the curricula and professional development, and the hiring of faculty and staff, and have more access to resources and opportunities than before, due to a new funding formula.<sup>AA</sup> There is also a provincial 2016–2019 First Nation, Métis, and Inuit Education Policy Framework for making education more responsive to Indigenous students’ needs – including Indigenous Peoples’ histories in curricula and training teachers to deliver it. The framework is enshrined in the *Education Administration Amendment Act*.<sup>BB</sup> Yukon and the federal government entered into an MOU with the Council of Yukon First Nations and all 13 First Nations in Yukon to address the education gap between Indigenous and non-Indigenous youth.<sup>CC</sup> As a result of the MOU, a 10-year plan to close the education gap between Indigenous and non-Indigenous students was created.<sup>DD</sup>

The Assembly of First Nations has long advocated for greater interjurisdictional coordination via specific permanent mechanisms or units to “promote coordination, consistency, monitoring and evaluation of activities across all sectors and levels of government, ensuring policy and services for children are equitable and that jurisdictional gaps or disputes are resolved.”<sup>EE</sup>

A legal challenge was recently brought by the Mississaugas of New Credit First Nation, alleging that funding for First Nations special needs students was not comparable with that received by non-Indigenous students in Ontario. Their case concerned the interjurisdictional barriers that can violate Indigenous students’ rights. Despite the fact that the federal government promised equality for First Nations students, students with special needs were dependent on attending provincial schools to have

their needs met, and incurred fees to do so. The province charged a fee for First Nations children to attend their schools, which was prohibitively high, making it virtually impossible for students to attend these schools while remaining on-reserve.

The case was put on hold while a report was prepared concerning this issue. The resulting report noted that there were certain simple amendments to provincial law in the province that could allow for more interjurisdictional flexibility for students with special needs, ensuring they would have better access to education without the exorbitant fees. It made specific recommendations concerning possible changes to provincial legislation to remove these fees and ensure equity for First Nations students, as well as improved information sharing with First Nations and specific efforts to strengthen the role of First Nations in provincial schools.<sup>FF</sup> Thus, federal, provincial, and First Nations governments were required to share information, amend their own legislation, and address funding issues among themselves in order to ensure access of all First Nations children to adequate schooling. While the extent to which the recommendations in the report have been implemented appears limited to date, it may offer a template for interjurisdictional cooperation in other jurisdictions in Canada.

## Poverty

Three existing reports spanning from 2003 to 2009 address the specific need for governments to develop policies and strategies to eliminate poverty among Indigenous Peoples. It should be noted that the other sub-themes in this section also indirectly address specific indicators of poverty in Indigenous communities. This sub-theme, in contrast, concerns the need for Canadian governments to specifically consider Indigenous women’s needs when creating and implementing anti-poverty strategies and initiatives.

Of the three reports that specifically concern the need for poverty-reduction strategies, one is aimed at the government of Saskatchewan, one at the federal government, and one for all Canadian jurisdictions. All reports note the need for poverty-elimination strategies to be developed in consultation with Indigenous leadership and agencies, in addition to non-governmental organizations.



The federal government is in the process of working on a national anti-poverty strategy.<sup>GG</sup> It is unclear whether, or to what extent, this national strategy would be able to facilitate increased interjurisdictional cooperation and coordination concerning anti-poverty initiatives. Several provinces also have poverty-reduction plans and strategies. However, while the majority of plans include recognition of increased rates of poverty in Indigenous communities, only the plans in Ontario and Yukon include any mention of programs or initiatives specifically for Indigenous women. None of these plans include specific measures to increase interjurisdictional cooperation or coordination of services, though several plans include some reference to consultation with Indigenous representatives (generally governments or agencies).

## Safe Housing

Seventeen existing reports spanning from 1991 to 2016 address this theme, with approximately 39 recommendations also calling for greater interjurisdictional action on this issue. These reports identify precarious housing and a lack of access to shelters as factors that contribute to violence against Indigenous women for two reasons: 1) homelessness or overcrowded housing can put women at higher risk of violent interactions; and 2) the threat of homelessness or otherwise inadequate housing makes Indigenous women and children less able to leave violent living situations.

A recent report from the Standing Senate Committee on Aboriginal Peoples studied on-reserve housing throughout Canada and identified two critical issues:

1. insufficient housing units to accommodate Canada's rapidly growing Indigenous population; and
2. quality and safety concerns with what limited housing there was, often not meeting relevant building codes, though conditions differ greatly among individual First Nations.<sup>HH</sup> Jurisdictional uncertainty and disputes are also responsible for the lack of action at the federal and provincial levels concerning the housing gap. Efforts at interjurisdictional cooperation and collaboration

to address this issue appear lacking. At the same time, Indigenous communities are showing significant creativity and resourcefulness, developing and using micro-loans for independent housing, rather than social housing models, and developing more sustainable local economies to assist with individual housing needs.<sup>II</sup>

In 2017, the federal government began a public consultation process to improve housing on reserves.<sup>JJ</sup> There is a federally and provincially funded Investment in Affordable Housing Extension that provides dedicated funding for off-reserve housing for First Nations people. Nova Scotia, Prince Edward Island, and New Brunswick appear to rely on federal funding to address the housing needs of First Nations people in those provinces.<sup>KK</sup>

The federal government does not have a comprehensive strategy for addressing the housing needs of Indigenous Peoples off-reserve or without Status, or a comprehensive strategy to address the needs of Inuit or Métis across Canada.

Again, MOUs have been utilized in this area to formalize interjurisdictional efforts to address the housing needs of First Nations. British Columbia's Transformative Change Accord and Métis Nation Relationship Accord include a commitment to closing the housing gap between Indigenous and non-Indigenous people. In 2008, the British Columbia and Canadian governments signed a Tripartite First Nations Housing Memorandum of Understanding with the First Nations Leadership Council to collaborate on a comprehensive approach to improving on- and off-reserve housing.<sup>LL</sup>

In Yukon, a partnership between the Government of Yukon and Kwanlin Dün First Nation has increased Whitehorse's emergency shelter capacity.<sup>MM</sup>

## Health Services

Nineteen existing reports<sup>NN</sup> spanning from 1996 to 2016 address health care gaps between Indigenous and non-Indigenous populations as well as the need for more culturally responsive health care services. Approximately 86 recommendations fall under this theme. Reports are unanimous in identifying that the



lack of health care available to Indigenous populations is due to ongoing discrimination. Further, mental health and addictions issues are often attributed to legacies of colonization and residential schools. Ill health is both a contributing factor to, and result of, higher rates of violence against Indigenous women, girls, and 2SLGBTQIA people.

Recommendations in this sub-theme are primarily directed toward either provincial and territorial governments on their own or provincial and federal governments together. Interestingly, few recommendations address interjurisdictional issues, despite the fact that they appear to be a significant hurdle in the provision of timely and sufficient health care to Indigenous populations.

The Truth and Reconciliation Commission (TRC) recommended that the federal government identify existing health gaps and create goals to address them. The TRC also sought to ensure accountability in this process, requiring the government to publish annual progress reports summarizing efforts to meet their goals and close the health care gap. The Jordan's Principle Orders contributed in important ways to pushing the government to act. Jordan's Principle, discussed elsewhere in this report, is a principle that "ensures that First Nations children can access public services on the same terms as other children without experiencing any service denials, delays or disruptions related to their First Nations status."<sup>90</sup> In 2016, the Canadian Human Rights Tribunal (CHRT) found that "Canada's failure to ensure First Nations children can access government services on the same terms as other children via Jordan's Principle was discriminatory and contrary to the law," and ordered Canada to implement its full meaning and scope. Later the same year, the CHRT issued two orders against Canada for its failure to comply and because the new formulation of the principle was still too narrow.<sup>91</sup> After the 2016 CHRT decision was released concerning rulings, Health Canada initiated a review of health care services for people living on-reserve. The resulting report found that the government is failing to provide adequate services and treatment.<sup>92</sup> The federal government has since promised more funding for Indigenous health and mental health needs. It has also promised to negotiate a new health accord with certain Indigenous leaders.<sup>93</sup> To date, it does not appear TRC-recommended studies and

progress reports are being published by the federal government, and neither is current spending sufficient to close the health gap.

In British Columbia, Indigenous authority over the provision of health care to Indigenous populations is growing. The First Nations Health Authority (FNHA) was established and assumed control over developing and delivering the programs, services, and responsibilities of Health Canada's First Nations Inuit Health Branch – Pacific Region. The FNHA is an Indigenous-governing structure that works with First Nations in British Columbia to meet identified health goals and priorities, involving the transfer of funding to First Nations via community contribution agreements ensuring local control over resources. At the same time, there have been concerns expressed over the authority's transparency and discriminatory treatment of Indigenous women working in the institution.<sup>94</sup>

Other provinces have strategies or forums at which interjurisdictional coordination of health services can be addressed. Alberta's Aboriginal Mental Health Framework's strategic directions for action include the need to address jurisdictional issues that impair the provision of services and the need to identify and address existing policy gaps in health care services for Indigenous individuals with mental health challenges.<sup>95</sup> The Mi'kmaq–Nova Scotia–Canada Tripartite Forum has also released "Exploring Health Priorities in First Nation Communities in Nova Scotia," a report in which mental health was identified as the primary health priority, followed by addictions. The Department of Health has been working with health system partners to advance these two priorities for inclusion in program and project planning to assist Mi'kmaq and other Indigenous Peoples in Nova Scotia.<sup>96</sup> No publicly available progress reports or evaluations of these measures exist since they were introduced in 2009.

In addition to health services, reports underline poor living conditions that give rise to health disparities between Indigenous and non-Indigenous populations. For example, the United Nations recognizes that access to water and sanitation are international rights, and that the lack of this access can have a "devastating effect" on people's health, dignity, and prosperity, and can also constitute a



significant barrier to the realization of other human rights.<sup>vv</sup> In Canada, 134 water systems in 85 First Nations across the country are subject to “boil water” advisories and otherwise limited access to clean drinking water or adequate waste-water treatment. Water in these reserve communities is often contaminated with *E. coli* (which would point to poor waste-water management infrastructure), as well as trihalomethanes and uranium, which can lead to increased rates of cancer (which may point to source water contamination).<sup>ww</sup> A Human Rights Watch report found that caregivers, often Indigenous women, tend to shoulder the burden of avoiding exposure to contaminated water by children, Elders, and those with chronic illnesses or physical or mental challenges. The lack of drinking and waste-water infrastructure on many reserves also impacts housing – delaying or preventing the construction of new housing due to already overburdened water systems. Further, the lack of access to clean water can also significantly disrupt fishing and hunting practices by poisoning the animals and making them disperse or die, as well as ceremony and the transmission of traditional knowledge. As the Human Rights Watch report makes clear, “According to custom and tradition among many communities, women are the keepers and protectors of waters. Many First Nations persons see water as living, and as a form of medicine. Not being able to drink the water from their own community is distressing to some.” This represents, among the violation of all other rights, an important violation to cultural rights.<sup>xx</sup>

Generally, provincial and territorial governments are responsible for drinking water and waste-water facilities (often operated at the municipal level) across the country. However, provincial and territorial governments tend to claim their jurisdiction does not extend to reserves, which fall under federal jurisdiction. At the same time, the federal government has failed to develop comparable drinking water or waste-water regulations that may be applied to reserves in the provincial/territorial vacuum. To date, it appears as though the federal government has addressed water issues on a contract-by-contract basis in individual reserves. This inconsistent approach depends on independent contractors to provide these essential services, and results in significant disparities in quality of services from community to community.<sup>yy</sup> While the 2016

federal budget contained a promise to ensure that First Nations’ access to clean drinking water would be equal to that enjoyed by non-Indigenous Canadians, there have not been any comprehensive assessments of progress made to date.

## Institutional Lack of Will and Maintaining the Status Quo

Approximately 51 recommendations from 22 existing reports<sup>zz</sup> call for governments to ensure that services and programs for Indigenous women are adequately and sustainably funded and at levels equal to funding provided to services for non-Indigenous women. The reports span from 2003 to 2016.

Almost half of these recommendations are directed at provincial governments, which is to be expected, given provincial jurisdiction over social services. At the same time, almost half of the recommendations concern the need for better interjurisdictional cooperation in the development and provision of programs and services to Indigenous people – again understandable, due to shared provincial/territorial and federal jurisdiction over services for Indigenous Peoples. Recommendations calling for better interjurisdictional cooperation identify the lack of coordination as a barrier to government efforts to effectively address root causes of violence against Indigenous women and girls. At the same time, several recommendations directed at single jurisdictions stress the need for better coordination and communication among different types of services within the jurisdiction. Approximately 25% of recommendations under this theme are addressed to the federal government.

To date, it appears that although Canadian governments are in some cases increasing funding for services for Indigenous Peoples, this funding is insufficient and fails to explicitly address conflicts among governments over funding specific Indigenous services.

Over the last decade, the previous federal government systematically cut funding from many Indigenous-specific programs, as well as Indigenous leadership organizations.<sup>aaa</sup> These extensive funding cuts effectively closed the Aboriginal Healing



Foundation, First Nations Statistical Institute, National Aboriginal Health Organization, and NWAC's Sisters in Spirit Initiative, among others. The far-ranging impacts of these cuts have yet to be fully documented and understood.

At the same time, the current federal government has since increased its funding to Indigenous organizations and initiatives over the last two years. In 2016, the federal government promised to lift its 2% funding cap on annual funding increases for on-reserve programming. They also undertook to negotiate with First Nations in order to create a "new fiscal relationship."<sup>BBB</sup> In 2017, the federal budget added to the First Nations funding promised in 2016, bringing total base funding for on-reserve programming to a planned \$11.8 billion over the next six years. Much of this funding focuses on clean water and housing needs on reserve, as well as mental health programs and more funds to support Indigenous students, though this will mostly benefit those with Indian Status.<sup>CCC</sup> The 2018 budget contains a chapter concerning reconciliation, which promises new funding for Indigenous child welfare, health care, water, and housing, as well as new funding arrangements for self-government and modern-day Treaty negotiations.<sup>DDD</sup>

The federal government appears to be in the process of addressing certain jurisdictional funding gaps, and committing to broader Nation-to-Nation and Inuit-to-Crown relationships with Métis and Inuit leadership. The 2016 budget also marked the first time that Métis people were recognized and included in the federal budget: \$25 million was pledged over five years for Métis people's economic development.<sup>EEE</sup> The Inuit also signed an agreement with the federal government in February 2017 to address the land claim process, socio-economic equity issues, and collaboration on reconciliation between Canada and Indigenous Peoples.<sup>FFF</sup>

While these funding increases are a step in the right direction, pledged amounts still fall short of Indigenous communities' needs – and, in several areas, Indigenous Peoples still receive less funding compared with non-Indigenous people. For example, the federal government pledged \$2.6 billion over five years to address the education gap for First Nations,

but critics have said that amount is less than half of what is really needed to bridge the gap. Indigenous advocates argue the same is true for First Nations' housing and employment training needs, and the same applies to Inuit and Métis.<sup>GGG</sup> While the 2018 budget marks a shift toward more equitable spending,<sup>HHH</sup> more work is still required. In addition, and as some of these initiatives make clear, when an issue impacts all Indigenous Peoples but the promise or measure taken by government is with respect to First Nations, Métis, or Inuit alone, it means that the issue is being addressed for only a segment of the Indigenous population.

Certain provinces are addressing general funding gaps in service provision to Indigenous Peoples.

- Ontario has released a strategy for implementing the province's commitment to reconciliation as a response to the TRC report. The strategy includes increased funding to address the socio-economic marginalization and discrimination against Indigenous Peoples in the province. It is unique in its approach to service provision as a response to legacies of colonialism and the residential school system.<sup>III</sup>
- In Newfoundland and Labrador, the provincial government established an Annual Leaders Roundtable with Indigenous governments and organizations in order to collectively establish priority policy areas and ensure that provincial programming and services meet the needs of the province's Indigenous population.<sup>JJJ</sup>
- In 2017, the Quebec government launched a public commission of inquiry to examine how Indigenous Peoples have been treated by police and social services (including by government employees, doctors, social workers, correctional officers, and others) in the province.<sup>KKK</sup>

However, more widespread provincial effort is required in this area – especially formal undertakings and legal mechanisms to ensure interjurisdictional coordination in all of these efforts.



## Recognizing the Importance of Self-Determination and Agency

Significantly, Indigenous communities and agencies work hard to fill gaps in government assistance and address unique needs of Indigenous populations in culturally grounded ways. The report “Urban Aboriginal Service Delivery” in Saskatchewan found:

In the context of an increasingly urbanized and mobile population of Aboriginal people in Canada, an “invisible infrastructure” of urban Aboriginal service delivery organizations has emerged to meet identified needs in such sectors as social services, language and culture, economic development, employment, education, and health. Yet Aboriginal people face gaps and lags in service delivery because of a range of systemic and other factors related to the history of colonization and ongoing marginalization.

It noted the failure of municipalities and provinces to create space for urban Indigenous people, therefore forcing them to be “accommodated” in non-Indigenous centres, which lack the policies and programs to meet their social and cultural needs.<sup>LLL</sup>

Indigenous governments also appear to have stepped in to address service gaps. For example, the Mi’kmaq Confederacy of Prince Edward Island provides an Indigenous Justice Program, education assistance, employment services, and family-based programming (including work on child welfare issues). However, again, there appears to be little progress in developing explicit and mandatory mechanisms to ensure these Indigenous governments and agencies are being supported and coordinated with those of Canadian governments.

Ultimately, when it comes to funding for services for Indigenous Peoples, much more coordination is urgently required. This is especially true in cases involving overlapping federal and provincial jurisdiction in which each jurisdiction declares it is a “provider of last resort,” responsible for funding a particular service only if the other jurisdiction is not also potentially responsible.<sup>MMM</sup> As many Indigenous people (especially those belonging to First Nations and Inuit communities) may have multiple service providers, including federal and provincial agencies, their lack of access to services may be the result of service providers’ unwillingness to pay for services rather than any actual lack of those services themselves. Further, agencies’ budgets and service priorities are rarely developed in consultation with Indigenous Peoples or governments, and, as such, tend to be ill-equipped to address Indigenous populations’ needs<sup>NNN</sup> – including protocols or other mechanisms to address interjurisdictional funding disputes.

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## Findings

- The existing areas of jurisdiction, as defined by sections 91 and 92 of the *Constitution Act*, create interjurisdictional disputes that result in inequalities and inequities in the provision of essential services to First Nations, Inuit, and Métis people and communities. These interjurisdictional disputes violate human and Indigenous rights, and contribute directly to systemic violence against Indigenous women, girls, and 2SLGBTQIA people.
- Jurisdictional neglect, coupled with a failure to recognize, protect, and support Indigenous-inherent jurisdictions, results in the denial of essential services, violations of human and Indigenous rights, and systemic violence against Indigenous women, girls, and 2SLGBTQIA people.
- The laws, policies, and practices of the Canadian state fail to adequately recognize, respect, and make space for the inherent right of Indigenous self-governance and self-determination.



- A Canada, Department of Justice Canada, "Principles Respecting the Government of Canada's Relationship."
- B See, for example, Heritage Newfoundland and Labrador, <https://www.heritage.nf.ca/articles/politics/aboriginal-self-government.php>. See also Hogg and Turpel, "Implementing Aboriginal Self-Government."
- C Dunn, "Harper without Jeers."
- D Tomiak, "Indigenous Self-Determination, Neoliberalization," 120.
- E Ibid., 252.
- F Uribe, "A Study on the Relationship," 13.
- G *Constitution Act, 1867*, ss 91–92.
- H See Office of the Auditor General of Canada, "Report 5: Socio-economic Gaps"; Office of the Auditor General of Canada, "Report 6: Employment Training for Indigenous People."
- I Meyer, "Feds ignoring data."
- J Petten, "Framework for cooperation."
- K United Nations, "Protocol to Prevent, Suppress and Punish Trafficking."
- L Native Women's Association of Canada, "Trafficking of Indigenous Women and Girls in Canada," 3.
- M Grant, "Missing and murdered: The trafficked."
- N Canada, Statistics Canada, "Trafficking in Persons in Canada, 2016."
- O Sethi, "Domestic Sex Trafficking of Aboriginal Girls," 209.
- P See Native Women's Association of Canada, "Boyfriend or Not."
- Q Sethi, "Domestic Sex Trafficking of Aboriginal Girls," 210. See also Native Women's Association of Canada, "Trafficking of Indigenous Women and Girls in Canada," 6–9.
- R Inspector Tina Chalk, Mixed Parts 2 & 3, Public Volume 15, St. John's, NL, p. 95.
- S Sethi, "Domestic Sex Trafficking of Aboriginal Girls," 209.
- T Ibid.
- U Assistant Commissioner Joanne Crampton, Mixed Parts 2 & 3, Public Volume 15, St. John's, NL, pp. 78–79.
- V Sethi, "Domestic Sex Trafficking of Aboriginal Girls," 208.
- W Native Women's Association of Canada, "Trafficking of Indigenous Women and Girls in Canada," 4.
- X Including the RCAP, *Invisible Women*, and TRC reports.
- Y British Columbia, "Aboriginal Education Enhancement Agreements"; Kitchenham et al., "Aboriginal Education Enhancement Agreements."
- Z McKenna, "Addressing Aboriginal education gap."
- AA Pauls, "New Indigenous school board."
- BB Manitoba Education, <https://digitalcollection.gov.mb.ca/awweb/pdfopener?smd=1&did=25297&md=1>.
- CC "Memorandum of Understanding on Education Partnership," <https://cyfn.ca/wp-content/uploads/2013/09/MOU-official-copy.pdf>.
- DD Yukon First Nation, *Joint Education Action Plan 2014–2024*.
- EE Assembly of First Nations, "Submission of the Assembly of First Nations," 14.
- FF Ontario First Nations, "Special Education Review Report."
- GG Canadian Press, "Six cities chosen as test sites."
- HH Standing Senate Committee on Aboriginal Peoples, "On-Reserve Housing and Infrastructure."
- II Curtis, "Repairing, rebuilding of First Nations housing."
- JJ Canada, Crown-Indigenous Relations and Northern Affairs Canada, "On-reserve Housing Reform."
- KK Borden Colley, "New housing to help"; CBC News, "PEI taking different approach."
- LL First Nations Housing Memorandum of Understanding, [http://www.housing.gov.bc.ca/pub/housingpdf/Tripartite\\_FN-Housing\\_MOU.pdf](http://www.housing.gov.bc.ca/pub/housingpdf/Tripartite_FN-Housing_MOU.pdf).
- MM Yukon, "Alternative Emergency Shelter Slated."
- NN Including the reports of the Royal Commission on Aboriginal People and the Truth and Reconciliation Commission of Canada.
- OO First Nations Child and Family Caring Society of Canada, "Jordan's Principle," 1.
- PP First Nations Child and Family Caring Society of Canada, "Canadian Human Rights Tribunal Decisions," 2.
- QQ Galloway, "Ottawa still failing to provide."
- RR Kirkup, "Trudeau announces new funding."
- SS O'Neil, "Auditor General criticizes B.C."; Barrera, "Spouse of senior official."
- TT Alberta Mental Health Board, "Aboriginal Mental Health."
- UU Mi'kmaq, Nova Scotia, Canada Tripartite Forum, "Exploring Health Priorities"; Nova Scotia, "Preventing Poverty, Promoting Prosperity."
- VV United Nations, "Human Rights to Water and Sanitation."
- WW Human Rights Watch, "Make It Safe."
- XX Ibid.
- YY Ibid.
- ZZ Including the Inter-American Commission on Human Rights, *Indigenous Women and Their Human Rights in the Americas*, Report of the Special Committee on Violence Against Indigenous Women, *Invisible Women – A Call to Action*, and Committee on the Elimination of Discrimination Against Women, *Report of the Inquiry... 2015*.
- AAA Aboriginal Peoples Television Network, "AANDC Cuts to First Nation Organizations"; Barrera, "Aboriginal organizations hit."
- BBB Smith, "Lifting First Nations funding cap."
- CCC McSheffrey, "Here's what Budget 2017 means."



DDD	Barrera, "Budget boosts funding."	KKK	Québec, <i>Commission d'enquête du Québec (Viens)</i> ; CBC News Montreal, "Québec's Indigenous inquiry to explore"; Peritz, "Québec launches public inquiry."
EEE	Spurr and Smith, "Budget commits nearly 8.4 billion."	LLL	Findlay et al., "The Urban Aboriginal Service Delivery Landscape."
FFF	Canada, "Inuit Nunangat Declaration on Inuit-Crown Partnership."	MMM	Dion, "Falling through the Cracks," 12.
GGG	Spurr and Smith, "Budget commits nearly 8.4 billion."	NNN	Ibid.
HHH	See Gaspard, "A way forward."		
III	Ontario, <i>The Journey Together</i> .		
JJJ	Newfoundland and Labrador, <i>The Way Forward</i> .		



## Pathway to Violence: Lack of Will and Insufficient Institutional Responses

For many who live in poverty or on the streets, the lack of shelter, food, or other supports is seen as a direct result of a lack of political will or institutional response. Many of those who testified in relation to their loved ones discussed how that person sought, but was denied, help, or how the general lack of will or support for life-saving organizations and institutions has an important impact on achieving security. Here, we focus on stories families shared about the relationships they formed and the encounters they had with institutions, organizations, agencies, or other systems in their pursuit of safety.

In many cases, the security of Indigenous women, girls, and 2SLGBTQQIA people was directly compromised by deficits in the following areas: accessibility; funding; cultural training and culturally relevant services, particularly related to trauma; policies and procedures in legislation; and lack of moral and political will to change. Ultimately, institutional response – or lack thereof – and lack of political will for changes to relevant legislation and policies related to anti-violence have a direct bearing on the rights to safety and security of Indigenous women and girls. These inadequate responses become another weapon through which what Josie Nepinak described as “the war on Indigenous women” continues to be fought.<sup>119</sup> In many cases, the institutions that women, girls, and 2SLGBTQQIA people turn to at some of the most vulnerable times in their lives often act in ways that affirm the belief that the safety of Indigenous women is not important.

### Barriers to Accessibility

The testimony presented at the National Inquiry confirmed what is already well known by Indigenous advocates, families, and survivors: services that exist to promote and ensure security for Indigenous women, girls, and 2SLGBTQQIA people who have experienced violence or who experience economic, social, or political marginalization are significantly lacking. In particular, there are barriers to accessing anti-violence support and other related services, including housing and shelters, education and training, and employment supports for Indigenous Peoples and in Indigenous communities.

In its current budget, the Canadian government increased its funding to services with a mandate to provide assistance to women facing violence.<sup>120</sup> Additional funding is earmarked for services specifically for Indigenous women and girls.<sup>121</sup> As a result of this limited budget, anti-violence supports and services, such as shelters, transition shelters, outreach workers, and sexual assault crisis centres, are significantly limited, especially when it comes to Indigenous-specific anti-violence services. For example, according to the most recent Statistics Canada Transition House Survey, there were 627 shelters for abused women operating across Canada on a snapshot on April 16, 2014. On that day, 338 women and 201 accompanying children were turned away from shelters. In 56% of these cases, the reason for being turned away was a lack of space, though other reasons included drug and addiction issues, and mental health issues.<sup>122</sup> First Nations, Métis, and



Inuit women leaving violence face a significant disadvantage in access to Indigenous-specific transition houses and shelters. According to the National Aboriginal Circle Against Family Violence, the federal government provides funding for only 41 shelters to serve the 634 recognized First Nations communities in Canada, and, as of January 2018, only 38 shelters were operational.<sup>123</sup>

Inuit women fleeing violence often face an even greater challenge in accessing services. According to a 2018 study by Amnesty International, there are roughly 15 shelters and transition houses serving 53 Inuit communities across the Arctic. Some of these shelters are extremely small, and most communities are accessible only by air.<sup>124</sup> Many Inuit women may be long distances away from the nearest shelter, and even if they are able to make the often cost-prohibitive flight to a shelter, there may not be room for them to stay. The federal government doesn't provide funding to shelters in Inuit communities.<sup>125</sup>

For those who do relocate to new centres, the challenges there can also be daunting. As Susan Aglugark explained about her own experience in relocating to Ottawa in 1990:

The first challenge for me was the city buses, which is like, oh, they are just city buses. They are just bus drivers. But, they are qallunaat bus drivers and they are all qallunaat on that bus, and I am just a little Arviatmiut. Maybe they are going to figure it out that I am this little Arviatmiut Eskimo who is trying to get from point A to point B, and maybe they have a right to say, "No, you can't get on this bus." I harboured that kind of fear and lived with that kind of fear. And, fear is not the right word. The word in this context is *ilira*. In our dialect, *ilira* is the root word for *ilirasuk*.... I was in a constant state of emotional fear. They had power over me. I needed their permission to get on the bus to get to my job. Every morning – so some mornings, it was too much and I would walk the five miles rather than confront this bus – thinking I had to confront the poor guy. He had no idea, but I did. I had the fear in here. So, that was the first thing I had to tell myself, "Don't be silly. It's okay. You just – this is just a bus getting you from point A to point B."<sup>126</sup>

In other cases, witnesses testified about how there weren't enough services, or they didn't know how to navigate them, which forced some people to stay in unsafe situations. Josie Nepinak explained that in 2015–16, 16,359 women were turned away from shelters in Alberta and, of these, 65% identified as Indigenous women.<sup>127</sup> Sandra Montour, the executive director of Ganohkwasra Family Assault Support Services in Ontario, likewise talked about how a lack of services for Indigenous women and children experiencing violence means that they are often turned away or forced to wait sometimes for months in order to get services.

Our women's community counselling program has 20 to 30 women waiting every single month. Our men's counselling program, Saho'nikonrí:ione, "his mind has been healed," that has a waiting list usually about anywhere from 15 to 20. Our children's program, Gaodwiyá:noh, they have a waiting list usually in the 20s and 30s. We cannot keep up. And this has been like this for years. I lay awake at night and I worry about losing our people to death as they're waiting on our waiting list.<sup>128</sup>



As the testimonies from families suggest, Sandra's concerns about "losing our people to death as they're waiting" for support in their most vulnerable moments are understandable. In their testimony, family members often pointed to significant encounters when their now missing or murdered loved one had reached out for support but had been turned away. For example, Barbara H. described how she tried to get help for her daughter Cherisse H., who was murdered in 2009.

She was on the street and she was addicted to drugs. And, there was one time there when she said to me, "Mommy, I need help." This was after she had her son. She was still doing drugs, and then she finally realized that she wanted to get the help she needs so she could be a good mom. So, she said to me that she needed help, if I could phone her CFS [Child and Family Services] worker so they could place her in a locked facility so she doesn't have to run to the streets to do drugs. I guess she used drugs, too, to cope because they took her son right at birth.

So, I phoned her worker, and her worker said to call back. So, I called back and she said there's no facilities that could take Cherisse, and I guess that she – I guess she felt let down or – you know? So, she went back to the street, and a week after that, that's when – couple weeks after that, that's when they found her body.

In describing the circumstances leading up to the murder of her sister, Patricia, Charlotte M. talked about how, if there had been services available, her sister might still be alive.

So our families resided in Kitchenuhmaykoosib, which is a reserve north of here, about 500 kilometres. And it's a fly-in community only, so it's very isolated. So back during the time before my sister Patricia was murdered, there really wasn't much in place on the reserve, as far as supports. For example, there was no family drop-in places where she could take her kids. At the time, there was no sexual assault workers. They had no advocates to go with them during meetings with Child and Family Services, which in our area is Tikinagan. And – and so I've always believed that if we had more services, like those in place, that the circumstances leading to my sister's death, her murder, may not have happened.<sup>130</sup>

Likewise, Chief Vivian T. spoke about the missed opportunity that existed to protect Destiny when she, too, reached out for support.

At that time I don't think our band had a drug and alcohol counsellor. And she wanted to go to a treatment centre but she kept on asking or phoning and tried to get help to go into a program where she would quit drinking. And they kept on stalling or they just didn't bother returning her calls. And she finally got upset and she just started drinking again.<sup>131</sup>

Destiny T. was brutally beaten to death by her boyfriend in 2013.



## Lack of Culturally Appropriate Services

While a complete lack of accessibility is one issue, Indigenous women, girls, and 2SLGBTQQIA people often face additional challenges in accessing services related to housing, anti-violence support, or other types of social services that fail to reflect their unique needs as Indigenous people.

In her testimony, Halie B. spoke about the need for culturally relevant services for Indigenous women impacted by violence, poverty, addictions, and other issues.

There are too few culturally relevant services and places for our women, and for our youth. And, they need to be culturally specific. I'm a [speaking in Kwak'wala] woman. I'm Kwa'kwa'kawakw. That's my culture, that's my tradition. It was my Kwa'kwa'kawakw granny who saved me. And, it was my Kwa'kwa'kawakw laws that inoculated me and helped me through that system. And so, it has to be culturally specific.<sup>132</sup>

For many Indigenous women seeking support after exposure to violence, access to anti-violence support services, such as a shelter, transition house, sexual assault crisis centre, or other type of support, is often an important first step. These services are often deeply underfunded, and they are often not necessarily designed or equipped to meet the unique needs of Indigenous women. For example, the National Inquiry heard about a common policy held by many shelters that they are unable to accept clients in an active addiction to drugs and alcohol. For many Indigenous women who use drugs and alcohol to cope with extreme violence and trauma, this policy creates an additional barrier to getting support, often at some of their most vulnerable moments – a barrier that may send women back out onto the street.

Of the Indigenous women who do use non-Indigenous-led shelters, transition houses, or other domestic violence services, many are often placed in, or participate in, programming that does not respond to their own modes of healing through cultural and spiritual practices.

“SHE WAS ON THE STREET AND SHE WAS ADDICTED TO DRUGS. AND, THERE WAS ONE TIME THERE WHEN SHE SAID TO ME, ‘MOMMY, I NEED HELP.’ THIS WAS AFTER SHE HAD HER SON. SHE WAS STILL DOING DRUGS, AND THEN SHE FINALLY REALIZED THAT SHE WANTED TO GET THE HELP SHE NEEDS SO SHE COULD BE A GOOD MOM. SO, SHE SAID TO ME THAT SHE NEEDED HELP, IF I COULD PHONE HER CFS WORKER SO THEY COULD PLACE HER IN A LOCKED FACILITY SO SHE DOESN'T HAVE TO RUN TO THE STREETS TO DO DRUGS. I GUESS SHE USED DRUGS, TOO, TO COPE BECAUSE THEY TOOK HER SON RIGHT AT BIRTH. SO, I PHONED HER WORKER, AND HER WORKER SAID TO CALL BACK. SO, I CALLED BACK AND SHE SAID THERE'S NO FACILITIES THAT COULD TAKE CHERISSE, AND I GUESS THAT SHE — I GUESS SHE FELT LET DOWN OR — YOU KNOW? SO, SHE WENT BACK TO THE STREET, AND A WEEK AFTER THAT, THAT'S WHEN — COUPLE WEEKS AFTER THAT, THAT'S WHEN THEY FOUND HER BODY.”

Barbara H.



For Josie Nepinak, the Awo Taan Healing Lodge – an Indigenous-led and -run shelter for Indigenous women and children leaving violence – provides an important counter-example: when Indigenous women attend the Awo Taan Healing Lodge, “your first entrants into the facility are Indigenous women helping Indigenous women. And so that – that’s part of the healing.”<sup>133</sup>

Nakuset, a Cree woman from Lac la Ronge, Saskatchewan, and executive director of the Montreal Native Women’s Shelter, drew on her experience working with Indigenous women seeking housing to explain the importance of culturally relevant housing options:

The thing is, if you shove someone into a tiny little apartment and be, like, there you go, now you’re housed, they’re not going to stay because there’s no support from them, so basically it’s almost like a little jail. So we noticed that people will still leave their housing ... to go back and have a community and spend time out there, and whatever underlying issue they have that’s not resolved, whether it be drugs or alcohol or whatever, they’re going to end up losing their housing again.<sup>134</sup>

Cee-Jai’s description of how she felt upon receiving housing in a rooming house illustrates Nakuset’s observation.

It was hard because it was so different from sleeping outside, and being on the street. I think the first few days we were, like, “Grab our pillows and our blankets they just gave us from donation and let’s go sleep outside.” So we’d find our shopping cart and we would push it and go sleep under the – what do you call those? Overpasses.

It’s funny, this one – one morning, too, I think it was like, second or third day and we kept doing that because we had a hard time sleeping in those rooms. It was like haunted. Those hotel rooms are haunted. Anyways, we were sleeping outside and our king-sized bed was the pavement.<sup>135</sup>

## **Lack of Financial Support for Anti-Violence Services**

While the institutional barriers that exist are sometimes rooted in the agencies and programs themselves, in many cases, the barriers are created and sustained by underlying systemic and structural issues that make it difficult for these agencies and programs to provide services in the ways that they know would best fit the needs of those who use them. In the context of anti-violence services – and, specifically, Indigenous-led anti-violence services – limited access to funding from government and other sources, particularly stable, multi-year funding and not project-based funding, must be recognized as being at the root of the inaccessibility Indigenous women face in seeking safety.

As Sandra Montour makes clear, there is a direct link between the complexities and unwillingness of government funders and others to hand over the purse strings and violence in the lives of Indigenous women and girls: “If we were all able to have equitable funding, we could save lives, I guarantee it. That’s a no brainer, we would save lives.”<sup>136</sup>



The lack of core funding – as well as the many stipulations and limitations attached to this funding – creates significant barriers and difficulties for the provision of services and, ultimately, the protection of safety of Indigenous women, girls, and 2SLGBTQQIA people. In her testimony, Nakuset talked about the additional burden placed on staff and directors who, while already performing difficult work, are forced to spend a significant amount of their time raising funds to ensure they are able to keep their doors open. In her testimony, Nakuset spoke about how, once again, this limitation impacts Indigenous women in distinct ways. Because Indigenous women may come to the shelter with a complex history of trauma, the types of supports, such as specialized trauma counselling, long-term one-on-one support, or culturally specific services, that are best suited to address these needs and challenges are often those that require the most time and attention from staff. Agencies such as the Montreal Native Women’s Shelter and Awo Taan Healing Lodge do not receive funding in order to keep important professionals like nurse practitioners and trauma counsellors and are forced to fundraise on their own; again, an activity that takes significant additional time and effort.<sup>137</sup>

Limited or inadequate funding also holds significant challenges for staff who are often paid very low salaries for frequently very difficult and dangerous work that comes with working at a shelter or transition house. Associated with low pay is retention of staff: a revolving door of staff people can often mean that clients who are more likely to need long-term services do not have the benefit that comes with long-term, consistent care and support.<sup>138</sup>

Nakuset spoke specifically about the distinct barriers that come with seeking support for Indigenous women’s organizations.

So what I have to do or I choose to do is go to different agencies and different schools and do workshops on Indigenous realities. And only then do they sort of get the light bulb. And then they are more empathetic. And then they say, “Hey, I know someone who might be able to help out. I know someone who may have some money.” And that’s where – you know, those are the kind of things you have to do. You have to keep advocating on behalf of the women and spreading the word that, you know, we are incredibly resilient, but we still need to get from A to B. And there’s nothing right now in the city that’s appropriate.<sup>139</sup>

“AS YOU HEARD MY DAUGHTER SPEAKING ABOUT HER ADDICTION, UP IN THE NORTH THERE’S EXTREME RATES OF POVERTY AND THERE IS A SERIOUS NEED FOR HEALTH, HEALING, AND WELLNESS CENTRES EVERYWHERE, NOT JUST IN THE NORTH BUT ACROSS CANADA. AND THE ONE THING THAT BOTHERS ME THE MOST ABOUT THE NEED FOR ALL THESE THINGS IS THAT WHEN THE GOVERNMENT DECIDES THAT THEY’RE GOING TO GIVE IT TO US THEN THEY GIVE IT TO US FOR TWO YEARS. WHAT HAPPENS AFTER THAT TWO YEARS? THAT’S THE SAME WITH THE SHUTTLEBUS SERVICE. WHAT HAPPENS AFTER THAT TWO YEARS? THE GOVERNMENT PULLS THEIR FUNDING AND THEN WE’RE DONE. THEN WE HAVE TO START FROM ROCK BOTTOM AGAIN AND START ALL OVER AGAIN.”

Gladys R.



For Nakuset, this work often involves balancing stereotypes about Indigenous women while getting support for what is needed. She provided the following example of such an encounter between her and municipal representatives when she was trying to get funding to support an event for Aboriginal Day.

And the City of Montreal said, “Do you really think that’s appropriate? Like, why don’t you help your people?” And me, I am, like, super dynamic, “Oh, my God. This is incredible.” I’m talking, like, you know, like I’m a talk show host or something because I know that if I answer the question in a way that’s going to straighten them out, I may not get that funding. So I have to find a way to present it in a positive way to – almost extinguish their negativity and their discrimination. She was, like, “Well, you know, Aboriginal Day, it’s not just for Aboriginals.” Like, “Oh, really?”<sup>140</sup>

Nakuset described how these issues are further complicated by the way the expertise Indigenous women and 2SLGBTQIA people hold is ignored.

And then there’s many times where they will go, let’s say the government will go elsewhere to find the expertise, and it’s almost like duplicating the work. And that’s a little bit insulting. And we have to, sort of, explain to them, “Oh, by the way, we’ve been doing this for ten years. So why don’t you just come to us?” So this is super important that they acknowledge the work ... that we are doing.<sup>141</sup>

As part of her truth, Gladys R. spoke passionately about the way in which government funding structures that provide short-term, time-limited funding demonstrate a fundamental lack of understanding and respect for the unique safety needs of Indigenous women and those who provide services for them.

As you heard my daughter speaking about her addiction, up in the North there’s extreme rates of poverty and there is a serious need for health, healing, and wellness centres everywhere, not just in the North but across Canada. And the one thing that bothers me the most about the need for all these things is that when the government decides that they’re going to give it to us, then they give it to us for two years. What happens after that two years? That’s the same with the shuttlebus service. What happens after that two years? The government pulls their funding and then we’re done. Then we have to start from rock bottom again and start all over again. When we put in these health, healing, and wellness programs, they need to be permanent processes to protect women and children.... So the health, healing and – when you – when the government offers funding, I don’t care if it’s two years, they can do it for life because these cycles are ongoing. These cycles are ongoing. They’re going to be – we need a permanent fix for this, not part-time. Band-aid fixes haven’t worked thus far so we need it. We need it permanent.<sup>142</sup>



This concern about short-term funding was echoed by many other service providers who work in the anti-violence sector as a significant barrier to creating services that can meaningfully restore safety and security. Moreover, the complicated and bureaucratic reporting mechanisms that accompany such funding create the sense that Indigenous women and organizations need to report back and justify their efforts to create safety. Hearing about the creativity and resilience with which women like Nakuset, Nepinak, Gladys, and many others manage to succeed, despite the institutional and government constraints placed on their services, makes it clear that with the proper funding, these women could create safety and end violence.

### **Insufficient Policies, Legislation, and Procedures**

In their stories about the lack of safety and security in the lives of Indigenous women, girls, and 2SLGBTQIA people, and the way this lack of safety and security is enforced through institutional and structural practices, witnesses pointed to a number of larger policy, legislative, and organizational practices that continue to impede access to safety at the structural level.

In her testimony, Josie Nepinak provided an important discussion of the way the very notions of “safety” and “danger” are conceptualized differently within Indigenous and non-Indigenous contexts. This holds repercussions for access to funding for services, police response, and safety measures such as emergency protection orders. Josie Nepinak and her staff compared the measurements on an assessment tool of perceived danger widely used by anti-violence services in Canada among Indigenous women, immigrant women, and settled Canadians who use their services. They found that, when comparing the level of perceived danger in the same situation, Indigenous women did not perceive themselves to be in as much danger as did immigrant or settled Canadian women.

As Nepinak explained, this result suggests that the assessment tool does not “speak to the lived experiences of Indigenous women. It does not take colonization, the paternalistic policy, the oppression, residential school experiences, the ... child welfare experiences.” As such, “the danger assessments are not adequate to the experiences and lives of Indigenous women ... because until we can recognize that violence against Indigenous women is manifested through colonization, then we’re not going to get an accurate picture of what violence is for Indigenous women.” Nepinak believes that, when the experiences and levels of danger Indigenous women face are not being measured in a way that attends to their distinct history and culture, and instead are understood through colonial tools and frameworks, Indigenous women, girls, and 2SLGBTQIA people risk being put in even greater danger because they are denied the necessary intervention or support.<sup>143</sup>

The ongoing lack of institutional will to enhance protections to Indigenous women is another manifestation of colonialism’s tactics of ignoring, normalizing, and erasing violence. In her testimony, Sandra Montour provided a concrete example of this when she talked about the requirement of incorporation in order to get access to funding equal to that given to non-Indigenous shelters and transition houses.

For a long time, I was busy educating the funders. They would say, “Sandy, how come you didn’t apply for this funding?” And I’d say, “Because your – your very first line



says, ‘Must Be Incorporated.’” And I would say, “You know what? Ganohkwasra is a 30-year organization that never once – never once have we ended a year in the red. Never once. We’re reputable and – and we will do what we say we can do, and then some. But your – your line item that states you must – ‘Thou Must be Incorporated,’ it eliminates First Nations shelters right away.” So that was one of the things that I’ve had to – I tried my best to educate funders about. And – and that’s changing slowly.<sup>144</sup>

For some organizations, the approach to service delivery they offer can be circumscribed or dictated by the terms of the funding agreements or organizational policies that govern their work. For example, women working in the sex trade may be limited in receiving services by an organizational requirement that they be in the process of exiting the sex trade in order to receive these services.<sup>145</sup> More generally, organizations may be required to work within colonial or dominant models that favour an abolitionist rather than harm-reduction approach to addictions, sex work, or other strategies that Indigenous women, girls, and 2SLGBTQQIA people use to cope with experiences of violence and to meet their basic needs.

Sometimes, the organizational policies or mandates that govern organizations mean that Indigenous women, girls, and 2SLGBTQQIA people have to “prove” their worthiness as a receiver of those services. In describing her efforts to secure housing, Cee-Jai provided an example of how it was only after Cee-Jai and her partner were able to demonstrate to an authority figure that they were ready “to change” that they received access to housing.

I remember getting an SRO [single room occupancy] because I was homeless on the street, crawled out of that back alley, you know. This minister guy, or chaplain, or, like, church person, or whatever they call them, anyone that’s Christian, forgive me. But you know what I mean, right? But he actually believed us that we wanted to stay sober, so he got in a – us a single room occupancy in the Downtown Eastside. But in that rooming house, there was Christians, and they were all clean and sober. He got us that room and we were warm and started cleaning up.<sup>146</sup>

Poor institutional response to the very real needs of Indigenous women, girls, and 2SLGBTQQIA people experiencing violence, as well as a lack of will to initiate changes that address the root causes of violence in the first place, demonstrate yet another way in which violations to the security of Indigenous women, girls, and 2SLGBTQQIA people are ignored and exacerbated through the structures and systems within which they live. As Nakuset emphasized, turning away Indigenous women, girls, and 2SLGBTQQIA people in those crucial moments in which they may be seeking safety is to, in effect, participate in the normalization of violence and reinforce a message many have learned from early childhood that their safety does not matter.

Because they’re turned away, they expect that this is the norm, and we have to show them that it’s not, and we have to help them by being there and advocating on their behalf so that they can see, hey, this is the way I’m supposed to be treated, this is not the norm anymore.<sup>147</sup>



## DEEPER DIVE

# Resource Extraction Projects and Violence against Indigenous Women

The National Inquiry heard testimony and examined evidence that suggested that resource extraction projects can exacerbate the problem of violence against Indigenous women and girls. Expert Witnesses, institutional witnesses, and Knowledge Keepers told the National Inquiry that resource extraction projects can drive violence against Indigenous women in several ways, including issues related to transient workers, harassment and assault in the workplace, rotational shift work, substance abuse and addictions, and economic insecurity. They argued that resource extraction projects can lead to increased violence against Indigenous women at the hands of non-Indigenous men, as well as increased violence within Indigenous communities. Reports submitted by witnesses substantiate their claims, as does a considerable body of literature identified by the National Inquiry. They all point to the same conclusion: federal, provincial, territorial, and Indigenous governments, as well as mining and oil and gas companies, should do a more thorough job of considering the safety of Indigenous women and children when making decisions about resource extraction on or near Indigenous territories.

Canada has always depended on extraction, in different ways. From the creation of the geological survey – the second in the world – only six years after Great Britain's, in 1841, to the export of natural resources, to the more recent development of bigger and more expansive mines and pipeline projects, the notion of drawing resources from the earth, for profit, has animated many of the most visible recent conflicts between governments and some Indigenous groups. As Alain Denault and William Sacher, authors of *Imperial Canada Inc.*, document, three-quarters of the world's mining companies are headquartered in Canada today. Of these, 60% are listed on Canada's Toronto Stock Exchange (TSX), which boasts about its brokerage of over half of the world's investment in the mining industry on their books.<sup>A</sup>

While extractive industries and mining, in particular, often cite their economic contribution to communities, both Indigenous and non-Indigenous, as the National Inquiry heard, the impact of these activities is often negative, as well. In particular, the increasing rates of violence that ensue within the context of transient and temporary workforces are an issue that witnesses talked about as engaging many of the pathways to maintaining colonial violence documented so far in this *Final Report*. In this Deeper Dive, we look specifically at the issue of transient workers, as well as how some members of the industry have denied any problem exists, resulting in a continuing erasure of issues that may mean the difference, literally, between life and death.

## Transient Workers and Violence

Witnesses spoke to the National Inquiry about the large number of transient workers associated with the resource extraction sector. Connie Greyeyes, a member of the Bigstone Cree Nation and resident of northern British Columbia, told the National Inquiry that large numbers of transient workers can put Indigenous women at risk of being targeted for violence.

So, what you have is these young workers and people that come to Fort St. John to work, and they are working upwards of a month, six weeks, seven weeks straight, 12- to 14-hour days, and then they will have a lull, where they have got a couple of days off usually, before they go onto the next project or whatever. And then they come in to Fort St. John.

Fort St. John actually, I think it – I don't know how many nightclubs it has now. It used to have a lot, but it has – and it has a lot of, like – like, there's more strip clubs than there actually is, like, a bar



to go to. And so, often those are – when they come into town to “blow off steam,” you know, they have tons of money because they have been working in the bush for this many days, and then they come in and they get to let loose, you know? It’s a high-pressure job that they are doing.

I often – I cannot imagine being under that circumstance anymore. I actually did used to work in the industry, I was a medic on drilling and service rigs, and I remember those days. And I remember going into town and blowing off steam with the guys. And, you know, it was often [fraught] with a lot of drugs and alcohol and, you know, picking up women in [the] community. And, you know, being a front-line, kind of, grassroots person, I have often talked to women who have experienced violence the previous night from somebody that they met that is just in town working. And, more often than not, it has often – almost always been, “I didn’t know them, but they were here working for so-and-so.”

You know, that is how it is in Fort St. John. I mean, like, when you go in – I have lived there my entire life. I know a lot of people there. And I don’t go out very often. You know, like, once in a blue moon, I will go out with my friends and we will go dancing, and the amount of workers is incredible that are not from Fort St. John.

You know, even sitting at the Fort St. John Airport with the shuttle that comes in to bring industry workers to and from the dam or wherever, I mean, like, it is there every flight, bringing people into Fort St. John. And, when you have that dynamic of all of that money, all of that pressure working, and then they get to blow off some steam and come into Fort St. John and party? It is a bad mixture for the women and girls of the communities.<sup>B</sup>

Jacqueline Hansen from Amnesty International provided the National Inquiry with a report she and Greyeyes helped produce. The report, titled *Out of Sight, Out of Mind*, also argued that the transient workforce associated with resource extraction constitutes a threat to the safety of Indigenous women and girls.

Negative behaviors associated with “blowing off steam” may be compounded by the fact that many of the transient workers do not have families or other ties in northeast BC. “There’s no attachment to the community and there’s no attachment to the women,” Amnesty International was told. Community activist Connie Greyeyes believes that the large numbers of short-term and temporary workers in Fort St. John have made the community more unsafe for women. She told Amnesty International, “It’s very easy to be an unknown in this town. You can commit a crime and no one knows who you are.”<sup>C</sup>

T. J. Lightfoot, a Two-Spirit Mi’kmaq person originally from Elsipogtog First Nation, also told the National Inquiry that the work camps associated with industrial resource extraction can pose a risk of violence for Indigenous women and children.

There are two types of man camps. There are man camps that are set up by resource extractive industries. So, the company pays to have, say, like, a number of portable housing put onto a plot of land, or there are informal man camps which are – private individuals will go ahead and set up a number of, like, mobile homes and put it on their property knowing that the workers are working within the resource extraction industry, so as seen in Alberta, and BC and other areas. So, what happens is there is an influx of workers that are coming from an understanding that sometimes, and not all times, but sometimes these people are coming from impoverished communities themselves. They are often cis, heterosexual males that are Canadian. And I use that, meaning that they are not Indigenous.

So, the influx of workers in these areas, what we have seen is that they have led to increased rates of sexual violence and physical violence, the abduction of Indigenous women and children.<sup>D</sup>

Lightfoot provided the National Inquiry with a report by the Women’s Earth Alliance and the Native Youth Sexual Health Network that documented how extractive industries can affect the health and safety of Indigenous women and children. It discusses several examples of physical and sexual assaults



against Indigenous women and girls by transient workers in extractive industries. The report included the following statement from Melina Laboucan-Massimo, a woman from the Lubicon Cree First Nation.

The industrial system of resource extraction in Canada is predicated on systems of power and domination. This system is based on the raping and pillaging of Mother Earth as well as violence against women. The two are inextricably linked. With the expansion of extractive industries, not only do we see desecration of the land, we see an increase in violence against women. Rampant sexual violence against women and a variety of social ills result from the influx of transient workers in and around workers' camps.<sup>E</sup>

Other reports corroborate these findings. A regional cumulative-effects assessment of hydroelectric development in Manitoba revealed that the arrival of a large transient workforce in northern Manitoba resulted in Indigenous women's and children's being targeted for racial and sexual violence.

The arrival of a largely male construction workforce led to the sexual abuse of Indigenous women: people spoke of construction workers getting them inebriated and then taking advantage of them. People spoke of witnessing rape and being unable to interfere. Some spoke of instances of institutions intended to protect people, particularly the Royal Canadian Mounted Police, brutalizing men, permitting the exploitation of women, and failing to take local complaints seriously, although there were also instances of these complaints being addressed. Indigenous children felt themselves to be the target of racial violence and discrimination.<sup>F</sup>

A report by Northern Health and the Provincial Health Services Authority of British Columbia discussed the relationship between crime rates and resource extraction, including the physical and sexual assault of Indigenous women by transient workers.

Adverse impacts to community safety and crime levels as a result of resource development activities have been well-documented in Canada and throughout the world. Increased crime

levels, including drug- and alcohol-related offenses, sexual offenses, and domestic and 'gang' violence, have been linked to "boomtown" and other resource development contexts. Unlike population growth in other rural contexts, resource development activities often bring an in-migration of young men with high salaries and little stake in host communities. The influx of money and workforces into communities can influence gang and sex trade activities, and can increase access to illegal substances within communities. Increasing crime levels can also be fueled by the increased consumption of alcohol and drugs, the social isolation of camp environments, "hyper-masculine" camp cultures, and the disconnection of workers from local communities.<sup>G</sup>

James Anaya, former United Nations Special Rapporteur on the Rights of Indigenous Peoples, explained that his research as special rapporteur revealed a connection between the influx of transient workers and violence against Indigenous women.

Over the last several years I have carried out a study and reported on extractive industries affecting indigenous peoples. It has become evident through information received within the context of the study that extractive industries many times have different and often disproportionately adverse effects on indigenous peoples, and particularly on the health conditions of women. For example, I have learned that in many cases indigenous women living in communities near oil, gas and mining operations are vulnerable to sexually transmitted diseases, including HIV/AIDS, which are often introduced with a rapid increase of extractive workers in indigenous areas. In addition, indigenous women have reported that the influx of workers into indigenous communities as a result of extractive projects also led to increased incidents of sexual harassment and violence, including rape and assault. In one case in which I intervened indigenous girls walking to school were sexually assaulted by workers operating under a concession granted by the government for the extraction of forest resources in the indigenous peoples' traditional territory.<sup>H</sup>



## Harassment and Assault in the Workplace

T.J. Lightfoot told the National Inquiry that Indigenous women who work at mines or other extractive projects are frequently exposed to sexual harassment and abuse, as well as racism.

For women who choose to participate – and I say “choose” under the understanding that often these choices are put on our communities, that we don’t often have a say, and sometimes the reality is that it’s the only economic driver in our communities. So, for the women that loosely choose to participate in these ways that they face racism and sexual harassment and exploitation.<sup>1</sup>

Lightfoot provided the National Inquiry with a report published by Pauktuutit Inuit Women of Canada, which found that sexual harassment was a significant problem at a mine in Nunavut. The report showed that sexual harassment and assault was an important reason why some Inuit women had quit their jobs at the mine.<sup>1</sup>

Amnesty International's report *Out of Sight* explained how employment in resource extraction can expose Indigenous women to harassment and abuse.

A highly stressful environment, physical isolation, and the drug and alcohol abuse at some camps all create an environment that can be unsafe for women. This is combined with the fact that police could be several hours drive away. One woman who works in labour camps told Amnesty International that the majority of men she has worked with are good people, “but the ones who aren’t, well, those tendencies get amplified.”

Connie Greyeyes described the daily harassment experienced on some worksites. “The kind of stuff we have to put up with as women, it would never be tolerated in an office,” she said. “That’s the oil patch.” Another woman told Amnesty International that, “It’s a boys club, so if something happens you don’t say anything.” Another told how supervisors often expected that female employees would be sexually available to them. A former industry worker

told Amnesty International that “there was expectations welders had, if they had a female helper, of what those helpers were expected to do on the side.”

These problems may be particularly severe for Indigenous women. Retired Aboriginal support worker David Rattray said, “Racism in the oil patch is sometimes obvious, but most of the time it is very subtle. Probably because of this, and other factors, there’s an assumption that if you’re an Aboriginal woman you’re an easy lay. Some oil patch men prey on Aboriginal women, and I suspect this racial attitude plays an important part.”

Women spoke of how not only the job sites and labour camps, but also travel to and from work sites and camps, can be dangerous for female employees. Sometimes, particularly in winter, people cannot make the long commute on snow-covered or icy roads back home to Fort St. John and have to find a place to sleep. “And sometimes bad things happen when you crash,” one woman said, referring to sexual assaults that sometimes happen when female and male employees share insecure and informal accommodation.<sup>k</sup>

The report by Northern Health and the Provincial Health Services Authority of British Columbia also found that resource development is also often associated with sexual harassment at the job site.<sup>l</sup>

## Rotational Shift Work

The National Inquiry was provided with evidence that the rotational shift work associated with resource extraction can put a strain on family relationships and contribute toward domestic violence. Research by Pauktuutit Inuit Women of Canada documented a connection among rotational shift work, family breakdown, and domestic violence in Nunavut.

Employment at the Meadowbank mine is scheduled on a two-week rotation; local Inuit employees spend two weeks at the mine site and two weeks at home in Qamani’tuaq. This new arrangement of spending two weeks away from one’s partner and family creates tension in the household as jealousies arise, partners



return home exhausted, and availability for one's partner and accountability to family responsibilities become strained. Through the survey and interviews, many women expressed concerns about gossip and rumours in the community about infidelity at the mine site. In the survey, more than 60 per cent of women indicated that there has been increased stress on their relationship since the opening of the mine, due to rumours and gossip.

Due to the rotational scheduling, employees at Meadowbank can work 12 hours a day, seven days a week, while at the mine site. When they leave the site for their two-week leave period, employees return to Qamani'tuaq tired and drained, with little energy for family life. This contributes to relationship tensions, as the partner who has returned from the mine may not be seen to be supporting the family or contributing any effort to household work. Coupled with the stress from jealousies, women have reported that the two-week-in, two-week-out work rotation is leading to loss of family closeness and family breakdown.<sup>M</sup>

Another study by Pauktuutit Inuit Women of Canada stated:

The two-week on, two-week off work schedule means that a family member is away for a period of time. This absence gives rise to jealousies. Many of our informants noted that the mine has been hard on relationships. Someone who is jealous or suspicious of the behaviour of a partner while away at the mine, or left alone in the community, and who now has the resources to purchase alcohol or drugs, is at risk of taking his or her (most often "his") feelings out on his partner once he gets home for a two-week period.<sup>N</sup>

These findings are corroborated by research conducted in other jurisdictions. A 2008 report by the National Aboriginal Health Organization notes that the rotational shift work associated with diamond mines in the Northwest Territories exacerbated problems with domestic violence in Indigenous communities.

The Diavik Mine development had negative gendered impacts on the community, including an increase in spousal assaults and related substance abuse. Women married to Diavik employees stated that long absences due to the work rotation schedule placed a strain on relationships. This resulted in the failure to address conflict issues within the family, causing disruptive behaviour in children.<sup>O</sup>

The report by Northern Health and the Provincial Health Services Authority of British Columbia found an association between shift work and family violence in northern British Columbia.

It is well-documented that changing work patterns, particularly with rotational shift work and/or long rosters, can lead to negative effects on not only the well-being of employees, but also on the well-being of their spouses/partners and children. These effects include such things as sleep disorders, depression, problematic substance use, and family violence.<sup>P</sup>

## Substance Abuse and Addictions

The National Inquiry was provided with evidence that the rise in alcohol and drug consumption associated with extractive industries can contribute toward domestic violence in Indigenous communities. The report by the Women's Earth Alliance and the Native Youth Sexual Health Network argues that the increasing availability of drugs can exacerbate trauma in Indigenous families.

The influx of industry workers into the resource-rich territories of Indigenous Peoples also leads to drastic increases in drugs and crime. This transient workforce has little stake in, or connection to, the surrounding communities that they impact. Community members are introduced to these new addictions, which cause significant trauma within families, and these threats are only worsened by the increase of non-Indigenous People – mostly men – using and selling drugs while working for industry.<sup>Q</sup>



Research by Pauktuutit Inuit Women of Canada into the impacts of resource extraction projects on Inuit women documented a significant increase in alcohol consumption in Baker Lake, associated with the construction of a gold mine. This increase in alcohol consumption was associated with increases in domestic violence.

Alcohol consumption in Qamani'tuaq has increased considerably. RCMP reports reveal that permits issued for the import of alcohol increased from 3,000 in 2009 to 6,105 in 2011, an increase of over 100%. Incidents in which the RCMP are involved have increased from approximately 540 in 2008 to over 800 in 2011. Many of these involve domestic disputes, including incidents of domestic violence. Inuit women painted a picture of intersecting impacts. The "two-week in, two-week out" work schedule gives rise to jealousies and suspicion that affects interpersonal relationships. Relationships that may have been unstable prior to mine employment are further impacted by distance and the fear that a partner may be carrying on an affair or developing a relationship with someone else at the mine. In the presence of alcohol, the purchase of which is facilitated by an increase in disposable income, fears and jealousies lead to domestic incidents, including violence.<sup>8</sup>

In her testimony before the Inquiry, Jacqueline Hansen from Amnesty International explained how rotational shift work can exacerbate addictions and other mental health issues by making treatment difficult.

And, when we were looking at the conditions that people were working under, we are talking about people sometimes being in camp for a month, you know, working in incredibly difficult conditions, very long hours, often away from family, friends, other supports, doing shift work where you are not going to be able to get into Fort St. John to seek addictions treatment or to – for mental health care or for any health care.<sup>5</sup>

The connection among resource extraction, substance abuse, and violence against Indigenous women is also examined in many other reports. For example, the report by Northern Health and the

Provincial Health Services Authority of British Columbia noted a strong relationship between resource extraction and substance abuse in northern British Columbia.

Research suggests that many camp workers spend large proportions of their income on alcohol and drugs. A pattern of problematic drug and alcohol use prevalent amongst camp workers in Northern British Columbia has been linked to a number of factors including work conditions and the camp environment (e.g. isolation from social and family relationships, "hyper-masculine" cultures in industrial camps, long hours and stressful working conditions, limited social and recreational activities). Individuals who have worked in the oil and gas industry since they were teenagers reported that their entry into industry-related employment also provided them with entry into a drug scene.<sup>7</sup>

## Economic Insecurity

Extraction can drive economic insecurity for Indigenous women. Indigenous women face significant barriers to participating in the extractive economy. Rotational work schedules make it impossible for many women with children to maintain employment at a mine or oil field. Experiences of sexual harassment and assault, as well as racist discrimination and "hyper-masculine" work environments, also act as barriers to Indigenous women's participation in the workforce.<sup>9</sup> The Indigenous women who do get work at mines are often stuck in relatively low-paying jobs in housekeeping, cleaning, and food services.<sup>10</sup> At the same time, the rapid growth in population associated with resource booms can drive high rates of inflation and housing shortages.<sup>11</sup>

Witnesses told the National Inquiry that this combination of low participation in the extractive economy and rising costs of living can result in extreme economic insecurity for Indigenous women, placing them at risk of being targeted for violence. For example, Connie Greyeyes told the National Inquiry that many Indigenous women in northern British Columbia remain in abusive relationships because they are economically dependent on their spouse.



Within Fort St. John, it's near impossible for a woman to actually leave a relationship and not live in deep poverty. Because of the industry that surrounds Fort St. John, we're known as the "energetic city" for a reason. The development is rampant there, which has caused food, housing, everything to skyrocket. You know, you can rent a really, really rundown one-bedroom apartment for upwards of \$1,200 a month. Or, you know, you're looking at paying hydro bills that are \$400 to \$500 a month – or, every three months now because, you know, we have to pay for this project that's trampling on our rights.

So, we've found that often women, when they're speaking about leaving and, you know, we're there to support, often say, "I can't leave. I'm going to put up with it because I don't want my kids to live in poverty. You know, he says that if I leave, then he's not going to help me."<sup>x</sup>

According to the report by Amnesty International, the economic insecurity associated with resource extraction can also lead Indigenous women into unsafe situations to make ends meet.

Life in northeast BC can be precarious for anyone without access to the high wages of the resource industry. As energy development has expanded in the northeast, costs for housing, food, childcare, and transportation in the region have risen in line with the high wages paid to resource industry workers, making it harder than ever for those without access to such wages to make ends meet. Competition from workers coming to the region for jobs has created periodic local shortages of necessities such as housing and childcare. People in lower wage jobs, on fixed incomes, or laid off from industry, can be severely constrained in the choices they make about where to live and work. This can push people into precarious situations like unsafe housing or late night shifts where there is no public transportation. Some women told Amnesty International that lack of other options led them to engage in commercial sex to make ends meet.<sup>y</sup>

The report notes that sex work can pose significant safety risks to women.

Sex work and other forms of commercial sex are highly stigmatized and commercial sex is largely criminalized by virtue of the fact that buying sexual services is illegal in Canada. The stigma surrounding commercial sex, the fact that commercial sex is largely criminalized or that illegal drugs were involved, may make women who sell sex reluctant to report violence for fear of mistreatment and punishment by law enforcement officials, and men may exploit this reality and engage in violence with impunity.<sup>z</sup>

The report by Northern Health and the Provincial Health Services Authority of British Columbia also drew connections among resource extraction, economic insecurity, sex work, and violence.

In-migration related to industry projects can increase the number of individuals that are drawn into sex work in small communities near mines, pipelines, and other developments. This has largely been attributed to the influx of hundreds to thousands of temporary workers who are often young, male, and single, have high disposable incomes, and spend long stretches of time in isolated camp settings. This outcome is particularly concerning for women and girls, as they are more likely to become employed in the sex trade. In addition ... family violence and economic and housing insecurity are reported impacts of resource development, which are factors that are known to contribute to the entry of individuals into the sex trade. Sex work has been associated with a number of health and safety risks, such as increased rates of STIs and violence.<sup>aa</sup>

## Industry Initiatives and the Safety of Indigenous Women

Representatives of the mining industry often point to the initiatives that companies have taken to ensure the safety of Indigenous women. For example, Alex Buchanan, vice-president of the NWT & Nunavut Chamber of Mines, responded to T.J. Lightfoot's testimony in a letter to the newspaper *Nunatsiaq News*. Buchanan suggested that Lightfoot had exaggerated the extent to which mining places Indigenous women at risk.



We share a strong focus on the health and safety of our employees. We have been subject to rigorous environmental assessments and must comply with socio-economic terms and conditions based on real community concerns.

We are all obliged to maximize Inuit involvement in our operations, including Inuit women.

Furthermore, we all share similar corporate governance structures. As industry and labour standards insist, these include provisions for worker disclosure, harassment procedures, security measures, cultural awareness, and steps to terminate workers for unacceptable behaviour.

These policies are in use on a daily basis, up to and including terminating male employees exhibiting unacceptable behaviour towards their female colleagues.

...

As a result of how we operate, and also due to our regulatory and land tenure regime, the mines in Nunavut are safe places for women to live and work.

Mining companies are human organizations. Although we strive for zero harm, incidents where women experience abuse can and do occur.

As publicized as some incidents may be, the fact remains: women are an order of magnitude safer at our mines than at home. This fact was missing from Lightfoot's testimony.<sup>BB</sup>

The suggestion that "women are an order of magnitude safer at our mines than at home" is a gross mischaracterization of the ways extractive industries can affect the safety of Indigenous women and girls. Moreover, even though most companies have sexual harassment policies, it is not clear that these policies are being consistently implemented in a meaningful way. According to Amnesty International, there is considerable variability in how supervisors respond to complaints about sexual harassment at work sites in northern British Columbia.

Some women told Amnesty International that their supervisors acted quickly when harassment was reported, firing the offender and barring

them from working for the company in the future. Others said their complaints were ignored and that the work environment was one in which harassment was tacitly condoned by the inaction of supervisors and other workers.<sup>CC</sup>

Amnesty International also documented that many women do not report sexual harassment and assault because of fear of reprisals.

One woman told Amnesty International of a co-worker who was sexually assaulted on a construction site and did not report the assault because she feared losing her job. Another woman told Amnesty International that a co-worker who reported being sexually assaulted lost her job and could not find other work in the industry. One woman said that she did not report harassment to her supervisors because she was new to her job and did not want to jeopardize her reputation and future employment prospects. Of her male colleagues who witnessed her harassment, she said, "nobody stood up for me."<sup>DD</sup>

## Extraction, Decision Making, and the Safety of Indigenous Women

Indigenous organizations and women's groups have repeatedly called for socio-economic impact assessments of proposed resource extraction projects to include gender-based analyses.<sup>EE</sup> An analysis of environmental reviews in northern Quebec, Nunavut, and the Northwest Territories found considerable variability in the extent to which gender is considered in socio-economic impact assessments.<sup>FF</sup> According to Amnesty International, the gendered impacts of extraction are not adequately considered in decisions about extraction in British Columbia.

Decisions are made on a project-by-project basis with inadequate attention to the long-term cumulative social impacts, including the specific impacts on Indigenous women and girls. Land rights of Indigenous Peoples protected in historic treaties and enshrined in the Canadian Constitution are not formally incorporated into the approvals process. Moreover, analysis of the



distinct impacts of initiatives on people of all genders, in particular women and girls – which is a requirement for projects involving Canadian government-supported overseas development assistance – is almost never part of the decision-making process domestically and has never been part of the decision-making process for projects in northeast BC.<sup>GG</sup>

Research conducted by First Nations as part of the assessment of a proposed natural gas pipeline revealed that the social effects of work camps are not effectively considered in development planning in British Columbia.

Social and cultural effects of industrial camps are not effectively considered in the planning for economic development. Currently Indigenous communities, particularly women and children, are the most vulnerable and at risk of experiencing the negative effects of industrial camps, such as sexual assault. The focus of environmental assessment must change to ensure communities, and in particular women and children, do not shoulder the burden of impacts of industrial camps. This means that all parties need to consider social, cultural, and environmental issues in industrial camp review and siting. Ministries and agencies need to plan service delivery in the north, specifically to manage the issues raised in this work, and connect and adequately fund service delivery to already vulnerable populations.<sup>HH</sup>

Some scholars have suggested that Impact and Benefit agreements, negotiated between industry and Indigenous communities, could provide a useful mechanism for minimizing the negative impacts that resource extraction projects can have on Indigenous women.<sup>II</sup> However, research shows that programs to increase Indigenous Peoples' participation in the mining, oil, and gas workforce often fail to meaningfully address the barriers to Indigenous women's employment.<sup>JJ</sup> Researchers studying the socio-economic impacts of mining in Nunavut argue that an Inuit Impact and Benefit Agreement (IIBA) ultimately did very little to address the negative effects of mining on Inuit women in Baker Lake.

Many of the challenges and negative impacts experienced by the research participants were

outlined in the IIBA as community needs or risks to monitor and provide funds to support. Yet, despite the IIBA anticipating the effects of the mine on employees, their families, and the community, none of the needs outlined in the agreement have been regularly assessed and no comprehensive programmes or services implemented to address them despite transfers of funds from the mining company to the regional Inuit association. To date, there has been no wellness report completed and made publicly available, leaving a serious gap in knowledge around the impacts of the mine on Qamani'tuaq and on women in particular.

Political interests and limited organisational capacity at the local, regional, and territorial levels appear to have all played a role, as well as limited public accountability and transparency in the implementation of the agreement.<sup>KK</sup>

Spokespersons for several Indigenous communities and organizations have also demanded that the Government of Manitoba initiate a public inquiry into sexual violence and racism at hydroelectric projects in northern Manitoba, including chiefs from York Factory, Tataskweyak, War Lake, and Fox Lake First Nations,<sup>LL</sup> as well as the Manitoba regional chief for the Assembly of First Nations.<sup>MM</sup>

There is substantial evidence of a serious problem that requires focused attention on the relationship between resource extraction projects and violence against Indigenous women. The results of this kind of focus could help provide justice for victims of crime, as well as information to inform strategies to address the problem in the present day.

## Conclusion

The National Inquiry believes there is an urgent need to consider the safety of Indigenous women consistently in all stages of project planning, assessment, management, and monitoring of resource extraction projects. Federal, provincial, territorial, and Indigenous governments should employ a gender-based analysis in the socio-economic assessments and monitoring of reports for all proposed and operating extractive projects in or near Indigenous territories. Indigenous governments



and industry should include provisions to address impacts on the safety of Indigenous women and girls in all Impact and Benefit Agreement negotiations.

In addition, the kinds of violence cited by witnesses indicate the extent to which addressing the crisis of missing and murdered Indigenous women, girls, and 2SLGBTQIA people requires the involvement of all Canadians, including those workers who may contribute to the problem by participating in violence themselves, or by creating situations in

which violence is ignored and normalized as part of the work environment. This emphasizes the idea, threaded throughout this *Final Report*, that relationships are important, and can be transformational – but that, ultimately, the kind of change that will see better outcomes for Indigenous women, girls, and 2SLGBTQIA people rests in a combination of systems-level changes and positive individual choices from those who now promote racist, sexist and misogynist structures and who keep them in place as a part of the existing status quo.

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## Findings

- There is substantial evidence of a serious problem demonstrated in the correlation between resource extraction and violence against Indigenous women, girls, and 2SLGBTQIA people. Work camps, or “man camps,” associated with the resource extraction industry are implicated in higher rates of violence against Indigenous women at the camps and in the neighbouring communities.
- This increased rate of violence is largely the result of the migration into the camps of mostly non-Indigenous young men with high salaries and little to no stake in the host Indigenous community.
- Industries that create “boom town” and “man camp” environments are implicated in increased rates of drug- and alcohol-related offences, sexual offences, domestic violence, and gang violence, as well as sex industry activities in the host communities. These occurrences disproportionately impact Indigenous women, girls, and 2SLGBTQIA people.
- The influx of people as a result of “man camps” near or within Indigenous, remote and rural communities further results in stress on already limited social infrastructure, such as policing, health, and mental health services.
- In addition to the adverse social impacts that Indigenous women, girls, and 2SLGBTQIA people experience as a result of these industries, it is clear that Indigenous women, girls, and 2SLGBTQIA people do not have equitable access to the economic benefits these industries can provide.
- Indigenous women face significant barriers to participating in the extraction industry due to work environments that are often hypermasculine and hypersexualized. For Indigenous women working within these camps and these industries in general, there are elevated rates of workplace racism, sexual harassment, and violence. These camps are also often far from law enforcement, and therefore are largely unpoliced.
- The nature of the work, particularly shift work in and out of isolated locations, also deters women from participating in these industries, since it is not compatible with raising a family and meaningful participation in family and community life. When women do find employment in these industries, it is often within the low-paying jobs, such as housekeeping, cleaning, and food services.
- The creation of a “boom town” as a result of the extraction industry often results in high rates of inflation and an increased cost of living in the host communities. Indigenous women are disproportionately impacted by this, in terms of increased economic insecurity.



- A Deneault and Sacher, *Imperial Canada Inc.*, 16; TMX Group, "Mining."
- B Connie Greeyes (Bigstone Cree Nation), Mixed Parts 2 & 3, Public Volume 6, Quebec City, QC, pp. 58–60.
- C Amnesty International, *Out of Sight*, 44.
- D T.J. Lightfoot (Mi'kmaq), Mixed Parts 2 & 3, Public Volume 3, Iqaluit, NU, pp. 155–156.
- E Women's Earth Alliance and Native Youth Sexual Health Network, *Violence on the Land*, 31.
- F Manitoba Clean Environment Commission, "A Review of the Regional Cumulative Effects," 36–37.
- G Aalhus, "The Social Determinants of Health Impacts," 24.
- H Anaya, "Statement to the International Expert Group."
- I T.J. Lightfoot (Mi'kmaq), Mixed Parts 2 & 3, Public Volume 3, Iqaluit, NU, p. 155.
- J Czyzewski, Tester, Aaruaq, and Blangy, *Impact of Resource Extraction*.
- K Amnesty International, *Out of Sight*, 43.
- L Aalhus, "The Social Determinants of Health Impacts."
- M Nightingale, Czyzewski, Tester, and Aaruaq, "The Effects of Resource Extraction," 376–77.
- N Czyzewski, Tester, Aaruaq, and Blangy, *Impact of Resource Extraction*, 31.
- O National Aboriginal Health Organization, *Resource Extraction*, 5.
- P Aalhus, "The Social Determinants of Health Impacts," 16.
- Q Women's Earth Alliance and Native Youth Sexual Health Network, *Violence on the Land*, 28.
- R Czyzewski, Tester, Aaruaq, and Blangy, "Impact of Resource Extraction," iii.
- S Jacqueline Hansen, Mixed Parts 2 & 3, Public Volume 6, Quebec City, QC, p. 57.
- T Aalhus, "The Social Determinants of Health Impacts." 17.
- U Mills, Dowsley, and Cameron, "Gender in Research."
- V National Aboriginal Health Organization, *Resource Extraction*.
- W Ensign, Giles, and Oncescu, "Natural Resource Exploration"; Aalhus, "The Social Determinants of Health Impacts"; Nightingale, Czyzewski, Tester, and Aaruaq, "The Effects of Resource Extraction"; Rodon and Levesque, "Understanding the Social and Economic Impacts," 41.
- X Connie Greeyes (Bigstone Cree Nation), Mixed Parts 2 & 3, Public Volume 6, Quebec City, QC, pp. 50–51.
- Y Amnesty International, *Out of Sight*, 45.
- Z Ibid., 49.
- AA Aalhus, "The Social Determinants of Health Impacts," 25–26.
- BB Buchan, "Chamber of mines responds."
- CC Amnesty International, *Out of Sight*, 43.
- DD Ibid.
- EE Archibald and Crnkovich, *If Gender Mattered*; Czyzewski, Tester, Aaruaq, and Blangy, "Impacts of Resource Extraction."
- FF Dalseg, Kuokkanen, Mills, and Simmons, "Gendered Environmental Assessments."
- GG Amnesty International, *Out of Sight*, 5.
- HH Firelight Group with Lake Babine Nation and Nak'azdli Whut'en, "Indigenous Communities and Industrial Camps," 6.
- II O'Faircheallaigh, "Making Social Impact Assessment Count."
- JJ Mills, Dowsley, and Cameron, "Gender in Research."
- KK Nightingale, Czyzewski, Tester, and Aaruaq, "The Effects of Resource Extraction," 380.
- LL CBC News, "First Nations rally."
- MM CBC News, "AFN seeks public inquiry."



## Pathway to Violence: Denying Agency and Expertise in Restoring Safety

In response to Nakuset’s powerful call to challenge the norm that says that the security of Indigenous women, girls, and 2SLGBTQQIA people does not matter, we now share the many examples provided by survivors, families, grassroots organizers, and advocates who are working tirelessly to restore and protect the rights to security that Indigenous women, girls, and 2SLGBTQQIA people hold. As we have argued throughout this report, threats to human security directed against Indigenous women, girls, and 2SLGBTQQIA people are also important sites of resistance, agency, and expertise. As we heard over and over again, Indigenous women, girls, and 2SLGBTQQIA people know what is necessary to keep themselves and those around them safe. Here, we look more closely at the concrete strategies and recommendations witnesses shared as being important to addressing interpersonal violence, poverty, homelessness, barriers to education and employment, and other forms of social, economic, and political marginalization.

### **Honouring Resistance and Understanding What Has Been Lost**

In sharing stories of violence and the loss of safety, families and survivors also shared stories of resistance to that violence and demonstrated the often extraordinary efforts they go to in order to protect their families and communities, and the extent of what is lost with the disappearance or death of a loved one.

Michele G. described how she kept herself safe as a homeless 14-year-old by walking around and hiding.

Lots of nights I just walked around all night because it made me feel more in control. I never drank by myself. I was straight all the time except when I interacted with others. I never panhandled for money to drink or do drugs. I panhandled to eat. And as I walked at night I could always tell when a creep spotted me because they would start circling the block in their car trying to find where I went, and every time I’d just find somewhere to hide until they left the area.... And I always remember the one prevailing thought I always carried was, Does anybody care?<sup>148</sup>

Chief Vivian T. described the efforts she went to in order to resist the violence she experienced as a child: “I used to hide in the attics, I used to hide in the back of the bush, I used to hide in the haunted hall.” Her own lack of safety caused her to ensure her own children did not have to experience the same fear while at home.

When I went back to school, college or university, I made sure that they [her children] were well taken care of, protected. When my husband drank, he would go outside the home. He wouldn’t come home with a party or wouldn’t come home drunk. And he respected the rules of the house as not to drink at home. And I’m glad, you know, the kids had a safe place.<sup>149</sup>



In reflecting on the lives of their missing or murdered loved ones, family members honoured those ways in which they had also resisted violence. Despite the violence that dominated her mother's life and, consequently, her own, Cee-Jai described her mom as “my hero” – her heroism revealed as she tried to restore safety for herself and her children without any support.

I always remember my mom – my mom was my hero. She still is today. From when we went into Vancouver on the Greyhound bus with my sister and my mom, I didn't know where we were going, but somewhere new. I think my mom had the idea of, if I get away from here, it'll be a better life for us. Going to take my daughters with me. She must have fought hard with her alcoholism to get us back. But being a single mother, she may have not had as much support.<sup>150</sup>

For Grace T., evidence of her mother's desire to protect her children's safety amidst poverty and the constant threat of violence from an abusive husband came in the form of wiener fried rice.

Any chance he would, he would buy whatever he wanted to buy for himself, and we went hungry a lot of the time, and we had the very basics, and I always commend my mom because I've never, ever tasted a fried rice like hers. It was wiener fried rice, and it was the best, and baloney ketchup stew was the best, and I crave those things as an adult because it's comfort to me because she made it with love, and she was a really good cook, so she always – her best intentions were always to make sure our childhood was like her childhood: happy, fed, loved.<sup>151</sup>

“LOTS OF NIGHTS I JUST WALKED AROUND ALL NIGHT BECAUSE IT MADE ME FEEL MORE IN CONTROL. I NEVER DRANK BY MYSELF. I WAS STRAIGHT ALL THE TIME EXCEPT WHEN I INTERACTED WITH OTHERS. I NEVER PANHANDLED FOR MONEY TO DRINK OR DO DRUGS. I PANHANDLED TO EAT. AND AS I WALKED AT NIGHT I COULD ALWAYS TELL WHEN A CREEP SPOTTED ME BECAUSE THEY WOULD START CIRCLING THE BLOCK IN THEIR CAR TRYING TO FIND WHERE I WENT, AND EVERY TIME I'D JUST FIND SOMEWHERE TO HIDE UNTIL THEY LEFT THE AREA.... AND I ALWAYS REMEMBER THE ONE PREVAILING THOUGHT I ALWAYS CARRIED WAS, DOES ANYBODY CARE?”

Michele G.

Inuit families most often described their lost loved ones with endearing words and memories. They would share loving memories of loved ones' personalities, such as their being extroverted or happy-go-lucky, always joking, a very nice child and never acting out, very kind and helpful to others, and beautiful. The death of loved ones and the experience of violence and tragedy brought out a great sense of loss for which the consequences meant ongoing struggles for personal health and well-being. The experiences that missing and murdered Inuit women and their families had, and the encounters they had in their attempts to regain control of their lives, to become healthy and well, to gain justice and safety, determined the outcome of their lives.



In recognizing and naming these acts of resistance, survivors and family members offered powerful reminders of the strength, courage, and creativity with which Indigenous women, girls, and 2SLGBTQQIA people fight against violence and other threats to their security. For Allan Wade, these acts of resistance pose a significant and important challenge to colonial beliefs and stereotypes that portray Indigenous people as being at fault for their own victimization.

And so, people begin to – when their responses are acknowledged, they begin to get a sense of, I did what I could. Maybe I could not make it stop, but that does not mean that I let it happen. And you begin to notice how people take care of one another in horrible circumstances and try to protect themselves and loved ones. So, it becomes a process of acknowledging their pre-existing capacity, their pre-existing agency, their pre-existing ability, and all of the ways in which they have tried to stop the violence and improve their lives.<sup>152</sup>



*In Toronto, Expert Witness Tanya Talaga shares her expertise on experiences of discrimination in journalism that lead to violence for Indigenous women, girls, and 2SLGBTQQIA people.*

## Honouring Agency

Stories such as those shared above indicate that when their security is threatened, it is Indigenous women, girls, and 2SLGBTQQIA people themselves who take action to address that threat. As we have seen throughout this chapter, after years of living within relationships and systems that remain indifferent to the violence inflicted upon them, Indigenous women, girls, and 2SLGBTQQIA people working in their families and communities, and in grassroots organizations, policing, and other helping professions, are looking beyond colonial systems in order to craft their own solutions to poverty, homelessness, food insecurity, poor education, and limited anti-violence services, so as to restore security and enhance protections against violence. Central to these efforts are solutions that are aimed at addressing the root causes of violence, and that are designed and implemented by Indigenous people.



In talking about their experiences and efforts to improve safety in their own lives and the lives of other Indigenous women, girls, and 2SLGBTQQIA people, witnesses offered powerful narratives of transformation that demonstrate the possibilities for change that exist when the agency and expertise held by Indigenous women, girls, and 2SLGBTQQIA people are reflected and honoured within the structures and services in which they live.

In her testimony, Jocelyn K. explained how being able to access a safe house during a crucial moment in a relationship with a violent partner who threatened to kill her not only saved her life, but also started her down a different path in which she was able to create the protections she needed to decrease the level of violence in her life.

I took her [Jocelyn's daughter] ... out of Squamish in a weekend and to Kelowna. We stayed at another safe house. Within 30 days I found myself employment, I found us a place to live, I got us on welfare, I got her into school, I got her into counselling and me into counselling in under 30 days. We moved out of the safe house into a place of our own. Now, it wasn't easy. Like, he's made our life very hard.<sup>153</sup>

Cee-Jai, likewise, ended her testimony by providing an example from her own life about what many housing advocates and researchers told the National Inquiry: access to safe and affordable housing is an integral first step in restoring safety to the lives of Indigenous women and girls. For Cee-Jai, finally being provided access to an apartment – something for which she worked tirelessly for years – was a significant encounter that began her down another road, where she was able to stop drinking, get a job, and eventually move out of the rooming house and get her own place. She now works as an outreach worker for women with similar experiences as her own. She closed her powerful testimony with the following words:

I found the medicines and ... I'm clean and sober today. I'm a strong woman today. I believe in the Creator. I believe I survived so this moment here and now could happen. I left Vancouver Downtown Eastside to come to Thunder Bay – I left the province to come here to tell you to hear me, listen to my voice, I survived. My sisters, my friends, they're gone on to a better place, but I'm here telling you my lived experience. To share their story, my story with you.<sup>154</sup>

"I CAN TELL YOU THERE ARE NOT ENOUGH RESOURCES WHATSOEVER, ESPECIALLY FOR INDIGENOUS WOMEN. THERE ARE PROGRAMS, BUT THERE IS NOT HEALING. THERE IS NO REAL HEALING LODGE. THERE IS REALLY NO PLACE FOR THEM TO GO. IN THE DOWNTOWN EASTSIDE, WHERE YOU HAVE THIS CONCENTRATION OF POVERTY, AND YOU HAVE ADDICTIONS, AND YOU HAVE SOME OF THE WORST ABUSES HAPPENING DOWN THERE, YOU KNOW, TO SEND THEM AROUND THE CORNER TO GET HELP – THEY NEED SUPPORT. THEY NEED SOMEONE TO ACTUALLY PHYSICALLY – I'M NOT KIDDING, PHYSICALLY, TAKE THEM ONE BLOCK SOMETIMES, OR THEY ARE LOST WITHIN THAT BLOCK. SOMEBODY WILL APPROACH THEM. SOMEBODY WILL TAKE THEM OFF THEIR PATH. THEY NEED OUR ELDERS, AND OUR AUNTIES, AND OUR WOMEN, AND OUR PEOPLE TO BE THERE FOR THEM."

Halie B.



Further, she pointed out:

I may have struggled, I may have fallen to the darkest places in – you couldn't imagine. But at the beginning of my testimony, at the beginning, I told you my name, “Shining Eagle Woman.” Today – today, I'm a strong person. I'm so strong that I have to stand up, use my voice. I go to trauma counsellors. I try to help myself. I put safe people around me. Believe me. Pray for me. Don't forget me.<sup>155</sup>

Michele G. spoke about how, after years of placements in foster care with non-Indigenous families, being able to stay with Indigenous families offered the type of relationship she needed.

Many loving families took me in. Even those with small homes made a place for me. These included Mary [C.], Grace [M.], Margaret and Dave [L.], and June [S.]. Muggy, who was Margaret [L.] let me clean out her attic space to make a room for myself there. These loving families extended all they had to me purely out of love and compassion.... Their attitude was loving and comfortable and their attitude seemed to be that having me there just meant one more can of beans in the soup or one more cup of rice in the cooker. I felt welcomed in their homes.

These families didn't have special training to deal with high-risk youths, they had culture, they had love and compassion. I felt surrounded with a great deal of love during some really tumultuous years. That's why I believe our Nations can do better. Our culture, our teachings, being surrounded by large extended families full of love is what our kids thrive on, and we should be in charge of our own children's care.<sup>156</sup>

As Michele demonstrates, recognizing expertise not as “special training” but as “culture,” “love, and compassion” – that is, in honouring the expertise and agency of Indigenous families – is fundamental to repairing the hurts done by violence and restoring security.

During the Community Hearing in Vancouver, Halie B. offered her perspective on restoring security in the lives of Indigenous women, girls, and 2SLGBTQQIA people.

I can tell you there are not enough resources whatsoever, especially for Indigenous women. There are programs, but there is not healing. There is no real healing lodge. There is really no place for them to go. In the Downtown Eastside, where you have this concentration of poverty, and you have addictions, and you have some of the worst abuses happening down there, you know, to send them around the corner to get help – they need support. They need someone to actually physically – I'm not kidding, physically, take them one block sometimes, or they are lost within that block. Somebody will approach them. Somebody will take them off their path. They need our Elders, and our aunties, and our women, and our people to be there for them.<sup>157</sup>



Like so many of the other teachings offered throughout the Inquiry, both Michele and Halie centre the role of relationship as a tool that both takes away safety when relationships are absent, and can be used to restore safety when those relationships are present.

Survivor Mealia Sheutiapak demonstrated how she draws on her own experience as an Inuk woman and survivor to address issues of food insecurity for other Inuit living in Ottawa in ways that she knows reflect the values and needs of her people.

I like what I do today. I feed the community in the Inuit community, not only the Inuit, anybody is welcome to the church. I feed people on Sundays, and I have this lunch program on Wednesdays, and there are a lot of people that come to my lunch program. And, I get overwhelmed about it, too, sometimes and think about how I used to be, but I didn't think this is where I would be today, where I'm at.

I'm just giving back to the community as much as I can, and try not to think about what I used to do, because I just want to keep moving forward. And, I'm not going to stop, like, giving back to the community, because I feel good when I do that instead of, like, how I used to abuse myself and feeling bad about myself after. Waking up guilty, feeling that awful feeling in your gut. But, today, I am a lot different person now. I just try to be better like everybody else.<sup>158</sup>

## Identifying Expertise

Approaches to honouring agency and expertise must be met with the resources to do so. In sharing their vision for relationships, services, and encounters that will restore security in the lives of Indigenous women, girls, and 2SLGBTQQA people, witnesses drew on their lived experience and experiential knowledge to identify a shared set of underlying values, requirements, and needs that respect rather than violate the right to safety and security. If these had been available, they may have prevented the harm, disappearance, or death of their loved ones. For witnesses, the implementation of these recommendations is a first step needed to stop more violence. Here, we summarize some of these key teachings on the steps needed to respect and restore the right to security.

Improving the security of Indigenous women, girls, and 2SLGBTQQA people depends on centring the knowledge and experience of those whose lives have been shaped by colonial violence and its various forms of economic, social, and political marginalization. In describing her role in developing a drop-in centre and clothing store for Indigenous sex workers in Vancouver, which led to the development of Grandma's House, Jamie L. H. emphasized that Indigenous women know their communities and the gaps, challenges, and barriers to support that they face,

There was no supports for trans, Two-Spirited people in the Downtown Eastside working in the sex trade. And so, I started up, out of First United Church, where my mother was a member, and started a food bank and a hot meal program. And ... then further along, I



started up, that spun off in a clothing store. Again, on Hastings Street. And many of the working women would come in and shop, and even shoplift. But they were wonderful. They would sit at times and just, you know, we would just have great conversations. And I got to know so many of the women. And many Aboriginal women. And you know, they were telling me their stories about friends going missing.<sup>159</sup>

Grandma's House would become the first nighttime organization providing support to women, trans-women, and Two-Spirit people involved in life on the street in the Downtown Eastside in Vancouver, and that also provided peer counselling, a library, vitamins, snacks, and computer classes, as well as a newsletter.

Witnesses emphasized that this knowledge and the voices of Indigenous women must be included from the beginning of any initiative that aims to improve their lives. Diane Redsky is the executive director of the Ma Mawi Wi Chi Itata Centre in Winnipeg, which operates the only rural healing lodge and safe house in Canada for girls and transgender individuals between 13 and 17 who are sexually exploited and trafficked. She described what it truly means to centre the knowledge and expertise of Indigenous women and those with lived experience.

The women themselves will tell us what it is that needs to be within programming. So when we developed every one of our resources, it has been done in consultation with the people who will benefit from that service. And so when we developed both the safe house and Hands of Mother Earth, we had a experiential, a survivor group, and within that survivor group, we always make sure that there are transgender, Two-Spirited women that are involved in the decision making and planning what the resource is going to look like and what needs to be in there. And that is a critical and vital step in any kind of program development, any kind of resource development that is going to be done, particularly when it comes to trauma-informed services.<sup>160</sup>

Witnesses also emphasized, however, that including the voices of those with lived experience must be done “in ways that are meaningful, in ways that are sustainable, and in ways that allow for them to not just tell their stories, but to be active members of creating supports for other survivors.”<sup>161</sup>

“THE WOMEN THEMSELVES WILL TELL US WHAT IT IS THAT NEEDS TO BE WITHIN PROGRAMMING. SO WHEN WE DEVELOPED EVERY ONE OF OUR RESOURCES, IT HAS BEEN DONE IN CONSULTATION WITH THE PEOPLE WHO WILL BENEFIT FROM THAT SERVICE.”

Diane Redsky



For Jennisha Wilson, this means ensuring that Indigenous women, girls, and 2SLGBTQQIA people are in positions of leadership and are fairly compensated for their knowledge and expertise.

Carving out space for survivors to take on leadership roles. One of the common things that I see in anti-human trafficking programming and sexual exploitation programming is that survivors are only given the opportunity to learn how to advocate by using their voice and telling their story. And I think that we're doing a huge disservice to those individuals and to community if that is all we're doing in terms of carving space. There needs to be leadership roles. There needs to be sustainable employment. There needs to be better opportunities to participate in the socio-economic systems that are around them than just as a survivor with a story.<sup>162</sup>

Diane Redsky echoed this sentiment when including trans and Two-Spirit Indigenous people in ways that go beyond tokenizing.

And so it is really critical that we are having them [trans and Two-Spirited people] sit at the table in a meaningful way, working in the safe house, like working within the resource, of being compensated properly for their voice and ... that they're cared for in a trauma-informed way. All of those things are really important and we have to value and respect what they bring because they are the ones that are the experts.<sup>163</sup>

In reflecting on the services she received from Aunt Leah's Place, a program that supports youth in preparing to age out of the foster care system and after they age out, and from STRIVE Youth in Care Transition Program in Vancouver, a program that provides support and teaches life skills for youth between 17 and 24 in, from, or out of home care, Shae-Lynn Noskye emphasized why it is important to be met by those who understand and who have lived your reality:

Because it's really important for people with lived experience to be able to be there and support you, and go, you know, "I was exactly where you are now, and it does get better." It takes a while. But the only thing holding you back is your own, I guess – your own limitations.

Shae-Lynn plans to become one of these valuable advocates and supports making change when she begins the Social Services Worker program in the spring and then go on to get her Bachelor's of Social Work. As she says, "I just want to continue with my youth advocacy."<sup>164</sup>



## The Issue of Funding

Indigenous-led and/or Indigenous-serving initiatives for addressing violence, poverty, homelessness, and other social security issues require long-term, stable funding. The lack of funding for Indigenous-led and Indigenous-specific services, especially those that focus on the needs of women, girls, and 2SLGBTQQIA people experiencing violence, was identified repeatedly as an ongoing exercise of colonial control that impedes the ability of Indigenous people to ensure their security. The common practice of providing short-term funding for projects creates significant challenges for organizations in terms of the pressures it puts on staff to be constantly pursuing funding, uncertainty in the ability to continue to provide services, and issues with staff retention and turnover. Witnesses from organizations working directly on violence- and safety-related issues with Indigenous women, girls, and 2SLGBTQQIA people all face challenges to their programming because of the potential for short-term funding provided by government to end. Josie Nepinak described how they run a casino as a fundraising initiative in order to be able to pay a nurse practitioner, who provides immediate health care for families that come into the shelter.<sup>165</sup> In addition to the problems created through limited access to long-term funding, witnesses also talked about how the overall limitations on funding forces organizations doing similar work to compete with each other – a structure that, Jennisha Wilson points out, is in conflict with the collaborative and relationship-building work Indigenous women’s organizations want to pursue.

So, the current structure of accessing funding for Indigenous folks is one that not only creates competition between organizations, but it’s reinforced in terms of how we can collaborate, right? And so in just echoing some of the wants is that we want to be able to do collaborative work, but we don’t want to have to compete and undermine other people’s work, because all work is important in terms of creating a solution towards these issues.<sup>166</sup>

Similarly, as Allan Wade said, the requirements that organizations work from a particular approach or repeatedly demonstrate the need for funding create a situation where “so much of the time and energy gets taken up trying to justify your existence.”<sup>167</sup> Jennisha Wilson talked about how this process of “gatekeeping” funding can limit organizations working with Indigenous women who are engaged in sex work and/or who are survivors of trafficking by insisting that programming adopt an abolitionist rather than harm-reduction approach – that is, that the programming itself reflects a particular approach to service provision that is in conflict with the belief of organizations that recognize the complexities of the issue at hand.<sup>168</sup>

In raising their concerns about funding that is short-term, competitive, and limited, and dependent on certain government-defined criteria, witnesses insist that improving the resourcing of Indigenous-led and Indigenous-specific organizations in the anti-violence and related fields includes funding but is more than simply increasing funding. It also involves acknowledging and changing the mechanisms through which current funding models themselves become another way of exercising



colonial violence and of denying the real dynamics of violence in the lives of Indigenous women, girls, and 2SLGBTQQIA people. In speaking of the connection between current funding models for Indigenous women's organizations and colonial violence, Wade observed:

You [Indigenous women's organizations] are insecure, it is unpredictable. And, unpredictability is one of the hallmark strategies of violence. It's kind of like, you know what, if you do not do what we want you to do, we are not going to give you money. So how are you supposed to make a long-term plan on that basis? How are you supposed to be there to, you know, work with kids in care ... and families?<sup>169</sup>

Jennisha Wilson made a similar observation.

I think that when it comes to funding, and it also – this is how I also think about when different organizations are funded resources to do work in Indigenous communities, it's that folks need to stop gatekeeping that funding and determining when and how Indigenous folks are involved, but rather, look at Indigenous communities as equal contributors to knowledge, experts in their own right, and individuals who know what's good for their community, and ... break down those barriers to accessing those funding.<sup>170</sup>

## **Restoring Connection through Culture**

For witnesses who shared stories about healing and about finding ways to create safety in their lives, the opportunities to learn about, connect with, and practise their culture were often key moments and encounters that supported them in addressing other challenges related to violence, poverty, homelessness, and related issues. The importance of services that recognize and reflect the centrality of cultural connection in creating safety following domestic violence was also evident in Josie Nepinak's description of how some women wait two or three months to go into the Awo Taan Healing Lodge, "because they favour the practice of Indigenous knowledge and wisdom and ways of knowing, as opposed to perhaps a mainstream model."<sup>171</sup>

The need for access to services that are built upon a reconnection with culture was also emphasized in research presented to the National Inquiry as being one of the fundamental requirements in providing healing from trauma inflicted through various forms of violence. Moreover, connection to culture is also recognized as a protective factor from experiencing or perpetrating violence. In her research on intergenerational trauma, Bombay noted that "many people have demonstrated extreme adversity, despite their experiences, and we often found that it was those who shared stories of holding onto their traditions and their identity and their pride growing up who were the ones who were more likely to not report these negative outcomes."<sup>172</sup>



*Becky Kilabuk and her throat-singing partner Mary Itorcheak prepare to throat-sing before those gathered in Iqaluit, Nunavut, September 2018.*

In supporting the development of anti-violence and related services that reflect and centre the role of traditional culture, witnesses also emphasized the need for an understanding of cultural specificities. Nakuset shared why this understanding is important in an example she gave of when she accompanied an Inuk woman client to her visit with a social worker.

So we were talking about one particular Inuit client that they had written that she was Cree. One of the social workers recognized the name and understood it to be Inuk. So we sat in a meeting and he looked at me and he's, like, "How come so-and-so didn't explain to me that she was Inuk? I've been sitting with her all this time and I've been talking to her and mentioning that she's Cree, and she never corrected me." I was, like, "Well, you're holding her child. You think she's going to correct you? You think she's going to tell you what your job is? You're supposed to ask. Why aren't you taking the time to ask correctly?" It is not hard to ask these questions. But, for whatever reason, certain agencies have difficulty stepping outside their comfort zone to do that.<sup>173</sup>

"I HAVE HOPE THAT SOMETHING GOOD WILL COME OUT OF THIS, THAT AS AN INDIGENOUS WOMAN, I DON'T HAVE TO WALK ON THE STREET AND BE AFRAID BECAUSE, TODAY, WHEN I GO SOMEWHERE, I'M AFRAID, AND IT'S A FEAR THAT WE ALL CARRY EVERY DAY.... I HAVE SEVEN DAUGHTERS AND LOTS OF GRANDDAUGHTERS THAT I WORRY ABOUT CONSTANTLY ALL DAY. I DON'T WANT THEM TO BECOME A STATISTIC."

Danielle E.

As Jennisha Wilson observed, rather than pushing people to feel like "you don't belong," reflecting an understanding of culture and identity is essential to creating relationships that are trusting and secure, and that can help to create positive change.<sup>174</sup>



# Midwifery as an Essential Service in Inuit Nunangat

Inuit women's health is vitally linked to the health of families and communities in Inuit Nunangat. They are half of the adult Inuit population. They must receive prenatal, natal, and postnatal care while carrying a child. In Inuit Nunangat, health care is provided at health centres serving the regions, such as the ones in Kangirlliniq/Rankin Inlet serving the Kivalliq region, and the Qikiqtani General Hospital in Iqaluit serving the Qikiqtani (Baffin) region in Nunavut; and the Puvirnituq Health Centre serving the Hudson Bay region, and the Ungava Tulattavik Health Centre in Kuujuaq serving the Ungava region in Nunavik. Nunatsiavut communities are served by the Labrador-Grenfell Regional Health Authority based out of Happy Valley-Goose Bay. The Northwest Territories Health and Social Services Authority serves the Inuvialuit of the Beaufort Delta region. Usually, when there are medical emergencies, Inuit are sent out of Inuit Nunangat to receive immediate care in cities such as Yellowknife, Winnipeg, Ottawa, and Montreal. However, there is a very limited number of birthing centres serving the 53 Inuit communities in Inuit Nunangat.

In Nunavut, where there are 26 communities, the only birthing centre is the Rankin Inlet/Kangirlliniq Birthing Centre. The birthing centre's two midwives see from 80 to 90 patients per year, mostly from Kangirlliniq. However, expectant moms from the other 25 communities must go to southern cities to deliver their babies, and very few actually go to Kangirlliniq due to lack of accommodations.<sup>1</sup> There are annually over 200 Kivalliq moms who go away from home to deliver their babies in Winnipeg.

In Nunavik, where there are 14 communities, the Puvirnituq birthing centre began training Inuit midwives in the 1986, and the training program and Inuit community birthing centres have expanded to Inukjuak and Salluit. Out of a population of over 13,000, the majority of expectant moms from the 11 other communities travel to the three communities for the birth of their children, and though they must leave their families and homes, they remain in Inuit Nunangat and receive care in their region, language, and culture, surrounded by friends and family.

These are the only birthing centres in Inuit Nunangat where Inuit midwives are trained and provide care for birthing mothers. The midwives are involved in "woman and baby care, community health and health promotion and in managing emergencies as the most responsible care provider."<sup>2</sup> They are models, in Inuit Nunangat, where government policies have meant the evacuation of all pregnant mothers to give birth, removing them from the children they were caring for as well as from their husbands, families, and communities. This continues to be practised and brings on additional responsibility to family members in caring for their children and their household.

The midwifery programs and birthing centres are central hubs for the care of expectant moms, and deliver essential care in Inuit Nunangat. It is evident that, with only four birthing centres serving two regions on a limited basis, steps need to be taken to establish more birthing centres in Inuit Nunangat.

I Midwife at the Kangirlliniq Birthing Centre, personal communication to Lisa Koperqualuk, February 13, 2018.

II Epoo and Van Wagner, *Bringing Birth Back to the Community*, 3.



## Understanding Interconnection

Addressing violence against Indigenous women, girls, and 2SLGBTQQIA people requires an approach that reflects an understanding of the structural and interconnected nature of those factors that produce violence. In her testimony, Erin Pavan discussed the Agreements with Young Adults program, which provides financial support to young adults who have aged out of care if they are attending school. While she sees this program as a positive step, it is not enough on its own to support the other needs and challenges facing Indigenous youth living in poverty, worrying about housing, and having limited access to mental health support to address the often significant effects of trauma resulting from experiences of violence that may make it difficult for youth to attend school. As she observed:

If we're trying to catch the most vulnerable youth, the youth who are like "slipping through the cracks" or whatever term you want to use, the young women who are ending up missing or murdered – these are often the youth who are not actually able to attend school, or get themselves to a program; like, the really vulnerable youth. They may not be able to stay on that Agreement with Young Adults.<sup>175</sup>

Jennisha Wilson described the need for a coordinated, integrated, and structural approach to addressing violence in the lives of Indigenous women, girls, and 2SLGBTQQIA people in the following way:

There are a lot of different things that are at play. There is lack of housing, there is lack – there is poverty, right? Poverty is a forerunner for vulnerability. There is racism, discrimination, and stereotypical representations of Indigenous women that constantly are at play when we think about who is seen as a victim and deserving of help versus who isn't. There is the constant exclusion of women in leadership roles and in decision-making positions when it comes to the health and well-being of Indigenous women, right?<sup>176</sup>

As she went on to comment:

So, yes, we can do poverty reduction. Yes, we can bring awareness to sexual exploitation and support navigation of systems and teach cultural competency, but we also have to look at how the state intentionally does not invest in communities, over-polices, over-surveillances, and creates violence geographically for those individuals as well.<sup>177</sup>

As these teachings indicate, listening to Indigenous women is key. Nakuset stated:

I never thought I would, you know, even be here one day. But this is the kind of thing that – that we have to do. We have to be a voice for our women. And ... we that are strong enough to change the system or to try to change the system, need to be moving forward. And if I can't change the system, maybe someone behind me can.<sup>178</sup>



As we saw in chapters 2 and 3, the keys to accessing the tools to fight barriers to security are already part of the work of countless Indigenous women, girls, and 2SLGBTQQIA people, who have had to take their fight for their rights into their own hands – often with very little support – because of what they perceive as a war on Indigenous women, girls, and 2SLGBTQQIA people. As Tamara S. explained:

It's really heartbreaking to see that this is happening over and over. It's not just our family. After Jen, you hear of so many other stories of other – other women. It's just so ... it's becoming more and more of an evident problem that's out there. This is not just a random act. This is an actual epidemic. This is an actual genocide. Another form of genocide against women.<sup>179</sup>

Similarly, Josie Nepinak explained, “When we look at this child and we look at the future of Indigenous women, I think we have to very, very cognizant of the fact, Commissioners, that there is a war on Indigenous women in this country.”<sup>180</sup>

## International Human Rights Instruments and Human Security

Human rights tools and instruments can help to hold the government to account for what they have, or have not, implemented, as well as to ensure that institutions, both Indigenous and non-Indigenous, work to centre the security of Indigenous women, girls, and 2SLGBTQQIA people. Taylor Owen also suggests that identifying the threshold for what should be considered a human security issue is important, which includes the idea of protecting the “vital core of all human lives from critical and pervasive threats.”<sup>181</sup> In this way, preventing human rights abuses is one feature of ensuring human security, but is not a sufficient condition to guarantee human security for all.

These tools include international human rights instruments, as well as guiding principles like those contained in the *United Nations Declaration on the Rights of Indigenous Peoples* (UNDRIP), which contains important and interrelated provisions on economic, social, and cultural rights, and references the importance of these rights to upholding security. As scholars Celeste McKay and Craig Benjamin have argued, “the economic, social and cultural rights of Indigenous women are indivisible from their right to be free from violence and discrimination.”<sup>182</sup>

Specifically and as they relate to security, the following instruments provide a useful starting point. While this list is not exhaustive, we provide examples of how human rights instruments can help uphold security for Indigenous women, girls, and 2SLGBTQQIA people:

From the standpoint of physical security, the *International Covenant on Civil and Political Rights* (ICCPR) declares that no one shall be subject to cruel, inhuman, or degrading treatment, and that no one should undergo medical or scientific experimentation without their consent. This is particularly poignant within the context of forced sterilization, which is briefly examined



earlier in this report in the historical analysis. Measures of protection are granted to children under the ICCPR's Article 24, which states that every child, regardless of race, colour, sex, language, religion, national or social origin, property, or birth, should have access to the protection of the state from their family, society at large, and the state itself.

The *International Covenant on Economic, Social and Cultural Rights* (ICESCR) privileges security in the protection of the family, as the “natural and fundamental group unit of society,” and further expresses the need for special measures of protection and of help for children and young people, without discrimination (Article 10). It cites economic and social exploitation and key issues in defending rights to security. It also specifically references social security as the right of everyone (Article 9).

Aside from its general protection of women against discrimination, the *Convention on the Elimination of All Forms of Discrimination Against Women* (CEDAW) specifically cites the state's responsibility for modifying social and cultural patterns of conduct within society, with the goal to eliminate racism and discrimination based on any idea of women's inferiority, or on stereotypes (Article 5). The convention specifically cites human trafficking in the form of exploitation and prostitution and key areas of concern for which all governments must take responsibility to eliminate (Article 6).

The *United Nations Convention on the Rights of the Child* (UNCRC) devotes considerable attention to the security of children, both physical and social, through a focus on child welfare in Article 3. Article 19 calls on States Parties to make sure that they take all possible measures to protect children from physical and mental violence, as well as from injury, abuse, neglect, exploitation, or any other abusive treatment at home or in care. The UNCRC's Article 26 includes the right of every child to benefit from the system of social security and assistance, adding that any benefits the child receives must take into consideration the person who has responsibility for care and maintenance of that child. For many young Indigenous women caring for children, the need to better support these parents materially and culturally to ensure that they are able to care for their children without being placed in dangerous situations is important.

The UNCRC also includes an adequate standard of living for physical, mental, spiritual, moral, and social development. Children who are trafficked or who are sexually exploited do not receive this standard of care, as guaranteed by the UNCRC – which also insists that States Parties take an active role in making sure that parents and others responsible have the support they need in terms of providing necessary nutrition, clothing, and housing.

The UNCRC specifically addresses the trafficking of children in Article 35, where states agree that they will take all appropriate measures to prevent the abduction, sale, or traffic of children; and Article 36, where states agree to protect children against any and all forms of exploitation that might be harmful to their security.



## KEY CONVENTIONS: RIGHT TO SECURITY

The National Inquiry considers as foundational to all of human and Indigenous rights violations the conventions associated with genocide. In human security, these relate to all of Article II's provisions.

For reference, the complete Article II of the *Convention on the Prevention and Punishment of the Crime of Genocide*, which provides a definition of genocide, includes "any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:

- (a) Killing members of the group;
- (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;
- (d) Imposing measures intended to prevent births within the group;
- (e) Forcibly transferring children of the group to another group."

**IESCR:**  
- right to social security  
- right to adequate standard of living, including adequate food, clothing and housing, and to the continuous improvement of living conditions

**ICCPR:**  
- every child has the right, without discrimination, to measures of protection afforded to a minor on the part of family, society, and state

**CEDAW:**  
- states must take all appropriate measures to suppress all forms of trafficking in women and exploitation of women  
- states must take measures in all fields, including social, political and economic, to ensure full development and advancement of women

**ICERD:**  
- States Parties must review all policies and rescind or nullify any laws that create or perpetuate racial discrimination and its related impacts

**CRC:**  
- States Parties must ensure that services responsible for care conform with health and safety standards  
- States Parties should take all measures to protect children from violence  
- includes every child's right to adequate standard of living  
- state should provide material assistance for parents

IESCR: International Covenant on Economic, Social and Cultural Rights

ICCPR: International Covenant on Civil and Political Rights

CEDAW: Convention on the Elimination of all Forms of Discrimination Against Women

ICERD: International Covenant on the Elimination of All Forms of Racial Discrimination

CRC: Convention on the Rights of the Child



## KEY DECLARATIONS: RIGHT TO SECURITY

### DEVAW:

- includes the right not to be subjected to torture or other cruel, inhuman or degrading treatment
- promotes research, data collection and statistics to understand, prevent and redress violence against women

### UNDRIP:

- Indigenous Peoples have the right to life, liberty and security of person
- affirms the right to the secure enjoyment of means of subsistence and development, and the right to engage freely in traditional and other economic activities, as well as redress when those rights are jeopardized

### VIENNA PROGRAMME:

- the lack of development or infrastructure cannot be used to justify an absence of internationally recognized human rights
- poverty and social exclusion represent a threat to the enjoyment of human rights
- identifies poverty, hunger and other denials of economic, social and cultural rights as obstacles

### BEIJING:

- identifies poverty for women and children as a key problem in human rights
- asserts that the eradication of poverty based on sustained economic growth, social development, environmental protection and social justice requires the involvement and full participation of women in “people centred sustainable development”

DEVAW: Declaration on the Elimination of Violence Against Women

UNDRIP: United Nations Declaration on the Rights of Indigenous Peoples

Vienna Programme: The Vienna Declaration and Programme of Action

Beijing: The Beijing Declaration



## Conclusion: Challenging “the way it is”

Speaking of the murder of her sister, Laney E., Danielle E. described a conversation with her uncle in which her sister’s death as an Indigenous woman was described to Danielle as “just the way it is”:

And I just learned at a very early age that, you know, Aboriginal women were disposable, and I learned that at 18 when my sister Eleanor [E.] was murdered. And, I kept asking my uncle, “Well, how come nobody’s looking after – like, why aren’t the police doing anything about it? Like, what’s going on?” And I was told that’s just the way it is. It was just accepted, a way of life that our sisters and family, especially women, at the hands of violence. I couldn’t – it was hard for me to, you know, accept that.<sup>183</sup>

This chapter has analyzed testimony heard by the National Inquiry in terms of human security, as defined both by international organizations and rights advocates as well as by the women, girls, and 2SLGBTQQIA people we heard from ourselves. We have articulated how the concept of human security, and the barriers to it, are manifest in four key pathways that work to maintain colonial violence: intergenerational trauma that is left unresolved; economic and social marginalization; a lack of political, institutional, and public will to address the problem; and a persistent ignorance of the agency and expertise of Indigenous women themselves.

In doing so, this chapter has revealed how colonial values are reflected in the organizational or operational level of service delivery in ways that create barriers for women, girls, and 2SLGBTQQIA people seeking support from violence, homelessness, sex trafficking or the sex trade, and other forms of social assistance, education, and training. Moreover, in failing to recognize the realities of Indigenous women living with the impacts of intergenerational trauma, these services further compromise the safety of women and girls.

The witnesses who appeared before the National Inquiry stressed the importance of a dramatic reversal of policy and of attitudes toward those who find themselves targeted, daily, for violence – a reversal that begins in transforming relationships, and addressing discrimination, racism, and misogyny at the very root. In much of the testimony, family members and survivors talked about how encountering racist and stereotyped beliefs about Indigenous women, girls, and 2SLGBTQQIA people was one of the most explicit barriers that Indigenous women faced in seeking services – and that these attitudes directly related to the failure to find safety in their lives.

As Ina C. explained:

I remember when I lived in the bush with my grandmother, and my grandmother never seen a white person until I was taken away to school. And she used to hide me under her skirts. Calling my dad [for me not to] be taken away. And we – we used to live in the bush in a tent, even in the wintertime. I remember that. And I was always so warm. Never hungry. Just me and grandma.



And then my dad took us to Pickle Crow Mine, where he was a miner, and that's where things changed. And they learned about booze. They learned how to fight their women. Things like that. It was never like that before. I don't even remember ever getting hit by my parents or even from my grandma. I have really good memories of that, and I – I just long for that. Where we loved each other. I would never, ever think of hurting another person. And yet we still get hurt by force and – and it goes into murder.<sup>184</sup>

Only by acting in accordance with the wisdom and expertise offered by survivors and the families of those whose lives have been taken by violence will the fear that accompanies and shapes the lives of Indigenous women, girls, and 2SLGBTQQIA people be addressed. Danielle E. summarized this hope for a world in which the rights to security held by Indigenous women, girls, and 2SLGBTQQIA people are respected and protected.

I have hope that something good will come out of this, that as an Indigenous woman, I don't have to walk on the street and be afraid because, today, when I go somewhere, I'm afraid, and it's a fear that we all carry every day and you get so used to it that it's like it's part of you, and it shouldn't have to be because not everybody in society today has to walk around and be afraid the way Indigenous women are and girls. I have seven daughters and lots of granddaughters that I worry about constantly all day. I don't want them to become a statistic.<sup>185</sup>

This perpetual worry and fear, as the National Inquiry heard, points to a deep need to reinvigorate the meaning of security so that families can have trust in the systems that they say have so often failed them. This means looking at what security means, in communities and in families, and understanding that the most pressing need is the one to focus on improving relationships with survivors, with families, and with communities, as well as to support this process by providing adequate resources, training, and support for people working to improve the security of Indigenous women, girls, and 2SLGBTQQIA people.

“AND I JUST LEARNED AT A VERY EARLY AGE THAT, YOU KNOW, ABORIGINAL WOMEN WERE DISPOSABLE, AND I LEARNED THAT AT 18 WHEN MY SISTER ELEANOR [E.] WAS MURDERED. AND, I KEPT ASKING MY UNCLE, ‘WELL, HOW COME NOBODY’S LOOKING AFTER – LIKE WHY AREN’T THE POLICE DOING ANYTHING ABOUT IT? LIKE, WHAT’S GOING ON?’ AND I WAS TOLD THAT’S JUST THE WAY IT IS. IT WAS JUST ACCEPTED, A WAY OF LIFE THAT OUR SISTERS AND FAMILY, ESPECIALLY WOMEN, AT THE HANDS OF VIOLENCE. I COULDN’T – IT WAS HARD FOR ME TO, YOU KNOW, ACCEPT THAT.”

Danielle E.



## Findings: Right to Security

- Indigenous women, girls, and 2SLGBTQQIA people continue to experience social and economic marginalization and exclusion as a direct result of colonialism and of racist and sexist government policies. This marginalization and exclusion is the objective of the colonial policies of the Canadian state. Colonial policies violate the social, economic, and political rights of Indigenous women, girls, and 2SLGBTQQIA people, and jeopardize their rights to human security and, in turn, safety. These colonial policies are tools of genocide.
- The Canadian state has caused Indigenous women, girls, and 2SLGBTQQIA people to be removed from their homelands and territories and from their families and communities. They experience disproportionately high rates of poverty and insurmountable barriers to obtaining secure housing, food, education, employment, transportation, and other basic needs. Indigenous children and the elderly are especially vulnerable under these circumstances. Marginalization and exclusion decrease safety and increase the risk of violence, and often force Indigenous women, girls, and 2SLGBTQQIA people to remain in violent and unsafe situations or to end up in violent and unsafe circumstances in an attempt to have their basic needs met.
- The social and economic marginalization, compounded by complex and intergenerational trauma, also forces many Indigenous women, girls, and 2SLGBTQQIA people to resist the marginalization and to meet their basic survival needs by resorting to the sex industry, remaining in violent relationships, and joining gangs. This further marginalizes and endangers them. Marginalization and trauma are pervasive reasons for the institutionalization of Indigenous women, girls, and 2SLGBTQQIA people within the criminal justice system and in the child welfare system.
- The safety of Indigenous women, girls, and 2SLGBTQQIA people cannot be realized without upholding and implementing social, economic, and political rights, alongside cultural, health and wellness, and justice rights. A reliable and consistent livable income for all Indigenous women, girls, and 2SLGBTQQIA people is necessary to address the state of crisis related to their well-being and to their socio-economic and safety needs.
- Indigenous women, girls, and 2SLGBTQQIA people experience extreme rates of overcrowding and homelessness. The lack of safe housing, transition homes, and shelter impacts the health, wellness, and safety of Indigenous women, girls, and 2SLGBTQQIA people. The housing crisis is a significant contributor to violence.
- Existing social and economic services for Indigenous women, girls, and 2SLGBTQQIA people are often plagued by huge gaps in resources and infrastructure. Further, such services are often placed in unsafe areas, and are not culturally appropriate, thereby perpetuating a lack of safety and security.
- Indigenous women, girls, and 2SLGBTQQIA people continue to experience disproportionately low rates of educational achievement and high rates of unemployment. Employment opportunities and services, as well as resources to promote educational and employment success, are urgently needed as a way to combat social and economic marginalization and violence and to support community and individual safety.



## Notes

- 1 Bernice C. (Sagkeeng First Nation), Part 1, Public Volume 15, Winnipeg, MB, p. 64.
- 2 Cee-Jai J. (Beaver Clan, Nak'azdli Whut'en, Carrier Nation), Part 1, Public Volume 39, Thunder Bay, ON, p. 6. For a recent examination of the specific experiences of Indigenous women survivors in Vancouver's Downtown Eastside, see Martin and Walia, "Red Women Rising." This report provides a detailed look at the experiences of Indigenous women in the DTES, the challenges they face, and the strengths they hold.
- 3 Cee-Jai J. (Beaver Clan, Nak'azdli Whut'en, Carrier Nation), Part 1, Public Volume 39, Thunder Bay, ON, pp. 6-7.
- 4 Gregoratti, "Human Security."
- 5 Owen, "Challenges and Opportunities," 17. See also Human Security Unit, Office for the Coordination of Humanitarian Affairs, "Human Security."
- 6 Gregoratti, "Human Security."
- 7 Owen, "Challenges and Opportunities," 18.
- 8 Gómez and Des Gasper, "Human Security," 2.
- 9 Deputy Secretary-General, "Human Security," as quoted in Owen, "Challenges and Opportunities," 18.
- 10 United Nations General Assembly, "Resolution."
- 11 Deputy Secretary-General, "Human Security is More Than an Abstract Concept."
- 12 Tang and Browne, "'Race' Matters" and Dr. Amy Bombay (Ojibway, Rainy River First Nations), Mixed Parts 2 & 3, Public Volume 10, Winnipeg, MB, p. 142.
- 13 Josie Nepinak (Anishinaabe, Pine Cree First Nation), Part 2, Public Volume 4, Calgary, AB, p. 175.
- 14 Marlene J., Part 1, Public Volume 6, Smithers, BC, pp. 28-29.
- 15 Marlene J., Part 1, Public Volume 6, Smithers, BC, p. 29. Italics added.
- 16 Marlene J., Part 1, Public Volume 6, Smithers, BC, pp. 34-35.
- 17 Cee-Jai J. (Beaver Clan, Nak'azdli Whut'en, Carrier Nation), Part 1, Public Volume 39, Thunder Bay, ON, pp. 11-12.
- 18 Cee-Jai J. (Beaver Clan, Nak'azdli Whut'en, Carrier Nation), Part 1, Public Volume 39, Thunder Bay, ON, p. 12.
- 19 Cee-Jai J. (Beaver Clan, Nak'azdli Whut'en, Carrier Nation), Part 1, Public Volume 39, Thunder Bay, ON, p. 14.
- 20 Cee-Jai J. (Beaver Clan, Nak'azdli Whut'en, Carrier Nation), Part 1, Public Volume 39, Thunder Bay, ON, p. 15.
- 21 Michele G. (Musqueam), Part 1, Public Volume 84, Vancouver, BC, pp. 50-51.
- 22 Monique F. H. (Cree), Part 1, Public Volume 17, Membertou, NS, p. 94.
- 23 Dr. Allan Wade, Mixed Parts 2 & 3, Public Volume 14, Winnipeg, MB, pp. 21, 20.
- 24 Josie Nepinak (Anishinaabe, Pine Cree First Nation), Part 2, Public Volume 4, Calgary, AB, p. 175.
- 25 Dr. Allan Wade, Mixed Parts 2 & 3, Public Volume 14, Winnipeg, MB, p. 29.
- 26 Cee-Jai J. (Beaver Clan, Nak'azdli Whut'en, Carrier Nation), Part 1, Public Volume 39, Thunder Bay, ON, p. 6.
- 27 Cee-Jai J. (Beaver Clan, Nak'azdli Whut'en, Carrier Nation), Part 1, Public Volume 39, Thunder Bay, ON, p. 9.
- 28 Bombay et al., "The Intergenerational Effects," 51.
- 29 Grace T. (Eagle Clan, Tsimshian), Part 1, Public Volume 118, Vancouver, BC, p. 11.
- 30 Michele G. (Musqueam), Part 1, Public Volume 84, Vancouver, BC, pp. 2-3, 5.
- 31 Dr. Allan Wade, Mixed Parts 2 & 3, Public Volume 14, Winnipeg, MB, pp. 53-54.
- 32 Dr. Amy Bombay (Ojibway, Rainy River First Nations), Mixed Parts 2 & 3, Public Volume 10, Winnipeg, MB.
- 33 Dr. Amy Bombay (Ojibway, Rainy River First Nations), Mixed Parts 2 & 3, Public Volume 10, Winnipeg, MB, p. 140.
- 34 Dr. Amy Bombay (Ojibway, Rainy River First Nations), Mixed Parts 2 & 3, Exhibit 18, Slide 15.
- 35 Dr. Allan Wade, Mixed Parts 2 & 3, Public Volume 14, Winnipeg, MB, p. 10.
- 36 Dr. Amy Bombay (Ojibway, Rainy River First Nations), Mixed Parts 2 & 3, Public Volume 10, Winnipeg, MB, p. 159.



- 37 Josie Nepinak (Anishinaabe, Pine Cree First Nation), Part 2, Public Volume 4, Calgary, AB, p. 162.
- 38 Paul T. (Mikisew Cree Nation), Part 1, Public Volume 20, Edmonton, AB, pp. 8-9.
- 39 Dr. Amy Bombay (Ojibway, Rainy River First Nations), Mixed Parts 2 & 3, Public Volume 10, Winnipeg, MB, p. 174.
- 40 Dr. Amy Bombay (Ojibway, Rainy River First Nations), Mixed Parts 2 & 3, Public Volume 10, Winnipeg, MB, p. 170.
- 41 Dr. Amy Bombay (Ojibway, Rainy River First Nations), Mixed Parts 2 & 3, Public Volume 10, Winnipeg, MB, pp. 175-176.
- 42 Dr. Amy Bombay (Ojibway, Rainy River First Nations), Mixed Parts 2 & 3, Public Volume 10, Winnipeg, MB, p. 176.
- 43 Dr. Pertice Moffitt, Mixed Parts 2 & 3, Public Volume 16, St. John's, NL, 75-76, 81.
- 44 Michele G. (Musqueam), Part 1, Public Volume 84, Vancouver, BC, p. 63.
- 45 Dr. Allan Wade, Mixed Parts 2 & 3, Public Volume 14, Winnipeg, MB, p. 30.
- 46 Jeffrey McNeil-Seymour (Tk'emlups te Secwepemc/English), Mixed Parts 2 & 3, Public Volume 4, Iqaluit, NU, p. 218.
- 47 Canadian Poverty Institute, "Poverty in Canada."
- 48 Women's Legal Education and Action Fund, "Women and Poverty," 1.
- 49 Duhaime and Édouard, "Monetary Poverty," 224.
- 50 Ibid., 225.
- 51 Arrigada, "Food Insecurity," 1.
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## Confronting Oppression – Right to Justice

### Introduction: “Safety and justice and peace are just words to us”

To participate in the National Inquiry’s Truth-Gathering Process, Bernice and Wilfred C. interrupted their ongoing search for their missing daughter, Jennifer, who disappeared June 19, 2008, on her 18th birthday.<sup>1</sup> At the Community Hearing in Winnipeg, Bernice described what they were doing just before sharing Jennifer’s story with the Commissioners, and the lengths they are going to in their search.

We left a site to be here. We found a well in the middle of nowhere, a well close to where we’re searching. And, I said, “Oh my gosh.” I said – my husband – he’s not strong anymore, not the way he used to. Not in a disrespectful way because he’s strong. He’s – he’s my strong tower.

And, why I’m saying that is, that well is 10 feet down. We opened the lid and there’s muskrats there, there’s beaver carcasses and it stinks. It’s a well. It’s contaminated. My husband jumped in it. We put a 10-foot ladder, went in there. And, he takes the shovel and he’s digging these carcasses out of there that smells. And, I know it’s hard. He’s got to lift it over his head. So, he’s cleaning it all, all that garbage in there, because we’re thinking our daughter is in that – in that well. He dug two feet, and then he pushed a pole in there, and it’s another two feet to go. And, he’s tired.<sup>2</sup>

For the past 10 years, Bernice and Wilfred have continued to hold out hope that they will find the answers they are looking for as they personally carry out difficult and at times dangerous searches for their daughter – always willing to dig another “two feet,” despite the physical and emotional exhaustion they both feel. When they were turned away by the Portage la Prairie RCMP detachment when Bernice first reported her daughter missing, she and her husband



Wilfred – like many of the families and friends of missing or murdered loved ones – were left on their own to seek justice for the violence inflicted upon their daughters, mothers, sisters, aunts, grandmothers, and families of the heart. Their story of coming together and relying on the strength of relationship among Indigenous families and community members to carry out the work of a criminal justice system that has historically ignored and continues to ignore the right to justice of families like theirs is one of the overarching themes we explore in this chapter.

Families and supporters of Victoria P., a woman who suffered a stroke while in custody of the Truro Police Force, offered another piece of the story told during the National Inquiry about the relationship between Indigenous Peoples and the criminal justice system. This part of the story considers how these ways of relating play out in the lives of Indigenous women, girls, and 2SLGBTQIA people within provincial, territorial, and federal correctional institutions.

In the same way that the police ignored the rights of Jennifer’s family to justice for their missing daughter, so, too, did they ignore those same rights held by Victoria as she lay in a jail cell in significant physical distress, in need of help. In describing the events leading up to Victoria’s death, family support person, advocate, and past president of the Nova Scotia Native Women’s Association Cheryl M. emphasized a single encounter between the officers on duty and Victoria. In this encounter, the senior officer on duty told the junior officer who expressed concern about Victoria’s condition that “if you get a grunt, that’s good enough.”<sup>3</sup>

For Victoria’s family members and supporters who came to the community hearing in Member-tou, Nova Scotia, to share her story – and for the many Indigenous survivors, families, friends, and loved ones listening – this comment exemplifies an attitude pervasive in the stories shared about the criminal justice system during the National Inquiry: within the criminal justice system, the lives of Indigenous women do not matter. As Cheryl M. stated: “Nobody is listening. Nobody seems to care. There’s no wrongdoing of the police in this country.”<sup>4</sup>

Victoria died a few days following the stroke she suffered while in police custody; as Cheryl described, “[Victoria] went into the Truro police cell and she came out on life support and died.” A subsequent report investigating the police treatment of Victoria found that the police did not provide adequate monitoring of her condition.<sup>5</sup> And Jennifer is still missing; her parents, Bernice and Wilfred, still do not have any answers.<sup>6</sup>

This chapter, first, seeks to define “justice” according to the witnesses who appeared before the National Inquiry and according to human rights standards. We then explore the testimonies connected to accessing justice, as well as the interrelationship between justice and other rights, through our four pathways that work to maintain colonial violence. We connect the right to justice to international human rights standards and instruments, as well as to the need for new relationships, based in a shared concept of what justice looks like and feels like for those who are most targeted.



## Defining “Justice”

Access to justice is a defining feature of the rule of law, and is an important part of understanding how to support basic human rights, defined internationally and nationally by legal instruments, as well as understood by the witnesses who testified before the National Inquiry.

According to the World Justice Project, an independent, multidisciplinary organization working to advance the rule of law worldwide, four universal principles are important in understanding what the “rule of law” involves: accountability, just laws, open government, and accessible and impartial dispute resolution.

“Accountability” involves holding government and private actors responsible for their action – or inaction. “Just laws” relates to the idea that laws are clear, publicly available, and applied evenly to all people, as well as the idea that they serve to uphold basic and fundamental rights as related to human security and other human rights. “Open government” is the idea that the way that laws are created and applied, as well as enforced, is accessible, fair, and efficient. “Accessible and impartial dispute resolution” is engaged when people seek justice for themselves or for their loved ones, with fair representation and adjudication (or decision-making power) that reflects the communities served.<sup>7</sup>

The UN General Assembly’s *Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power*, declared in 1985, called upon member states to take the necessary steps to reduce victimization, implementing “social, health, including mental health, educational, economic and specific crime prevention policies to reduce victimization and encourage assistance to victims in distress”; to promote community crime prevention; to review legislation to make sure that it upholds international human rights standards; and to “prohibit practices and procedures conducive to abuse,” among others.<sup>8</sup>

More recently, the United Nation’s *Declaration of the High-level Meeting on the Rule of Law*, 2012, similarly emphasizes how important it is that all members of society have access to justice, particularly those who are most targeted or vulnerable. Further, the declaration emphasizes the need for governments to take “all necessary steps to provide fair, transparent, effective, non-discriminatory and accountable services that promote access to justice for all.”<sup>9</sup> In addition, it specifies that the delivery of justice should be both impartial and non-discriminatory, within an independent, impartial judicial system.<sup>10</sup>

The idea of access to justice is broader than the simple administration of the courts, or the conduct of police, though. The United Nations Development Programme, which focuses on development challenges in the areas of eradicating poverty, structural transformations, and building resilience, asserts that access to justice is vitally linked to the reduction of poverty and the strengthening of democratic governance. In addition, access to justice “must be defined in terms of ensuring that legal and judicial outcomes are just and equitable.”<sup>11</sup> The program’s report adds that “creating a sustainable environment with equal access to justice requires working with different types of institutions and with various actors, such as: the police, the courts, prosecutors,



social workers, prison officials, community leaders, paralegals, traditional councils and other local arbitrators; and taking account of the linkages between them.”<sup>12</sup>

A human rights-based approach to justice therefore involves understanding that justice is a broader concept than just administration. Applying human rights standards to justice-related issues involves:

- focusing on the immediate, as well as underlying, causes of the problem;
- identifying “claim holders” as those most vulnerable, or, as the National Inquiry heard, who are targeted;
- identifying “duty bearers,” those who are responsible for addressing issues or problems, including government institutions, groups, community leadership, and others; and
- assessing and analyzing the ability of claim holders to access their rights, as well as duty bearers to meet their own duties and obligations with relation to those rights – and putting in place systems to allow each to do so.<sup>13</sup>

## A HUMAN RIGHTS LENS FOR JUSTICE





In Canada, the history of the justice system within Indigenous communities and its effectiveness and fairness in pursuing justice have been under discussion and debate. From Saskatchewan's "starlight tours," involving the Saskatoon Police Department in the 1990s and 2000s, to the more recent acquittal of the Saskatchewan farmer charged with the death of Colten Boushie,<sup>14</sup> Indigenous Peoples have had little reason to be confident that the justice system is working for them.<sup>15</sup> In many testimonies the National Inquiry heard, the same themes demonstrate that, across the country, Indigenous women's, girls', and 2SLGBTQQIA people's right to justice is compromised.

This is why it is important to consider how "justice" is defined in Indigenous terms and, as guided by the principle of respect, is essential to the well-being of Nations and communities. This conception of justice addresses how people have worked to keep each other safe. Grandmother Blu provided a powerful explanation of the way justice, as it is conceptualized within the Canadian criminal justice system, is at odds with traditional, Indigenous notions of justice when she recounted her experience as a young girl attending the trial of the man who murdered her grandmother.

So that day that I heard those things in the courtroom and I finally seen ... who and how he really was, he got sentenced to 15 years, 10 years to be served in Penetanguishene mental health centre, so he got to sit there and have fun, watch TV, not be behind bars like he should have been. He got to be institutionalized in a place where he would be given medication to make him feel good, and a man who knew how to read and write but claimed that he didn't and got away with it because of our criminal system. That's not our system. The system we have is not our system. Our system, he would have been brought before the grandmothers, and he would have been sat down, and he would have been explained to of how he impacted not only the immediate family but the extended family, the community, and the whole Nation, right? And he would have had to apologize in front of everyone, and he would have had to speak to me directly, and he would have had to apologize, and he would have had to do something to show that he had truly learned from what he did was wrong. I never got to tell him how I felt. I never got to tell him the impact that he had on my life or the rest of my family.<sup>16</sup>

Justice-related human rights violations against Indigenous people are widely documented. Specific to the issue of missing and murdered Indigenous women, girls, and 2SLGBTQQIA people, international organizations like Amnesty International and the United Nations have criticized Canada for not addressing these human rights abuses, and for the way the justice system responds to these abuses.<sup>17</sup> In addition, offices like the Office of the Correctional Investigator and advocacy organizations like the Canadian Association of Elizabeth Fry Societies have also highlighted the significant human rights abuses against Indigenous women while they are incarcerated.<sup>18</sup>

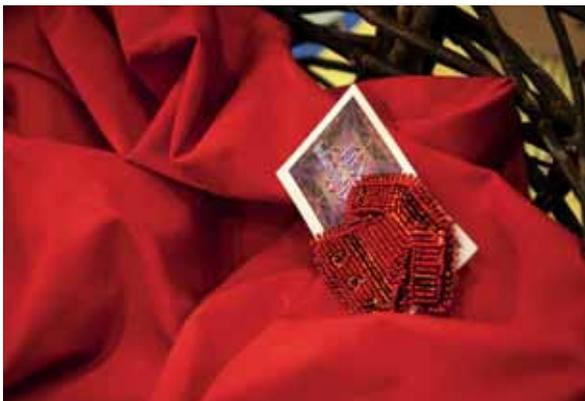
The testimonies heard by the National Inquiry engage the police, courts, correctional facilities, and other representatives of the criminal justice system as responsible or complicit in the violation of the rights to justice held by Indigenous women, girls, and 2SLGBTQQIA people who experience violence.



Indigenous women are also vastly more likely to become involved in the criminal justice system themselves than non-Indigenous women. For instance, while Indigenous women make up 4% of the general population in Canada, they make up nearly 40% of all federally sentenced women.<sup>19</sup> Moreover, there is every indication that the number of Indigenous women being sentenced to federal correctional institutions is growing: in the last 10 years, the number of Indigenous women in federal correctional institutions has grown by 60%, making them the fastest growing population in federal prisons.<sup>20</sup> In many of these cases, Indigenous women are criminalized for protecting themselves or their children against violence; that is, they are criminalized for the very thing the justice system is supposed to protect them against.<sup>21</sup> As we learned, the extent of violence in the lives of Indigenous women and girls cannot be separated from their criminalization.<sup>22</sup>

In addition to violations to the right to justice related specifically to interpersonal violence, family members, survivors, Knowledge Keepers, Expert Witnesses, and others also pointed out the importance of considering questions of justice in relation to, and in respect to, acts of violence committed against traditional territories, land, culture, and ceremony. In her testimony, for instance, Marilyn W. connected the lack of justice in her sister's murder trial to the lack of justice in her community's fight to stop seismic testing on its ceremonial Sundance grounds. Marilyn noted, "I know that I'm talking about things that may not seem relevant to my sister's death, but they are very much connected, these issues, very much connected."<sup>23</sup>

Like all of the other rights discussed so far in this report, the conversation and teachings about justice shared with the National Inquiry include but go far beyond the particular events related to the handling of justice in the disappearance or death of an Indigenous woman, girl, or 2SLGBTQIA person. These testimonies reveal that the failure of justice is not restricted only to cases of missing and murdered Indigenous women and girls; rather, the absence of justice, the fight for justice, and the misuse of justice in interactions between the justice system and Indigenous people routinely compromises their rights and allows violence to continue unchecked.



*A red dress beaded pin rests in the Miskwaabimaag Basket, or red willow basket, in St. John's, Newfoundland.*



## Pathway to Violence: Intergenerational and Multigenerational Trauma

When the unthinkable happens and First Nations, Métis, and Inuit families become concerned that their loved one may be missing or in danger of violence, they are faced with a difficult dilemma: to seek help in finding that loved one requires reaching out to institutions – the police and criminal justice system – that have historically ignored and continue to ignore their concerns. More than that, they are forced to reach out to institutions that are directly at the heart of significant pain, division, cultural destruction, and trauma experienced in their family and perhaps by the loved one they seek help in finding. In some cases, they are forced to reach out to the very people who have perpetrated acts of physical and sexual violence against them or their loved ones.

### **Mistrust and Stereotyping**

If families do reach out to the police or another representative of the criminal justice system, they are often confronted with an individual, policy, procedure, or way of relating that shows little to no awareness or understanding of the histories and complexities in the relationship between Indigenous people and the police. Instead, within this institution, the family and their lost loved one are viewed through a lens of pervasive racist and sexist stereotypes – stereotypes that ultimately blame Indigenous Peoples, and especially Indigenous women, girls, and 2SLGBTQQIA people – for the violence and difficulties they face, and/or see them as guilty of committing violence or other crimes themselves.

Kassandra Churcher, the national executive director of the Canadian Association of Elizabeth Fry Societies, described this dilemma in the following way.

Indigenous women must rely on a justice system that is in no way reflective or adaptive to their cultural history and reality. Canada's long history of colonialism and abuse ... is the core of this issue, of course. When a First Nations, Métis, or Inuit woman appears in court, they go before the same justice system that established the reserve system, the residential school system, and continues the removal of children from their families, and they ask that court for justice.<sup>24</sup>

The systems developed within a justice context have played and continue to play a fundamental role in creating and maintaining conditions that foster a deep mistrust of the criminal justice system. For instance, the historical abuses by police against Indigenous Peoples in enforcing colonial policies, as documented in Chapter 4, coupled with the ongoing reality of explicit acts of violence against Indigenous Peoples, must be recognized as the context within which Indigenous families and survivors talk about their experiences within the justice system.



Audrey Siegl explained the roots of this relationship.

The RCMP was created to quash the North-West Indian rebellions. The police were created to protect and serve the colonial state, its properties and its representatives, who are representatives of the Queen. Not representatives of the land. The Queen has never, in good faith, negotiated with we, the Indigenous Peoples of what is known as “Canada.” The Queen’s representative has never come here. So, what Canada does here by its own jurisdictional codes and systems of laws ... is illegal. But they don’t want us to point that out. For that truth to be public knowledge.<sup>25</sup>

### Interpersonal Violence and Intergenerational Trauma: Reluctance to Report

The National Inquiry heard from many witnesses who discussed their reluctance to reach out to the police for help. The underreporting of interpersonal violence, such as intimate partner and sexual violence, is well documented among all victims of these crimes in Canada.<sup>26</sup> In the case of Bernice C.’s daughter, for example, the RCMP didn’t take a statement when her parents tried to



report her missing, and although police could have questioned the man who was last seen with her daughter, the delay in doing so and his murder mean that those answers may never be found.<sup>27</sup> To be sure, many of the Indigenous survivors and families who shared their truth expressed that within a justice system that, as Kassandara Churcher described, “does not acknowledge its own historical abuses and the impact of the intergenerational trauma within our Indigenous communities,”<sup>28</sup> reporting violence is more likely to create further danger than it is to foster safety.

During the Truth-Gathering Process, families and survivors talked frankly about their reasons for not reporting violence to the police or not reaching out to the criminal justice system – even in cases where there had been severe acts of violence perpetrated against them, such as the one described here by survivor Marlene J. Describing why she didn’t make a report to police even after being beaten up, thrown out of a car, and run over by a car, she explained: “I didn’t report to the police because I know they’re not going to do nothing and they’re going ask me who is this guy, do you know who he was or where he is ... I don’t remember him, I was drunk, too. I know the car he was driving. So I can’t remember his name.”<sup>29</sup>

*A National Post article from 2000 reports on the use of an Indigenous woman's image for target practice at a Saskatoon police range. Submitted by Muriel Stanley Venne of the Institute for the Advancement of Aboriginal Women (IAAW) pursuant to Rule 33.*



Jennisha Wilson also described how prior negative experiences with police make Indigenous women reluctant to report violence or trafficking: “There is a significant reluctance for Indigenous women, specifically Inuit, to engage with police because of prior experiences of being seen as a criminal, being blamed, being seen as not a victim, causing it on themselves.”<sup>30</sup>

Michele G. recounted a similar reason for why she stopped reporting the physical abuse she suffered at the hands of her partner to the police: “In the beginning I used to call the police but then didn’t bother anymore. It didn’t seem to serve any purpose. Except once when he broke my nose they made him leave. Usually they said I had to leave with my six kids, which was so frustrating. Good Lord.”<sup>31</sup>

So, too, did A.B.:

My mum had a series of men. They all beat her up. And I called the cops every time, and never once did they do anything. Back then a man’s home was his castle. And the men would stand at the door, because they never did not answer it to the cops, and they would just swear at the cops and tell the cops, “So what, what are you going to do about it?” when I was a kid. And all the cops would do is tell my mum, “We’ll wait five minutes and we’ll escort you out safely.” My mum had six kids, usually one or two babies, what can you gather in five minutes to get out safely and be okay? So I grew up not believing that bullshit about the cops will save your life, or the cops will help you.<sup>32</sup>

This long-standing indifference from the police, which many survivors remembered based on the police response to the violence experienced by their parents or grandparents when they were children, understandably continues to shape the perceptions Indigenous Peoples hold of the criminal justice system, and police in general.

As Expert Witness and Canada Director of Human Rights Watch, an international non-governmental organization that conducts research and advocacy on human rights, Farida Deif stated, “There is still this, sort of, overarching prevalence of a fractured relationship. And, that has to do with both history, it has to do with certainly settler colonialism, it has to do with racist assimilation policies with the residential school system, but it also has to do with current policing failures.”<sup>33</sup>



*RCMP Commissioner Brenda Lucki testifies in Regina, SK, apologizing to families and promising to do better.*

On a much larger scale, the historic denial and unwillingness to investigate the disappearance or death of many Indigenous women, girls, and 2SLGBTQIA people have, for many years, sent the message that the police are indifferent to such violence. Jamie L. H. described the police response to early efforts to draw attention to the missing and murdered women: “And we were wanting a reward [to be offered] for [information related to] the disappearances and the murders of the women, and the police were opposed to it. They were saying things like, ‘Oh, the women might have just moved away, nothing’s happened, there’s no evidence of anything going on.’” As she observed:

I feel that the women were deemed as disposable. And it was very, very tragic; their lives were tragic. You know, they were human beings; they were sisters, mothers, daughters, loved ones, wives; partners, aunts, grandmas. They were human beings worthy of dignity and respect, and that wasn’t accorded to them in life.<sup>34</sup>

Again, Jamie’s comments echo what has been previously documented regarding the manner in which the police mobilize racist and sexist stereotypes of Indigenous women in order to justify their inaction. Cree scholar and Expert Witness Robyn Bourgeois described how stereotypes about Indigenous women as hypersexual and sex workers, as understood within the criminal justice system, effectively erases the acts of violence committed against them.



If you can prove a link, whether perceived or actual, between an Indigenous woman ... or a girl who's experienced a tremendous act of violence and you can link that in any way to prostitution or hypersexuality, then perpetrators get either reduced sentences or are completely exonerated. And, that's a huge issue, because – you know, not just about perpetrators. The state is using this as well.

I mean, this is what the excuse was with the missing women. Why didn't police investigate? Why did it take, you know, almost 20 years before they took this seriously? It was because of this belief that these women were entrenched in the sex trade and for that reason, you know, they weren't likely victims. And so, it allows for general inaction on violence against Indigenous women and girls, and that's a huge concern for me.<sup>35</sup>

While police are eager to have women report violence, there still needs to be significant trust and education built. Many of the barriers experienced by Indigenous Peoples are rooted in the police's and justice system's response to Indigenous Peoples from a place of limited to no understanding of the complex historical relationships, as well as the realities of intergenerational trauma among Indigenous Peoples. Police officers who attended the National Inquiry also shared that, for instance, police receive limited training on these very issues that are so fundamental to ensuring that a victim's experience with the police is safe and takes place in a relationship that demonstrates this knowledge.<sup>36</sup>

“MY MUM HAD A SERIES OF MEN. THEY ALL BEAT HER UP. AND I CALLED THE COPS EVERY TIME, AND NEVER ONCE DID THEY DO ANYTHING. BACK THEN A MAN'S HOME WAS HIS CASTLE. AND THE MEN WOULD STAND AT THE DOOR, BECAUSE THEY NEVER DID NOT ANSWER IT TO THE COPS, AND THEY WOULD JUST SWEAR AT THE COPS AND TELL THE COPS, “SO WHAT, WHAT ARE YOU GOING TO DO ABOUT IT?” WHEN I WAS A KID. AND ALL THE COPS WOULD DO IS TELL MY MUM, “WE'LL WAIT FIVE MINUTES AND WE'LL ESCORT YOU OUT SAFELY.” MY MUM HAD SIX KIDS, USUALLY ONE OR TWO BABIES, WHAT CAN YOU GATHER IN FIVE MINUTES TO GET OUT SAFELY AND BE OKAY? SO I GREW UP NOT BELIEVING THAT BULLSHIT ABOUT THE COPS WILL SAVE YOUR LIFE, OR THE COPS WILL HELP YOU.”

A. B. .

## Pathway to Violence: Social and Economic Marginalization

The social and economic marginalization of Indigenous Peoples creates a distinct disadvantage in their access to justice and justice-related resources necessary to respond to violence. As we look more closely at the truths families shared about their relationships with police, we can see how Indigenous women, girls, and 2SLGBTQQIA people who look to the criminal justice system for protection, support, or justice face significant barriers and encounter institutional racism and discrimination that make accessing those protections difficult.



## **Institutional Reprisals**

In speaking about the reasons that made them reluctant to report violence or seek help, Indigenous women, girls, and 2SLGBTQQIA people shared their fears of institutional reprisals. For some people, fears that contacting the police may lead to involvement with child protection organizations mean that living with violence is a better choice. In describing her research with Indigenous women in Saskatchewan and northern British Columbia, Farida Deif noted that, for many Indigenous women, fear of contacting the police in relation to violence is often rightfully rooted in a fear that in doing so, child protection organizations may become involved. Deif shared the following story from her research.

The other thing that was quite striking was a woman who told us that ... her mother was a victim of domestic violence from her white boyfriend. And, when the daughter called the police to respond to the domestic violence case, not only did they charge her mother for responding to the violence that her intimate partner, you know, perpetrated against her, but when the daughter protested and said, you know, “This man has been abusive to my mother. I have videotapes of that. I’ve got evidence of all of the abuse that he suffered – you know, that he’s inflicted on her.” The first question they asked the daughter was, “Where are your children?”

And, the daughter said, “You know, the way that you try and threaten and intimidate an Indigenous woman is by asking her where her children are,” because what the police officer was doing then was trying to silence her by threatening and intimidating her. “Are your children not in the right place? You know, are they not in – are they not in the right care? Should we remove them from your custody or care?” Those were all the messages that were implicitly being sent to her to silence her.<sup>37</sup>

## **Presumption of Criminality**

In addition to fearing the involvement of child protection services should they report violence, Indigenous women, girls, and 2SLGBTQQIA people also talked about their very real concerns that reaching out to the police may lead to their being arrested or charged because the police already believe they are guilty. As Farida Deif explained in relation to the interviews that the organization Human Rights Watch conducted with Indigenous women in Saskatchewan and northern British Columbia concerning police treatment, “there is a presumption that the [Indigenous women] are engaged in criminal behaviour. And, when that presumption exists, many, many things result from that,” including “more excessive use of force.”<sup>38</sup>



To be sure, truths shared by witnesses before the National Inquiry speak to a larger issue of police violence, including sexual violence, committed against Indigenous women, girls, and 2SLGBTQQIA people – an issue that has been previously documented and explored in other inquiries and commissions. As Farida Deif shared, the research she had conducted into the relationship between Indigenous women and the police in Saskatchewan revealed that Indigenous women had experienced several forms of violence at the hands of police officers.

Indigenous women experienced, quite routinely, excessive use of force by police officers, that inappropriate body and strip searches by male officers were quite common as well, both during routine stops and in detention settings. We also found that women experienced sexual harassment, and in some incidents, sexual assault by officers.<sup>39</sup>

As Lise J. shared: “My friend, she had made a complaint of sexual assault against the policeman. A few days later, the prosecutor comes to see her and then says, ‘We went to see the policeman. You are mistaken.’ Her complaint wasn’t accepted either.”<sup>40</sup>

According to Deif, police also frequently failed to adequately protect and support Indigenous women who are survivors of violence. Mealia Sheutiapik’s description of the relationship between the police and Indigenous people living in poverty or in other precarious situations demonstrates how the socio-economic marginalization of Indigenous people is equated with criminalization by police.

Most of the time when I notice ... the police looking down at people, mostly Aboriginal and Inuit people, they like to look down and they will start questioning you without having the right papers to start questioning you or they harass you. And I notice in the last few years, even though I haven’t been on the street for how – I lost count how many years now, maybe five, six years, the last time I talked to a guy like that. But when I was encountered by the cop, like, they look down at you. Start saying, “You got to go home” or “You can’t be here.” And then you have no choice to listen because they’re higher than you or something or just because you’re – I start thinking, I don’t want to go to jail. And that’s not right for the cops to do that.<sup>41</sup>

In speaking about her experience as a sex trade worker, Lanna Moon Perrin described how she and other women involved in the sex trade are reluctant to report to the police for fear of being ridiculed, enduring racist or sexist commentary and harassment, and of possible arrest.

I mean, it would be nice to be able to report a bad date to a police officer without getting – being given the attitude, “Well, you know, a girl could run faster with their dress up than a guy can with their pants down,” you know, I have heard from a police officer before. You know, I mean, it’s – we talk about – like, in decriminalization, it’s the hope that people can negotiate services and those services will be understood, right?<sup>42</sup>



## Dual Arrests

The fears that women like Mealia expressed about being criminalized when they report violence were echoed by those who shared stories of being arrested when they reported domestic violence. In these instances, Indigenous women may fear reporting violence because they may themselves be arrested or charged with abuse or violence. The high frequency of dual arrests made by police in responding to domestic violence situations involving Indigenous women, which has been identified in previous research carried out by Human Rights Watch, emerged as well in the stories shared by witnesses during the Truth-Gathering Process. As Deif explained:

Women victims of violence and those at risk also reported police insensitivity to their well-being, vulnerability, and cultural background. Some women said that police had threatened to arrest them for drug possession, public intoxication, or breach of parole conditions when they reported domestic violence.<sup>43</sup>

In their efforts to learn more about dual charging policies, Human Rights Watch found that none of the police services they contacted could, in fact, identify a policy on dual charging in domestic violence cases. As Deif explained:

In terms of best practices on police response to victims of violence, the police should respond to the victim, should identify the primary aggressor of that violence and not really focus at that time on the other factors that might be in play. But what we found time and time again is that the victim of violence herself might also be charged for any number of things that have nothing – that are nowhere near the level of severity of domestic abuse.<sup>44</sup>

In listening to the truths witnesses shared about the consequences they faced as victims of violence when they reached out to the police, it is important to acknowledge the pervasiveness of this problem as it is evidenced in federal correctional institutions, where 90% of federally sentenced women have a history of physical abuse, and 68% have a history of sexual violence.<sup>45</sup> As Kassandra Churcher observed – and as in the many stories witnesses shared about their reluctance they feel in reporting violence – the police and the criminal justice system exist in the lives of Indigenous women, girls, and 2SLGBTQQIA people not to provide safety and protection, but rather in a way that “continues to traumatize, abuse, control them.”<sup>46</sup>

Again, as many of the survivors, victims’ advocates, and grassroots activists emphasized, these fears are not unfounded. Within a context of ongoing police violence and discrimination against Indigenous people, making the decision to not report violence to the police is often based on an attempt to protect oneself and one’s family.



## DEEPER DIVE

# Criminalizing and Incarcerating Indigenous Women

## Introduction

The purpose of this Deeper Dive is to highlight some of the systemic issues raised regarding incarceration in testimonies we heard in all phases of our Truth-Gathering Process, as well as in eight informal visits to federal women's penal institutions made in the early months of 2019. We deeply regret that we did not have sufficient time to dive even deeper into this important subject area that represents, in many ways, the impacts and legacies of colonization as lived by Indigenous women, girls, and 2SLGBTQIA people.

This Deeper Dive explores how the overrepresentation of Indigenous women in Canadian prisons is intimately tied to colonization, specifically through violence, poverty, and disruption of family and community life. We outline how the current Canadian prison system creates and maintains the violence that many Indigenous women, girls, and 2SLGBTQIA people experience, as well as some of the steps and challenges within the realm of decarceration. We also discuss possible ways forward for incarcerated Indigenous women and the Canadian penal system.

## Colonialism and Criminalization: Pathways to Prison

Indigenous women and girls are disproportionately overrepresented in Canadian provincial and federal prisons; Indigenous women make up 4% of the Canadian population, yet account for roughly 40% of the federal prison population.<sup>A</sup> The distressing number of incarcerated Indigenous women is made worse by the fact that their incarceration rates are the fastest growing among any demographic in Canada. Between March 2009 and March 2018, the number of Indigenous women sentenced to federal institutions grew by 60%.<sup>B</sup>

In a letter dated June 29, 2018, to Minister Goodale, Correctional Investigator Dr. I. Zinger wrote as follows:

Based on snapshot data, as of June 20, 2018 the Office reports that there were 61 maximum security women in federal custody, 41 of whom (or 67.2%) are Indigenous. Younger Indigenous women were found to be overrepresented in the Secure Units; indeed there is a strong correlation between young age and indigeneity, specifically in the 18–25 cohort.

In referring to his 2016–17 report, Zinger also wrote: “Moreover, half of the women held in the Secure Units at the time of my investigation were Indigenous. These women were not benefitting from the range of services, programs and supports to which Indigenous women in federal custody are entitled under the law.”

Elders and Correctional Service Canada staff told us that they have noticed that the demographics of incarcerated Indigenous women are also changing: Indigenous women tend to be younger on admission and poorly educated, and have more connections with violence inside and outside of prison, as well as mental health and addiction issues. Many women described to us their “graduations” from foster care, to youth detention, to provincial institutions, to federal institutions. These “graduations” show a disturbing trend that requires further analysis, outside of this National Inquiry.

When compared with non-Indigenous women in federal custody, Indigenous women are overrepresented in incidents of self-injury, segregation, use-of-force incidents, and maximum security. Indigenous women are assessed as a higher risk and are more likely to break institutional rules. They are less frequently granted day or full parole and are more likely to be returned to custody as a result of parole suspension or revocation.<sup>C</sup>



One of the reasons that Indigenous women are over-represented in the Canadian prison population is that they experience violence at a disproportionate rate. There is a clear connection between the violence that missing and murdered Indigenous women and girls experience and their overincarceration. When Indigenous women are incarcerated because of violent crime, it is most often a response to the violence they experience.<sup>D</sup>

## Colonialization and Imprisonment

By its very nature, Canada's correction and justice system is deeply rooted in colonialism and Western values and attitudes about Indigenous women and culture. Indigenous women must rely on a justice system that is in no way reflective or adaptive of their cultural history and reality.<sup>E</sup> As Cassandra Churcher, the executive director of the Canadian Association of Elizabeth Fry Societies, said, the foundation of this type of system "recreates the same patterns of state-sanctioned control, assimilation, and trauma that Indigenous people have endured for centuries."<sup>F</sup> When Indigenous women appear in court, Churcher said, "They are seeking justice from a system that established residential schools, the reserve system, and a system that continues to remove their children from them."<sup>G</sup> She noted, "A significant piece of the overrepresentation issue is tied to this system, a justice system that does not acknowledge its own historical abuses and the impact of the intergenerational trauma within our Indigenous communities."<sup>H</sup> The notion of prison as punishment and the overcriminalization of Indigenous women both work against building programs to keep women out of jail, rather than sending them to jail.

In an essay by Rupert Ross, Assistant Crown Attorney in Kenora, Ontario, he argues that Indigenous inmates in correctional institutions are dealing with systems that directly contravene their own notions of justice and of safety. He notes that, in many cases, the complex post-traumatic stress that is itself a result of colonizing processes includes family and community histories that reflect the impact of economic, social, political, and legal "subordination to, and isolation from," the non-Indigenous world. In addition, he notes that many incarcerated Indigenous people, both women and men, have dealt with complex

childhood trauma that is, by its nature, intergenerational, and are forced to confront a penal system in which physical, emotional, mental, and spiritual deprivation is common.<sup>I</sup>

The overcriminalization of Indigenous women is largely a result of colonialism, in and out of the penal system. Poverty, food insecurity, mental health issues, addiction, and violence, all parts of Canada's past and present colonial legacy, are systemic factors that lead to the incarceration of Indigenous women. Violence is a precursor for many Indigenous women who are incarcerated. Ninety per cent of Indigenous women who are incarcerated have a history of domestic physical abuse, and 68% have a history of domestic sexual abuse.<sup>J</sup> Further, 61% of Indigenous women who report domestic violence experience physical and sexual violence, compared with 32% of non-Indigenous women.<sup>K</sup> Similarly, 53% of Indigenous women, compared with 29% of non-Indigenous women, report that they feared for their lives in domestic abuse situations.<sup>L</sup> While these statistics are striking, it is important to contextualize the violent crimes that Indigenous women are charged and convicted for; most often, according to Churcher, the violent crimes that Indigenous women commit are "defensive or reactive to violence directed at themselves, their children, or a third party."<sup>M</sup>

During our visit at the Edmonton Institution for Women, some of the women we spoke with described their reason for incarceration, and linked the cause and root of their problems to violence. One woman told the Commissioners, "I grew up in a very violent environment. My father tried to kill my mother. Afterwards, my mother has always been into violent relationships. There was always lots of alcohol and drugs." The link between histories of violence was described in many cases as the reason that the women themselves acted in violent ways preceding prison and within prison, wherein violent behaviour was normalized.

In addition, many of those incarcerated drew on the experience of gang membership as a way that they ended up in those institutions. However, as the Honourable Kim Beaudin, National Vice-Chief of the Congress of Aboriginal Peoples and outreach worker with STR8UP, a program designed to keep people out of gangs in Saskatoon, explained: "When people get ... involved in gangs in general, it is because of lack



of housing, poverty of course ... lack of food, they struggle to feed their kids. These are the kind[s] of things that have a spiralling effect, a negative effect on themselves.... It is a vicious circle."<sup>N</sup>

However, most crimes that Indigenous women commit are non-violent in nature. The majority of crimes Indigenous women are charged with are property and drug offences. The leading causes for crime for Indigenous women are: theft under \$5,000, 23%; theft over \$5,000, 37%; fraud, 32%; trafficking of stolen goods, 21%.<sup>O</sup> Again, these crimes must be understood in the context of many Indigenous women's realities. Thirty-seven per cent of First Nations women living outside of their community are living in poverty, 30% to 70% suffer from food insecurity, and 40% of Inuit women are living in housing that is overcrowded.<sup>P</sup>

A clear pattern emerges. The Canadian justice system criminalizes acts that are a direct result of survival for many Indigenous women.<sup>Q</sup> This repeats patterns of colonialism because it places the blame and responsibility on Indigenous women and their choices, and ignores the systemic injustices that they experience, which often lead them to commit crimes.<sup>R</sup> The Canadian state is not held accountable for how its colonial policies contribute to the victimization and incarceration of Indigenous women.<sup>S</sup> As such, as Churcher said, "The corrections system, by its very nature, has no investment in addressing the root causes of criminalization, and so it is unable to effectively address rehabilitation and reintegration as its principal mandate."<sup>T</sup>

## Incarceration and Intergenerational Trauma

The National Inquiry also found a connection between intergenerational trauma, a consequence of colonialism, and incarceration. Churcher said, "The unfortunate reality is that the long-term effects of colonialization and intergenerational trauma that our country has perpetuated against Indigenous women continue to be the principal factors in their being missing, murdered, and/or in prison."<sup>U</sup> Overwhelmingly, incarcerated women are residential school survivors or have family members who are residential school survivors. During a visit to Fraser Valley Institution, the National Inquiry heard from nine incarcer-

ated Indigenous women, all of whom had been residential school survivors. At Établissement Joliette, most women acknowledged that their parents and/or grandparents had experienced severe trauma from residential schools and that this had a direct impact on their lives. Similarly, during our interviews with incarcerated women across the country, we found that there is a connection between incarceration and missing and murdered Indigenous women and girls. When the National Inquiry spoke with incarcerated women at the Okimaw Ohci Healing Lodge, most of the residents had personal experiences with missing and murdered women, among either family members or close friends. At the Regional Psychiatric Centre in Saskatoon, all of the patients had a connection to missing and murdered women.

Unfortunately, the effects of intergenerational trauma will continue into the future if Indigenous women are overincarcerated. Sixty-four per cent of incarcerated Indigenous mothers are single mothers, meaning they are the primary caregivers for their children.<sup>V</sup> As Churcher noted, "The secondary effects of overincarceration are multiple. The impact is far greater than the 39% being incarcerated."<sup>W</sup> Indigenous children make up only 7% percent of all children in Canada, yet they account for 48% of children in the foster care system.<sup>X</sup> The overincarceration of Indigenous women results in Indigenous children's being placed in another institutionalized colonial system.<sup>Y</sup>

## Experiences in Prison: Maintaining Violence

### Sexual Violence

As mentioned earlier, almost all incarcerated Indigenous women have a history of sexual abuse, yet they are continually subjected to strip-searches. Strip-searches involve the removal or rearrangement of clothing to permit visual inspection of a prisoner's genitals, breasts, or buttocks. However, as many as 30% of strip-searches are not done according to policy.<sup>Z</sup> A woman is meant to have her top or bottom on at all times during a strip-search, but the National Inquiry heard that, in most instances, incarcerated Indigenous women are completely naked during the strip-search.<sup>AA</sup> As Commissioners heard, strip-searches are extremely traumatizing for many Indigenous women, and they are seen as a form of



state-sanctioned sexual assault. Cassandra Churcher told the National Inquiry:

Those who are in charge of prison security have seen that strip-searches yield very little, if any, contrabands, and no weapons, but significantly traumatize already traumatized women on a regular basis. Women prisoners, the vast majority of whom have these histories of physical and sexual abuse, frequently experience strip-searches as a form of sexual assault ... with 90% of Indigenous women reporting being survivors of physical, sexual, or domestic abuse, this federal government action effectively retraumatizes women on a regular and consistent basis.

When women do not comply with strip-searches, they “[lose] their ability to visit their own children and their families as a result. Some women intentionally avoid applying for jobs or work or volunteer opportunities in the community, which is their right, just because they do not want to endure the trauma of being strip-searched by the Correctional Service of Canada.”<sup>BB</sup>

Strip-searches may cause added harm, as well, for transwomen. As Fallon Andy, a 2SLGBTQIA advocate, told the National Inquiry:

If there is a transwoman who says she’s a transwoman and she doesn’t belong in the male facility, then ... the prison should change that in their directives and regulations, and they should be able to say ... she’s not in the right prison, so we’re going to move her over and we’re not going to increase her risk of sexualized violence in male prisons or ... severe mental health afflictions while she’s in another prison ... that wouldn’t be okay.<sup>CC</sup>

The danger of misgendering, particularly within a correctional context, is an important issue to consider in understanding how all detainees can be kept safe.

## Emotional and Mental Health Issues

The majority of incarcerated Indigenous women suffer from mental health issues, yet have little access to

appropriate mental health programs. Most of the mental health programming offered in prisons is for the general population, but 50% of Indigenous women who are incarcerated are in maximum security prisons.<sup>DD</sup> Savannah Gentile, the director of Advocacy and Legal Issues for the Canadian Association of Elizabeth Fry Societies, testified for the National Inquiry that during an advocacy visit to Fraser Valley Institution, 100% of the women in the secure unit were Indigenous.<sup>EE</sup> She also testified that women with mental issues are overrepresented in these placements.<sup>FF</sup> Consequently, incarcerated Indigenous women, who need the most help, have the most restricted access to these programs.<sup>GG</sup> In addition to the minimal mental health resources in maximum security prisons, as Gentile said, “When there is a lockdown, which is often a monthly occurrence, max security women are confined entirely to their cells and are completely denied access to programs, school, mental health supports, and sometimes even showers. Often, the women have no idea when the lockdown will end.”<sup>HH</sup>

The National Inquiry also had the privilege of hearing first-hand from current and previously incarcerated Indigenous women about their experiences with mental health. Diane Sere, a previously incarcerated woman and current employee of the Canadian Association of Elizabeth Fry Societies, told the National Inquiry, “I spent my first night on the floor of a holding cell infested with ants. My worst nightmare had began. I had lost my dignity, my individuality. For the next four to five weeks, I spent my time in protective custody, which is segregation. I was suffering anxiety, depression, I could not think clearly.”<sup>II</sup> We heard similar stories from women in our on-site visits.

Several shortcomings of mental health services were raised by many women, Elders, and staff. Primarily, there is a lack of culturally appropriate and sustained mental health services. Two problem areas were repeatedly identified: first, women who are in acute crisis have to be transferred to a hospital. For many facilities, there are few, if any, local options for hospitalization. This transfer can take several days, which creates further distress for the woman. Second, those women who need more than mental health services that are offered, but are not in an acute state, are not able to



access services that meet their mental health needs. This can lead to security and classification issues.

## Spiritual Violence

In addition to sexual and emotional violence, Indigenous women suffer from a loss of cultural identity and spiritual well-being while they are incarcerated. Patricia Tate, an employee of the Canadian Association of Elizabeth Fry Societies, testified at the National Inquiry about the lack of cultural programs offered to Indigenous women inmates that focus on diverse Indigenous cultures, and about their important connection to identity and well-being: "Our biggest challenge, and actually our most important role in [prisons], is to ensure that we network with other services, other Elders, other teachers, other cultural ceremonies, so that we can bring those ceremonies to the women and allow them to grow in a positive way."<sup>JJ</sup>

However, Tate highlighted that a huge challenge exists to provide culturally appropriate resources in prisons because the "ceremonies that are being offered are a one size fits all ... women within an institution represent a vast variety of culture and traditions, and unfortunately, those traditions are not always being honoured and are rarely being honoured, quite honestly."<sup>KK</sup> As the National Inquiry observed in its visits, every facility we went to had a special and sacred space for sweat and ceremony, and, in some institutions, this space was available even for those in high-security placements. These areas were often meant to appeal to many different Indigenous identities, or were focused on the practices employed by the Elder or spiritual leader employed there.

Commissioners also heard about Indigenous women who were transferred to institutions in different locations across the country, and often placed in an institution where the Elders were not familiar with their traditions. This reduces the meaningfulness of Elder involvement and cultural programming. In particular, as Tate said, "although they also live within the institutions and partake in ceremonies, the Inuit women really struggle because there are virtually no ceremonies or Elders or teachings that are reflective of their heritage, which is quite different from First Nations heritage or Métis heritage."<sup>LL</sup> Programs for Inuit women are also slow to be developed, since Inuit women are likely to be transported far from

home and are not centralized into one institution, therefore making up a small percentage of those Indigenous women incarcerated.<sup>MM</sup> Tate also told the National Inquiry that "the other population that is oftentimes lost within the justice system is non-registered Aboriginal women who do not count when it comes to looking at programming and resources for Indigenous services ... those services are limited, at best, to those people who self-identify as First Nations, Métis, or Inuit."<sup>NN</sup> At worst, many women are deemed ineligible.

During the National Inquiry's on-site visits with incarcerated Indigenous women, the value of Indigenous cultural programs was highlighted. At Fraser Valley Institution, a few women explained how, in some ways, prison had actually helped them. One woman told the National Inquiry that the only place she felt safe was in prison. Several of the other women present agreed with her. Another woman said that she learned about the value of her body and that violence is not acceptable, and that she found support in prison and the ability to connect with her culture. Most of the women emphasized the significant role that Elders play within the prison system. For many Indigenous women, Elders provide important support and connection to culture and healing. One woman said, "I need to work through what I went through as a child and I need an Elder to support me through that. I need one-on-one connection and ceremony." Similarly, a woman at the Okimaw Ohci Healing Lodge stated, "The only thing that has helped me is Elders."

Public testimony and the National Inquiry's on-site visits demonstrate the importance of the Elders' role in an institution; however, we also found that there are simply not enough Elders to address the overincarcerated Indigenous population. Most of the Elders we spoke with told us that they have an extremely high number of cases and, as a result, struggle to meet the needs of many women. One common theme we heard from the Elders was that Correctional Service Canada (CSC) has not hired and retained a sufficient number of Elders. This means that some prisoners have had to wait for programming that involves Elders and, as a result, they have had to wait to apply for parole. In addition, a number of Elders noted high rates of burn-out and trauma through their own work, without sufficient time to participate in their own mental health supports. In addition, and



due to the lack of Elders, the amount of Elder-guided content in programs has been reduced. This, too, results in many Indigenous women's facing delays in parole applications or missing cultural teachings.

## Existing Programs and Initiatives

There were some programs, highlighted by CSC staff and by those women with whom the Commissioners spoke, that directly impacted the nature of their experiences within the penal system. These programs emerged in the wake of strong criticism of correctional services in regards to Indigenous Peoples. In particular, *Creating Choices*, a report of the Task Force on Federally Sentenced Women, released in 1990, noted that "only if people are treated with respect, only when they are empowered, can they take responsibility for their actions and make meaningful choices." They recommended a long-term plan with the ultimate goal of prevention.

By reducing inequities which limit choice, by preventing violence which breeds violence, our long-term goal will reduce the pain which contributes to behaviour which harms others. By encouraging preventive strategies which create meaningful choices for federally sentenced women, we will help reduce crime and increase choices for all Canadians. In the process, our society will become a safer and more secure place.<sup>00</sup>

Some of the programs developed in the aftermath of *Creating Choices* were a direct result of the task force's work, including healing lodges specifically, although the program remains limited in scope. Most healing lodges service only male inmate populations, and are only minimum- or medium-security facilities. They are programs within which Indigenous values, traditions, and teachings work within a different context from the penal one, and which include significant input from Elders and from local communities.

In other cases, some facilities we visited also had a "pathway" or equivalent residence where some of the women lived. These units allowed for specialized activity and services for the women in those units but were limited and dependent on medium- or minimum-security placements. Some of them were part

of the Pathways Unit program introduced nearly 20 years ago, in 2000, as a pilot program intended to "establish an environment for Aboriginal offenders who choose to follow a more traditional path of healing including counselling with Elders, participating in Aboriginal ceremonies and connecting with Aboriginal culture."<sup>PP</sup> These units, housed within federal correctional institutions, were at first for men; currently, there are two available to women, both of which are located in western Canada (Edmonton Institution for Women and Fraser Valley Community Correctional Centre). Some institutions also have similar programs, though they don't qualify as an official Pathways Unit.

The Commissioners also heard about the Correctional Service Canada's Aboriginal Social History (ASH) Tool, a tool that must be considered for all who self-identity as First Nation, Inuit, or Métis. This tool represents a four-step process that considers the "broader historical factors that have contributed to the overrepresentation of Aboriginal people in the criminal justice system as well as the specific and unique circumstances of the individual."<sup>QQ</sup> Specifically, the ASH Tool notes many of the important pathways to violence this report references, as well as the many intergenerational and multigenerational forms of traumas that incarcerated women discussed. Ultimately, the ASH Tool is used to identify and to consider culturally appropriate or restorative options that could contribute to mitigating risk, and may also inform placement in a facility like a healing lodge.

## Maintaining the Status Quo: The Gladue Report

The Gladue report is often seen as a milestone solution for the overincarceration of Indigenous women, but it has become somewhat of a "mixed blessing." This report stems from the Supreme Court of Canada decision in *R. v. Gladue*, [1999] 1 SCR 688. The Gladue decision sets out the principles for sentencing an Indigenous offender, pursuant to section 718.2(e) of the *Criminal Code*, that "all available sanctions, other than imprisonment, that are reasonable in the circumstances and consistent with the harm done to victims or the community should be considered for all offenders, with particular attention to the circumstances of Aboriginal offenders" (our emphasis). The Gladue decision was aimed at addressing the overrepresentation of Indigenous people in prison by



providing judges with a new framework for sentencing. The Gladue decision recognized that Indigenous Peoples face systemic racism in and out of Canada's penal system.<sup>RR</sup>

A Gladue report is a pre-sentencing or bail hearing report that contains recommendations to the court about what an appropriate sentence for an Indigenous offender may be. Gladue reports often include information about the person's background and any trauma they may have experienced, such as residential schools, interaction with child welfare services, physical and sexual abuse, and/or mental health issues.<sup>SS</sup> The purpose of a Gladue report is to provide judges with meaningful and accurate information about an offender so that the judge can properly apply the principles of sentencing set out in section 718.2(e) and elsewhere in the *Criminal Code*. The Gladue report should include a thorough history of the offender and provide relevant information for a variety of non-custodial options. A Gladue report about a woman or young offender should be used at a bail hearing, sentencing, and parole hearing.

However, oftentimes when Indigenous women want to exercise their right to a Gladue report, they are denied this right or face challenges. In our visit at Établissement Joliette, many of the incarcerated women expressed concern that they do not receive a Gladue report, even when they request one. Similarly, Diane Sere told the National Inquiry that:

When my trial was over and the judgment was guilty, the courts were advised that I wanted to exercise my rights to a Gladue report for sentencing. This was not received comfortably. I was later told that I did not look Indigenous, and that before I could get a Gladue report, I needed to have to prove my Indigenous heritage.<sup>TT</sup>

Shortly after her trial, Sere received a phone call from a probation officer who was going to be responsible for doing her pre-sentencing report. Sere told the officer that she wanted a Gladue report, to which the officer responded, "We do not do Gladues in Ottawa."<sup>UU</sup> After meeting with the officer, Sere felt that the officer had no understanding of her Indigenous culture, and, as a result, there were several misunderstandings in her pre-sentencing report.<sup>VV</sup>

Further, Indigenous women may be hesitant to ask for a Gladue report in the first place. Kassandra Churcher told the National Inquiry that while she has been working with the Canadian Association of Elizabeth Fry Societies,

We have heard from far too many women within the federal system [of the] humiliation and shame of having to relive their histories often to Gladue reporters who are non-Indigenous who might not have extensive experience or awareness of Indigenous histories at times. We have also heard from women who have voluntarily omitted parts of their own histories due to feelings of shame and humiliation, which is counter-effective to the entire reason of having a Gladue report. . . . Gladue reports are another cautionary tale of trying to address systemic issues by holding an individual responsible for their pathway in the criminal justice system.<sup>WW</sup>

We also heard that the factors that Gladue reports, whether at sentencing or produced within CSC, can result in overly high security rankings, as the factors considered in speaking to the right "risk" are often the very impacts of colonial violence that are identified in these reports.

Throughout the testimonies we heard and the conversations we had with incarcerated women, there was one unavoidable observation: the Gladue decision was largely ineffective in reducing the number of incarcerated Indigenous women.

The National Inquiry heard similar stories of Gladue reports during our informal visits. Many women told us about their requests for Gladue reports for sentencing that were denied by their lawyers and judges. They also told us about the difficulties they had in speaking to the report writer about their lives, especially without knowing how the information about their backgrounds would be used in sentencing.

We heard similar doubts and criticisms about Aboriginal Social History reports. Aboriginal Social History reports should cover much of the same information as Gladue reports and are done on admission to the institutions that we visited. Institutions use these reports for planning Indigenous women's programming and services. However, many women we spoke



with were reluctant to be completely transparent about their past for the same reasons as with a Gladue report: the majority of corrections officers who prepare and use Aboriginal Social History reports are non-Indigenous and may not understand many Indigenous women's realities. We also heard from many women that they felt that their histories were used against them for security classifications. For example, if a woman came from a home of violence, that violent past would be used for a higher security classification. As we discussed earlier, higher security classifications often result in limited access to mental health services and other important cultural programs.

## Parole and Release

Several women the National Inquiry spoke with emphasized how problematic the release from prison is for them. Many women we interviewed noted that if they were "sent back" to their community, with the same triggers and without adequate support, there is little chance of their success in reintegrating into the community. One woman at Fraser Valley Institution told the National Inquiry about the lack of support upon being released from prison. In an interview, she stated that "they just threw me back to my community ... where my family were addicts ... with no support when I went back." In some cases, release from prison can be dangerous, as many women said that they knew of several incarcerated women who died shortly after being released. They emphasized the need for an adequate and realistic release plan. There is a specific concern with being released for Indigenous women who have drug addiction issues, as they may start using again without appropriate resources outside of prison. As one woman at Fraser Valley Institution told the National Inquiry, "drugs and alcohol were all I knew when I got out."

Similarly, during the National Inquiry's visit at the Okimaw Ohci Healing Lodge, most women said that they were fearful about their prison release. They worry about not having adequate support, being exposed to drugs and alcohol, and unhealthy relationships. One woman told the National Inquiry, "I'm changing in here, but my family is still stuck in violence and drugs ... I'm scared to be around my family because

they can take me down ... I'm afraid of going back to the same community. The program won't work. I want to stay sober and live in a good way." Finding a job after being released is another main challenge facing incarcerated women. One resident described her experience: "My self-esteem was so high when I left here. But getting a job was impossible. That was the biggest downfall.... The jail stigma was worse than I thought."

Many women and Elders raised concerns about the locations of services and halfway houses. Often, services and halfway houses are located in unsafe parts of towns and cities. These locations put women right back into the circumstances that caused them to offend and put their safety and successful reintegration into peril. Overall, the National Inquiry heard that there is a general sense of worry and fear related to being released from prison.

As Rupert Ross, retired assistant Crown Attorney for the District of Kenora, Ontario, argues, part of this concern may be associated with understanding that whatever crime had been committed had also "significantly injured their relationship with their home," neighbourhood, family, or social circle. This is because of the importance of relationships and the need to reconsider the impact of crime and incarceration through a relational lens. As he proposes:

It may be that justice involves not only deterrence and community protection, but also three relational goals:

- Having offenders come to understand, on an emotional level, the relational inflections which their crimes have created in others;
- Examining the relational disharmonies in the offender's life which spawned the crime, and working towards different ways of relating so as to reduce the likelihood of its repetition; and
- Searching for ways to move both parties out of the relational disfigurement that has bound them together from the moment of the crime.<sup>xx</sup>



## The Path Forward

In imagining a new path forward, we focus on the opportunities for decarceration under sections 81 and 84 of the *Corrections and Conditional Release Act*. We do so because community-based resources for Indigenous women can better address the underlying issues of incarceration – trauma, poverty, and other effects of colonization – by using the strengths of cultural practices for healing.

A key theme identified in the academic literature and from the testimony heard during the Truth-Gathering Process is that to stop the cycle of the criminalization and overincarceration of Indigenous women, Indigenous people must be active participants in these solutions. The Commissioners heard from witnesses who articulated possibilities for, and steps toward, decarceration of Indigenous women in Canadian prisons. In her testimony, Cassandra Churcher stated that

any meaningful and authentic recommendations must be from the communities that are affected. First Nations, Métis, and Inuit communities must be engaged in the process of re-envisioning a system of justice that reflects their practices, beliefs, and cultures. They must also be given the funding to support community-led solutions to prevention and reintegration associated with crime.<sup>yy</sup>

Churcher specifically identified legislation that authorizes community releases for prisoners: section 84 of the *Corrections and Conditional Release Act* (CCRA).

The CCRA is set up to facilitate community release. Sections 81 and 84 of the CCRA enable the transfer of resources to Indigenous communities on- and off-reserve in a rural or urban setting to host community members who would otherwise be in prison and to support the reintegration in ways that benefit the individual and the entire community. The intent of these sections was to afford Indigenous communities greater control over the matters that are affecting them. These provisions are broad and allow for creative, flexible, and individualized community-based solutions.<sup>zz</sup>

These facilities are also preferable because they can keep women closer to their home communities, families, and children.

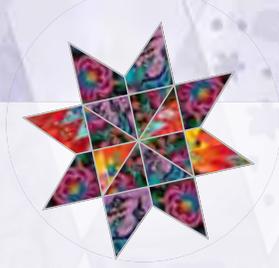
Currently, there are two healing lodges for women. Okimaw Ohci Healing Lodge is run by CSC and is rated for a capacity of 60 women. Buffalo Sage Wellness House is operated privately under section 82 of the CCRA. It is rated for a capacity of 28 women.<sup>aaa</sup> For the approximately 280 incarcerated Indigenous women, there are obviously very limited opportunities for decarceration.

In the *Annual Report, Office of the Correctional Investigator, 2017–2018*, the Investigator wrote about the need for urban-based healing lodges established under section 81 of the CCRA, and additional capacity for placement in private residences, under section 84 of the CCRA. In doing so, there must be meaningful partnerships between CSC and Indigenous communities, based on trust, that facilitates “the self-determination and healing of Indigenous inmates and communities.”<sup>bbb</sup> In Recommendation 13, the Investigator recommended that CSC reallocate significant resources to negotiate new funding arrangements and agreements with partners to transfer the care and supervision of Indigenous people from prison to the community.

In Correctional Service Canada’s “Response to the 45th Annual Report of the Correctional Investigator, 2017–2018,” the CSC Commissioner wrote in reply to Recommendation 13:

CSC continues to enhance partnerships to create more opportunities for the participation of Indigenous communities in the management of Indigenous offenders. This includes the engagement and collaboration between CSC and Indigenous communities on section 81 agreements under the *Corrections and Conditional Release Act* (CCRA) for Healing Lodges.<sup>ccc</sup>

It is noteworthy that this response does not specifically state that the agreement is one that transfers capacity, resources, and support to Indigenous communities for the healing of offenders.



During our on-site visits and in many testimonies, we heard that the process for establishing facilities under these sections is very difficult. Further, there is not complete transfer of authority and resulting independence to the community organization. Recently, Correctional Service Canada has taken steps to simplify and expedite the process, but many Indigenous women, Elders, and service providers still see this as a daunting task and its success remains to be gauged. A central issue in all of these discussions and suggestions for change are understanding what justice has meant, and does mean, to Indigenous people. For instance, as Diane Leresche, a conflict analysis scholar specializing in the design, implementation, and evaluation of systems for preventing and resolving conflicts notes, the concept of sacred justice means focusing on healing relationships, not punitive actions.

Peacemaking is generally not as concerned with distributive justice or “rough-and-wild justice” (revenge, punishment, control, determining who is right) as it is with “sacred justice.” Sacred justice

is that way of handling disagreements that helps mend relationships and provides healing solutions. It deals with the underlying causes of the disagreement (which often are perceived as someone not having lived according to prescribed spiritual ways). Sacred justice is going beyond the techniques for handling conflict; it involves going to the heart. It includes speaking from the heart, from one’s feelings. It is giving advice, reminding people of their responsibilities to one another. It is helping them reconnect with the higher spirits, or seeing the conflict in relation to the higher purposes. It is helping people ease, move beyond, and transform the intense hurtful emotions like anger into reorienting and reuniting with that which is more important than the issues of conflict. Sacred justice is found when the importance of restoring understanding and balance to relationships has been acknowledged. It almost always includes apologies and forgiveness. It is people working together, looking for mutual benefits for all in their widest circle.<sup>DDD</sup>

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## Findings

- Indigenous women and girls are being criminalized as a result of colonization and their resistance to colonial violence, including systemic oppression and marginalization. Therefore, Canada is incarcerating Indigenous women and girls because of their fight against colonization or due to the impacts of colonization on them.
- The federal government has failed to take meaningful action to implement numerous recommendations addressing the gross overrepresentation of Indigenous women and girls in the criminal justice system. These recommendations are contained in reports of the Office of the Correctional Investigator; the Auditor General of Canada’s “Preparing Indigenous Offenders for Release” (Fall 2016); the Calls to Action of the Truth and Reconciliation Commission of Canada (2015); the Report of the Standing Committee on Public Safety and National Security, “Indigenous People in the Federal Correctional System” (June 2018); the Report on the Standing Committee on the Status of Women, “A Call to Action: Reconciliation with Indigenous Women in the Federal Justice and Corrections Systems” (June 2018); and the “Commission of Inquiry into Certain Events at the Prison for Women in Kingston” (the Arbour report).
- The federal government has not sufficiently invested in the implementation of Indigenous-specific provisions of the *Corrections and Conditional Release Act* (SC 1992, c.20), sections 79 to 84.1.
- Mandatory minimum sentences are especially harsh for Indigenous women, girls, and 2SLGBTQQIA people as Gladue principles for sentencing cannot be applied. This leads to higher incarceration rates. Further, sentences fail to meet the rehabilitative needs of Indigenous women, girls, and 2SLGBTQQIA people.



- There is a shortage of Elders working in correctional institutions in Canada. Elders are not empowered to effect real change. Further, a pan-Indigenous approach has been adopted whereby Elders or spiritual people from one Nation and their spiritual teachings are assumed to be adequate for all Indigenous inmates. Cultural and spiritual services must meet the cultural and spiritual needs and rights of distinct Inuit, Métis, and First Nations. Métis and Inuit women, as the minority populations within the Indigenous population in corrections, suffer most from this denial of their cultural and spiritual rights.
- The failure to collect disaggregated data prevents a true understanding of the circumstances that lead to arrest and detention from different groups, including Métis, Inuit, First Nations, and 2SLGBTQIA people. Further, it results in Correctional Service Canada's not having a clear understanding of the distinct and diverse Indigenous population within their custody, and results in ineffective and discriminatory pan-Indigenous programs and services.
- The vision for women's corrections in Canada as set out in *Creating Choices: The Report of the Task Force on Federally Sentenced Women* has been abandoned.
- The incarceration of women resulting in the separation of the mother and child is a violation of the child's rights under the *Convention on the Rights of the Child (CRC)*; Correctional Service Canada's mother-child program is underutilized as many Indigenous women do not meet participant criteria.
- The Correctional Service of Canada's failure to recognize and treat mental health and psychiatric needs, and to meet rehabilitative objectives under the *Corrections and Conditional Release Act (CCRA)*, represents a violation, at a minimum, of sections 7 and 15 of the *Charter of Rights and Freedoms*.
- Segregation can create adverse psychological symptoms, including but not limited to insomnia, confusion, hopelessness, despair, hallucinations, and even psychosis. The mental and physical distress that segregation can cause amounts to cruel, inhumane, and degrading punishment that should be characterized as a violation of human rights and is institutional violence against women.
- Strip-searches within the correctional systems in Canada are state-sanctioned sexual assault, and violate the human rights and dignity of women and girls. Strip-searching violates Mandela Rules 52.1, which states that intrusive searches, including strip- and body-cavity searches, should be undertaken only if absolutely necessary.
- The maximum security classification for incarcerated Indigenous women and 2SLGBTQIA people represents sex-based discrimination that places, punishes, or rewards them on the basis of a set of non-Indigenous expected or compliant behaviours. This security classification further discriminates by limiting federally sentenced Indigenous women from accessing services, supports, and programs required to facilitate their safe and timely reintegration.
- Culturally appropriate and trauma-informed models of care are not consistently available and are not adequately resourced.
- Indigenous women and girls have limited opportunities for meaningful vocational training and education upgrading. This impedes their rehabilitation and reintegration into the community and is discriminatory.



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- C Ibid.
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- E Kassandra Churcher, Mixed Parts 2 & 3, Public Volume 7, Quebec City, QC, pp. 38-39.
- F Kassandra Churcher, Mixed Parts 2 & 3, Public Volume 7, Quebec City, QC, pp. 34-35.
- G Kassandra Churcher, Mixed Parts 2 & 3, Public Volume 7, Quebec City, QC, p. 39.
- H Kassandra Churcher, Mixed Parts 2 & 3, Public Volume 7, Quebec City, QC, p. 39.
- I Ross, "Criminal Conduct and Colonization," 16–17.
- J Kassandra Churcher, Mixed Parts 2 & 3, Public Volume 7, Quebec City, QC, p. 37.
- K Kassandra Churcher, Mixed Parts 2 & 3, Public Volume 7, Quebec City, QC, p. 35.
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- M Kassandra Churcher, Mixed Parts 2 & 3, Public Volume 7, Quebec City, QC, p. 35.
- N The Honourable Kim Beaudin (Métis/Michel First Nation), Mixed Parts 2 & 3, Public Volume 6, Quebec City, QC, p. 99.
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- R Kassandra Churcher, Mixed Parts 2 & 3, Public Volume 7, Quebec City, QC, pp. 33-34.
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- Z Savannah Gentile, Mixed Parts 2 & 3, Public Volume 7, Quebec City, QC, p. 227.
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- CC Fallon Andy (Anishinaabe, Couchiching First Nation), Part 3, Public Volume 8, Toronto, ON, pp. 139-140.
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- FF Savannah Gentile, Mixed Parts 2 & 3, Public Volume 7, Quebec City, QC, p. 55.
- GG Savannah Gentile, Mixed Parts 2 & 3, Public Volume 7, Quebec City, QC, p. 55.
- HH Savannah Gentile, Mixed Parts 2 & 3, Public Volume 7, Quebec City, QC, p. 52.
- II Diane Sere (Algonquin, Nipissing Territory), Mixed Parts 2 & 3, Public Volume 7, Quebec City, QC, p. 101.
- JJ Patricia Tate (First Nations), Mixed Parts 2 & 3, Public Volume 7, Quebec City, QC, p. 24.
- KK Patricia Tate (First Nations), Mixed Parts 2 & 3, Public Volume 7, Quebec City, QC, p. 22.
- LL Patricia Tate (First Nations), Mixed Parts 2 & 3, Public Volume 7, Quebec City, QC, pp. 22-23.
- MM Public Safety Canada, "Marginalized."
- NN Patricia Tate (First Nations), Mixed Parts 2 & 3, Public Volume 7, Quebec City, QC, p. 24.
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- PP Wesley, M., with Public Safety Canada, "Marginalized."
- QQ Correctional Service Canada, "Aboriginal Social History (ASH) Tool" backgrounder, as provided to Commissioners during CSC visits.
- RR Native Women's Association of Canada, "Understanding Gladue."
- SS NWAC, "Understanding Gladue."
- TT Diane Sere (Algonquin, Nipissing Territory), Mixed Parts 2 & 3, Public Volume 7, Quebec City, QC, p. 100.
- UU Diane Sere (Algonquin, Nipissing Territory), Mixed Parts 2 & 3, Public Volume 7, Quebec City, QC, p. 101.
- VV Diane Sere (Algonquin, Nipissing Territory), Mixed Parts 2 & 3, Public Volume 7, Quebec City, QC, p. 101.
- WW Kassandra Churcher, Mixed Parts 2 & 3, Public Volume 7, Quebec City, QC, pp. 40-41.



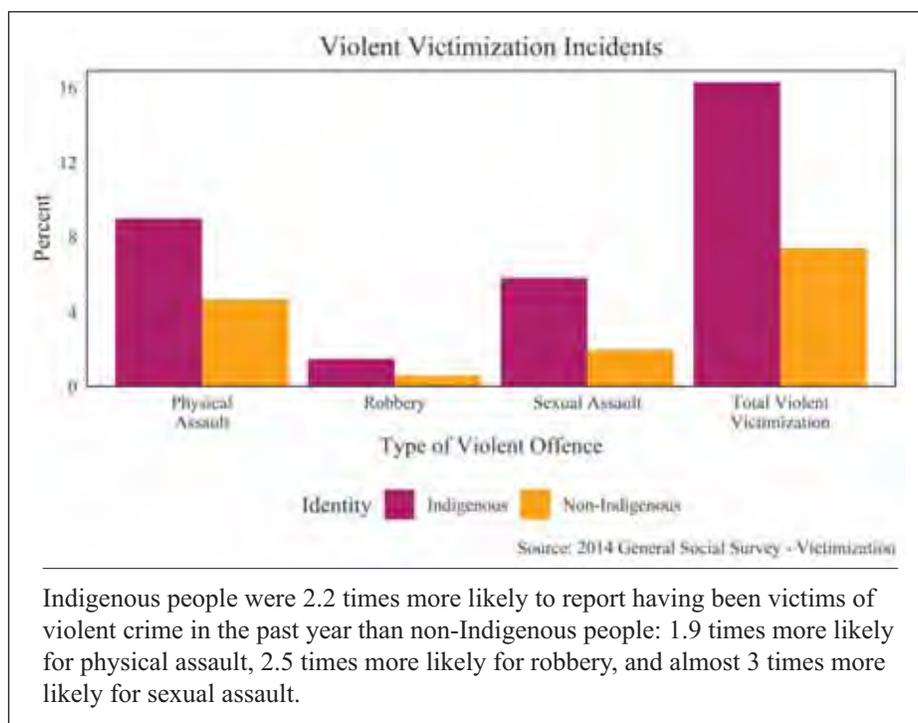
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- YY Kassandra Churcher, Mixed Parts 2 & 3, Public Volume 7, Quebec City, QC, p. 109.
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## Pathway to Violence: Lack of Will and Insufficient Institutional Responses

In its 2015 Update to the National Operational Overview,<sup>47</sup> the RCMP claimed that the majority of killings of Indigenous women and girls were committed by spouses and family members, based on its review of statistical data collected on crimes within their jurisdiction. Yet, as other research and critiques of the RCMP’s analysis have pointed out, Indigenous women’s and girls’ lives are also ended by strangers or acquaintances who seek to victimize them under various circumstances. As Human Rights Watch pointed out in its 2013 report, it is the apathy of police in the face of this violence that serves to maintain it:

Police apathy in cases involving violence against women and girls – or violence against certain groups of women and girls – sends the message that such behavior is accepted and will carry no consequences for perpetrators. It may, in effect, encourage the targeting of certain groups for violence.<sup>48</sup>



## Stereotypes and Victim Blaming

In many of the testimonies the National Inquiry heard, families shared how stereotypes and victim blaming served to slow down or to impede investigations into their loved ones’ disappearances or deaths. The assumptions tied to Indigenous women, girls, and 2SLGBTQQIA people by police as “drunks,” “runaways out partying,” or “prostitutes unworthy of follow-up” characterized many interactions, and contributed to an even greater loss of trust in the police and in related agencies.



Like many of the families who described the events that took place prior to the disappearance of their missing or murdered loved one, Jennifer's mother, Bernice C., knew something was wrong. In June 2008, Bernice received an unusual phone call during which she could overhear her daughter, who was supposed to be at home for her 18th birthday party at the time of the call, asking someone, "Where are we? Where are we?" Bernice said, "Suddenly, I felt a pain in the pit of my stomach with fear, unspeakable fear. I've never, ever in my life experienced that pain and that fear that I felt that day talking to her, and even after. I've never experienced that pain, that fear that had gripped me."<sup>49</sup>

Given Jennifer and Bernice's usually close relationship – Jennifer had left a note for her mom earlier that day that began with "My beautiful mother" and ended with "I love you so, so much. X's and O's"<sup>50</sup> – and the strangeness of this phone call, Bernice decided to contact the RCMP. She described her initial encounter with an RCMP officer at the Portage la Prairie detachment.

So, at the time, I didn't know what to do. I was distraught. I was panicking. I didn't know what to do. Where is Jen? My husband wasn't home at that time. So, I went to the police. I went to the RCMP. That was June 23rd. I went to the police.... That's where I went. I said, "I want to report my daughter missing." ... And, he said, "Oh, what's her name?" I said, "Jennifer. Jennifer [C.]" "Oh, how old is she?" Like that. That's how he spoke to me. "How – how old is she?" I said, "She just turned 18 Thursday, her birthday." "Oh, give her a week. She's on a drunk." I said, "You don't even know her to talk ... about her like that. You don't know her." He said, "Oh, give her a week. Give her a week."<sup>51</sup>

Bernice described her reaction to this response from the RCMP: "I left. I didn't know what to do. I just left, no statement, no nothing. I was in shock. I didn't know what to do."<sup>52</sup> In the crucial hours immediately following her daughter's disappearance, those who were supposed to ensure that Jennifer's right to safety and justice were protected turned her mother away.

As Bernice insisted, "Time is of the essence when somebody goes missing and reported somebody missing. Time is crucial. There's no time to say, 'Oh, give her – give her time. She's on a drunk. She'll be back.' Who is he to make an opinion like that?"<sup>53</sup> Bernice's emphasis of the importance of a timely response was echoed by many of the representatives of various police forces who presented testimony during the National Inquiry and who affirmed that this is an important time period.

Despite Bernice's and her husband's multiple attempts in the upcoming days, she still didn't receive any help from the RCMP.

So, I didn't know what to do. Nobody was listening, because we went ... back to the detachment Monday, Tuesday, and I think it was Wednesday we went. No RCMP came out to hear me or to take a statement. The woman behind the desk said, "I'll give them your message." Nobody came out, Monday, Tuesday, Wednesday. I didn't know what to do. I don't know where – what do I call? What do I do? I don't know.<sup>54</sup>



In fact, according to Bernice, it was nearly a month before the RCMP followed up on a tip Bernice and her husband uncovered during their own desperate search for the daughter. To this day, Bernice's daughter Jennifer is still missing, and Bernice and her husband, Wilfred, continue to search. For Bernice, the lack of answers about her daughter is made worse by the knowledge that when she initially reached out for help, she was turned away.

"SO, AT THE TIME, I DIDN'T KNOW WHAT TO DO. I WAS DISTRAUGHT. I WAS PANICKING. I DIDN'T KNOW WHAT TO DO. WHERE IS JEN? MY HUSBAND WASN'T HOME AT THAT TIME. SO, I WENT TO THE POLICE. I WENT TO THE RCMP. THAT WAS JUNE 23RD. I WENT TO THE POLICE.... THAT'S WHERE I WENT. I SAID, "I WANT TO REPORT MY DAUGHTER MISSING." ... AND, HE SAID, "OH, WHAT'S HER NAME?" I SAID, "JENNIFER. JENNIFER [C.]" "OH, HOW OLD IS SHE?" LIKE THAT. THAT'S HOW HE SPOKE TO ME. "HOW - HOW OLD IS SHE?" I SAID, "SHE JUST TURNED 18 THURSDAY, HER BIRTHDAY." "OH, GIVE HER A WEEK. SHE'S ON A DRUNK." I SAID, "YOU DON'T EVEN KNOW HER TO TALK ... ABOUT HER LIKE THAT. YOU DON'T KNOW HER." HE SAID, "OH, GIVE HER A WEEK. GIVE HER A WEEK."

**Bernice C.**

She shared her story with the National Inquiry to make this point clear: "I want you to understand, and I want the public and Canada and the world to know how we were failed, how Jennifer was failed. The RCMP failed her. How? You say, 'How?' They didn't take my statement. They didn't take me seriously."<sup>55</sup>

Unfortunately, Bernice's account of her initial encounter with the police is not unlike a number of other similar stories shared by other families of missing and murdered women, girls, and 2SLGBTQQIA people. Dismissal, contempt, and outright discrimination, in which police evoke racist stereotypes about Indigenous people as drunks, runaways, or prostitutes, and which ignore the insights that families bring them that something is wrong, were similarly reported by other families when they described their initial encounters with police. Similarly, assumptions about Indigenous people being "out partying" was another common response from the police. As Tanya Talaga explained of the case of a missing boy:

No one had heard from him, so she decided to call the Thunder Bay Police. And, when she called the Thunder Bay Police, she was told for her not to worry. The person who answered the phone told her, "He's probably just out there partying like all the other Native kids," and then he hung up the phone.<sup>56</sup>

Pamela F.'s description of the events leading up to her daughter's disappearance and murder bears many similarities to the description provided by Bernice and by Tanya. Like Bernice and her daughter, Jennifer, Pamela and her 16-year-old daughter, Hilary, shared a close relationship and had plans to go shopping the next day. Also like Bernice, Pamela received a strange phone call from her daughter on what turned out to be the night she went missing: "The last thing we said to each other was 'I love you.'" Like Bernice, Pamela also described immediately having



the sense that something was wrong: “I had a bad feeling and I couldn’t shake it.”<sup>57</sup> Unfortunately, when Pamela – like Bernice – contacted the police, she, too, was met with indifference and inaction. She described her initial encounter with the police when reporting her daughter missing.

So then we called the police and nothing. I thought if I told them I can’t find my daughter that they would look for her. But they didn’t ... every time I called and I asked if anyone was looking for her, oh well, it’s this one you have to talk to, you gotta call back tomorrow, they’re not here. And when I called back they tell me it’s another one.<sup>58</sup>

It is only after Pamela went to the media that the police eventually became involved in the investigation. In fact, one officer confided in her that going to the media was what she needed to do to get action.

After I called the media, then they started looking. One officer had even told me, Pam – and I got along with this officer really good. I got along with a couple of them really well but this one told me, she’s like, Pam, that’s the best thing you could’ve done. She said you forced them to look.<sup>59</sup>

In talking about his family’s initial encounter with the RCMP in Alberta, when they reported 20-year-old Amber missing, her brother Paul T. described being told that the family would have to wait 24 hours before reporting.

Well, when my mom reported her missing there, they said, she had to wait 24 hours. And, you know, and should I wait? We went online and checked it out and we found out that there’s no law saying you got to wait 24 hours. So I don’t know why the RCMP always tells people that because those 24 hours are critical. It’s always like, oh, yeah, let’s go submit, but we wait 24 hours and on the 24<sup>th</sup> hour, oh, let’s get up, let’s go, let’s start doing something. But, you know, had something ... been done ... that time when she reported, maybe – maybe we wouldn’t be sitting here.<sup>60</sup>

Confusion over whether a person can be reported missing until 24 hours have passed was expressed by a number of families. For Amber’s family, this arbitrary time frame is embedded within other stereotyped and racist beliefs held by the officer who, much like the officer responding to Bernice’s reports, rationalized his lack of immediate action by arguing that 20-year-old Amber was “out partying.”



The Commission for Public Complaints Against the RCMP (CPC) is the principle oversight body for the RCMP. Its mandate includes investigating complaints, reviewing RCMP activity and publicly reporting its findings and recommendations.

## THE COMMISSION FOR PUBLIC COMPLAINTS AGAINST THE RCMP



In 2015, the Human Rights Committee issued its Concluding Observations on Canada's sixth periodic report on its implementation of the International Covenant on Civil and Political Rights, noting concern "about reports of the lack of effectiveness of such mechanisms" and the "lack of statistical data on all complaints, investigations, prosecutions, convictions and sanctions imposed on police officers at all levels." Further, it called on Canada to "strengthen its efforts to ensure that all allegations of ill-treatment and excessive use of force by the police are promptly and impartially investigated by strong independent oversight bodies with adequate resources at all levels, and that those responsible for such violations are prosecuted and punished with appropriate penalties."<sup>61</sup>

In some instances, families did share more positive initial encounters with police when reporting a loved one missing or in danger. However, in cases where Indigenous families do have a positive encounter with the police, stories like the one Marilyn W. shared demonstrate the extent to which they are dependent on the good luck of encountering a compassionate, knowledgeable, and ethical officer rather than being able to depend on a standard of practice where being respected and taken seriously are the norm.

After her sister had been missing for over a week, Marilyn decided to report her sister's disappearance to the police. She described her initial encounter with the police.

For a little bit, a little while I didn't hear from her and I was getting very worried, and just over a week – and my mom was already very, very frantic, and she was calling me – and so after about a week, I – I went to the police station to try and file a missing person's report, and I was in distress at this time, just as I am now. I was crying, and I went there and asked for help, and they treated me so horrible... I was under the understanding that when a person loses their loved one and they're missing that they need to report them within 24 hours, and it was over a week, and they didn't even care, and they didn't want to take her missing person's report, but there was one – one police officer who walked by, who happened to walk by, and ... he heard the distress in my voice and he saw me, and he went



out of his way to come and see what was going on, and I don't know who that man was, but I'll never forget him, and he took my report, and he told them, "Take her report and put it on the evening news and we need to look for this woman," and so we began our search.<sup>62</sup>

These types of inconsistencies are evident in other stories, as well. For instance, Tom C. said that when he first reported his daughter Tamara missing, "the RCMP, they were very cooperative with me," although he acknowledged that, from what he has heard, that was not the norm.<sup>63</sup> However, when the family reached out to the local police department for support in the search, they did not receive the same treatment.

And we actually went to the police department in Vancouver because Tom had started spending an awful lot of money on the postering. So I went into the police station there ... and I asked them, I said – I handed them a poster and I said, "Well, can you please help us here? Can you, you know, put this poster out of Tamara? Can you print some for us?" And the lady that was behind there, she looked at the picture and she said, "No, we can't help you." "Well, she's missing. The National Inquiry heard she's down here. We need help." I said, "It's costing my brother a fortune to do these posters." And they didn't offer us any help at all in Vancouver.<sup>64</sup>

In sharing stories about their initial encounters with the police, family members also communicated and demonstrated their resourcefulness and resistance against being dismissed. In some cases, this refusal to accept the police's lack of response pushed the police to respond, as in the case of Pamela F.'s efforts to engage the community in a search for her daughter and to reach out to the media, at which point the police did get involved. Nonetheless, while Pamela acknowledged that a number of specific officers did, in fact, repair the relationship established at the beginning, she also pointed out that Indigenous families should not have to resort to special measures in order for the police to do what they are supposed to do: "They [the police] should've reacted when I called the first time. I shouldn't [have] to try to shame them or something to get them to do what I needed them to do, what they're supposed to do."<sup>65</sup>

In her testimony, Dolores S. made a similar point.

I didn't even know how to go about – about telling someone that this is just not right. This is not right that my niece fell from a laundry chute, and nobody is taking it seriously, the fact that I've had to uncover everything that I've uncovered, and that it should not have to come to this. It should not have had to come to [this] for me to continually go to the media to continually expose cracks and flaws within the system and traumatize my family.<sup>66</sup>

Indeed, for Indigenous families to have to use these additional tactics to get support further marginalizes those for whom such measures are even more difficult, unsafe, or unfamiliar.



Marilyn W. drew attention to precisely this issue when she described her second encounter with police when her uncle went missing.

I was prepared now, and I phoned the police and I said, “My uncle – my uncle Anthony ... was reported missing, please tell me what you’re doing about this,” and the lady said, “Well, we’ve sent emails out...” “I’m a part of the Native Women’s Association of Canada, and I lodged a formal complaint against the police officer who mistreated me in my sister’s case, and I want to know what you’re going to do to find my uncle,” and within minutes they had me talking to the sergeant and they had people out there looking for him.

Well, what about all those people that don’t have that power, who don’t know what to say?<sup>67</sup>

Delays in police response to reports of missing Indigenous women, girls, and 2SLGBTQQIA people have been identified in previous reports and inquiries.<sup>68</sup> Not being able to depend on a police officer’s willingness to take the concerns of Indigenous families seriously is an all-too-common example that demonstrates the precariousness of whether the right to justice will be respected or not. When questioned about instances in which families were denied a proper response, RCMP and other police officers suggested that these sort of responses are, in fact, not the norm and that, should they occur, the officer would be disciplined.<sup>69</sup> Explanations such as these, which explain police abuses or police failures to protect Indigenous women as the result of actions of a single officer who fails to follow an already adequate procedure, rather than question the policing structure itself, were ones that Farida Deif also said were common in research conducted by Human Rights Watch. She noted:

Generally, in our work on policing abuses in many countries, the response by the police is generally one of denial of the policing abuses taking place, claiming that there are just a number of bad apples on the police force, not a systemic issue, not a structural issue. They will often drown us in policing protocols and policies to show how, you know, advanced they are and how much in line they are with international standards. But our response is always that we’re not really concerned about the policies, we’re concerned about the practice and the implementation of those policies. And you know, and what do you do – even if, you know, even if we were to argue that it was a few bad apples, has there been accountability for those bad apples? Has there been any kind of – how have you used that as a teaching moment to change your training of the police services, to change your recruitment practices? What has happened since then?<sup>70</sup>

While officers like Chief Superintendent Mark Pritchard of Ontario’s Provincial Police (OPP) and others encouraged families and survivors to report police abuses, this also puts the onus on Indigenous people to hold police accountable, therefore ignoring the very real power dynamics at play and an ongoing misunderstanding of barriers Indigenous people face when interacting with some police officers.



## Systemic Failures in Crime Detection and Prevention

The National Inquiry also heard testimony from police services, many of whom spoke to the need to be properly resourced in order to perform their duties. First Nations police services, in particular, cited insufficient equipment and resources as impeding their efforts to engage in proper investigation, as well as in crime prevention, in Indigenous communities. Terry Armstrong, chief of the Nishnawbe-Aski Police Service (NAPS, the largest First Nations police service in Canada), told the National Inquiry that a chronic lack of access to funding has left his service unable to perform many of its duties.

Well, because of the chronic underfunding of NAPS, we haven't had partners for all our police – all our detachments, we haven't had a radio communication system, which are very unsafe for the communities. They don't allow the officers to do their job at the same capacity as you would elsewhere, and it puts people's safety in jeopardy. And not having a communication system where you can call to somebody for backup or assistance – in our case a lot of times there is not backup anyway – but not even having a system where you can call and say – as we say in policing, “Run somebody to see what their, you know, what their records are” or any of these things, we don't have that same capacity unless we go back to the detachment and get to a landline to make a call.<sup>71</sup>



*Daniel Bellegarde, Director of Canadian Association of Police Governance, testifies at the Institutional Hearing on Police Policies and Practices in Regina, Saskatchewan.*

Mike Metatawabin, chair of the Nishnawbe-Aski Police Service Board, also told the National Inquiry that the Nishnawbe-Aski Police Service faces hurdles in its operations that other police services do not. For example, many of its detachments are under-resourced and lack proper services like heating. As a result, in 2013, the Nishnawbe-Aski Nation released a public safety notice indicating that it was unable to provide adequate police services to its people due to a lack of funding and legislated criteria. The notice was sent to the government of Ontario, but the Nishnawbe-Aski Nation did not receive a response other than from the chief coroner.<sup>72</sup>



## DEEPER DIVE

# The Sex Industry, Sexual Exploitation, and Human Trafficking

Woven into the truths shared by family members speaking about their missing or murdered loved ones, and the truths told by survivors, Knowledge Keepers, and Expert Witnesses, were stories about Indigenous women, girls, and 2SLGBTQIA people and the sex industry, sexual exploitation, and human trafficking. Among the witnesses who shared their truth with the Inquiry, many survivors described experiences of physical and sexual violence while engaged in sex work. Witnesses also offered insights and ideas for how best to ensure safety, health, and justice for those whose lives connect with sex work, or whose lives have been impacted by sexual exploitation or sex trafficking.

Here, we focus our discussion specifically on the issues, concerns, and teachings witnesses raised related to the relationship between sex work, sexual exploitation, and trafficking and violence against Indigenous women, girls, and 2SLGBTQIA people.

Constructing an accurate picture of the number of Indigenous women, girls, and 2SLGBTQIA people involved in the sex industry is difficult. Because involvement in the sex industry continues to be stigmatized, and acknowledging one's involvement in the sex industry can increase the risk of criminalization, discrimination, and violence, many people choose not to report information about their involvement. In addition, an unwillingness and lack of effort on the part of many institutions that could help to keep more accurate records about Indigenous women, girls, and 2SLGBTQIA people and the sex industry contribute to this lack of information. In part, this unwillingness and lack of effort are rooted in a long-standing view that sees those individuals as disposable or unworthy of attention.<sup>A</sup>

Despite these gaps in data collection, organizations working to advocate on behalf of sex worker rights, and those working to address sexual exploitation and trafficking, consistently report that Indigenous women, girls, and 2SLGBTQIA people make up the

majority of those involved in the street-level sex work.<sup>B</sup> They are also more likely than other groups to be targeted for, or to experience, sexual exploitation or trafficking for the purposes of sexual exploitation.<sup>C</sup>

## Understanding Diverse Perspectives

The National Inquiry heard a range of opinions regarding the relationships among sex work, sexual exploitation, and trafficking. Some women insisted that sex work, by its very nature, is exploitative and needs to be abolished. For example, Diane Redsky, member of Shoal Lake 40 First Nation and front-line worker with the Ma Mawi Chi Itata Centre in Winnipeg, argued that sex work is inherently exploitative and oppressive.

You will never hear me say “sex trade,” because trade implies you’re trading something of fair value. When you understand sexual exploitation and sex trafficking as much as we do, you will know that there is nothing fair of value being exchanged. The other is “sex work.” I will not say “sex work” because it is not employment. It is not a job, it is not a legitimate job. Again, as we understand sexual exploitation and sex trafficking, it is highly exploitative, and violent, and degrades our women.<sup>D</sup>

However, the National Inquiry also heard testimony that there is nothing inherently wrong with sex work, and that the criminalization of sex work makes women more vulnerable to violence. For example, Lanna Moon Perrin, an Indigenous woman and self-identified activist and sex worker, shared a very different opinion.

I hear a lot about prostitution being a colonial thing, and it’s a disease or it’s a thing that colonization brought onto us. And, you know, perhaps in the ways that it was perceived to us, it could



be looked at like that, but I'd like to consider pre-colonization for a minute and what our sexuality as Indigenous women and how that might have looked, especially in leadership, you know? And, you know, you can't tell me that pre-colonization, Indigenous women didn't use their sexuality to advance themselves, their families, their communities, and their Nations. I have a hard time believing that.<sup>E</sup>

Robyn Bourgeois, a Cree woman and professor at Brock University, emphasized that, despite differences of opinion on these matters, Indigenous women have a common goal when it comes to ending violence.

I think, you know, at the end of the day, I think despite whatever our position is, we're all fighting for the same thing. We're all recognizing that what happens to Indigenous women in the sex industry is problematic. And, we are recognizing that, you know, not only are Indigenous women and girls vulnerable to things like sexual exploitation and sex trafficking, but that, you know, people who are wanting to be involved in the sex industry are experiencing violence.

And, at the end of the day, we're all fighting to try to save the lives of Indigenous women and girls, and we're just, kind of – we're divided amongst the different positions and really understanding if prostitution is the source of the violence itself, and so that in and of itself is the violence, or that the violence is created because of social perceptions, or regulation, or criminalization surrounding the sex trade. But, at the end of the day, I mean, I think no matter what, we all want the same thing. We want an end to this violence and we want our girls and our women to be safe no matter what.<sup>F</sup>

Testimony that focused more specifically on children and youth in the sex industry emphasized the importance of distinguishing between sexual exploitation and trafficking and adult sex work. Diane Redsky, for instance, argued that it is especially important to acknowledge the inherently violent and exploitative nature of the sex industry when minors are involved.

When sexual exploitation and trafficking involves a child under the age of 18, they should never ever be called teen hookers or child pros-

titutes, or especially girls providing a service to johns. Why? Because it minimizes their victimization. It also implies that they had some choice in the matter when we know that minors cannot consent. Minors can never provide consent and there are criminal provisions in the *Criminal Code* for under the age of 18. So, instead, they are victims of child abuse. A perpetrator paid to sexually abuse a child.<sup>G</sup>

Allan Wade also spoke about the problematic language used when talking about the exploitation of children and youth within the sex trade.

So, what I want to point out is that our prevailing public institutions are publicly shaming children by portraying violence against children as sex with children. I couldn't tell you how many people I have spoken with who referred to sexualized assault or rape as their first sexual experience. It's very important that people understand that rape is not a sexual experience. Children cannot consent; therefore, child prostitution, child pornography, child sex work, cannot exist ever, because of consent laws. So our consent law actually contradicts our *Criminal Code* language.<sup>H</sup>

Nonetheless, as witnesses made clear when describing their participation in the sex industry as children or teenagers, street-level or survival sex work was one of very few options available to them, all of which were likely to involve some form of exploitation and erasure of agency.<sup>I</sup> Witnesses emphasized that any serious attempt to combat sexual exploitation and trafficking among Indigenous girls and youth must be met with an equally serious commitment to ensuring that adequate financial, health, and social supports exist to make other options viable.

## The Statistical Realities of Human Trafficking in Canada

Within the context of the hearings, Assistant Commissioner Joanne Crampton of the RCMP explained that one of the biggest challenges that police face in addressing human trafficking is a lack of reliable data about these networks in Canada: "It's difficult to speak about something that we know is an issue when we don't have the data to support it."<sup>J</sup>



“Human trafficking,” or trafficking in persons, is a criminal offence under the *Criminal Code* and under the *Immigration and Refugee Protection Act*. Human trafficking is considered a violation of individual human rights.<sup>K</sup> It involves “recruiting, transporting, transferring, receiving, holding, concealing or harbouring a person, or exercising control, direction or influence over the movements of a person, for the purpose of exploiting them or facilitating their exploitation,” and can take many forms like sexual exploitation and forced labour.<sup>L</sup>

While the realities of trafficking are hard to measure, Statistics Canada, through the Uniform Crime Reporting Survey, collects information on incidents of human trafficking violations when they are reported to police forces in Canada. As researcher Dyna Ibrahim points out, in 2016, “There was nearly one (0.94) police-reported incident of human trafficking for every 100,000 population—the highest rate recorded since comparable data became available in 2009.”<sup>M</sup>

The victims of human trafficking are most often young women. Between 2009 and 2015, 865 victims of human trafficking appeared in the statistics, and over 95% of these were women. The majority of those women (nearly three-quarters) were under the age of 25; of these, 26% were under the age of 18.<sup>N</sup>

Regionally, there were significant disparities in trafficking statistics for data collected between 2009 and 2016 from those cases that were reported to police. Nearly 66% of cases came from Ontario, while Québec had a rate of over 10%. Alberta, at 8.2%, also represented a significant number of cases. These statistics include *Criminal Code* offences under the category of human trafficking in the Uniform Crime Reporting Survey, including: trafficking in persons (CCCs. 279.01); trafficking in persons under 18 (CCCs. 279.011); material benefit (CCCs. 279.02); material benefit from trafficking of persons under 18 years of age (CCCs. 279.02[2]); withholding or destroying documents (CCCs. 279.03); and withholding or destroying documents to facilitate trafficking of persons under 18 years of age (CCCs. 279.03[2]).

Due to the stigma of trafficking, victims may not want to report for many different reasons, including being in physically, economically, and otherwise vulnerable positions, or being threatened by traffickers who use

humiliation and intimidation, or drugs and other “anchors,” to prevent victims from reporting. In some cases, victims of trafficking may not identify as victims. According to Crampton, “A lot of women who are in an exploitative situation do not recognize that they’re in an exploitative situation. So that’s where the education needs to take place.”<sup>O</sup>

In addition, to be effective, the legislation depends on the justice system to use it.<sup>P</sup> As Crampton admitted:

Currently, even though the legislation has been in place since 2005, it’s very underutilized, and not only police but also prosecutors are not always comfortable with the legislation. When you don’t use legislation on a regular basis, it can be challenging. So, that is a definite gap and that we have a lack of knowledge in both law enforcement, and prosecutor, and judiciary.<sup>Q</sup>

This also leads to a lack of enforcement of the law itself.

Crampton also explained how jurisdictional constraints and difficulties with coordination can make investigations into human trafficking challenging, since they are “continually moving and now crossing into other police jurisdictions.”<sup>R</sup> The Human Trafficking Coordination Centre attempts to coordinate the movement of the files, but, Crampton admits, the system is challenging.

At the same time, and as we heard from some sex workers and sex workers’ advocates, the more recent focus on the issue of trafficking has the tendency to conflate adult sex work with sex trafficking and to position all people who choose to engage in sex work as victims of sex trafficking. While not denying the seriousness of the issue of sexual exploitation and trafficking, those taking this position argue that failing to recognize the lived experiences and perspectives of those who choose to practise sex work compromises their ability to engage in sex work in a safe and rights-based way. Sarah Hunt described how a shift in public discourse and policy to position all sex workers as victims of sex trafficking has “suppressed discussion about the rights of sex workers, resulted in decreased funding for sex worker organizations, and shut out the voices of people who sell or trade sex who do not equate their experience with pure victimization.”<sup>S</sup>



Lanna Moon Perrin offered the following example of how the practice of conflating all sex work with trafficking can create more danger for women like herself and others who choose to be engaged in sex work and want to practise their trade safely.

So, this whole trafficking scare, you know, has really made it hard for women, particularly Indigenous women, in the sex industry to do our work safely, because now we have to hide from police, we have to go places that are more isolated. To advertise our services is even more tricky. You know, we're being pushed, and pushed, and pushed further into isolation and further into dark places to hide our work.

And, when we're being pushed into isolation, it makes ample opportunity for those situations where we can become victims. We're not victims. But, when we get pushed, and pushed, and pushed and hidden, that creates an opportunity for us to be victimized. We're not victims. We get victimized when we get pushed into the darkness.<sup>T</sup>

## A \$13 Bus Ticket: Entry into Human Trafficking

The faces that emerge from these statistics, however, are important, in terms of understanding how those who testified became involved in the first place. The National Inquiry heard testimony about the factors that cause people to become involved in the sex trade. Mary Fearon is the director of the Blue Door, a program that connects women working in the sex industry or who would like to exit the sex industry with services and other supports. Mary explained that many of the girls and women in the sex industry who use the Blue Door's services have experiences of childhood abuse, violence, and trauma, and that this may impact their vulnerability to exploitation and trafficking. She spoke about a study the Blue Door conducted among their service users.

So, from the study that we did – well, first of all, 100% of the participants identified as having some adverse experiences in their early childhood years. So 73% identified emotional abuse, 40% physical abuse, 47[%] sexual abuse, 80% neglect, 93[%] parents were divorced or sepa-

rated, 60% mother or stepmother was treated violently, 80% lived in households with substance abuse, 87% had a household member who experienced mental illness, and 40% had a parent who was incarcerated.

So when we look at those numbers we recognize that there's some connection between those kinds of experiences and the experiences that they may be facing in their lives when they come through our doors.<sup>U</sup>

Diane Redsky also spoke about the relationship between early childhood violence resulting in trauma and sexual exploitation and trafficking.

It [sexual exploitation and sex trafficking] often begins very young with some form of childhood trauma. Whatever trauma that is, whether it's sexual, whether it's physical, emotional, any kind of trauma, something happened to her when she was little that created a vulnerability that traffickers can sniff out, and they're really good at sniffing [out] and identifying a vulnerable girl.<sup>V</sup>

As Mealia Sheutiapik, a former sex worker in Ottawa, explained, "I was a witness to a murder before. So, after witnessing all that murder, there was no help that time. There were no social workers that would come up. The RCMP were just there investigating, but not asking questions. I didn't know how to talk it out because I was just a kid."<sup>W</sup>

Speaking about her sister Tina, Diane L. explained how Tina's foster father normalized the exchange of "sex" for money and safety by sexually abusing and threatening Tina as a young girl.

When she [Tina] had turned 11 or 12 her adopted father sent her adopted siblings away and the mother was working, and she would work night shift, and he would send her sisters and brothers away ... and then he molested her, he raped her. And then it started then, and so this went on for awhile, and he would threaten her, and he would give her money and buy her stuff. And she would – every time her mother would go he would – she would lock the door, and he would put money – he would unlock the door, molest her, and then he would give her money to keep her quiet, and he'd tell her if you



ever told anyone I would kill you, I'm gonna kill you and I'm gonna tell your sisters and brothers that you ran away and we don't know what happened to you, you vanished.<sup>x</sup>

Stories such as Tina's, which demonstrate a connection between a young Indigenous girl's involvement in the child welfare system and sexual exploitation, sex trafficking, and survival/street-level sex work, were echoed by other witnesses.

In describing her experience, Grandmother Bernie talked about how, at age 11 or 12, she and six other girls were trafficked while in foster care.

At the age of 11 or 12 years old, six of us girls were sold into the sex industry work – we didn't know – at the Empress Hotel in Prince Rupert. As many of you know that I ... don't wear shorts very often because of my legs. I've got cigarette burns all through my legs right up to my back. Around – like, my buttock area is very – scarred really bad. This is what we ... endured. We were just kids.<sup>y</sup>

In her testimony, Alaya M. described how, as a 12-year-old in care, her social worker presented her with the option of staying in her community or going to Winnipeg:

Well, as an Indigenous kid in a northern reserve, what would you choose? I chose the city. And, within a 24-hour period, I was purchased a Greyhound bus ticket. And, with that Greyhound bus ticket, one of the things was the DOCFS [Department of Child and Family Services], that was probably the best \$13 or \$14 they ever spent to get a kid out of their care not understanding that – the effects and the trauma that would be bestowed upon that \$13, \$14 bus ticket.<sup>z</sup>

Alaya went on to describe how arriving in Winnipeg alone as a 12-year-old Indigenous girl made her an easy target for sexual predators.

So, she [the social worker] put me on that Greyhound bus with no one receiving me on the other end. So ... I got off that bus, and there was an Italian man standing there and he – and one of the things with Indigenous kids and Indigenous people, we lack that attention, so we seek

it. And, one of the things was this Italian man was giving me ... all of that attention that I wanted, I guess, or I was seeking at that time. And, he's like, "Come here," and he lured me to a place where exploitation is very rampant in this city, and he got into his car and picked me up and, you know, I serviced this perpetrator for a number ... of hours, and only to not understand, again, what sex was. I didn't even know what a condom was, I didn't know anything of anything in that matter, you know, up until being, you know, sexually abused as a child. And, one of the things was he took me – there was a Coffee Time on Princess and ... Notre Dame, which is just one block from here, one block radius, and he gave me \$5, and he's like, "Go get us two coffees," and I'm like, "Oh, okay." And, this is how naïve I was as an Indigenous kid in care coming to the city. ...

So, those – those behaviours started being normalized instantly to me. So, one of the things at that time, I was like, "Oh, well, he gave me \$5, maybe I should go do that again." So I went back to that same location where he lured me and got into his vehicle, and this behaviour was normalized. And, one of the first things at 12 years old was my first hit of crack cocaine. No kid should be smoking crack cocaine at 12 years old. And, that would just escalate into a general spiral effect of addictions, exploitation. One of the things – I needed to numb that pain, and one of the things with exploitation when you're victimized in exploitation, you really need to numb the pain.<sup>aa</sup>

What happened to these girls occurred in the context of grooming and intimidation. "Grooming" is a process whereby predators target and prepare children and young people for sexual abuse and sexual exploitation. Within the Truth-Gathering Process, the National Inquiry heard from many witnesses about how pimps stay outside group homes, youth detention centres, and bus depots to specifically recruit Indigenous girls and 2SLGBTQQIA youth. In this context, they are preyed upon because they are vulnerable to persuasion and grooming, and can be perceived as easy targets – especially when they are coming from the situation of child welfare. As was expressed, in many different ways, the perception of impunity on the part of pimps – the idea that no one will come looking for them – also creates conditions for violence.



The National Inquiry heard several stories from northern or more remote communities, as well, where the absence of services and poor services chronicled elsewhere in this report forced people to head south, where they were subsequently trafficked. Traffickers were cited as targeting group homes, medical travel homes, bus stations, and buses coming from remote communities, as Alaya's story also revealed. In this way, the lack of infrastructure and services in northern and remote communities feeds the sex industry and further exploitation. As the National Inquiry heard, those who exploit women, girls, and 2SLGBTQQIA people are well aware of how to target these people; they go so far as to station themselves outside of group homes or places where they know these potential victims might be, in order to bring them into human trafficking rings. In addition, studies have pointed to key recruitment areas including airports, and in particular the Montreal.<sup>BB</sup> Other key recruitment zones include schools, the boyfriend method (where a trafficker approaches a woman as a suitor, rather than as a trafficker),<sup>CC</sup> other girls or women, hitchhiking, and virtually any place that is away from home where victims can be isolated.<sup>DD</sup>

For many young Indigenous girls who are forced to, or choose to, leave abusive families or foster homes or want to seek out a better life for themselves, early experiences of sexual exploitation and trafficking continue into adulthood, during which engaging in survival or street-level sex work becomes a way of making ends meet. Mary Fearon explained how poverty and addiction are factors that make it necessary for Indigenous women to exchange or trade sex to meet their basic needs.

One of the things that we see with a lot of our participants, particularly our younger participants, is survival sex. And, that idea that if they need to get a place to stay, if they're homeless, then they will often trade sex as a means to get some other need met, whether it be housing or food. Food security is a big issue. So, yes, there was – it was out of the need, that people are living in poverty in our province and across our country was certainly a big driving factor.<sup>EE</sup>

She continued, "One [factor] is that we recognize that 95% identify as living in poverty when they come into our program, so poverty is clearly a big indicator; that 79% have had some kind of addiction, or currently are dealing with addictions, or recovered from addictions."<sup>FF</sup>

Many survivors who shared their experience of poverty, homelessness, and violence talked about exchanging sex in order to meet their basic needs for food, housing, clothing, transportation, or other basic items – a practice often referred to as "survival sex work."

As Monique F. H. explained: "I slept, you know, with people for a place to live, for a place to stay, for food. But that is what survival does, that's survival for you, right? You – you do what you need to do in order to continue to live and to continue to survive."<sup>GG</sup>

Doris G. talked about how she turned to sex work in order to pay for housing for herself and her child.

I needed help with [the] damage deposit, and no one would help me. It was hard being a single Native mother on welfare with an infant, so I went and found my friend, and she introduced me to her friends, otherwise known as johns, who would help me with cash. I could raise money for housing or for me and my child, for food. I remember stopping before I started to pray to Creator to keep me safe: I've got to make it home to my son.<sup>HH</sup>

In her testimony, Lanna Moon Perrin offered a slightly different perspective and explained that for some Indigenous, trans, and 2SLGBTQQIA people, sex work offers an empowering and financially rewarding way to support oneself and one's family.

You know, I started with street-level sex work at 16 so that I could buy things for myself, a winter jacket, winter boots, decent food to eat. In my life, when I was young, I did experience violence on a lot of different levels, but I don't want to, in any way, frame it that it was my choice of getting into sex work that led me to be victimized.<sup>II</sup>



She also said:

And you know, we've got to eliminate prostitution, that's what everybody says. Prostitution, prostitution. You know, prostitution paid for my son here to go on his grade 7 field trip, otherwise I couldn't send him. Prostitution paid for my daughter's tap-dancing shoes. That's what that did for my family, you know?<sup>JJ</sup>

Doris G., too, spoke about how the money available through sex work offered her opportunities that would not otherwise be possible if she were working in a minimum-wage job or on social assistance.

When I was younger, I didn't want to get into prostitution. I hustled the pool tables. I took in bottles. You know, I'd search the garbage can for bottles. You know, I did things where I wouldn't have to go be a prostitute, so – but later on in life, by the time I was 20-something, I finally had to give in to it and say, you know, it's the fastest way. Like, you know ... I understand going to work from 9:00 to 5:00, but what people make that month, I can make in, like, one day. You know, you make a thousand dollars a day? I can make that in a day. That money was faster. You know, when it's not ugly, the money was good.<sup>KK</sup>

For Lanna Moon Perrin and other sex workers' rights advocates, recognizing the variety of contexts and reasons that might shape a woman's involvement in sex work is an important part of acknowledging agency and ensuring safety.<sup>LL</sup> As Diane Redsky observed, "Every woman has their own story and experience of what happened to her."<sup>MM</sup>

In an article exploring different ways of understanding Indigenous women's involvement in the sex trade, scholar Shawna Ferris offers a starting point for navigating the complexities of these relationships when she asks, "How might we make room for women's agency, even in the survival sex trade, and take into account the ways our colonial history and its ongoing legacy of racist misogyny limit the personal and professional choices of Indigenous women in the survival sex trade?"<sup>NN</sup>

## “You're seen as the lowest of the low”: Confronting the Sex Industry and Institutionalized Violence

Researchers, advocates, survivors, and the family members of those missing or murdered have for many years drawn attention to a long and ongoing history of discrimination, racism, sexism, and transphobia that shapes the encounters of the Canadian justice system and, in particular, the police with Indigenous women, girls, and 2SLGBTQIA people involved in the sex industry.

According to Statistics Canada, between 1991 and 2014, there were 294 homicides of sex workers. Of these, 34% remained unsolved, and represented a far greater percentage than for homicides that didn't involve a sex worker as a victim (20%).<sup>OO</sup>

In 2014, Bill C-36, the *Protection of Communities and Exploited Persons Act* (PCEPA), which came into force on December 6, 2014, responded to the Supreme Court of Canada's 2013 *Attorney General of Canada v. Bedford* decision, which found three pre-PCEPA prostitution offences unconstitutional, including the bawdy house offences as they apply to places kept for the purposes of prostitution, living on the avails of prostitution, and communicating in public places for the purposes of purchasing or selling sexual services. The PCEPA treats prostitution as exploitative of primarily women and girls. It looks to reduce prostitution by penalizing those who purchase sex and who benefit from the prostitution of others.<sup>PP</sup> This approach, however, has not necessarily resulted in greater safety for those who work in the sex trade: "Between 2008/2009 and 2013/2014, under one third (30%) of prostitution cases processed in criminal courts resulted in a guilty verdict; this was much lower than the proportion [of guilty verdicts] for criminal court cases in general (64%)."<sup>QQ</sup>

These statistics speak to some of the testimony we heard. In her testimony as an Expert Witness, Robyn Bourgeois talked about the link between racist and sexist stereotypes about Indigenous women and the



indifference that so often characterizes the societal and institutional response to the violence inflicted upon Indigenous women – especially those working within the sex industry.

The one piece that has always been there is the hypersexualization of Indigenous women and girls, and the perception that we are inherently sexually available. And, that – if we are inherently available, sexually, then the violence that happens to our bodies doesn't count.... It's the inherent belief within the settler colonial system, which is the foundation of our current Canadian nation state, that Indigenous women and girls are inferior, they're deviant, they're dysfunctional, and they need to be eliminated from this nation state, and that's what makes it okay to abuse and violate Indigenous women and girls.<sup>RR</sup>

These assumptions have important implications for police investigations, as Bourgeois noted.

Why didn't police investigate? Why did it take, you know, almost 20 years before they took this seriously? It was because of this belief that these women were entrenched in the sex industry and for that reason, you know, they weren't likely victims. And so it allows for general inaction on violence against Indigenous women and girls, and that's a huge concern for me.<sup>SS</sup>

These beliefs also translate into the courts. Bourgeois noted:

Again, and again, and again, and again and again our Canadian courts, they really – they rely heavily on the hypersexualization of Indigenous women and girls to not only erase the violence, because they will erase it by saying, "Oh, you know what? She consented to this," or "She, you know, was engaged in prostitution," or, you know, "She, you know, was drunk and promiscuous," or any of those things.<sup>TT</sup>

When they appear in public media sources, too, sex workers are further marginalized. As Danielle B. expressed:

You know, in the newspaper, it's like "Crack-Head Dead," "Hooker Dead," "Prostitute Dead," but that was my life. Because I was a crackhead, and I was

a prostitute, but I lived a double life.... And I remember I was with an *Edmonton Sun* reporter, and I'm like, "If I were to get killed tomorrow, what do you think would be said about me?" "Local Advocate of Missing and Murdered Women, Murdered." I said, "Now, what if they found out – what if they knew I was a hooker, and a prostitute? Would that change it?" He said, "Yeah, it would."<sup>UU</sup>

Seeking justice within systems that actively work to position Indigenous women, girls, and 2SLGBTQIA people as "the lowest of the low," as many of the witnesses explained, is often not only futile but also dangerous work.

As much previous research and many of the testimonies demonstrated, encounters between Indigenous women and girls involved in the sex industry and the justice system often involve experiences of additional violence at the hands of those with a responsibility to uphold justice.

Lanna Moon Perrin spoke frankly about the fear and mistrust that stop Indigenous women who experience violence in the context of the sex industry from talking to the police.

If I were to negotiate something like one act for money, you know, something for something, and I didn't get my money, you know? So, I would like to be able to go to the police and, you know, I would like to say, you know, "I was robbed." You know, "I was assaulted." You know, these different things and be taken seriously.

Sex workers who were – who would say something like that now would – I don't even think – I can't even think of someone who would even go to the cops, honestly, if they were hurt like that. Like, I sure the heck wouldn't. And so, I guess to be able to see police that might take us seriously, that we're allowed that protection too.<sup>VV</sup>

While all Indigenous women face risks in reaching out to police as a result of experiencing violence – risks that include being treated with a presumption of criminality and being implicated, arrested, and charged for violence themselves<sup>WW</sup> – Indigenous women involved in sex work also face risks related to complex legislation that criminalizes certain aspects



of the sex industry and not others. Despite the intention behind Bill C-36 – the legislation adopted with the intention of moving away from criminalizing sex workers, and instead criminalizing those who purchase sex – sex workers’ advocates and Indigenous sex workers who shared their truths indicated that not only does this legislation continue to put adult sex workers at risk for criminalization, but it also significantly increases danger and the likelihood of violence by pushing pimps and traffickers even further underground, and providing johns an incentive to not leave any evidence.<sup>XX</sup> In addition, and as Jamie L. H. explained, the limitations placed on the location of where sex workers can meet potential clients often forces sex workers into more dangerous locations before being able to assess the safety of a particular situation or client.

And then the police say that you’re not allowed to be near a community centre, a park, a school, a playground; but of course in Vancouver pretty well anywhere you go, you’re going to be near one of these spots. But not only that, these areas provide safety. They’re well lit; the women and men and girls in the sex trade, you know, go there, because, for safety reasons. Because the area that they’re being pushed to is very dark, deserted and without much – danger lurks, it’s where Pickton preyed. And they’ve always promised better lighting but that’s never come about. And it’s still pretty awful.<sup>YY</sup>

Efforts to improve the relationship between police and those involved in the sex industry by establishing coalitions and partnerships that include those with lived experience were discussed by some witnesses. For example, committees such as the Sexually Exploited Youth Coalition in Winnipeg is one example of a coalition in which the police are involved as partners alongside community-based and Indigenous-led organizations that centre the voices of those with lived experience.<sup>ZZ</sup> Again, however, these initiatives tend to focus on the issues of sexual exploitation of children and youth and trafficking; few are focused on strengthening relationships between the police and street-level adult sex workers. Jamie commented:

Yes, you know, I think the police have become very good at public relations. And have embarked on a campaign that they present that they’re really helping sex workers, and that they

will only as a last resort charge them with a prostitution-related offence. But the reality is that with Bill C-36 ... which the new law was created, that the women and girls are supposed to be left alone, and that they’re supposed to go after the male customers. But it’s completely opposite. They still, of course, target the most vulnerable, the women and girls; and Aboriginal women and girls in the sex trade.<sup>AAA</sup>

## “She could be any place”: Searching for Justice

For the families, friends, and loved ones who shared truths about women, girls, and 2SLGBTQQIA people who were involved in the sex industry at the time of their disappearance or death, encounters with the police and justice system often also meant being confronted with sexist, racist, and discriminatory attitudes in their quest for justice.

In describing her experience with the justice system following the disappearance and murder of her sister-in-law, this family member offered her perspective of how a systemic bias against Indigenous women sex workers compromises any realization of justice.

There was no justice for my sister-in-law. He [the perpetrator] didn’t even – he wasn’t even charged. She was the fourth one to die in this man’s company. And they were all First Nation women except one, and that’s how he was charged was the last one wasn’t from the street, she wasn’t a streetwalker. We prejudice why these women end up where they do. There is many stories like Mary’s. She had a loving family. But because of her being raised away from her family in residential schools, she didn’t have the tools of the streets.<sup>BBB</sup>

While there are many Indigenous women, trans, and 2SLGBTQQIA sex workers whose disappearance or death has been met with indifference by the justice system, so, too, are there many of their family members who, in looking for information about them, are met with the same indifference, racism, and sexism directed toward Indigenous women, girls, and 2SLGBTQQIA people involved in the sex industry.



In recounting conversations and meetings with RCMP, provincial, and municipal police forces, family members and friends repeatedly described how their missing or murdered loved one's "lifestyle" was used to excuse inaction on the part of the police.<sup>CCC</sup>

Family members described encounters during which police made claims about certain procedures or policies that must be met before an investigation could begin, given their loved one's "lifestyle" – a tactic whereby police use operational or procedural rules to mask what is actually often an unwillingness to act, rooted in discriminatory beliefs and attitudes.

For example, Diane L. recalled what happened when she initially contacted the RCMP to express concern about the safety of her sister Tina.

And then when they got back to us it was already pretty well a month [since Diane initially contacted the RCMP] when the RCMP got back to us.... And so they phoned us about – it was a month, and then that's what he told me, he said, and because of her lifestyle, you know, being a streetwalker, being a hooker, you know, she could be any place, she could be in Vancouver, she could be in any cities. And I said, no. I said, you know, I told her to phone my mom, and I told her to phone wherever she's at every week, and I said, well, can you like, you know, at least put out a missing persons' report or something on her, and he said – he said, no, we can't do that yet, maybe give her another week or two and see if she contacts you, and I said, okay.<sup>DDD</sup>

Encounters such as these not only demonstrate the way in which involvement in the sex industry becomes a reason used by police to justify inaction, but also point to a more pervasive dismissal of the knowledge and information held by Indigenous people about their missing and murdered loved ones.

Throughout the testimonies gathered during the National Inquiry, family members, friends, and others close to missing or murdered Indigenous women, girls, and 2SLGBTQQIA people described conversations with police in which they offered important information about a change in the behaviour of their loved one that pointed to something being wrong. Instead of recognizing the value of information that

is rooted in family members' knowledge of their loved one's relationships, history, experiences, strengths, and challenges, police use encounters with family members to repeat sexist, racist, and pathologizing interpretations of the lives of Indigenous women, girls, and 2SLGBTQQIA people.

As the testimonies provided by these family members demonstrate, when police dismiss opportunities to understand and appreciate the wisdom of Indigenous families, and when they approach the lives of Indigenous women – especially sex workers – as being inconsequential, there are, in fact, serious consequences.

All too often, in encounters in which police ignore the warnings and concerns offered to them by the family members of missing and murdered loved ones and instead insist on following their own ways of knowing and operating, it is Indigenous women, girls, and 2SLGBTQQIA people and their families who pay the price. In Diane L.'s case, for example, her sister Tina's body was found in a farmer's field nearly six months after Diane had reached out to the RCMP to raise concerns about her safety.<sup>EEE</sup>

In her testimony, Diane L. also offered a powerful account of the way in which the unique lives and identities of missing and murdered Indigenous women, girls, and 2SLGBTQQIA people who are involved in the sex industry are replaced by the use of derogatory labels, not only during the police investigation, but also during court proceedings.

In the hearing in Dawson Creek, they said her name right from – right, like, in the beginning, but it started there that they kept referring to her as "this hooker," "that prostitute," "this hooker." And then when we went to the trial it continued, and all during the trial I was sitting there listening to all of them, the prosecutors, the lawyers, the Crown prosecutor, the lawyers, the defence, all of them, and including him when they questioned him, they would never ever use her name, call her by a name. They would always refer to her as "this hooker," "that prostitute." I was so upset. It really, really hurt me. I was so upset.<sup>FFF</sup>

Diane offered the following account of her own act of courage and defiance against a system that refused to acknowledge her sister's humanity.



And finally, I got up and I put my hands in the air, ... and the judge, he looked over at me and he said, "We'll take a few minutes there," and he said, "You got your hands up, I notice." He said, "May I ask who you are?" And I stood up and I said, yes. I said, "Tina, who you guys are referring to her as 'this hooker,' 'that prostitute,' 'this slut,' 'that whore,' you never ever once used her name. She does have a name. I am her sister," I said, "and doesn't matter if you can charge me, do whatever you want with me, but I would ask you to please have respect. Her cousin's here, my cousin, we're here, we're family. She is loved regardless of what she did for a living. That was her survival mechanism. Those safe homes they put us in taught her that," I said. "And could you please refer her – she is a human, she is loved, could you please refer to Tina... ? That's her name."

...

And they did, they did refer to her as Tina after, you know, because for me that was so disrespectful, that was inhuman, you know what I mean, inhuman, inhumane to say stuff like that ... you know, every human, especially women, they have to have respect. They have to be respected regardless of who they are, what they done. For me, it's a survival mechanism that they learned. That's the only way they knew and they were taught to survive. And lots of, lots of like, you know, discrimination, discrimination's in the court system, lots of disrespect. But that's what I did, I finally got my courage up to say that to them.<sup>GGG</sup>

This attitude still exists, as evidenced in the case of *R. v. Barton*. In this case, Bradley Barton admitted to killing Cindy Gladue. Cindy Gladue died in a hotel room on June 22, 2011, after a terrible injury to her pelvic region, and she bled to death. Barton had paid her for sex, both on the night of her death and the previous evening, and argued that her injury was the result of rough sex. He was acquitted in 2015 of first-degree murder and manslaughter, but in 2017, Alberta's Court of Appeal overturned the verdict and ordered a new trial. In their decision, Alberta's judges stated that the trial judge had made mistakes in procedure during Barton's trial by not invoking rape-shield law and by not properly instructing the jury, as reporter Justin Brake explains, "who heard through-

out the trial that Gladue was both Indigenous and a sex industry worker.... 'The trial judge ought to have addressed the repeated references to Gladue as a 'Native' girl and 'prostitute' to overcome the real risk of reasoning prejudice,' the judges wrote."<sup>HHH</sup> In addition, the presentation of her pelvis during the trial represents "her last indignity," as Christa Big Canoe, lawyer, writes:

What I cannot understand is why it was necessary for two medical professionals to demonstrate their theories and opinions in front of the jury using the human remains of the victim. Cindy Gladue was a mother. Cindy Gladue was a daughter. Cindy Gladue was a Cree woman. Cindy Gladue was a human being regardless of her profession as a sex worker.<sup>III</sup>

## “They were my street family”: Searching for Security

In the face of ongoing sexism, discrimination, racism, and violence within a justice system that continues to deny their rights, Indigenous women, girls, and 2SLGBTQQIA people involved in the sex industry continue to resist a system that denies their value, wisdom, and strength, as well as the protections afforded to them as rights holders.

In describing their relationships with each other, Indigenous women, girls, and 2SLGBTQQIA people involved in sex work talked about the strategies they use to enhance safety in the absence of protection from police: taking down licence plates, checking in with each other, "spotting," creating a record of bad dates, passing on knowledge about how to be safe, and creating and participating in advocacy.<sup>JJJ</sup> These strategies – and the relationships fostered therein – become a way for Indigenous women themselves to insist on their right to protection, love, and well-being, even while these rights are being denied them by the state.

The relationships described among Indigenous women, girls, and 2SLGBTQQIA people in the sex industry also challenge and resist colonial policies, such as those enacted through the child welfare system, that seek to undermine and destroy the structure of the family in Indigenous communities. While many of those involved in the sex industry are currently or



have been previously removed from their families and taken into the foster and child welfare system, Indigenous people working in the sex industry told the National Inquiry about the “families of the heart” they nurture and that offer protection, love, and connection.

For example, in describing her experience as a sex worker in Vancouver’s Downtown Eastside during the 1990s, Cee-Jai J. testified about the important role her “street family” played in caring for each other: “They were my street family. We’re all hurting, but yet we had each other. Each of us started to spot each other, which car would pull up – seeing the headlights, trying to remember the licence plate numbers. They’d get in, says, ‘I’ll be back.’ Trying to watch out that they come back.”<sup>KKK</sup>

The depth of these relationships and their role in ensuring safety and justice are also demonstrated by descriptions provided by women who no longer work in the sex industry but who continue to take on this “familial” role. Jamie L. H. shared:

I go down to the Low Track, we call it, north of Hastings in the industrial area. And I visit my friends down there who are, you know, still working. And you know, make sure they’re okay and just talk about issues. And they give me information that I can use to, you know, raise politically, because they’re not political.<sup>LLL</sup>

Monique F. H. stated:

I still do that. I still talk to the girls on the street, if I see a young girl working I go give her condoms, of course, because that’s what I do. I do HIV education and prevention. I give them condoms and I talk to them and tell them that they’re loved because a lot of them don’t feel that. A lot of them don’t feel that love.<sup>MMM</sup>

Lanna Moon Perrin spoke about how sex workers are often responsible for protecting each other in the absence of the police.

Sex workers aren’t pro-trafficking. That’s something we need to make clear. And, when trafficking is happening, a sex worker is the first person to call that.... It’s very, very often that one sex worker will help another sex worker get away

from a pimp without assistance of police. That happens a lot, you know? ... So, yes, I really think that sex workers, we can empower each other. We are anti-trafficking and we need more of the support – more support from our communities to be able to support ourselves as sisters.<sup>NNN</sup>

## Recognizing Experience and Expertise, and Redefining Justice and Security

Beyond offering a model of relationship where Indigenous women, girls, and 2SLGBTQQIA people are recognized as worthy of love, protection, and rights protections, the practices and principles upon which these safety-related encounters among sex workers are based offer important teachings for what justice in the context of Indigenous women working in the sex industry looks like. To be sure, the truths offered by Indigenous families and survivors provide many teachings about justice in the context of Indigenous women, girls, and 2SLGBTQQIA people and sex work, sexual exploitation, and trafficking.

First, witnesses made clear that justice and security depend on recognizing and honouring the agency and expertise held by women themselves to create just communities and relationships. As Diane Redsky shared, in speaking of the learnings of the National Task Force on Sex Trafficking of Women and Girls in Canada, “Survivor-led initiatives are essential. You can’t do and shouldn’t do any work at all unless you have a survivor beside you, unless there is a survivor voice at the table, because nobody knows more, nobody knows better than a survivor. And so their role is critically important.”<sup>OOO</sup>

While sharing their experiences and insights during a truth-gathering meeting at WISH Drop-In Centre, Indigenous women, trans, and 2SLGBTQQIA people currently working in the sex industry in Vancouver’s Downtown Eastside similarly emphasized the importance of others’ recognizing their expertise in determining the services and supports that would enhance safety and justice. These include having access to safe spaces to engage in sex work; access to other services, such as health care, counselling, addictions services, and legal services; opportunities and spaces in which to learn and practise traditional



culture and language; and improved response from the police in recognizing the knowledge held by sex workers.<sup>PPP</sup>

Madison D. provided a more specific description of what this type of support would look like.

I really feel there should be a place for, like, workers to go to, like, a place for them to live and, like, a space for them to, like, find clothes and, like, toiletries, and like, feel human again. You know what I mean? Because when you're a worker, you don't got a lot. Sometimes you'll be working in two outfits and you'd have that for a week to wear, and it's hard. You lose everything from, like, so many things, from, like, the johns or, like, the pimps and stuff like that.<sup>QQQ</sup>

Second, witnesses also made clear that justice and security cannot exist only at the individual level; justice and security for Indigenous women, girls, and 2SLGBTQQIA people involved in the sex industry can occur only when the systems that foster justice and security do so equally for all.

For example, in describing her own experience of facing prostitution-related charges within the justice system, Jamie L. H. noted that while her own charges were dropped, she recognized that her individual experience was not guaranteed to members of her broader community: "So, on a personal level, you know, I was happy [on getting charges dropped]; but the outstanding issue of safety and life, liberty and security for women and girls and Aboriginal women and girls and men on the street, it's still ... outstanding."<sup>RRR</sup>

Until the systems and relationships within those systems are such that they recognize the collective bias that exists, justice remains absent for Indigenous women, girls, and 2SLGBTQQIA people. In maintaining her commitment to the collective community, Jamie L. H. demonstrates the fundamental values of responsibility and connection to the bigger community as central to encounters aimed at strengthening protections for those in the sex trade.

Third, in speaking about the challenges in their own community, sex workers and/or those who have experienced sexual exploitation and/or trafficking draw attention to the structural and socio-economic

barriers that need to be addressed in order to create justice so that sex work is not the only means of meeting one's basic needs. Lanna Moon Perrin shared this observation:

You know, I have heard a lot of people talking about abolishing prostitution and sex work, and that's a great idea in theory, but if we're going to abolish sex work, we need to abolish poverty, we need to abolish homelessness and we need to make sure that our nutritional needs are met. And then once all of that's taken care of, then maybe we could start talking about other things like abolishing sex work.<sup>SSS</sup>

Mary Fearon explained that the social isolation that comes with the stigmatization of sex work can become a barrier to accessing the services and supports necessary to exit the sex trade.

So, there's a lot of social isolation that participants talk about, too, that they really don't have access to supports, and we heard that a couple of times. People are in the work, and when they're ready to get out, they don't know where to access the support and community that understands the work that they do.<sup>TTT</sup>

Witnesses discussed the need for solutions and programs that recognize healing relationships among Indigenous women, girls, and 2SLGBTQQIA people. They contended that the justice and other systems must work to address structural barriers within the context of a deep commitment to new relationships.

Jackie Anderson, a Métis woman who works with youth survivors of sexual exploitation and trafficking at Ma Mawi Wi Chi Itata Centre in Winnipeg, explained some of the barriers to helping Indigenous youth that her organization faces, due to the restrictions associated with their grant funding. For instance, she described how a lack of secure multi-year funding is a major barrier to success for programs that work with young survivors of sexual exploitation and trafficking.

I can't emphasize enough at the end of the day the importance of funding, because when you're – when you're a victim and you're accessing services for healing, this doesn't happen overnight. And for many, it takes many, many attempts



before they've found the right resource or the right program or the time in their life to make that change. So when we have these pilot projects that are funded for, you know, one year, two years, three years, that doesn't help, you know, those that need it the most because, you know, even for a survivor, surviving – the survival is forever. You know, going to a program for one year, three years, and saying, "Okay, you're done," or "We don't have the funding anymore," often puts people back in distress.

So I can't emphasize enough at the end of the day how important it is that we're looking at sustainable funding to Indigenous led organizations that incorporate the importance and value of hiring those with lived experience.<sup>uuu</sup>

## “I hold out hope”: A New Vision for the Future

Collectively, the truths shared by the families of those people missing and murdered while involved in the sex trade, as well as the truths offered by those previously or currently involved in the sex industry and those who are survivors of sexual exploitation and trafficking, challenge dominant attitudes, systems, and practices that seek to render these Indigenous women, girls, and 2SLGBTQQIA people powerless or unworthy of protection and justice. Instead, witnesses offered a reminder that by valuing the agency and expertise held by those with lived experience in the sex industry, it is possible for systems to be created that recognize and foster the lives of Indigenous

women, girls, and 2SLGBTQQIA people involved in the sex industry as worthy of protection, safety, and love. Jamie L. H. offered the following vision of relationship that focuses on safety and responsibility.

And you know, I would hope a recommendation would come out that – you know, I don't want to get into any sort of arguments about abolition versus decriminalization. I'd like to reframe the argument, that this is about safety and what all of us want on all sides of the fence, is that we want safety and our people to be free of violence, and not to have predators come down and roam freely, targeting them for violence. So, I think we can get there. I really do.

And I'd like to see just – I don't want to hear about any more Aboriginal women and boys, Two-Spirited, trans people, going missing or being murdered. And their life being taken, their life force being taken when they have so much to give yet. And surely we don't live in a society that just abandons its most needy, its most vulnerable. We have to continue to fight those battles and I think – I hold out hope. You know, my mother always used to say to me, never give up hope. And I know the struggles that many of you Aboriginal Elders went through in the day, to advance the Aboriginal issue. And I learned that first-hand from my mother. And so, I know change happens; it happens slowly. But we have to, as you say, Chief Commissioner Buller, we have to never [leave] anyone behind, and we must never forget. We must never forget that every life is worth – is of value.<sup>vvv</sup>

### Findings:

- Policing services struggle to effectively respond to cases of human trafficking, sexual exploitation, and violence against women and 2SLGBTQQIA people in the sex industry. The detection of offenses such as human trafficking and sexual exploitation is difficult, compounded by difficulties in investigating and prosecuting these crimes. Current laws, including those regarding sexual exploitation and human trafficking, are not effective in increasing safety overall for Indigenous women, girls, and 2SLGBTQQIA people because those laws do not acknowledge power imbalances and social stigmas.
- Indigenous women, girls, and 2SLGBTQQIA people in the sex industry do not trust police services to keep them safe, due to the criminalization of their work and the racial and sexual discrimination they encounter, as well as the social stigma attached to the sex industry, in general.
- The rights to safety and security of Indigenous women and 2SLGBTQQIA people in the sex industry are not being recognized and protected.



- A Hunt, "Representing Colonial Violence."
- B Amnesty International, *No More Stolen Sisters*; Farley and Lynne, "Prostitution of Indigenous Women"; Hunt, "Representing Colonial Violence."
- C Assistant Commissioner Joanne Crampton, Mixed Parts 2 & 3, Public Volume 15, St. John's, NL, p. 40.
- D Diane Redsky (Shoal Lake 40 First Nation), Mixed Parts 2 & 3, Public Volume 18, St. John's, NL, pp. 74–75.
- E Lanna Moon Perrin (Anishinaabe), Mixed Parts 2 & 3, Public Volume 17, St. John's, NL, p. 80.
- F Dr. Robyn Bourgeois (Cree), Mixed Parts 2 & 3, Public Volume 17, St. John's, NL, pp. 26-27.
- G Diane Redsky (Shoal Lake 40 First Nation), Mixed Parts 2 & 3, Public Volume 18, St. John's, NL, p. 77.
- H Dr. Allan Wade, Mixed Parts 2 & 3, Public Volume 14, Winnipeg, MB, p. 75.
- I Ferris, "Working from the Violent Centre," 17.
- J Assistant Commissioner Joanne Crampton, Mixed Parts 2 & 3, Public Volume 15, St. John's, NL, p. 75.
- K United Nations, "Human Rights and Human Trafficking"; Ontario Women's Justice Network, "The Law and Human Trafficking in Canada."
- L Ibrahim, "Trafficking in Persons in Canada, 2016," 3.
- M Ibid.
- N Ibid., 5.
- O Assistant Commissioner Joanne Crampton, Mixed Parts 2 & 3, Public Volume 15, St. John's, NL, p. 76.
- P Ibrahim, "Trafficking in Persons in Canada, 2016."
- Q Assistant Commissioner Joanne Crampton, Mixed Parts 2 & 3, Public Volume 15, St. John's, NL, p. 81.
- R Assistant Commissioner Joanne Crampton, Mixed Parts 2 & 3, Public Volume 15, St. John's, NL, p. 83.
- S Hunt, "Representing Colonial Violence," 35.
- T Lanna Moon Perrin (Anishinaabe), Mixed Parts 2 & 3, Public Volume 17, St. John's, NL, pp. 86–87.
- U Mary Fearon, Mixed Parts 2 & 3, Public Volume 17, St. John's, NL, pp. 128–129.
- V Diane Redsky (Shoal Lake 40 First Nation), Mixed Parts 2 & 3, Public Volume 18, St. John's, NL, pp. 79–80.
- W Mealia Sheutiapik (Inuit, Frobisher Bay), Mixed Parts 2 & 3, Public Volume 16, St. John's, NL, p. 10.
- X Diane L. (Wolf Clan, Little Salmon Carmacks First Nation), Part 1, Public Volume 2, Whitehorse, YT, p. 87.
- Y Bernie W. (Haida/Nuu-chah-nulth/Coast Salish), Part 1, Public Volume 115, Vancouver, BC, p. 12.
- Z Alaya M. (Sandy Bay Ojibway First Nation), Part 1, Public Volume 13, Winnipeg, MB, p. 13.
- AA Alaya M. (Sandy Bay Ojibway First Nation), Part 1, Public Volume 13, Winnipeg, MB, pp. 13–15.
- BB Sethi, "Domestic Sex Trafficking," 60.
- CC See NWAC, "Boyfriend or Not."
- DD Sethi, "Domestic Sex Trafficking," 60-61. See also Native Women's Association of Canada, "Trafficking of Indigenous Women," 6-9.
- EE Mary Fearon, Mixed Parts 2 & 3, Public Volume 17, St. John's, NL, p. 115.
- FF Mary Fearon, Mixed Parts 2 & 3, Public Volume 17, St. John's, NL, p. 123.
- GG Monique F. H. (Cree), Part 1, Public Volume 17, Membertou, NS, p. 92.
- HH Doris G. (Cree, Driftpile First Nation), Part 1, Statement Volume 79, Edmonton, AB, p. 9.
- II Lanna Moon Perrin (Anishinaabe), Mixed Parts 2 & 3, Public Volume 17, St. John's, NL, p. 77.
- JJ Lanna Moon Perrin (Anishinaabe), Mixed Parts 2 & 3, Public Volume 17, St. John's, NL, p. 82.
- KK Doris G. (Cree, Driftpile First Nation), Part 1, Statement Volume 79, Edmonton, AB, p. 30.
- LL Lanna Moon Perrin (Anishinaabe), Mixed Parts 2 & 3, Public Volume 17, St. John's, NL, p. 187; See also Ferris, "Working from the Violent Centre."
- MM Diane Redsky (Shoal Lake 40 First Nation), Mixed Parts 2 & 3, Public Volume 18, St. John's, NL, p. 79.
- NN Ferris, "Working from the Violent Centre."
- OO Rotenberg, "Prostitution Offenses in Canada."
- PP Ibid.
- QQ Ibid.
- RR Dr. Robyn Bourgeois (Cree), Mixed Parts 2 & 3, Public Volume 17, St. John's, NL, pp. 35–38.
- SS Dr. Robyn Bourgeois (Cree), Mixed Parts 2 & 3, Public Volume 17, St. John's, NL, p. 52.
- TT Dr. Robyn Bourgeois (Cree), Mixed Parts 2 & 3, Public Volume 17, St. John's, NL, p. 48.
- UU Danielle B. (Métis), Part 1, Statement Volume 91, Edmonton, AB, pp. 11–12.
- VV Lanna Moon Perrin (Anishinaabe), Mixed Parts 2 & 3, Public Volume 17, St. John's, NL, pp. 205–206.
- WW Farida Deif, Part 3, Public Volume 9, Toronto, ON, p. 90-91.
- XX For a detailed analysis of the impact of Bill C-36, see Belak and Bennett, "Evaluating Canada's Sex Work Laws."
- YY Jamie L. H. (Indigenous/Irish), Part 1, Public Volume 78, Vancouver, BC, p. 8.
- ZZ Chief Danny Smyth, Mixed Parts 2 & 3, Public Volume 18, St. John's, NL, pp. 13–14.



- AAA Jamie L. H. (Indigenous/Irish), Part 1, Public Volume 78, Vancouver, BC, p. 9.
- BBB Frances N. (Carcross First Nation), Part 1, Public Volume 1, Whitehorse, YT, p. 23.
- CCC See also, for example, Frances N. (Carcross First Nation), Part 1, Public Volume 1, Whitehorse, YT, p. 23; Diane L. (Wolf Clan, Little Salmon Carmacks First Nation), Part 1, Public Volume 2, Whitehorse, YT, pp. 88–89.
- DDD Diane L. (Wolf Clan, Little Salmon Carmacks First Nation), Part 1, Public Volume 2, Whitehorse, YT, p. 89.
- EEE Diane L. (Wolf Clan, Little Salmon Carmacks First Nation), Part 1, Public Volume 2, Whitehorse, YT, p. 90.
- FFF Diane L. (Wolf Clan, Little Salmon Carmacks First Nation), Part 1, Public Volume 2, Whitehorse, YT, p. 100.
- GGG Diane L. (Wolf Clan, Little Salmon Carmacks First Nation), Part 1, Public Volume 2, Whitehorse, YT, pp. 100–101.
- HHH Brake, “Mohawk lawyer says Gladue case before Supreme Court important for Indigenous women’s fight for justice.”
- III Big Canoe, “Cindy Gladue suffered her last indignity.”
- JJJ Jamie L. H. (Indigenous/Irish), Part 1, Public Volume 78, Vancouver, BC, pp. 7–8, 11; Monique F. H. (Cree), Part 1, Public Volume 17, Membertou, NS, p. 93.
- KKK Cee Jai J. (Beaver Clan, Nak’azdli Whut’en, Carrier Nation), Part 1, Public Volume 39, Thunder Bay, ON, p. 23.
- LLL Jamie L. H. (Indigenous/Irish), Part 1, Public Volume 78, Vancouver, BC, pp. 7–8.
- MMM Monique F. H. (Cree), Part 1, Public Volume 17, Membertou, NS, p. 93.
- NNN Lanna Moon Perrin (Anishinaabe), Mixed Parts 2 & 3, Public Volume 17, St. John’s, NL, p. 260.
- OOO Diane Redsky (Shoal Lake 40 First Nation), Mixed Parts 2 & 3, Public Volume 18, St. John’s, NL, p. 87.
- PPP These suggestions were gathered during an informal meeting held at a drop-in centre on November 22, 2018, with representatives of the National Inquiry and Indigenous sex workers currently working in the Downtown Eastside of Vancouver.
- QQQ Madison D. (First Nations), Part 1, Statement Volume 257, Moncton, NB, p. 15.
- RRR Jamie L. H. (Indigenous/Irish), Part 1, Public Volume 78, Vancouver, BC, p. 32.
- SSS Lanna Moon Perrin (Anishinaabe), Mixed Parts 2 & 3, Public Volume 17, St. John’s, NL, p. 77.
- TTT Mary Fearon, Mixed Parts 2 & 3, Public Volume 17, St. John’s, NL, p. 124.
- UUU Jackie Anderson (Métis), Part 2, Public Volume 3, Calgary, AB, p. 100.
- VVV Jamie L. H. (Indigenous/Irish), Part 1, Public Volume 78, Vancouver, BC, pp. 39–40.



## Other Investigative Issues

Throughout the search for a missing person and/or the aftermath when that person is found deceased, families, friends, and loved ones also engage in relationship with various representatives of the police force and criminal justice systems, including first-responding officers, investigators, coroners, and other support people, such as victim services workers. In speaking of their experience during an ongoing investigation, family members again described strained relationships with those supposedly involved in the investigation of the disappearance or death of their loved one.

For example, in his testimony, Paul T. spoke about how his missing sister, Amber, was erroneously removed from the RCMP's missing person's list while she was still missing, and then about how his mother spent a month getting her back on.<sup>73</sup> Dolores S. and Laura A. described serious flaws in the investigation of the murder of their loved one, Nadine, including the destruction of evidence and a 60-hour delay in the police response to the crime scene.<sup>74</sup> And Lily S. described what it was like to learn that her mother's missing person police file, along with the only photos Lily had of her mother, Viola, was accidentally destroyed by an Ontario Provincial Police detachment – something Lily found out only after persistently asking to see the file.<sup>75</sup>

In addition to these very specific problems for which families have little recourse, family members shared countless stories of their attempt to contact the investigative officer, the coroner, or the police to seek out information, and of never receiving a call back in return, being told information was unavailable, or even, in some cases, being threatened if they were to continue to seek information. In her testimony as an institutional witness, senior policy analyst with the Policy Centre for Victim Issues Naomi Giff-MacKinnon talked about some of these barriers.

So some of the barriers that families have identified in terms of accessing information about their loved one are – are – there are many intersecting challenges. One is uncertainty about what information might be available, given some of the historical events that families have experienced. Families have talked about the uncertainty about where to gather the information, which agency would hold the information they're seeking. Families are also seeking information from multiple agencies and departments and navigating the access to information or any – any information request procedures across those agencies could be very difficult. At the same time, many families live in a jurisdiction that is different from where their loved one went missing or was murdered, and that can create another layer of – a barrier for access to information for families as well.<sup>76</sup>

Oftentimes, action on the investigation again is dependent on family members' securing the assistance of a well-connected or vocal advocate who is able to spur the police into action or access information. For the many families who may not be able to secure this type of support, or for whom becoming a vocal or adversarial advocate may not be safe, access to information about the investigation – and even where the investigation stands – is uncommon.



As the National Inquiry heard from both family members and representatives of the criminal justice system, victim services programs can often play an instrumental role in building relationships that support Indigenous families in navigating the criminal justice system and the investigative process. These programs are supposed to provide the support and guidance necessary, and to act as a liaison between family members and the criminal justice system. It was clear that when these services are available, and families are connected with skilled workers, these can be effective means of easing the investigative process and ensuring a better relationship.

In her testimony, Carol W. spoke about her initial encounter with a victim services worker who went on to become an ally and advocate for Carol over the course of the next five years as she searched for her daughter, Karina.

I did not know or trust [the victim services worker], but she just kept showing up, sometimes three times a week, to give me updates and just to see how I was doing. Communication was slow as most of the time there was no interpreter, but – when we would sit and talk or when I would receive an update from the police. Like I said, I did not trust her, but she just kept showing up. Slowly I began to trust her and realized she was there to help me.<sup>77</sup>

At the same time, the varying degrees of availability, training, access, and resources available to victim services programs, as well as of the frequency with which proper referrals are made by the RCMP or responding police force to victim services, mean that access to this type of support is inconsistent.<sup>78</sup>

More recently, in response to this need for improved access to information for families of missing and murdered Indigenous women and girls, funding was provided in 2016 to establish Family Information and Liaison Units (FILUs) in each province and territory in Canada.

Naomi Giff-MacKinnon said about the importance of families' having access to accurate information about their missing and murdered loved one:

Victims and survivors across Canada have talked very openly and frequently about the importance of having information about ... the person who harmed them, as a victim or survivor, as well as about – general information about how systems work, as well as how decisions are made within that system. So for families, having accurate up-to-date information about their loved one and ... about all of the information that they're seeking about that experience can be a part of their healing journey moving forward.<sup>79</sup>

According to Giff-MacKinnon, the FILUs “were established in response to the many systemic and institutional barriers that the families had described in seeking information about their missing or murdered loved one.”<sup>80</sup> This mechanism aims to provide a more accessible and supportive approach to providing information about the circumstances and investigations of missing and murdered Indigenous women, girls, and 2SLGBTQQIA people. Overall, though, the greatest barrier that Giff-McKinnon reports families talking about is the level of mistrust that exists with agencies who have the information they want.<sup>81</sup>



## DEEPER DIVE

# The Need to Reform Law Enforcement to Increase Safety

In sharing their truths, families, friends, and other supporters of missing and murdered Indigenous women, girls, and 2SLGBTQQIA people spoke at length about their encounters with the justice system and, particularly, with the police. During its Expert, Knowledge Keeper, and Institutional Hearings, the National Inquiry also heard extensive testimony presented by members of the Royal Canadian Mounted Police (RCMP), various provincial and municipal police forces, and First Nations police forces. Policing representatives presented evidence related to a variety of topics, including Indigenous–police relationships; policies and procedures for investigations of missing persons and other major crimes; recent initiatives to address concerns related to investigations involving missing and murdered Indigenous women, girls, and 2SLGBTQQIA people; and challenges and barriers to policing, especially in northern and remote communities.

In this Deeper Dive, we take a closer look at the testimony presented by policing representatives to understand what police agencies indicate they are doing to address some of the concerns we have raised throughout this report. Specifically, examining what police agencies shared with the National Inquiry allows for an assessment of where the opportunities for improving relationships and outcomes may lie. It also allows for the identification of ongoing challenges and issues rooted in a difference between what law enforcement thinks it is doing and what witnesses have experienced, which can enable law enforcement to take the lead from those who hold the most experience and expertise, and who are most affected by what law enforcement agencies do – and don't do – within the context of the cases of missing and murdered Indigenous women, girls, and 2SLGBTQQIA people.

## Acknowledging Previous Harms

During the National Inquiry's Institutional and Expert and Knowledge Keeper Hearings, a number of policing representatives offered apologies and acknowledgement of past wrongdoings in police treatment and relationships with Indigenous Peoples. The commissioner of the RCMP, Brenda Lucki, began her testimony by issuing an apology on behalf of the RCMP for its failures in providing adequate policing to Indigenous Peoples and, in these failures, contributing to violence against Indigenous women and girls.

On behalf of myself and my organization, I am truly sorry for the loss of your loved ones and the pain this has caused you, your families, and your communities. I'm sorry that, for too many of you, the RCMP was not the police service that it needed to be during this terrible time in your life. It is very clear to me that the RCMP could have done better, and I promise to you we will do better. You are entitled to nothing less than our best work in your communities. I believe it's never too late to do the right thing, and I want this apology to be just one more step in the RCMP's commitment to reconciliation.<sup>A</sup>

In addition to Commissioner Lucki, Chief Superintendent Mark Pritchard of the Ontario Provincial Police,<sup>B</sup> Chief Danny Smyth of the Winnipeg Police Service,<sup>C</sup> and Chief Joe Boland of the Royal Newfoundland Constabulary<sup>D</sup> also acknowledged that, in the past, policing services have been inadequate in their response to the needs of Indigenous women, girls, and 2SLGBTQQIA people and their families, and that the questions and concerns of Indigenous people and families of missing and murdered Indigenous women, girls, and 2SLGBTQQIA people are understandable and valid.



Accompanying these acknowledgements of past harm, various policing representatives expressed their commitment to improving the relationship between the police and Indigenous Peoples, and to improve their handling of missing and/or murdered Indigenous persons' cases. RCMP Commissioner Brenda Lucki spoke about the importance of making changes in collaboration with Indigenous Peoples.

I was just struck by some of the comments this morning and about working together. Like one of the chiefs talked about working on your own family, but then also the community. And we can't honestly – if I knew that we could do it on our own, I would. But I know we can't do it on our own and we're only as good as how we work with the community and how well we work with the community. And I think – you know, if we honestly think we've got it figured out, then shame on us. And if this Inquiry has taught me anything, it's about making sure that we are prepared to make change and make positive change for the communities, and for everybody, Indigenous and non Indigenous.<sup>E</sup>

Commissioner Lucki also made a commitment to listening to the needs of the families of missing and murdered Indigenous women, girls, and 2SLGBTQQIA people in her position as the head of the RCMP: "These hearings have provided families with an opportunity to tell their truths, and I am listening, and I will continue to listen throughout my tenure as the commissioner."<sup>F</sup>

However, some policing representatives were less willing to acknowledge actions or behaviours that could be harmful to Indigenous people and families. For instance, when questioned about why the Sûreté du Québec did not order its officers to stop wearing a bracelet that many Indigenous Peoples and others interpreted as offensive because of its implied support for eight officers who were suspended due to their treatment of Indigenous women,<sup>G</sup> Capitaine Paul Charbonneau observed:

At the same time, I'd like to draw your attention to the fact that the community sees it that way, but for the officers, wearing is ... it's because the band is not only worn in the region of Val d'Or. I would say it's worn pretty much throughout the province. I have personally seen police officers

circulate in some units far from Val d'Or wearing this, or carrying it, on their vests. For police officers, wearing it doesn't mean in any way ... in any way ... that we endorse these allegations. It's more of a show of support from the entire Val d'Or unit, who suffered the repercussions of the events of Val d'Or, because it was difficult for the morale of the police officers.<sup>H</sup>

Acknowledgement of past harms and commitment to change seemed to be a step in the right direction. As Daniel Bellegarde, director of the Canadian Association of Police Governance, commented:

In our self-administered policing services, we do have a group of chiefs of police changing the culture of policing in our communities, people like Chief of Police Zacharie from the Kahnawake Police Service or the Peacekeepers, Chief of Police Leonard Busch from the File Hill First Nations Police Service, Chief of Police Head in Dakota Ojibway Tribal Council, Chief of Police Melting Tallow from the Blood Tribe Police, and so on. So, it's changing. Is it changing enough? Is it changing as quickly as we want to change it? I think we're doing the best that we can from all areas, from urban policing, the RCMP and from self-administered policing services.<sup>I</sup>

Nonetheless, policing representatives from national, federal, municipal, and First Nations police forces also acknowledged that enacting this commitment to change will require addressing many challenges that persist related to policing in Indigenous communities, and specifically related to the issue of missing and murdered Indigenous women, girls, and 2SLGBTQQIA people.

## Existing Police Policies and Protocols

In presenting evidence to the National Inquiry, policing representatives from various police forces, including the RCMP, were clear that comprehensive policies and procedures were in place and were continually being updated to ensure a standard and consistent process for police response to missing persons' reports and other major crimes, such as sudden death and sexual assault involving Indigenous Peoples. In addition, representatives of



various police forces spoke in detail about recent updates to these policies and procedures for managing missing persons' reports in relation to Indigenous Peoples. These recent updates were initiated as a response to calls for change from grassroots activists, the Truth and Reconciliation Commission (TRC), and the National Inquiry's *Interim Report*, and in anticipation of presenting evidence at the National Inquiry. In this section, we review testimony related to the policing policies and procedures related to working with Indigenous Peoples and the specific cases of missing or murdered Indigenous women, girls, and 2SLGBTQIA people.

## Policies and Relationship Building

Representatives of the RCMP, as well as various provincial and municipal police forces, identified a number of policies outlining the commitment of their organization to working with Indigenous people.

In her testimony, RCMP Commissioner Brenda Lucki identified Indigenous communities as one of five "strategic priorities" set out in the RCMP's Strategic Priorities document. Commissioner Lucki also explained that the RCMP's commitment to serving Indigenous communities is also outlined in what is called a "Mandate Letter" – a letter received by Commissioner Lucki that sets out government expectations of her role as the head of the RCMP. As she explained, in the Mandate Letter, work with Indigenous communities focuses on two specific areas.

First, about enhancing our role and in reconciliation with Indigenous people, and bolstering the efficacy, the credibility, and the trust upon which the RCMP's authority depends. And, it [the Mandate Letter] also talks about renewed Nation-to-Nation relationships with Indigenous Peoples based on the recognition of rights, respect, cooperation, and partnership given the current and historical experiences of Indigenous Canadians with policing and the justice system.<sup>l</sup>

In order to facilitate its work with Indigenous communities, the RCMP emphasizes the roles of collaboration, partnering, and relationship building with Indigenous Peoples. The National Inquiry heard

about a number of policies and protocols currently in place that police representatives pointed to that facilitate this relationship building. One of these is that of the policy on "bias-free policing," which, as Commissioner Lucki explains, stands as

a fundamental principle that governs the delivery of our services and employment practices to ensure that we provide equitable policing services to all people while respecting diversity without abusing our authority regardless of race, colour, religion, gender/sexual orientation, age, mental/physical ability, citizenship.<sup>k</sup>

As Commissioner Lucki explained, bias-free policing extends to hiring and employment practices as well.<sup>l</sup>

At the level of senior management, collaboration and consultation with Indigenous communities also occur through a number of other measures outlined by Commissioner Lucki, including:

- the Commissioner's National Aboriginal Advisory Committee: a committee established in 1990 "to provide the Commissioner strategic advice and cultural perspective on matters pertaining to the delivery of policing services in Indigenous communities";<sup>m</sup>
- the Relationship Building Protocol: a Memorandum of Understanding between the Assembly of First Nations (AFN) and the RCMP outlining "the role of the Assembly [of First Nations]" and the role of the RCMP, and "how ... [the two organizations will] work together";<sup>n</sup> and
- partnerships with National Indigenous Organizations (NIOs).<sup>o</sup>

At the detachment level, one of the policies described by Commissioner Lucki to facilitate relationship building and collaboration between the RCMP and Indigenous communities is an Annual Performance Plan.

The plan starts in April of each year but consultation is done starting in January of the calendar year. Consultation with partner agencies, elected officials, schools, health services, social services, as well as Elders and internal consultation with



members as well. And, during that consultation phase, all the information is taken together, and the detachment commander with all the information that they are armed with will develop possibly three to five priorities for that community.<sup>p</sup>

According to Commissioner Lucki, these plans are important because they ensure that the priorities set out by the RCMP reflect the priorities of community members.

And, it's important, the consultation, because what we may think is important in that community, because we may look at statistics and decide something is important, but we have consultation and the community will tell us what's important to them and the impact on them. So, we'll combine what's important to them and some of the statistics, and we'll find that happy medium to develop and plan for those priorities.<sup>q</sup>

Representatives of provincial and municipal police forces cited similar initiatives aimed at strengthening relationships between police and Indigenous leaders and communities, such as the Saskatoon Police Service Chief's Advisory Committee, which involves a meeting with the chief of police and a group of Elders four times a year to identify and discuss policing-related issues in their communities. Clive Weighill, a retired chief of the Saskatoon Police Service, explained:

We meet every season, four times a year.... We meet in our headquarters, we have a cultural room that's vented so we can do smudges. We meet. We have a talking circle. We have a small feast, and then myself and my executive officers and several from the committee go out to Whitecap First Nation for a sweat. We do that, like I say, four times a year.... The chief's advisory has been very, very effective for us. Very frank when we have our meetings, you know, they hear what's going on in the community. We have some really good frank conversations, some very, very good advice from that chief's Advisory Committee.<sup>r</sup>

## Missing Persons and Major Crimes Policies and Protocols

In addition to these policies that outline the commitment and procedures for working with Indigenous communities, RCMP representatives provided an overview of the policies and procedures with specific relevance to missing and murdered Indigenous women and girls.

For the RCMP, the Truth and Reconciliation Commission provided the impetus for change. Commissioner Lucki pointed to the development of the Circle of Change committee as a response to the TRC's Call to Action to address violence against Indigenous women and girls. The Circle of Change committee, in Commissioner Lucki's words,

provides advice and guidance to the RCMP, but specifically on resources, policies, training, police tools, communication to better enable the RCMP to investigate, prevent, and address violence against Indigenous women and girls in those communities. The Change members are Indigenous leaders, subject matter experts in the areas of health, education, or social services, for example, as well as advocates for Indigenous people.<sup>s</sup>

As an example of the work accomplished by the Circle of Change committee, Commissioner Lucki cited the development of an RCMP training module focusing specifically on investigations of missing and murdered Indigenous people.<sup>t</sup>

In terms of the policies and procedures relevant to cases of missing and murdered Indigenous women, as well as other major crimes, such as sudden deaths or sexual assaults, Deputy Commissioner Brenda Butterworth-Carr identified the Major Case Management Policy as that which governs the oversight of the procedures of the investigation of any major crime. To ensure standard approaches at the national level, the National Investigative Standards Unit oversees the investigation of major cases. Other policies or tools identified to ensure standard responses to, and procedures for, the investigation of major crimes include the Service Standards Investigative Guides.



Cases pertaining specifically to missing persons also fall under the RCMP's National Missing Persons Policy, which, as Deputy Commissioner Butterworth-Carr explained, "clearly defines what a missing person is, how we are to ... do the analysis around missing persons, that we need to communicate with families, that there's a specific intake and assessment tool that we complete so we can capture as much information as possible in the first instance."<sup>U</sup>

The National Missing Persons Policy is one part of a broader National Missing Persons Strategy that was developed in collaboration with families.<sup>V</sup>

Other than from the RCMP, the National Inquiry also heard from representatives such as Chief Superintendent Mark Pritchard of the Ontario Provincial Police (OPP) and Retired Chief of the Saskatoon Police Service (SPS) Clive Weighill (who is also a past president of the Canadian Association of Chiefs of Police) about recent changes to various policies and procedures relevant to missing persons' cases, particularly missing Indigenous persons. As Chief Superintendent Pritchard explained, all missing persons' investigations in the OPP's jurisdiction are governed by the Missing Persons and Unidentified Remains Policy and Missing Persons Manual. The Missing Persons policy is one of 18 so-called critical policies with which officers are expected to be familiar. The Missing Persons Manual "help[s] guide officers when they're responding to and conducting a missing persons investigation. It serves as a reminder to them of the nuances and intricacies of investigation that's quite complex, that they may not do on a day-to-day basis."<sup>W</sup> As Chief Superintendent Pritchard explained, policies such as these are important for a number of reasons.

It's to provide clear expectations to officers of what's expected of them when they're conducting investigations. It's to bring consistency from one end of the province to another, so we're all working off the same page. And, also, to provide accountability to ensure these investigations are done properly.<sup>X</sup>

In his testimony, Chief Superintendent Mark Pritchard also spoke about how new measures included in the *Missing Persons Act, 2018* will address some of the previous challenges in accessing information in some missing persons' cases.<sup>Y</sup> He explained that once in force, the *Missing Persons Act, 2018* will "provide

police with tools that they can use, mostly related to technology.... So, you will be able to apply for an order to – for instance, like Facebook, or Bell or Telus to provide information on their cell phone activity or social media activity. There could be orders of apprehension. So, it's really just a number of new tools in the toolbox so to speak." According to Pritchard, this type of legislation would be helpful across all provincial and territorial jurisdictions.<sup>Z</sup>

In his testimony, Weighill highlighted the role of Victim Services Missing Person Liaisons and Aboriginal Victim Services officers who work specifically with cases related to missing persons and provide "outreach to victims of Indigenous people for any crime, not just missing persons."<sup>AA</sup>

## Policies and Protocols Governing Communication with Families

Policing representatives speaking about the police response to cases of missing and murdered Indigenous women and girls acknowledged past criticism about their communication with families, and the need for better communication and information sharing. As Deputy Commissioner Butterworth-Carr explained:

Certainly we've heard continuously the importance of communicating with families and, you know, wanting to ensure that we're providing timely updates. And, you know, really it's about understanding the frequency which our families want to hear, because sometimes it can be frustrating when we don't have a lot of new information as it pertains to the investigation.<sup>BB</sup>

To that end, policing representatives identified a number of policies and protocols that have been established with the express purpose of setting out standard procedures for family communication. One of these is a form called the RCMP Complainant/Family Communication Schedule, which is to be completed with the RCMP representatives and family members to ensure a mutually agreed-upon communication schedule.<sup>CC</sup> Another tool identified specifically for providing information to families is the Family Guide to the National Missing Persons DNA Program, which provides families with information related to DNA collection and the purposes of doing so.<sup>DD</sup>



Chief Superintendent Pritchard talked about how, since the publication of the National Inquiry's *Interim Report* and its identification of the challenges families face in communication with police, the Ontario Provincial Police has undertaken steps to improve its communication plan with families. These improvements are to be informed by a consultation process with family members of missing or murdered Indigenous women to identify better practices and to eventually develop and implement a plan that, as Chief Superintendent Pritchard explained,

serves as a – like a contract between the police and the families on how they're going to communicate, when they're going to communicate, by what means, who they're going to communicate to, who they're not going to communicate to, addressing the, you know, intricacies of fractured families, and they sit down with the family and they draw this plan up together working with them. They give them a copy of it, they tell them, when the need arises, if they need it to be changed, it can be changed, that although it's an agreement, it's a fluid agreement.<sup>EE</sup>

Another strategy the OPP highlighted to enhance communication is the Provincial Liaison Team, made up of 26 full-time members and 60 part-time members. In Chief Superintendent Pritchard's words, the purpose of the Provincial Liaison Team is to "respond to critical incidents involving Indigenous people or in Indigenous communities and act as the OPP's communicators to the community, to chief and council, or other services within the communities."<sup>FF</sup>

In the case of a major crime investigation by the Saskatoon Police Service, Weighill pointed to a Family Toolkit that is used in conjunction with Victim Services to enhance communication with the family. This toolkit

walk[s] the family through, you know, a missing person's checklist, a communication log when they're going to work with the police, what they can expect from the police, what the police are going to expect from the family, what they can expect from social media, self-care for themselves, and Internet links and information that they might need as the family as they're working through it.<sup>GG</sup>

While policing representatives believe that measures such as these may assist in improving communication between the police and the families of missing or murdered loved ones, they also emphasized that there remain many things to consider. RCMP Deputy Commissioner Brenda Butterworth-Carr identified some of the ongoing challenges in relation to communication with families, including: challenges that may arise in identifying a consistent family contact when family members may be spread out across the country or have changing relationships; challenges that may arise in cases where a family member may be the perpetrator or suspect; and challenges related to the need to protect the integrity of the investigation, and how this may place limits on the nature and scope of information that can be shared with family members.<sup>HH</sup>

## Police Perspectives on Other Issues Identified in Testimony

During their presentation of evidence, policing representatives spoke about a number of concerns often raised by the families of missing and murdered Indigenous women and girls that have created confusion and harm, including many that are cited in other parts of this *Final Report*.

### 1. Waiting period before reporting a missing person

During the Truth-Gathering Process, family members often spoke about being told or understanding that it was necessary to wait a certain period of time (often 24 hours) before making a missing persons' report. In some cases, witnesses shared testimony in which police officers had directly informed them of this requirement.

The RCMP and various provincial and municipal police who spoke at the National Inquiry were clear that there is no required waiting period to report a missing person. In fact, as Deputy Commissioner Brenda Butterworth-Carr emphasized, the sooner families do this, the better.

If anything, we need the information as expeditiously as possible, because the moment it comes into, you know, the RCMP knowledge and jurisdiction, then we can do an immediate



assessment of it and then deploy the required resources. So, the sooner it comes into us, then the sooner we can be aware of it. And it doesn't matter which jurisdiction."<sup>ll</sup>

Chief Superintendent Mark Pritchard also confirmed that the Ontario Provincial Police does not require a necessary waiting period before reporting a missing person. As he stated:

No, it [the 24-hour rule] does not [exist under the OPP policy], and I don't believe it ever has. Researching back through our policies over the years, I didn't see that anywhere. I think that's a common misconception often perpetuated by American television shows, but I actually don't know of any police service that has that policy."<sup>jj</sup>

Representatives of other police forces also echoed this point that there is no waiting period and that response to a missing persons report is to be immediate, and failure to do so may be a violation of police policy. For instance, as Weighill stated:

I know in our policy, it's bolded that we'll take a report immediately. You do not send somebody home to check to see if they're at their uncle's house or their aunt's house or wait 24 hours. If somebody comes in to – or reports to a police officer that somebody is missing, we take that report immediately.<sup>kk</sup>

## **2. The requirement to treat all sudden deaths as suspicious**

During the Truth-Gathering Process, family members also spoke about situations where, in the case of the death of a loved one, they felt that suspicious circumstances surrounding that death were ignored, or that an investigation into the circumstances of the death was not comprehensive.

Deputy Commissioner Butterworth-Carr stated that, under all circumstances, all sudden deaths are to be treated as suspicious.

A sudden death is an investigation which essentially [RCMP] members are called to or come to the RCMP's attention that a person is deceased. ... With the most recent policy that's been put in place, it's mandatory that all RCMP officers when

they're attending to a sudden death that they ... approach it as though it's suspicious in nature. It doesn't mean that it is, and that eventually ... it may not be, but that's how they immediately investigate.<sup>ll</sup>

This fundamental principle is echoed in other policing policies, including the OPP Missing Person's Manual.<sup>mm</sup>

## **3. Informing families of deaths**

During the Truth-Gathering Process, family members described various ways they learned about the death of a loved one. In her testimony, Deputy Commissioner Butterworth-Carr offered some clarification about the RCMP's current approach to sharing this difficult news with family. As she explained, in most situations, the RCMP try to have two people visit the family of the deceased person's home, and endeavour to ensure that the primary person providing the notification has an understanding of the investigation so that they are able to answer any questions from the family. When providing notification, the Deputy Commissioner also affirmed, whenever possible, the officers providing the notification are to take the cultural needs of the family into account, if possible by having an Elder, an Indigenous support worker, or someone else from the community present. As Deputy Commissioner Butterworth-Carr explained, "In the smaller areas, it's a little bit easier because of the relationship that most of the police officers have with the community than in the urban/Aboriginal areas. You know, again, fairly well-connected, but we definitely take that into consideration where we're at."<sup>nn</sup>

## **4. Fulfilling family requests to visit sites where a loved one passed**

As many families indicated during the Truth-Gathering Process, being able to visit the location where a loved one's life ended or where their remains were found can be very important to healing. Speaking of the RCMP's response in British Columbia to such requests, Deputy Commissioner Butterworth-Carr pointed to chapter 41.3 of the RCMP Operational Manual titled "Human Deaths," and the "Next of Kin Death Notification Checklist," which reflects a recognition of the desire and need for families to visit the site where a loved one may have passed and/or to perform "any type of traditional ceremonies that they



may want to undertake at that specific location” and that this should be supported.<sup>OO</sup>

In summary, in their discussion of policing policies and protocols, police representatives made the following general points: policing agencies across the country, including the RCMP, have very specific policies and protocols in place for how an investigation into the case of a missing person and/or other major crimes is to occur. Police officers are required to be familiar with and follow these policies. If they fail to do so, they can be subjected to various disciplinary measures.<sup>PP</sup> Families or others who have questions or who feel that proper policies or procedures are not being followed are encouraged and able to file a complaint.<sup>QQ</sup>

While these appear to be positive steps, the discussion of police policies and protocols related to missing persons’ investigations and other police matters can be difficult to follow for someone with little familiarity with these types of documents or who may have other challenges in understanding complex policies that use specialized language. Furthermore, requesting more information about a policy or how to make a complaint often requires navigating what can be complicated systems and/or engaging in a conversation that may feel extremely risky or unsafe for the Indigenous person, depending on their unique experience and history. As testimony gathered from families and loved ones proves, these barriers continue to create challenges for them in that access to information is difficult, convoluted, and time-consuming. This is further complicated by the fact that the time within which families and survivors are seeking help from police is also a time of grief, mourning, and trauma.

## Ongoing Challenges and Barriers to Safety

While the policies and protocols identified by senior policing representatives speaking at the National Inquiry provide a framework for a standardized response, especially in relation to situations involving missing or murdered Indigenous women, girls, and 2SLGBTQIA people, the goal of equitable and consistent police service in Indigenous communities and

for Indigenous people is often complicated or compromised by a number of factors. In this section, we look at some of the challenges and barriers that policing representatives identified in their efforts to provide adequate, culturally appropriate, timely, and equitable police services that meet the needs of Indigenous Peoples.

### Challenges in Remote Locations

Police working in rural, remote, and northern communities identified distinct challenges related to these environments, including those created by geography, weather, difficulty in access, lack of resources, quality of infrastructure, and staff turnover and retention.

In his testimony, Kativik Regional Police Force Chief Jean-Pierre Larose spoke of the challenges to policing in Nunavik. First and foremost is the challenge of simply having enough officers to cover such a vast area. For example, he talked about the small number of staff in Nunavik.

We have 48 constables, seven patrol sergeants, two prevention officers, two liaison officers, one criminal intelligence officer, two sergeant-detective investigators and we have six employees, police officers who accompany me on the management team; the police chief who is myself, two deputy directors: one for operations and one for administration and civil security. And we have three master captains who are in charge of the three districts I mentioned to you: a captain in Kuujuaq, who represents Ungava Bay; a captain in Salluit, who represents Hudson Strait and the North; and a captain in Puvirntuk, who represents the west coast of Hudson Bay.<sup>RR</sup>

Chief Larose also put staffing levels into perspective based on the level of crime.

First, in terms of criminal events in Nunavik for the year 2017, we had 11,083 criminal events for a population of 13,000. For comparison, just to give an example, I was in Longueuil in 2012, we had 18,000 criminal incidents a year for a population of 385,000. So, it’s extremely high.<sup>SS</sup>



According to Chief Larose, this puts significant stress on police in these regions, who work very long hours, get little vacation, and are often forced to work in sometimes dangerous conditions with no backup.

It is clear ... that currently, we are out of breath. My police officers work on average 70 hours a week: this is not normal. There is extra time. It's not normal that I have to pay so much extra time and on a regular basis. Extra time is supposed to be exceptional.

Currently, our calls go directly to the police's portable radios and I do not have a 24-hour patrol in the communities. It therefore requires standby, as we call it. And sometimes the police, when they are out of service during the night, are called directly on their radio, they get dressed and answer calls. So, we are in 2018 and I think it is essential for the people of Nunavik to have adequate police services that meet the needs of this population who ... I tell you, we are extremely busy, I was told that I had a lot of courage to go north to run this police force there and that there was a lot of work.<sup>TT</sup>

Nishnawbe-Aski Police Service (NAPS) Chief Terry Armstrong pointed to similar challenges as a result of a small number of police covering the Nishnawbe Aski Nation, a large territory in northern Ontario that is policed by the NAPS. As Chief Armstrong observed, it is not unusual that, on a given day, over half of the 24 remote communities NAPS polices had one officer or less working at a time.<sup>UU</sup>

Chief Terry Armstrong echoed concerns about the impact of chronic understaffing and the dangers and stress associated with having officers working alone.

The consequence of not having a partner ... is the threat to public safety. The fact that, like I say, we had so few officers and the stresses that they go through working alone, it's putting people off and on sick leave. And, we have, out of that 24%, it's pretty much entirely PTSD.

Community, obviously, the risk with only one assigned officer, and we quite often find that chiefs and councils are helping the officers. They're working as backup and that's a safety issue in itself to the people in the communities. You know,

they're untrained and – they're willing to help on many occasions, but they're not trained, and as we know it, things are getting, you know, pretty dangerous at times and we're putting them in a position they could get hurt.

In addition, Chief Armstrong noted that understaffing limits the possibility of proactive policing focused on prevention and contributes to lengthened emergency-response times.<sup>VV</sup>

In addition to these challenges are those associated with high rates of staff turnover and the impact this has on the ability of police who are not from the community to build relationships and trust with the community when they are only there for a short period of time. RCMP Commissioner Brenda Lucki discussed the policy related to "limited duration and isolated posts," where the length of time an officer might spend in one of these posts is based on a number of factors, including "the actual location, access by means of the way you travel to those locations, the population of the community, the post size or the amount – number of members at that community, the lack of amenities, educational facilities, health facilities and generally the quality of life."<sup>WW</sup> Commissioner Lucki described both positive and negative aspects to this staff rotation.

I think from a community perspective, I think sometimes it's viewed as negative because they get used to a certain policing service by certain members, and then when those members leave it's tough on the communities. But I think, too, the positives are that with each member there is new policing practices brought to the community, a renewed energy, new ideas that they bring with them. So positive and negative are both, but I honestly think having renewed energy in the community is always good, especially [because] people learn different things from previous posting down south and then they can bring that to that community to solve community issues.<sup>XX</sup>

Chief Jean-Pierre Larose also spoke about the importance of strengthening relationships between the police and community members in remote postings, but how the ability to do so is often compromised by high policing staff turnover.



And I say to my police officers: "Listen, yes, in the South, you leave, you have assignments, you have patrol areas, but that's not the case in Nunavik. I want you to get involved in the community. The patrol is secondary." They have to get involved in order to gain confidence and it is by participating in activities, going to meet the city council, meeting the hunters' associations, meeting the Elders, participating in activities in schools, etc. And it starts, I see it, a little, then they come to be appreciated.... On the other hand, I have a major problem: the turnover of my staff. There is an incredible staff movement. More than 50% of my staff have less than one year of experience in Nunavik. However, it is a wheel that turns continuously and it takes stability in our villages and it certainly takes this permanence for the relationship of trust to be established more and so that my police can take the time to integrate into the community.<sup>YY</sup>

In addition to problems with staff turnover, witnesses speaking about policing in northern and remote communities also described challenges with retaining staff who have the policing experience necessary to address the often complex situations that occur in these communities. As Chief Jean-Pierre Larose explained, it is often young, inexperienced officers who take posts in these communities.

In fact, what I see is that they are young police officers who are almost fresh out of the National Police Academy. And currently, to the south, recruitment, regardless of years, happens on an important scale. And our police officers, when they arrive in Nunavik, I would say that one year of experience in Nunavik corresponds to about three years of experience. So, our police officers are highly recruited by the southern police services: they are police officers who have acquired a lot of experience in a short time in Nunavik, they are autonomous, they must be resourceful, to have initiative because we have very few resources. And we are a bit vulnerable, I must admit.<sup>ZZ</sup>

In her testimony, Jacqueline Hansen, the Major Campaigns and Women's Rights campaigner with Amnesty International Canada, suggested that this model should be flipped on its head and it should be the most experienced officers who take up posts in these communities.

Young rookie officers coming out of Depot, going up north to do their time and then get a different posting, and, you know, very much the pattern we hear across the North. And really, a sense of these officers not being equipped to deal with really complex policing situations. And so, one of our recommendations is actually to flip it on its head, and instead of sending young officers who may not be equipped to deal with really complex challenges, may not have cultural competency training, to be sending experienced officers in. How do you make this a really desirable post? What are the incentives needed to do that, to have this be that, you know, when you're at a certain point in [your] career and you have the experience, that this is where you go because you have this experience?<sup>AAA</sup>

In explaining the need for police with expertise and experience, Chief Jean-Pierre Larose and NAPS Detective Constable Alana Morrison described how other factors unique to remote communities can make standard policing response and investigative procedures more difficult. For example, Chief Larose described how, in major crimes investigations, where it is necessary to bring in specialized investigators from Montréal, there can be major delays related to transportation and weather that ultimately delay the investigation itself.

You have to understand that there was a procedure. Then, before calling the Major Crimes or the Centre de vigie et de coordination in Montréal to the Sûreté (CVCO), we had to go through the Kuujuaq office. It was an additional intermediary that increased the time it was taking. However, after discussions and all that, we managed to agree that from now on we are avoiding this intermediary and we are communicating directly with the CVCO of the Sûreté du Québec in Montréal, and I can tell you that I have experienced major events requiring their assistance in the last five months and it has still very much improved the response time, but there is no less than an average of 15 to 18 hours of waiting. What you have to understand is that we are police officers: when we are in a community of three police officers, that I have to protect the crime scene at -40, with blizzard conditions, it's not easy. We must protect the scene, we must wait for the arrival of the Sûreté du Québec, and of course, they also



have constraints to mobilize their staff, charter a plane and hoping that the weather is favourable.<sup>BBB</sup>

As NAPS Detective Constable Alana Morrison explained, these delays can impact the quality of the investigations of major crimes such as sexual assaults and other crimes relevant to understanding the cases of missing and murdered Indigenous women and girls.

When a First Nation woman reports a sexual assault in a northern community, she unfortunately is faced with the decision and choice to seek medical help outside of the community. There is a nursing station, but most nursing stations will send a victim of sexual assault to Sioux Lookout, which is an hour plane ride south of their community.

So they're given the option to seek medical help and leave their home community and leave their family. They're allowed to take one escort with them to attend Sioux Lookout, or they're given – they receive specific care to have the sexual assault evidence kit done, and then they are allotted one week of counselling, and once that counselling is done, they are sent back to their communities and they just – there's very little follow-up support for them when they return.<sup>CCC</sup>

## Human Resources Challenges

Police detachments in remote and northern communities face some distinct staffing challenges, but policing representatives from across the country also talked about other general staff-related challenges that create barriers to providing policing services to Indigenous Peoples and communities. These include: 1) recruiting and retaining Indigenous people to work in policing, and 2) teaching cultural competency and providing training for that to current police forces.

## Recruitment of Indigenous Police

Policing representatives, such as RCMP Commissioner Lucki, RCMP Deputy Commissioner Brenda Butterworth-Car, and RCMP Sergeant Dee Stewart, expressed a commitment to increasing the percentage of Indigenous people serving as part of policing in Canada. Despite this commitment, as these witnesses testified, there exist multiple barriers for Indigenous people interested in entering policing.

In order to address these challenges, policing representatives identified a number of Indigenous-specific recruitment and training initiatives that have been developed and instituted by the RCMP, as well as by various provincial and municipal police forces and within First Nations police services programs. For example, the National Inquiry heard that within the RCMP, various recruitment initiatives, such as the Aboriginal pre-cadet training program and Aboriginal mentorship,<sup>DDD</sup> are used to introduce potential candidates to policing work. These programs, as Commissioner Lucki explained, help potential candidates to “see themselves” as part of the RCMP: “When people are able to see themselves and then have that mentor where they can know if there are barriers, they can talk to that mentor about it.”<sup>EEE</sup> In her role, Sergeant Dee Stewart explained how, instead of requiring interested candidates to travel from their home communities to information sessions or to complete various elements of the application process, she would travel to them.

So, when I became the Aboriginal recruiter, I took that away, and I travelled to them.... I think the main Aboriginal recruiter – or the main recruiters thought I was crazy when I was driving eight hours to administer an exam to one person. But, to me, they needed to know they were valued, and that if you want to write the exam, then I'm going to come to you.

So, I did that. I travelled all through BC. We've got a beautiful province and our communities are amazing, but it was always a shocker when I was administering the exam in the band office, but it was something that – it just – it took away a barrier for them.<sup>FFF</sup>



Other police forces have similar approaches to improving recruitment: for example, the Regina and Saskatoon police forces each have full-time Indigenous recruiting officers.<sup>GGG</sup>

## Understanding the Need for Cultural Safety

Another staff-related policing challenge identified by policing representatives – as well as by families of missing and murdered Indigenous women, girls, and 2SLGBTQIA people during the Truth-Gathering Process – relates to the cultural knowledge and training held by non-Indigenous police officers and other policing representatives who may be interacting with Indigenous Peoples. In their testimony, policing representatives with the RCMP outlined a number of initiatives that have been implemented to enhance cultural education and awareness among staff. One of these is in-service training, which includes an on-line course on Aboriginal cultural awareness, called Aboriginal and First Nations Awareness.<sup>HHH</sup> This course is available to all members, though it is mandatory only for those serving in the territories and in some of the northern districts where the majority of the communities are Indigenous.<sup>III</sup> Other initiatives (which vary depending on location and police force) include watching a video about First Nations, participating in a five-day cross-cultural training session, and following suggestions from the Indigenous Cultural Advisory Committee.<sup>JJJ</sup>

In addition to training on Indigenous history and contemporary realities in general, the RCMP has also developed training that focuses specifically on the issue of missing and murdered Indigenous women. Included in the cadet training program is a module specific to this issue, and it requires cadets to work through a case scenario involving an 18-year-old Indigenous girl as the victim. As a part of this module, cadets also participate in the blanket exercise (an exercise devoted to building awareness of and empathy for Indigenous Peoples by having participants take part in a simulation exercise about the harmful impacts of colonization).<sup>KKK</sup>

The need for ongoing and meaningful cultural education is clear. NAPS Chief Terry Armstrong spoke to the limitations of short-term courses as a way of understanding the culture and complexities of

Indigenous communities, and suggested that the best solution to addressing gaps in culturally appropriate services is to hire more Indigenous police officers. As he stated:

I mean, you don't give somebody a two-day course and expect them to be culturally sensitive. Like I say, probably the best scenario is to get Indigenous officers to police Indigenous communities because they know their communities. Outside of that, like, I mean, you can give them training but, you know, I guess through experience, it's – I mean, 34 years [ago] I started, and I still don't know very much about – you know?<sup>LLL</sup>

Retired Chief Clive Weighill put forward the requirement of cultural education and awareness for police as a recommendation for the National Inquiry. As Weighill's comments demonstrate, this is not merely the completion of a course that one takes and then forgets, but, rather, the requirement for the development of a deeper understanding and knowledge of Indigenous history and contemporary challenges that is always evolving.

We've talked about this here, and you can see from what we've been doing in Saskatchewan and most police services now across Canada, there certainly has to be a huge educational component on the history, the spirituality, what's happened to the Indigenous people right across Canada. Every police officer should be very, very fluent in what's happened with residential schools, what's happened with colonization, the White Paper back in the '70s, the Sixties Scoop, and contemporary issues and downfalls that are happening right now in our Indigenous community. Every police officer in Canada should be able to just tell you that right off the top of their head.<sup>MMM</sup>

## The Lack of Wraparound Services

Another challenge identified by policing representatives when they are working with Indigenous Peoples and communities is the lack of what are sometimes referred to as “wraparound services,” such as mental health support, health care, housing, or other forms of social services and culturally relevant support that individuals who contact the police may need. Police



representatives talked about how they often respond to calls – particularly in rural or remote communities that are significantly underserved – that are not technically police-related but, because of a lack of other services, to which they are forced to respond.

In his testimony, Weighill talked about how a lack of other supports and services has a particularly negative impact on Indigenous youth who may not yet have become involved in the criminal justice system. This lack of services to help them address some of the challenges they are facing increases their chances of becoming involved. Weighill provided the following explanation of this challenge as one of his recommendations put forward to the National Inquiry.

People complain about the *Youth Criminal Justice Act*. They say it doesn't have a lot of teeth, it doesn't work. I would say the reverse is true. The *Youth Criminal Justice Act* is a solid piece of legislation. It allows the police to divert youth away from the criminal justice system. You can use unofficial warnings, you can use official warnings, you can do a pre-charge diversion, post-charge diversion, all kinds of things to keep youth out of the criminal justice system. The unfortunate thing is there's no place to divert the youth to, and everything keeps falling back to the criminal justice system.... To me, this is completely lunacy how we keep doing this in the system. We keep using the criminal justice system to fix the problems. The criminal justice system cannot fix the problems of that youth. They need programming, and they need addiction centres, they need some place to go. So, we've got a great Act that allows the police and the courts to divert the youth away from the criminal justice system, but there's no infrastructure around that. So, that's my first recommendation.<sup>NNN</sup>

In her testimony, NAPS Detective Constable Alana Morrison spoke about the gap that exists for First Nations women in the communities she polices for following up with women after they have reported an assault – often related to the fact that existing officers and victim services already have too much on their plates.<sup>OOO</sup> To address this issue, Detective

Constable Morrison drafted a funding proposal that allowed her to develop a Survivor Assistance Support Program to provide support and education, as well as to assist women who want to stay in the community following a report of assault. The program also outlines the challenges of providing that support in small and remote communities. At this point, this program had received one-year funding, though Detective Constable Morrison is hopeful additional funding to maintain the program will be awarded.<sup>PPP</sup>

She also talked about how the lack of victim services – specifically in remote communities – can create additional difficulties for victims who have not had an opportunity to ask questions or learn about the court process.

When court happens in our First Nation communities, it's pandemonium because you've got the judge flying in, you've got the counsel flying in, you've got the defence flying in, you've got Victim Services flying in, and the NAPS officer has to drive back and forth to get everyone to the school where it's happening, to get everyone set up in the community hall where it may be happening. There's no courthouses in the communities, so sometimes we take over a portion of a school.

So, in all that pandemonium, there is no – or there's very little victim prep for court. So, is that a challenge? Absolutely, it is, because they'll show up to court, but they're not prepared, you know? And, I know the Crowns and the Victim Services try to do the best they can and come in the day before, but, I don't know, I think sometimes that it needs to be ongoing so that that individual feels supported and almost held all the way through, because that's not an easy, you know, road that we're dealing with, because sometimes court doesn't happen. Some communities, it happens four times a year in these communities, so can you imagine being a victim who has to wait so long to deal with, you know, what you started off trying to protect yourself and your body?<sup>QQQ</sup>



## First Nations Policing Services: The Case of the Nishnawbe-Aski Police Service

During its Truth-Gathering Process, the National Inquiry had the opportunity to hear evidence about the Nishnawbe-Aski Police Service (NAPS) – the largest First Nations police service in Canada. First created in 1994, NAPS provides policing services to the Nishnawbe Aski Nation (NAN) in northern Ontario. The Nishnawbe Aski Nation has an estimated population of 45,000 people, and NAPS polices this territory with 147 officers across 34 communities, 23 of which are remote fly-in communities. As a First Nations police force, NAPS is independent of other policing agencies, and is governed by an independent board and administered by a chief of police who reports to this board.<sup>RRR</sup>

Like other police services in remote communities, NAPS faces significant challenges related to the geography, staff, and lack of resources. Nonetheless, as NAPS Chief Terry Armstrong and NAPS Chair Mike Metatawabin described in their testimony, the unique structure of First Nations and Indigenous policing creates additional barriers and risks that make it especially difficult for NAPS officers to protect the safety of Indigenous people living in NAN communities. To understand these distinct challenges, and the difficult process NAPS has undertaken to address some of these challenges, Chief Armstrong and Chair Metatawabin spoke at length about how funding is provided to NAPS, and how systemic and legislative change is necessary to ensure the provision of adequate resources.

Funding for NAPS is based on a tripartite agreement among Nishnawbe Aski Nation, Canada, and Ontario under the First Nations Policing Policy. As Mike Metatawabin explained, the nature of these funding agreements means that, unlike the RCMP or provincial and municipal police services, NAPS is program-based – an arrangement that has until very recently meant there is no legislative framework that ensures safety backed by the rule of law for Indigenous people in this region.<sup>SSS</sup> Past attempts to draw attention

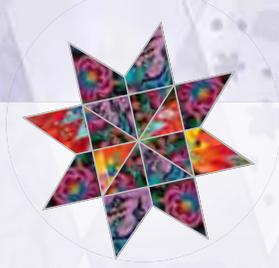
to the lack of funding and the severe resource limitations NAPS faces have been ignored for many years. For instance, in 2013, when the then-NAPS chair and the grand chief of NAN issued a Public Safety Notice, which was sent to political leaders in Ontario's provincial government, the federal government, and the chief coroner at the time, stating that because of these resource and infrastructure limitations the people of NAN were not safe, NAPS received no responses other than one from the chief coroner.<sup>TTT</sup>

Chief Terry Armstrong provided several examples of the way chronic underfunding impacts the safety of community members and NAPS officers.<sup>UUU</sup> He went on to discuss the impact of underfunding on NAPS officers.

NAPS officers face numerous practical barriers in their delivery of policing services: understaffing means that NAPS officers rarely work with a partner and routinely lack the standard backup available to non-First Nations police officers. Given the remoteness of NAN communities, officers frequently wait hours or days for backup or specialized unit support. Twenty-four per cent of NAPS officers are currently on stress or disability leave.<sup>VVV</sup>

In an effort to draw attention to the dire conditions and lack of resources available for NAPS, in 2014, NAN Grand Chief Yesno and Deputy Grand Chief Fiddler, along with the then-chair of the NAPS board, made the difficult decision to give notice to the province of Ontario that NAPS was going to have to end its service unless there were formal talks initiated to develop a legislative base to its services and one that would address the significant resource limitations. Chief Terry Armstrong described the rationale behind this decision.

The police service was unable to keep the community safe and we swore to do that as police officers. And when I was asked to become the chief, I also came there to keep this community safe and keep the people within the community safe, and we just could not do it. We just cannot do it with the resources as they were – as the program, and without any avenues to get proper resources, human resources, and upper staff and



all those things.... It was a very difficult decision, but we just were no longer in a position, and had not been for a while, to keep the communities at a level of a safety that the rest of Ontarians get, and probably Canadians.<sup>www</sup>

This action sparked what turned out to be a lengthy period of negotiations between NAPS and the Ontario provincial government to properly legislate and resource First Nations policing services in the province. Ultimately, these negotiations, as Chair Metatawabin and Chief Armstrong described, have resulted in the development of new legislation, Bill 175, the *Safer Ontario Act*, which came into force in January 2019. This legislation is important because it specifically outlines that the need to ensure the safety and security of all persons and property in Ontario extends to include First Nations reserves; “the need to be responsive to the unique histories and cultures of First Nation, Inuit, and Metis communities”; and “the need to ensure that all parts of Ontario, including First Nation reserves, receive equitable levels of policing.”<sup>xxx</sup> As Chief Terry Armstrong explains, NAPS’s efforts in establishing this legislation was not for NAPS only but as a starting point for legislation for Indigenous policing that other Indigenous police services could follow.<sup>yyy</sup>

In addition to describing the negotiations related to this legislative framework, Chief Armstrong and Chair Metatawabin also described how, in response to political pressure from Nishnawbe Aski Nation’s leadership to change the negotiation process usually undertaken to renew funding for the tripartite agreement, NAPS will be receiving an increase of 79 new officers over the next five years, as well as funding for a communication system and two new detachment buildings.<sup>zzz</sup>

Reflecting on this lengthy and ongoing process to ensure equitable police services for those living in NAN, Chief Terry Armstrong shared the following.

So, although we’ve been able to limp through it, that’s – that hasn’t been fair and, you know, just to – just as a police service we really weren’t asking for anything more than anybody else was asking for, we just – we just wanted to be treated

the same and keep the communities safe, because it’s – it’s been pretty tough ... it’s been an honour, but it’s ... when you put on a badge and say you’re going to protect people and you don’t have the tools to do it and you see the devastation day in and day out and you know that there’s remedies, it’s – it’s tough.<sup>aaaa</sup>

Chair Mike Metatawabin shared his hopes regarding this process and the implementation of Bill 175 and for Indigenous policing in general.

I am hopeful that this process, once it passes, once it becomes implemented, I am hopeful that it will spread across the nation, across the country for our brothers and sisters across the country ... to be accorded the same privilege, to be provided with the ... same resources. I am also hopeful that our young men and women will step up and provide that safety. Indigenous people providing safety to their own Indigenous people nationwide. That is my hope, that is what – what I hope to see in the coming years. This is what’s been lacking, the justice system has been – has fallen very short for our people, for our communities. But in the spirit of reconciliation as well, we, too, must step up, our communities, our leadership.<sup>bbbb</sup>

Similarly, and citing many of the same concerns as Metatawabin and Armstrong did, Jean-Pierre Larose acknowledged the challenges of working under the contribution agreement framework, mentioning that the agreement governing the provision of services in Nunavik had expired in April and that, within the context of the renewal of the agreement, his force would be asking for an increase in personnel and equipment, as well as in overall resources to be able to police, including a call centre based in Kuujuaq with Inuktitut-speaking operators to better communicate with those seeking help. At present, calls are sent directly to police radios. Larose also mentioned that the force, which had 54 officers 15 years ago, only has 58 or 59 today; this means that, despite significant increases in population, resources under the tripartite agreements have not been sufficiently allocated to enable the police to do their work.<sup>cccc</sup>



## Conclusion

In sharing their truths with the National Inquiry, policing representatives acknowledged the historical and ongoing harms that continue to impact Indigenous families and communities as a result of their interactions with police. The need to make changes to how non-Indigenous and Indigenous police work to protect the safety of Indigenous Peoples was also acknowledged. By creating and updating policies and protocols – particularly those related to major crimes – police demonstrated how standardized processes and expectations related to investigations of cases of missing and murdered Indigenous people and interactions with their families currently exist – at least on paper. Policing representatives also acknowledged, however, that challenges to providing equitable policing to all Indigenous people continue to exist and must be addressed. In his testimony, Daniel Bellegarde, director of the Canadian Association of Police Governance, pointed to the underlying reality that the Canadian justice system and its version of policing are at odds with Indigenous ideas about justice.

It's based on a responsibility to one another collectively, and to the land, that collective rights are not exactly within the umbrella of the individual rights upon which the Canadian justice system is formed. So, it's not a rights-based justice system, it's a responsibility-based justice system, which has a real different approach if you would think about that for a moment.

It's not about discipline and punishment as is the European style, it's more about restoration of harmony, the natural connections, the family, the Elders were the ones that controlled social behaviour. Now, that system has been broken, that system is being packed together again, and that system has got to be revitalized in our various institutions and our various Nations.

So, Indigenous concepts of justice that we have, it's more than a set of rules and institutions; it's an aspect of natural order in which everyone and everything stands in relation to one another.<sup>DDDD</sup>

Exactly how these changes – many of which have been newly instituted in response to the Truth and Reconciliation Commission's Calls to Action and the National Inquiry – reflect such ideas and translate into concrete change in the lives of Indigenous women, girls, and 2SLGBTQQIA people remains to be seen.



## Findings:

- The failure of police services to ensure there is justice and protection for Indigenous women, girls, and 2SLGBTQQIA people through adequate and bias-free policing services, effective oversight and adjudicative mechanisms, and meaningful and accessible remedies for violence contributes to the systemic harm they continue to experience. This treatment is discriminatory and creates environments where Indigenous women, girls, and 2SLGBTQQIA people are underprotected, but targeted for police interventions when exercising their rights.
- Often, Indigenous people are treated as perpetrators and offenders when they need the protection of the police. This is reinforced by the practice of racial profiling. However, when crimes occur against Indigenous people, they do not receive the same access or outcomes from the justice system as non-Indigenous people.
- Police services and other law enforcement officials have tremendous power and do have the ability to infringe and violate the human rights of Indigenous women, girls, and 2SLGBTQQIA people without remedy and recourse. Existing oversight and accountability mechanisms for police services are largely inadequate and fail to elicit the confidence of Indigenous Peoples. Failure to establish and enforce meaningful and transparent accountability and oversight of police services and other law enforcement officials perpetuates poor service delivery and fuels distrust on behalf of Indigenous communities toward police.
- Indigenous Peoples have the inherent right to develop their own system of justice, including policing services. Policies and programs developed and implemented by the federal and provincial governments that allow for Indigenous communities to administer their own police services through the First Nations Policing Program and tripartite agreements are not an authentic exercise of the Indigenous right to self-govern police services.
- Indigenous police services established under the First Nations Policing Program are chronically underfunded and under-resourced. This results in understaffing, burnout of officers, under-resourced detachments, and unsafe working conditions for officers. These limitations heighten tensions within the community and ultimately result in an inability to properly respond to and investigate violence against Indigenous women, girls, and 2SLGBTQQIA people.
- The criminal justice system struggles to respond effectively to cases of sexualized violence and intimate partner violence. Many Indigenous women, girls, and 2SLGBTQQIA people who have been subjected to sexualized violence and intimate partner violence do not report the violence to the police. State prosecution of cases of sexualized violence and intimate partner violence is also challenging, and the prosecution process rarely provides survivors with the justice and protection that Indigenous women, girls, and 2SLGBTQQIA people are seeking. The current laws and criminal justice system responses to sexualized violence and intimate partner violence are failing to protect Indigenous women, girls, and 2SLGBTQQIA people.



- A Commissioner Brenda Lucki, Part 2, Public Volume 6, Regina, SK, p. 34.
- B Chief Superintendent Mark Pritchard, Part 2, Public Volume 9, Regina, SK, pp. 210–211.
- C Chief Danny Smyth, Mixed Parts 2 & 3, Public Volume 18, Regina, SK, p. 11.
- D Chief Joe Boland, Mixed Parts 2 & 3, Public Volume 15, St. John's, NL, pp. 195–196.
- E Commissioner Brenda Lucki, Part 2, Public Volume 6, Regina, SK, p. 91.
- F Commissioner Brenda Lucki, Part 2, Public Volume 6, Regina, SK, pp. 33–34.
- G MacKinnon, “SQ officers ignore.”
- H Translation ours. Capitaine Paul Charbonneau, Part 2, Public Volume 9, Regina, SK, p. 149.
- I Daniel Bellegarde (Little Black Bear's Band of the Assiniboine-Cree), Part 2, Public Volume 6, Regina, SK, pp. 96–97.
- J Commissioner Brenda Lucki, Part 2, Public Volume 6, Regina, SK, p. 40.
- K Commissioner Brenda Lucki, Part 2, Public Volume 6, Regina, SK, pp. 41–42.
- L Commissioner Brenda Lucki, Part 2, Public Volume 6, Regina, SK, p. 42.
- M Commissioner Brenda Lucki, Part 2, Public Volume 6, Regina, SK, pp. 50–51.
- N Commissioner Brenda Lucki, Part 2, Public Volume 6, Regina, SK, p. 55.
- O Commissioner Brenda Lucki, Part 2, Public Volume 6, Regina, SK, p. 55.
- P Commissioner Brenda Lucki, Part 2, Public Volume 6, Regina, SK, pp. 49–50.
- Q Commissioner Brenda Lucki, Part 2, Public Volume 6, Regina, SK, pp. 49–50.
- R Retired Chief Clive Weighill, Part 2, Public Volume 8, Regina, SK, pp. 50–51.
- S Commissioner Brenda Lucki, Part 2, Public Volume 6, Regina, SK, pp. 53–54.
- T Commissioner Brenda Lucki, Part 2, Public Volume 6, Regina, SK, p. 54.
- U Deputy Commissioner Brenda Butterworth-Carr (Tr'ondëk Hwëch'in Hän Nation), Part 2, Public Volume 9, Regina, SK, p. 101.
- V Deputy Commissioner Brenda Butterworth-Carr (Tr'ondëk Hwëch'in Hän Nation), Part 2, Public Volume 9, Regina, SK, pp. 99–100.
- W Chief Superintendent Mark Pritchard, Part 2, Public Volume 9, Regina, SK, p. 215.
- X Chief Superintendent Mark Pritchard, Part 2, Public Volume 9, Regina, SK, p. 216.
- Y *The Missing Persons Act*, 2018 has received Royal Assent but had not been proclaimed or come into force at the time of Chief Superintendent Pritchard's testimony. See <https://www.ontario.ca/laws/statute/18m03>.
- Z Chief Superintendent Mark Pritchard, Part 2, Public Volume 10, Regina, SK, pp. 283–284.
- AA Retired Chief Clive Weighill, Part 2, Public Volume 8, Regina, SK, pp. 42–43.
- BB Deputy Commissioner Brenda Butterworth-Carr (Tr'ondëk Hwëch'in Hän Nation), Part 2, Public Volume 9, Regina, SK, p. 127.
- CC Deputy Commissioner Brenda Butterworth-Carr (Tr'ondëk Hwëch'in Hän Nation), Part 2, Public Volume 9, Regina, SK, pp. 105–106.
- DD Deputy Commissioner Brenda Butterworth-Carr (Tr'ondëk Hwëch'in Hän Nation), Part 2, Public Volume 9, Regina, SK, p. 113.
- EE Chief Superintendent Mark Pritchard, Part 2, Public Volume 9, Regina, SK, p. 256.
- FF Chief Superintendent Mark Pritchard, Part 2, Public Volume 9, Regina, SK, p. 239.
- GG Retired Chief Clive Weighill, Part 2, Public Volume 9, Regina, SK, pp. 40–42.
- HH Deputy Commissioner Brenda Butterworth-Carr (Tr'ondëk Hwëch'in Hän Nation), Part 2, Public Volume 9, Regina, SK, pp. 127–129.
- II Deputy Commissioner Brenda Butterworth-Carr (Tr'ondëk Hwëch'in Hän Nation), Part 2, Public Volume 9, Regina, SK, p. 98.
- JJ Chief Superintendent Mark Pritchard, Part 2, Public Volume 9, Regina, SK, p. 219.
- KK Retired Chief Clive Weighill, Part 2, Public Volume 8, Regina, SK, pp. 38–39.
- LL Deputy Commissioner Brenda Butterworth-Carr (Tr'ondëk Hwëch'in Hän Nation), Part 2, Public Volume 9, Regina, SK, p. 114.
- MM Chief Superintendent Mark Pritchard, Part 2, Public Volume 9, Regina, SK, pp. 217 and 230–232.
- NN Deputy Commissioner Brenda Butterworth-Carr (Tr'ondëk Hwëch'in Hän Nation), Part 2, Public Volume 9, Regina, SK, pp. 115–116.
- OO Deputy Commissioner Brenda Butterworth-Carr (Tr'ondëk Hwëch'in Hän Nation), Part 2, Public Volume 9, Regina, SK, pp. 116–117.
- PP Chief Superintendent Mark Pritchard, Part 2, Public Volume 9, Regina, SK, p. 222; Chief Joe Boland, Mixed Parts 2 & 3, Public Volume 15, St. John's, NL, p. 198.



- QQ Deputy Commissioner Brenda Butterworth-Carr (Tr'ondëk Hwëch'in Hän Nation), Part 2, Public Volume 9, Regina, SK, p. 327.
- RR Translation ours. Chief Jean-Pierre Larose, Part 2, Public Volume 6, Regina, SK, pp. 154–155.
- SS Translation ours. Chief Jean-Pierre Larose, Part 2, Public Volume 6, Regina, SK, pp. 159–160.
- TT Translation ours. Chief Jean-Pierre Larose, Part 2, Public Volume 6, Regina, SK, pp. 157–158.
- UU Chief Terry Armstrong, Mixed Parts 2 & 3, Public Volume 5, Quebec, QC, p. 61.
- VV Chief Terry Armstrong, Mixed Parts 2 & 3, Public Volume 5, Quebec, QC, pp. 62–63.
- WW Commissioner Brenda Lucki, Part 2, Public Volume 6, Regina, SK, p. 47.
- XX Commissioner Brenda Lucki, Part 2, Public Volume 6, Regina, SK, p. 48.
- YY Translation ours. Chief Jean-Pierre Larose, Part 2, Public Volume 6, Regina, SK, p. 149.
- ZZ Translation ours. Chief Jean-Pierre Larose, Part 2, Public Volume 6, Regina, SK, p. 150.
- AAA Jacqueline Hansen, Mixed Parts 2 & 3, Public Volume 6, Quebec, QC, p. 45.
- BBB Translation ours. Chief Jean-Pierre Larose, Part 2, Public Volume 6, Regina, SK, pp. 165–166.
- CCC Detective Constable Alana Morrison (First Nations), Part 2, Public Volume 8, Regina, SK, p. 129.
- DDD Commissioner Brenda Lucki, Part 2, Public Volume 6, Regina, SK, pp. 66–67.
- EEE Commissioner Brenda Lucki, Part 2, Public Volume 6, Regina, SK, pp. 66–67.
- FFF Sergeant Dee Stewart, Part 2, Public Volume 8, Regina, SK, pp. 159–161.
- GGG Retired Chief Clive Weighill, Part 2, Public Volume 8, Regina, SK, pp. 54–55.
- HHH Commissioner Brenda Lucki, Part 2, Public Volume 6, Regina, SK, pp. 70–72.
- III Commissioner Brenda Lucki, Part 2, Public Volume 6, Regina, SK, p. 84.
- JJJ Sergeant Dee Stewart, Part 2, Public Volume 8, Regina, SK, p. 181.
- KKK Commissioner Brenda Lucki, Part 2, Public Volume 6, Regina, SK, p. 87.
- LLL Chief Terry Armstrong, Mixed Parts 2 & 3, Public Volume 5, Quebec, QC, p. 139.
- MMM Retired Chief Clive Weighill, Part 2, Public Volume 8, Regina, SK, p. 62.
- NNN Retired Chief Clive Weighill, Part 2, Public Volume 8, Regina, SK, pp. 59–60.
- OOO Detective Constable Alana Morrison (First Nations), Part 2, Public Volume 8, Regina, SK, p. 135.
- PPP Detective Constable Alana Morrison (First Nations), Part 2, Public Volume 8, Regina, SK, pp. 138–139.
- QQQ Detective Constable Alana Morrison (First Nations), Part 2, Public Volume 8, Regina, SK, p. 145.
- RRR Mike Metatawabin (Fort Albany First Nation), Mixed Parts 2 & 3, Public Volume 5, Quebec, QC, pp. 41–42.
- SSS Mike Metatawabin (Fort Albany First Nation), Mixed Parts 2 & 3, Public Volume 5, Quebec, QC, pp. 45–46.
- TTT Mike Metatawabin (Fort Albany First Nation), Mixed Parts 2 & 3, Public Volume 5, Quebec, QC, pp. 53–54.
- UUU Chief Terry Armstrong, Mixed Parts 2 & 3, Public Volume 5, Quebec, QC, pp. 55–56.
- VVV Chief Terry Armstrong, Mixed Parts 2 & 3, Public Volume 5, Quebec, QC, p. 60.
- WWW Chief Terry Armstrong, Mixed Parts 2 & 3, Public Volume 5, Quebec, QC, p. 76.
- XXX Mike Metatawabin (Fort Albany First Nation), Mixed Parts 2 & 3, Public Volume 5, Quebec, QC, pp. 94–95; Legislative Assembly of Ontario, Bill 175, *Safer Ontario Act*.
- YYY Chief Terry Armstrong, Mixed Parts 2 & 3, Public Volume 5, Quebec, QC, p. 108.
- ZZZ Chief Terry Armstrong, Mixed Parts 2 & 3, Public Volume 5, Quebec, QC, pp. 91–92.
- AAAA Chief Terry Armstrong, Mixed Parts 2 & 3, Public Volume 5, Quebec, QC, p. 109.
- BBBB Mike Metatawabin (Fort Albany First Nation), Mixed Parts 2 & 3, Public Volume 5, Quebec, QC, pp. 112–113.
- CCCC Chief Jean-Pierre Larose, Part 2, Public Volume 6, Regina, SK, pp. 156–157.
- DDDD Daniel Bellegarde (Little Black Bear's Band of the Assiniboine-Cree), Part 2, Public Volume 6, Regina, SK, pp. 100–101. See also the Council of Canadian Academies' Expert Panel on Policing in Indigenous Communities, "Toward Peace, Harmony, and Well-Being: Policing in Indigenous Communities," available at <https://scienceadvice.ca/reports/policing-in-indigenous-communities/>.



## Beyond the investigation: Access to Justice within the Courts

In sharing their truths about their relationships and encounters within the criminal justice system, family members spoke at length about their experience attending (and at times participating in) court proceedings related to the violence inflicted against their loved one. Many witnesses would likely agree with Fred F.'s characterization of the adversarial relationship between Indigenous people and families and the courts: "I really feel like sometimes the courts victimize the victims over again"<sup>82</sup> – a comment he made based on his experience of attending the murder trial of Curtis Bonnell, the man eventually found guilty of murdering Fred's 16-year-old daughter, Hilary.

Attending the trial of the person(s) charged with committing violence against someone important to you is understandably a difficult experience. However, for many Indigenous families, friends, and supporters, the difficulty of this experience is magnified by the fact that, once again, they may be forced to seek justice within a process and an institution that have historically been unjust, and that continue to criminalize Indigenous people at much greater rates than non-Indigenous Canadians. While many of the families offer valuable teachings and recommendations on how to cultivate less adversarial relationships within the courts and during court proceedings, their wisdom comes at the cost of having to navigate the court process largely on their own.



John Phelps, federal prosecutor for the Yukon Region, told the National Inquiry that the federal government operates a Crown Witness Coordinator Program in the Northern Territories to help victims of crime, especially Indigenous victims, access information about and participate in court proceedings (as per their rights under the *Canadian Victims Bill of Rights*). While this program serves as a conduit of information between the Crown prosecutor and victims of crime, it does



not provide the full range of services and supports to which Indigenous victims should have access. It does not offer legal counsel to victims of crime, but merely facilitates their access to information. As Phelps explained, “It’s also important for a victim to understand that we are not lawyers for a victim. We are impartial to the system, and it’s our responsibility to put all information before the court, whether or not it’s beneficial to our particular case.”<sup>83</sup>

“THEY DIDN’T GET MUCH HELP FROM ... VICTIM SERVICES THAT I KNEW OF. WE, AS A FAMILY, AND NOT EVEN MY SISTERS ... WERE NOT INFORMED OF THE VALUE OF PROVIDING A VICTIM IMPACT STATEMENT. NOR WERE WE EVEN MADE AWARE THAT IT WAS AN OPTION. AND THAT’S WHEN A VICTIM LIAISON ADVOCATE WOULD’VE COME IN HANDY. HAD WE KNOWN ABOUT THE VICTIM IMPACT STATEMENT AHEAD OF TIME, I PERSONALLY WOULD HAVE PROVIDED ONE. EVEN IF I COULDN’T BE PRESENT. I WOULD HAVE HAD ONE OF MY SISTERS READ IT FOR ME. IT WAS VERY CHALLENGING TO GET INFO ABOUT ANY KIND OF COURT DATES, AND REACHING FAMILY WAS HARDER. I WAS GOING TO TRY AND BE PRESENT TO ONE OF THE COURT DATES, AND I TRIED ASKING FOR THE ACTUAL DATE. AND IT KEPT GETTING CHANGED ON ME. SO I LOST MY NERVE.”

Charlotte M.

Moreover, the Crown Witness Coordinator Program does not engage with victims of crime immediately after an incident. As Phelps pointed out, “We only become familiar with a file once a charge has been laid, which could be days, weeks, or months, and in the case of some serious crimes, it could be years after the actual offence occurred.”<sup>84</sup>

And, while the program does refer victims of crime to support services, it does not provide support services itself.

Throughout that initial contact, the Crown Witness Coordinator assesses a number of factors with respect to a victim and the victim’s needs. But we do not provide any form of a counselling or significant support service for victims who have needs beyond the information, and beyond what we’re able to provide during a trial process. So our practice is to make referrals to other agencies within the community. Those agencies may be First Nation based, they may be territorial based. For example, in the Yukon Territory, there’s a very well-resourced victim services program. They may be referred to non-government organizations as well, and mental health services, counselling services, that type of things.<sup>85</sup>

In her testimony, National Inquiry Grandmother Blu discussed what it was like for her, as a 16-year-old girl without any support, to attend and participate in the trial of the man later found guilty of murdering her caregiver and grandmother.



But while I was in court, I sat there for about three weeks inside the courtroom, and I – I had no counsel. I had no one to help me. I got on the streetcar. I put my – I think it was a quarter at the time and went down to the courthouse and sat there listening to stuff I couldn't understand, and I remember them calling my name to go up to the stand. I'm sure I told them the story, the same thing, because that was the truth, what happened. I don't remember if they cross-examined me. I don't remember any of that stuff because that whole year was lost.

I remember my aunty, my aunty ... she came with me the day of the sentencing, and she was like a second mother to me ... and – so she helped me. She sat there with me, and that's when I heard what had happened to my kokom. That's when I heard that he was originally charged with second-degree murder and indignity to a human body.... But sitting in a courtroom there and not having anybody to help you, as a 16-year-old kid, right? It wasn't right. You know, I know it's, you know, 41 years ago, but there was no dignity for anybody who was – or identified as an Indigenous person, and it's not much better today. It really isn't.<sup>86</sup>

When reflecting on the experience she and her sisters shared during the trial of the women found guilty of murdering her sister, Charlotte M. described how the lack of information provided to them about the process meant that they were not able to participate in the way they would have wished to, had they had all the information.

They didn't get much help from ... Victim Services that I knew of. We, as a family, and not even my sisters ... were not informed of the value of providing a victim impact statement. Nor were we even made aware that it was an option. And that's when a victim liaison advocate would've come in handy. Had we known about the victim impact statement ahead of time, I personally would have provided one. Even if I couldn't be present. I would have had one of my sisters read it for me. It was very challenging to get info about any kind of court dates, and reaching family was harder. I was going to try and be present to one of the court dates, and I tried asking for the actual date. And it kept getting changed on me. So I lost my nerve.<sup>87</sup>

For other families, one of the things they found difficult about attending court was listening to the demeaning and disturbing characterizations of their missing or murdered loved one. Marilyn W. described how the negative portrayal of her daughter within the courtroom and in the media during the trial made an already difficult situation even worse:

We went to trial just down the block from here and day after day I had to sit in the courtroom with the man who killed my sister. Day after day I had to sit in that courtroom with the media, who all the while they were writing things dehumanizing my sister, revictimizing me and my family.<sup>88</sup>



Pamela F. described a similar difficulty.

It hurts. You don't want to hear someone say untrue things about your child and you know they're untrue. But you can't, you can't really go and get mad and scream in court, why is he allowed to say that? Why can't I say what he did? You can't do that 'cause then you're going to get thrown out of court.<sup>89</sup>

Examples such as these offer reminders of the ways Indigenous women, girls, and 2SLGBTQIA people are positioned within colonial systems as being responsible for the violence they endure, and how this practice of blaming Indigenous women means that those who perpetrate violence remain free to do so. References to the sexual history or activity of Indigenous women, and her behaviour or demeanour at the time of her disappearance or death, are examples of the way pervasive racialized and sexist stereotypes about Indigenous women are mobilized within the criminal justice system to justify a lack of action or accountability. It is for these reasons that Robyn Bourgeois refers to the criminal justice system as the “Canadian injustice system.”

So, I call this the Canadian injustice system because what we see is that again and again – first of all, if there is ever charges laid, because we know – and the Missing Women Commission Inquiry made this really clear, but oftentimes even at the police level, there are decisions made not to press charges, or not to investigate, or to dismiss the violence ... or erase the violence, actually, by categorizing a death, for example, as misadventure or an accident, when, in fact, that there is clear evidence that it was likely a homicide or something more sinister, and I think that's a problem.

But, when it gets to the courts, even if that's the case, and people are charged and brought to the court system, what we see is that again, and again, and again, and again, and again our Canadian courts, they really ... they rely heavily on the hypersexualization of Indigenous women and girls to not only erase the violence, because they will erase it by saying, “Oh, you know what? She consented to this,” or “She, you know, was engaged in prostitution,” or, you know, “She, you know, was drunk and promiscuous,” or any of those things.

I mean, I have heard it again and again in different court cases. But, those are used to minimize the violence, so, you know, it wasn't violence. And, it flips the other way, too, because it's not just about portraying Indigenous women and girls as deviant, but it flips the other way, and quite often, the perpetrators are portrayed as, you know, good white folks, because it's often good white men who make a bad mistake and made a bad choice or, you know, they were good guys who just made a bad choice, which is problematic. And so, what happens within the systems, we see again and again, you know, that perpetrators aren't held accountable, that they're often given lenient sentences if they're



sentenced at all, and that is often – that decision is often made on this kind of belief about the victim herself, an Indigenous woman or a girl. And, you know, they always are coming up with different ways to show, you know, why an Indigenous woman or a girl is not a worthy victim who is worthwhile and deserving of justice within the Canadian legal system.<sup>90</sup>

Understandably, for the families who know the truth about their daughter, sister, mother, or loved one, such characterizations are devastating attacks to their loved ones' memory, and constitute a gross violation of justice.

What became evident by the end of our hearings is that, in the testimonies the National Inquiry heard, the process of making victim impact statements illustrates the fact that the victim and the victim's family don't always feel well-represented by the Crown. Families may have no legal representation at trial and are marginalized, representing a significant failure of the system.

In addition to the emotional toll that attending the court proceedings related to the disappearance or death of their loved ones carries, families often also carry a significant financial burden. In his testimony, Fred F. talked candidly about the financial toll of attending his daughter's murder trial, and the lengths he went to in order to ensure his wife and other children did not have to bear the brunt of these concerns.



*At Espace Ashukan in Montreal in 2019, creators of a commemorative quilt to honour missing and murdered Indigenous women and girls stand with their work.*



Where did I get the gas money to drive to town every day, 30 miles to go to court? And I have a little shop in town where my house was in town, in the back of my house there's a small shop, it's just like a room for my trade and we'd drive to town, we'd go into the courtroom, do our thing. Then we'd have the hour and a half lunch and I was so broke I was buying cans of tuna and leaving it at the shop so at lunchtime I'd take her [his wife] to get her whatever she wanted and then I'd go and eat my can of tuna to have my lunch to go back to the, to court.

And I don't think I've eaten a can of tuna since because I probably ate 30 or 40 cans of it during the pre-trial and trial. But it wiped me out. I ended up having to sell my home in town because I was so behind on my taxes with the government and bills. So those, those weeks of being in a courtroom where we had, we had a lot of emotional support but what I need to see changed in Canada is we're family members of the victim.<sup>91</sup>

In presenting his recommendations to the National Inquiry, Fred returned to the importance of relationship and creating supports and services for families that reflect an understanding of the need for “nurturing” in both an emotional *and* financial sense during this process.

When they're spending endless hours and days in a courtroom they [the families] need to be nurtured. They need to be fed and they need a place to rest during this trial, during the trial or during the voir dire. Because I don't even remember who took care of my kids back then, it was so – I think my parents did, I'm pretty sure they did.

But it was such a traumatic moment where we were just going day to day and sometimes minute by minute of what we're going to do next... I never imagined how deep it could be, of pain and weakness and stress and there's no words for it. And so when someone else goes through something like what we went through and they have to spend a lot of time in a courtroom, they, they should be uplifted and supported so they can spend their time in a courtroom and have a place to rest after in case they have to drive to the city where the court – you know, there's a lot of places where family members would have to drive to a courtroom which is, you know, in another city. That caused a lot of stress for us. That really does need to change.<sup>92</sup>

There are, in some jurisdictions, supports that are available, particularly in the area of victim services. Leanne Gardiner, director of the Community Justice and Policing Division for the Department of Justice, Government of the Northwest Territories (GNWT), told the National Inquiry that the government of the Northwest Territories provides funding to different municipal, Indigenous, and community organizations that offer victim services programming. According to Gardiner, victim services offices offer a wide range of supports.



They can walk into any victim services office and ask for assistance. The program ... works independently of the court, the Crown, or police, so a victim does not have to be involved in any of those processes, the criminal justice system, to access those supports. And providers assist with ... a wide variety ... of either referrals or support, so that can be immediate emotional support. It can be a referral to other services. They're not technically a counselling service that they're providing, but they are absolutely, quite often, most immediate emotional support for victims.<sup>93</sup>

Gardiner also explained that the GNWT provides funding for many other programs that provide support for victims of crime.

Betty Ann Pottruff, Q.C., senior advisor at the Government of Saskatchewan, told the National Inquiry that shifting leadership at different levels of government have made it difficult to implement some of the broad changes necessary to address the crisis of violence against Indigenous women.

The other challenge that I'll just raise ... is that in my experience one of the limitations ... on the momentum to change is the fact that we are dealing with different levels of government, so we're always in the process of ... changing leadership or changing directions, whether it's elections at the First Nations level, elections at the provincial level, elections at the federal level, and so there's this consistent churn in terms of policy direction and commitment, and so it's very hard to keep momentum going when you want to make big, big changes and really shift society. That's one ... of the strengths of democracy, but it's also one of the weaknesses, so I've often said that in a four-year mandate you will often only get 18 months of really productive work because there's so much churn going on at both ends.<sup>94</sup>

Overall, the witnesses who testified before the National Inquiry identified a lack of will and commitment within the courts, largely based in ongoing discrimination and racism directed toward Indigenous people, and women in particular. Marilyn W. understood her experience of a miscarriage of justice that took place during the murder trial of the man accused of killing her sister as just another example of the broader underlying racism Indigenous Peoples face within this system.

I sat in that courtroom, and I saw how the prosecutor was trying to argue my sister's case, and I saw how that judge kept defending the person who killed her, and I knew – I knew the judge already – before the outcome, I knew that the judge already – already was going to side with the man who killed by sister. I knew it ... and so I listened to the man who confessed to killing her. I listened to the recording in the courtroom. I saw him break down. I saw him cry and say, yes, that he killed her and he took her life, and then, the judge ... threw out his confession, and then he let him go free.



How does that happen? How does somebody who confessed to taking a human life, how do they get away with that?<sup>95</sup>

Similarly, Delores S. described this attitude when speaking about her interaction with the justice systems following the death of a loved one, Nadine, in 2015.

The systems involved all respond that Nadine was at fault, and communicated it via body language, word usage, and demeanour in speaking to the family. Their insensitivity to the family ... exemplifies deeply ingrained attitudes and prejudices they hold.<sup>96</sup>

Given the judge's ruling that, at the end of trial, the man accused of murdering her sister was released on a technicality, it is easy to see how Marilyn and other Indigenous families fighting for justice may be left to ask, as she does: "Where's my justice?"<sup>97</sup>



*National Inquiry staff and Commissioners sing the Strong Woman Song in Calgary, Alberta.*



# Trauma, Lack of Accessibility, and Violence against Inuit Women

During the National Inquiry's Truth-Gathering Process, many Inuit witnesses spoke to the need to engage whole communities in healing, understanding the life circumstances of men who have murdered Inuit women in disproportionately high rates.<sup>v</sup> The Nunavut Court of Justice (NUCJ),<sup>ii</sup> created in 1999,<sup>iii</sup> has heard many cases regarding this issue. In the 11 cases that we examined, the majority that were heard by the NUCJ that dealt with murdered Inuit women involved uxoricide, the killing of a wife. In 7 out of the 11 cases examined, the women had been killed by their long-term romantic partners. Six of these cases follow a similar pattern: a relationship involving a long history of substance abuse and violence culminated in a woman's death.<sup>iv</sup>

Intergenerational trauma and a lack of adequate government services were important contributing factors in these cases. Decisions in four of the six cases that were heard after 2012<sup>v</sup> noted that the killer had endured traumatic early childhood experiences, including experiences of, and exposure to, abuse and sexual assault.<sup>vi</sup> In 10 out of the 11 cases, the offender had long-standing issues with substance abuse and/or addictions, or was intoxicated at the time of the assault.<sup>vii</sup>

NUCJ judges have been very vocal about the causes of high rates of violence in Nunavut. In trial and sentencing decisions, they have repeatedly explained that these problems are rooted in a combination of unresolved colonial trauma and inadequate social services to address this trauma.

"In Nunavut, the incidence of spousal and domestic homicide is stunning. It is surpassed only by the paucity of Government services available to address the underlying conditions of this phenomenon."

– Justice Neil Sharkey (*R v. Kinak*, NUCJ, 2011, Transcript at 61, lines 9–14).

"What is really behind the lack of progress [in reducing rates of domestic violence and spousal homicide] is the continuing lack of resources available in Nunavut to address the mountain of untreated trauma that comes before this Court with sickening regularity. Despite numerous pleas by this Court and promises by the Government of Nunavut, there are still no Nunavut-based treatment centers. Until this problem is addressed, there will be little change in these grim statistics."

– Justice Earl Johnson (*R v. VanEindhoven*, 2013, NUCJ 30, para. 72)

"Treatment options are extremely limited in Nunavut. Community-based sentences often fail as a result of offenders being unable to address the issues bringing them into conflict with the law. The sad reality is that without treatment and other forms of community outreach, many of the offenders, despite the best of intentions, do fail. A growing criminal history then drives them into long and longer periods of custody and ultimately into the federal system."

– Justice Robert Kilpatrick (*R v. VanEindhoven*, 2007, para. 18)



“Seventeen years after division from the NWT, there is still no residential treatment facility in Nunavut. Nunavummiut who belong in secure residential treatment wind up in jail. Those few Nunavummiut who are lucky enough to get residential treatment are sent south. Again, where they are isolated and far from home. Those few front-line responders we have are given few resources to deal with the epidemic of alcohol’s victims. Few resources are available to help our many neighbours who suffer from real mental health concerns, like Fetal Alcohol Spectrum Disorder. The need to address these issues is urgent.

In my lifetime, Inuit were forced off the land. Many were moved, sometimes forcibly, by alien authority into artificial and isolated communities. Children were taken from the bosoms of their families and sent to far away residential schools. One of the purposes of these schools was to supplant their culture and language. That

painful legacy reverberates today. Sexual predators like Cloughley, De Jaeger, and Horne victimized significant numbers of an entire generation. Their victims suffer still and so do their families. The Inuit world and very way of life was turned upside down. Inuit society is still adjusting to that collective trauma.”

– Justice Paul Bychok (*R v. Mikidjuk*, 2017, paras. 17–22)

These statements reflect much of the evidence we heard, and provide important insight into the nature of healing that needs to occur within communities in order to address the high incidence of interpersonal violence that these cases represent. Addressing intergenerational and multigenerational trauma and ensuring essential services, even in remote communities, are of paramount importance in restoring a sense of safety for Inuit women, girls, and 2SLGBTQQIA people.

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- I According to the closing written submission of Pauktuutit, Anānaukatiget Tuminqit, Saturviit, The Ottawa Inuit Children’s Centre and the Manitoba Inuit Association: “The rapid transformation from living on the land in small family groupings to living in permanent settlements has left many Inuit men behind. Most are no longer able to hunt, fish and trap to provide for their families. Many Inuit men feel trapped between the two worlds and their skills as ‘men’ have been devalued. Unlike their wives and daughters, men have not embraced education nor attained marketable skills needed for the 21st century in Inuit Nunangat. In their frustration, Inuit men have turned to alcohol and drugs to lessen the pain. Unemployed or underemployed, addicted to alcohol or drugs, living in overcrowded housing, too many Inuit men have taken out their frustration by sexually abusing children and/or being violent towards their intimate partner. It is a toxic mix.” Pauktuutit Inuit Women of Canada, Anānaukatiget Tuminqit, Saturviit, The Ottawa Inuit Children’s Centre and the Manitoba Inuit Association, Part 4, Final Written Submission, p. 21.
  - II The NUCJ was established in 1999 as a result of the division of the Northwest Territories and the creation of the Nunavut Territory. A search on CanLII’s database for the NUCJ yielded 11 cases involving the killing of Inuit women. It is possible that the NUCJ considered other cases involving the killing of Inuit women where decisions were not published on CanLII.
  - III *R v. Akittirq*, 2018; *R v. Salomonie*, 2016; *R v. VanEindhoven*, 2016; *R v. Sateana*, 2016; *R v. Kayaitok*, 2014; *R v. Peter*, 2014; *R v. Nowdlak*, 2012; *R v. Kinak*, 2011; *R v. Anablak*, 2008; *R v. Ammaklak*, 2008; *R v. Jeffery*, 2007.
  - IV *R v. VanEindhoven*, 2016; *R v. Sateana*, 2016; *R v. Kayaitok*, 2014; *R v. Ammaklak*, 2008; *R v. Anablak*, 2008; *R v. Peter*, 2007.
  - V We focus on cases heard after the Supreme Court of Canada’s decision in *R v. Ipeelee*, because that ruling led to more extensive discussions of the life circumstances of Indigenous Peoples in sentencing decisions.
  - VI *R v. Salomonie*, 2016; *R v. VanEindhoven*, 2016; *R v. Sateana*, 2016; *R v. Kayaitok*, 2014.
  - VII *R v. Akittirq*, 2018; *R v. Salomonie*, 2016; *R v. VanEindhoven*, 2016; *R v. Sateana*, 2016; *R v. Kayaitok*, 2014; *R v. Peter*, 2014; *R v. Nowdlak*, 2012; *R v. Ammaklak*, 2008; *R v. Anablak*, 2008; *R v. Jeffery*, 2007.



## Pathway to Violence: Denying Agency and Expertise in Restoring Justice

In telling their stories about encounters with justice, family and friends shared stories about agency and resistance. As we examined the stories shared related to Indigenous women's experience of justice, the National Inquiry heard about the ways this denial of the agency and expertise of Indigenous women as protectors, advocates, and experts contributes to the violations of the right to justice.

For real changes to take place, and for the apologies offered by RCMP Commissioner Brenda Lucki and others to be meaningful,<sup>98</sup> Indigenous families and survivors were clear that these words must be accompanied by action. This change begins with recognizing Indigenous women, girls, and 2SLGBTQIA people as experts in their own experiences of justice. As Marilyn W. shared:

At the end of the day – and you cannot tell me any different because I know and I've seen it. I've lived through it. You cannot tell me that these women are not being killed and murdered, and the government is allowing it to happen... Our women, we get our strength from the land, from Mother Earth. She gives us strength, and she's sick and she's dying, and our people are sick and they're dying. We're protectors of this earth and so many of our people have forgotten that because they're suffering, and that's because of the system.<sup>99</sup>

### Taking Families Seriously

When an Indigenous woman, girl, or 2SLGBTQIA person goes missing, those closest to her are the experts. This truth was made clear time and time again. Drawing on the knowledge those close to them hold, which is developed through and because of relationship, family members are often the first to notice something is wrong, and hold the most valuable information in correcting that wrong. However, when the police or other representatives of the criminal justice system fail to acknowledge and respect this knowledge and insight, crucial opportunities for creating good relationships are lost. While these good relationships may never be enough to bring back a lost loved one, they can at least bring peace of mind to families who, for many years later, struggle with the "if only's" that haunt their thoughts.

As we have heard in the testimony provided, family members and those closest to the victims "know" when something has gone wrong. Whether this knowing comes in the form of a "bad feeling,"<sup>100</sup> described by many of the mothers who shared their stories about the moments when their child goes missing, or the "pieces of the puzzle"<sup>101</sup> that Indigenous women who are living on the street or involved in sex work hold about their sisters and families of the heart, Indigenous women, girls, and 2SLGBTQIA people know and recognize when violence takes place. This crucial information – in many cases, delivered to the police, despite the complexities of doing so – must be recognized as valuable and important.



As the National Inquiry heard, when this information is presented to police – often in the crucial period right after a disappearance and during which there may still be time for intervention – its value is dismissed, ignored, or – in most cases – interpreted through a filter of racist and sexist stereotypes and beliefs about Indigenous Peoples in general. These stereotypes become blinders that impede the investigation and fundamentally damage the relationship between the families of the missing and murdered and the police.

“AT THE END OF THE DAY – AND YOU CANNOT TELL ME ANY DIFFERENT BECAUSE I KNOW AND I’VE SEEN IT. I’VE LIVED THROUGH IT. YOU CANNOT TELL ME THAT THESE WOMEN ARE NOT BEING KILLED AND MURDERED, AND THE GOVERNMENT IS ALLOWING IT TO HAPPEN.... OUR WOMEN, WE GET OUR STRENGTH FROM THE LAND, FROM MOTHER EARTH. SHE GIVES US STRENGTH, AND SHE’S SICK AND SHE’S DYING, AND OUR PEOPLE ARE SICK AND THEY’RE DYING. WE’RE PROTECTORS OF THIS EARTH AND SO MANY OF OUR PEOPLE HAVE FORGOTTEN THAT BECAUSE THEY’RE SUFFERING, AND THAT’S BECAUSE OF THE SYSTEM.”

Marilyn W.

### “Every day I looked”: The Search for Loved Ones

Listening to families talk about the stress and pain that accompany this process of searching emphasized the additional emotional toll on families when police fail to cultivate a helpful relationship with families. As Pamela F. explained,

Well, we would search until the sun came up. So we’d only get a few hours sleep and we’d get up and we’d go search again. That’s what my days were, every day I looked. Every night I looked. If I was able to be awake in the day time I would look but we would search all night.<sup>102</sup>

Wilfred spoke about the emotional toll their search took on them: “You know, one time, she [Bernice] was in a bush and I heard her cry, I thought she found Jen, and I went running and running, but she just broke down. All I could do is hug her and tell her we will find her, you know?”<sup>103</sup>

For many families, this search for answers and, ultimately, for justice begins with a physical search for their missing and murdered loved one – an emotionally and physically gruelling process that often falls on the backs of the families and community members because of the reluctance or failure of police to respond.<sup>104</sup>

For example, when the police initially ignored Pamela F. in her attempts to report her 16-year-old daughter missing, she turned to her community, who helped her and her husband, Fred, initiate a ground search for Hilary. As she described in her testimony, when the police wouldn’t help her look for her daughter, her “community did. Big groups of them went all over looking for her. I mean they literally kicked people’s doors in. I will always be grateful to my community for



doing that. They searched for her and still the police weren't searching."<sup>105</sup> Again, it was only after the community search was well underway, and Pamela went to the media, that the police actually stepped in to help. While Pamela did go on to commend certain officers for their help in the search, the praise she receives from one officer for going to the media in order to hold the police accountable speaks to a disturbing precedent and status quo of inaction when it comes to taking reports of missing Indigenous girls seriously.

For Bernice and Wilfred, a lack of support from the police and their own community meant that they were left to initiate a search for their daughter completely alone – one that they continue today. They have to go to even more extreme measures to get the attention of the police: at one point, they took human bones they uncovered during their search to the detachment office.<sup>106</sup>

So we found these remains of these bones and we took them – well, we went to the RCMP detachment. I said, “Come over here. We found something. We found these bones, what seems to be a body.” That cop didn't even believe us then. He didn't even want to come. So, I went back, went back to that area, and I took a piece of the knee because it had a bit of cartilage inside of it, right? So, maybe there's DNA in there or whatever. So, I took it, I put it in a bag and I brought it to them. And then only after I physically shown them that, then they – then they moved, you know, it was – it's kind of messed up.<sup>107</sup>

Their heartbreaking, 10-year search for their daughter, Jennifer, continues today. As we noted at the beginning of this chapter, they interrupted their search only to attend the National Inquiry in hopes of raising awareness about her.

For the many Indigenous women whose whereabouts may not be known to family members at the time of their disappearance – women who may have been removed and disconnected from their families through residential schools or child welfare, for instance – it is often those closest to them who initiate a search for their missing sisters. Previous investigations into the police response to missing Indigenous women living on the street or involved in the sex trade at the time of their disappearance have indicated the lack of care shown to these women in terms of the police attempt to search for them.<sup>108</sup>

“WE DID AN EXTENSIVE SEARCH RIGHT INTO SNOW. WE WERE FORCED TO STOP SEARCHING ONLY BECAUSE OF THE WEATHER, BECAUSE OF THE SNOW. WE SEARCHED FOR, WHAT WAS IT, TWO – OVER TWO MONTHS – EVERY DAY. AND WE HAD A HUGE TEAM AT FIRST BUT PEOPLE HAVE LIVES AND JOBS AND OTHER RESPONSIBILITIES AND AT THE END THE SEARCH TEAM GOT SMALLER AND SMALLER. BUT WE KEPT GOING.”

Tom C.

In these family or community-based searches, family members described taking on the responsibility of creating, printing, and distributing missing persons posters, travelling to places their loved one may have visited, following up on tips, and completing extensive ground and water



searches through fields, forests, and lakes, down alleyways and dirt roads, under bridges, and even in garbage dumps.<sup>109</sup> As Bernice remarked, “It’s the worst thing a parent or anybody can go through ... to try to find your child in a garbage dump where it stinks, because there’s rawhides and everything. It’s a garbage dump.”<sup>110</sup>

Marilyn W. described her efforts.

We began our search, and we started hanging posters, and we started looking everywhere, and we started trying to get help, and my family came together, and there was a police officer – there was a police officer who was assigned to the case, and he was just – he didn’t care, and we argued, and I was frantic and I was drowning in despair, and I don’t even know if he was even trying to look, and I – I was looking and looking, and then months later after calling and calling and trying to find her and putting myself at risk in going out there and looking for her myself and hanging posters and travelling, and finally ... he went on vacation, and he didn’t even tell me. He didn’t tell me where things were. There was – we had no communication.<sup>111</sup>

When families and community members are forced to initiate and organize searches for their missing loved ones, they usually do so at their own cost – an economic hardship put upon families who are often already struggling to pay the bills. In his testimony, Tom C. spoke about how the economic realities of people’s lives meant that community members could help in the search for his daughter only for so long:

We did an extensive search right into snow. We were forced to stop searching only because of the weather, because of the snow. We searched for, what was it, two – over two months – every day. And we had a huge team at first but people have lives and jobs and other responsibilities and at the end the search team got smaller and smaller. But we kept going.<sup>112</sup>

In his testimony, Fred F. described the economic toll his involvement in the search for his daughter, Hilary, took on him and his family.

I’m a self-employed locksmith. I’ve been self-employed now for 30 years. It’s just a proprietorship, it’s just me so I’m the sole provider, I guess, for the family is the way I look at myself. I know I’m really not, Pam is, too, but I take that, that duty on myself very seriously and during the search, I probably put a month into it, I ran out of money. I was broke. People was giving me gas money to fill up my truck and we were going to a certain house to feed us and we, we’d wake up around 10 o’clock in the morning to 11 o’clock and we’d start searching until six o’clock the next morning. We wouldn’t stop.<sup>113</sup>

Among the recommendations made by families to the Commissioners was the need for financial support available to families so they can participate in the search for the missing loved one without the additional worry of making sure they have enough money to pay their bills.<sup>114</sup>

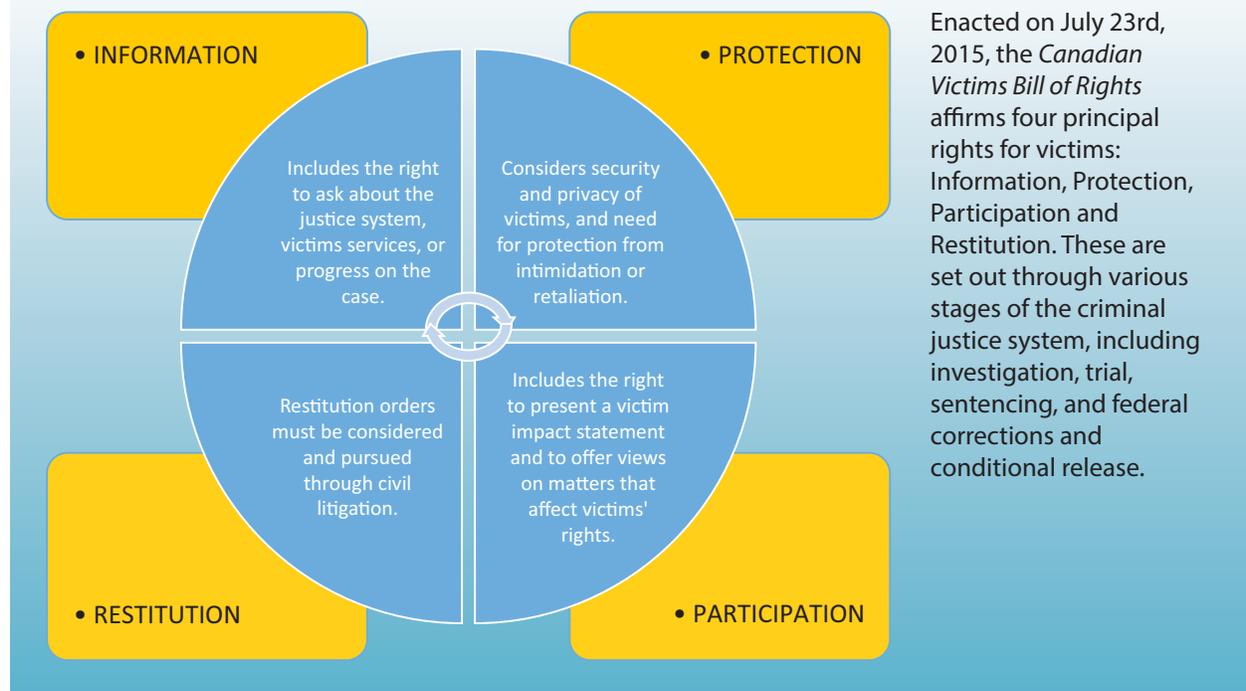


While this recommendation may certainly ease the immediate burden faced by families as they search for a missing loved one, their stories also make clear the need for systemic change that ensures that the families and communities have immediate access to search-and-rescue services equivalent to the services available to non-Indigenous people across all regions.

## Self-Determined Services and Supports

Across Canada, victims of crime and their families' rights to protection and information is set out in legislation passed in 2015. Called the *Canadian Victims Bill of Rights*, this legislation outlines principles or rights that must be protected when Canadians and their families become victims of crime. Beyond this legislation, however, and in the context of their testimony, many family members and loved ones identified solutions that already exist, or that need to be adapted to the needs of Indigenous communities, as a way to promote healing and better relationships between Indigenous Peoples and law enforcement. The experiences of these families point to the problems and gaps in relationship between Indigenous victims and families of victims of violence and the criminal justice system, that the programs, services, funds, and legislation that the National Inquiry heard about from Knowledge Keepers and Expert Witnesses during its Institutional and Expert Hearings are meant to repair.

### CANADIAN VICTIMS BILL OF RIGHTS





## Canadian Victim Bill of Rights Act

CRIMINAL JUSTICE CONTINUUM

	Investigation	Trial	Sentencing	Federal Corrections and Conditional Release
VICTIM RIGHTS	<p><b>Right to information</b> about the status and outcome of the investigation of the alleged offence, location of proceedings, and available services.</p> <p><b>Right to protection</b> by having their security and privacy considered during the investigation.</p> <p><b>Right to participation</b> by conveying their views when decisions are made by authorities that affect their rights under the Act, and to have those views considered.</p> <p><b>Remedy:</b> Victims who feel that their rights have been breached by a federal department, agency or body can file a complaint through its complaints process.</p> <p style="font-size: x-small;">Note: * NCR: Not Criminally Responsible; UST: Unfit to Stand Trial</p> <p style="font-size: x-small;">For additional copies of this publication, please email <a href="mailto:NtniOfficeVictims@ps-sp.gc.ca">NtniOfficeVictims@ps-sp.gc.ca</a> or call 1-866-525-0554.</p>	<p><b>Right to information</b> about the location and time of the proceedings and outcome.</p> <p><b>Right to protection</b> by having their security and privacy considered; to have reasonable and necessary measures taken to protect them from retaliation and intimidation; to request that their identity be protected; and to request testimonial aids.</p> <p><b>Right to participation</b> by conveying their views when decisions are made by authorities that affect their rights under the Act, and to have those views considered.</p> <p><b>Remedy:</b> Victims who feel that their rights have been breached by a federal department, agency or body can file a complaint through its complaints process.</p>	<p><b>Right to information</b> on reviews while NCR / UST* offender is subject to Review Board hearings and about the location and timing of sentencing hearings and their outcome.</p> <p><b>Right to protection</b> by having their security considered at sentencing.</p> <p><b>Right to participation</b> by conveying their views when decisions are made that affect their rights under the Act, and to have those views considered as well as to present victim impact statements.</p> <p><b>Right to Restitution</b> by having the Courts consider a restitution order in all cases and have it entered as an enforceable judgment in Civil Court.</p> <p><b>Remedy:</b> Victims who feel that their rights have been breached by a federal department, agency or body can file a complaint through its complaints process.</p>	<p><b>Right to information</b> about the date, destination and conditions attached to an offender's release under the <i>Corrections and Conditional Release Act</i> (CCRA) and about available programs and services, including Restorative Justice programs.</p> <p><b>Right to protection</b> by having their security considered and to have reasonable and necessary measures taken to protect them from retaliation and intimidation.</p> <p><b>Right to participation</b> by conveying their views when decisions are made that affect their rights under the Act, for example, at a parole hearing, and to have those views considered.</p> <p><b>Remedy:</b> Victims who feel that their rights have been breached by a federal department, agency or body can file a complaint through its complaints process.</p>

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In their testimony, Chief Danny Smyth and Diane Redsky from Winnipeg offered a “model that emphasizes Indigenous-led community services that are supported by the police in a collaborative way.”<sup>115</sup> This model is based on a recognition of the expertise of Indigenous women and Indigenous-led women’s organizations in creating safe communities and fostering a new model of justice rooted in a commitment to building relationships that address the structural barriers that continue to create risk for Indigenous women and allow violence to continue. Chief Danny Smyth shared the following observation:

I speak often of community engagement and our partnership with groups like the Winnipeg Outreach Network, and the Sexually Exploited Youth Coalition. These groups are led by strong women; leaders like Leslie Spillett, Diane Redsky, and elected officials like MLA Nahanni Fontaine and MLA Bernadette Smith. And there are so many more women who work tirelessly in our community.

This is the kind of community engagement that I see as important. Partnering with groups like this is the true essence of crime prevention through social development. These Indigenous-led efforts will help break through social barriers that, left unaddressed, can lead to harm. I’m committed to partnering with Indigenous-led service providers like Ma Mawi, Ndinawe, and Ka Ni Kanichihk. And, when possible, to use my voice to validate their efforts and lend additional credibility to support their programs.<sup>116</sup>



Another important initiative is to create a police service that is reflective of the needs of the community. For the Winnipeg Police Service, according to Chief Danny Smyth, this involves recruiting Indigenous officers and employees, building relationships with Indigenous service providers, and ensuring that police receive training and education so that they “understand the generational trauma inflicted upon Indigenous Peoples through colonization, the residential school system, and government-imposed Child and Family Services.” Chief Danny Smyth echoes the voices of Indigenous advocates about the importance of having Indigenous Peoples in leadership roles in both the police and the community.<sup>117</sup> In his testimony, Chief Danny Smyth provided concrete examples of the way in which this commitment to changing relationships is being mirrored in the structures, policies, and actions of the police force in working with individuals engaged in the sex industry and those who are at risk for trafficking.

The first is through the establishment of a Counter Exploitation team, whose purpose centres on relationship building rather than enforcement. He explained:

This team is dedicated to being out in the field to reach out and try to establish relationships with those they encounter in the community. They’re not involved in any enforcement activity, they are strictly there to try to understand what’s going on in the community and establish relationships when possible, educate on resources that are available to these people.<sup>118</sup>

In contrast to the many stories and previous research documenting the manner in which police approach interactions with Indigenous women with a presumption of criminality, this focus on building relationships and on understanding is a marked shift toward more helpful encounters.

As a second example, Chief Danny Smyth described the development of documenting encounters such as these that are based on relationship building.

As we started to more earnestly shift over to outreach work and supporting those that were involved in the sex industry, those that are being exploited, we needed to find another way to capture some of that work. The acronym, CPTSD, it stands for “crime prevention through social development.” And, really, what we were asking our units, primarily our Counter Exploitation teams, is when they had contact in the field to capture it using that particular type category, CPTSD. And, it could be for anything from a casual conversation to helping someone give them a ride to a safe place, to taking them – you know, anything from a medical appointment to giving them a ride home.<sup>119</sup>



Third, the police support their work, and let their work and approach be informed, by Indigenous-led women’s organizations, such as Ma Mawi Wi Chi Itata, which provides a variety of recreational and social services related to sexual exploitation, and H.O.M.E., or Hands of Mother Earth, which is a healing lodge outside of Winnipeg where youth who have experienced sexual exploitation or trafficking can find safety and do healing work. The police also create more formal partnerships with organizations, community members, and those with lived experience by participating in the Sexually Exploited Youth Community Coalition, a network that works collaboratively to address sexual exploitation in Winnipeg. Participation on this coalition becomes one way of demonstrating a commitment and recognition of the knowledge and expertise held by Indigenous women to promote safety. As Chief Danny Smyth said, “Where we come in, after being invited into the group in the last few years, [is] sharing information and resources with one another. They’re able to bring suspicious activity and concerns to us and we’re able to share information with them.”<sup>120</sup>

Chief Danny Smyth provided an example of how the availability of collaborative relationships between police and Indigenous community organizations, as well as an approach to policing that promotes protection rather than criminalization, works to support many Indigenous women and youth who resettle in Winnipeg from the North and who may be at increased risk for violence or exploitation.

I can certainly recall one young mother who had transitioned down from a remote community in the North. She was struggling when she got here. She was by herself with her young daughter, and particularly, she was having trouble meeting the rent. And she was desperate and she was starting to turn to the street. Some of our community support officers crossed paths with her and certainly became aware of her situation. They were able to actually divert her and get her in contact with Eagle Transition [Eagle Urban Transition is an organization that provides housing and support for people transitioning to Winnipeg from a remote community]. They literally drove her there for her appointment and really diverted her from having to be at risk on the street. They were able to help her provide a subsidy for her rent so she could continue her transition in Winnipeg. They provide an unbelievable service to our community because we have a lot of people that come down to Winnipeg and places like Brandon.<sup>121</sup>



## International Human Rights Instruments and Principles of Justice

As the preliminary discussion of justice in this chapter demonstrated, access to justice represents a basic principle of the rule of law. In international human rights law, and as protected by a variety of human rights instruments, people have the right to be protected from violent crime, as well as a right to justice when they are victims of these types of crimes. In addition, without the right to justice, people can't be heard, exercise their rights, challenge discrimination, or hold states accountable. The right to justice includes provisions for what are called "effective remedies." The right to justice is engaged in any convention or covenant that addresses the idea of "effective remedies." Effective remedies are those solutions to which people can turn when they are looking for resolution to a problem.

In addition, Canada has the duty of due diligence, which is the responsibility "to take all appropriate measures to prevent, investigate, punish and compensate violence against women. State responsibility can arise either through the direct actions Canada takes, but state responsibility also arises where Canada fails to act to protect and promote these rights."<sup>122</sup>

The United Nations Development Programme identifies a number of important principles for action as they relate to access to justice, including:

- policies and programs that ensure a specific focus on the disadvantaged and, in our particular cases, those targeted for violence;
- capacity development for access to justice that builds on existing strengths and solutions, which involves recognizing what already exists, in terms of agency and expertise;
- effective reforms rooted in an integrated approach, including the protection of rights, and improving institutional capacities to provide effective remedies; and
- in colonial countries, with legal traditions coming from a colonial past, focusing on identifying and solving problems, rather than imitating models, within a participatory process.<sup>123</sup>

The international Human Rights Framework includes important instruments that serve to support many of the priorities that families and survivors identified. They include, but are not limited to, the following.

The *International Convention on the Elimination of All Forms of Racial Discrimination* (ICERD) states that everyone has the right to "effective protection and remedies, through the competent national tribunals, and other State institutions," and grants the right for every person to seek "just and adequate reparation or satisfaction for any damage suffered as a result of such discrimination" (Article 6). In other words, Indigenous Peoples should be able to obtain justice from Canada's legal system; if they don't, and the reason is due to their being Indigenous, they could seek compensation for it.



The *International Covenant on Civil and Political Rights* (ICCPR) also deals with the right to justice in Article 9, which says that each person is entitled to liberty and security and should not be arrested or detained without cause. Further, Article 14 means that each person is equal before the courts, and, in Article 26, the ICCPR also maintains that everyone is equal before the law. In all respects, every person has the right to be free from any discrimination in the justice system based on “race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.”

The *Convention on the Elimination of all Forms of Discrimination Against Women* (CEDAW) engages the rights of women in reference to justice, arguing that States Parties should take measures to guarantee that women can enjoy all of their rights, which includes the right to justice in relation to women who are being trafficked or exploited (Article 6).

The *United Nations Convention on the Rights of the Child* (UNCRC) addresses children in the context of justice, including Indigenous girls and 2SLGBTQQIA youth, defined as “children” by the convention. It argues that the rights of child victims should be protected throughout the criminal justice process, including by recognizing the vulnerability of children and adapting procedures to respond to their needs, as well as making sure that children understand their rights, express their views, receive support, and are ensured safety.



*Lakota activist and educator Leah Gazan urges Canada to adopt and implement the United Nations Declaration on the Rights of Indigenous Peoples. Credit: Ben Powless.*



## KEY CONVENTIONS: RIGHT TO JUSTICE

The National Inquiry considers as foundational to all human and Indigenous rights violations the conventions associated with genocide. In justice, these relate specifically to Article 2, (a) Killing members of the group; (b) Causing serious bodily or mental harm to members of the group; and (c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part.

For reference, the complete Article II of the *Convention on the Prevention and Punishment of the Crime of Genocide*, which provides a definition of genocide, includes “any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:

- (a) Killing members of the group;
- (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;
- (d) Imposing measures intended to prevent births within the group;
- (e) Forcibly transferring children of the group to another group.”

### IESCR:

- establishes that freedom from fear and want, as established by the UDHR, can only be achieved in conditions where everyone can enjoy their economic, social and cultural rights, as well as civil and political rights
- equal rights to men and women

### ICCPR:

- asserts that all persons should be equal before the justice system
- includes the right to a fair and public hearing by a competent and impartial tribunal

### CEDAW:

- states must take all appropriate measures to suppress all forms of trafficking in women and exploitation of women
- states agreed to establish tribunals and institutions to ensure the effective protection of women

### ICERD:

- each person has the right to effective protection and remedies, through competent institutions, against acts of racial discrimination that violate human rights and fundamental freedoms
- this includes the right to seek reparation for damages

### CRC:

- States Parties must work to prevent abuse and exploitation, and work to ensure the protection of the rights of the child in any stage of the criminal justice process
- states must undertake measures to ensure proper training with those who work with child victims

IESCR: International Covenant on Economic, Social and Cultural Rights

ICCPR: International Covenant on Civil and Political Rights

CEDAW: Convention on the Elimination of all Forms of Discrimination Against Women

ICERD: International Covenant on the Elimination of All Forms of Racial Discrimination

CRC: Convention on the Rights of the Child



## KEY DECLARATIONS: RIGHT TO JUSTICE

The following international human rights instruments hold States accountable in the area of justice.

**DEVAW:**  
- women who are subjected to violence have the right to access the mechanisms of justice and to just and effective remedies for the harm they suffered  
- states should also inform women of their rights in seeking redress through such mechanisms

**UNDRIP:**  
- affirms that “all doctrines, policies and practices based on or advocating superiority of peoples or individuals on the basis of national origin or racial, religious, ethnic or cultural differences are racist, scientifically false, legally invalid, morally condemnable and socially unjust”  
- distinct political, legal, economic, social and cultural institutions may include those preoccupied with justice

**VIENNA PROGRAMME:**  
- governments should promote an increased awareness of human rights and mutual tolerance, including for police, military and law enforcement  
- states must provide effective remedies to redress human rights grievances or violations  
- a properly funded and functioning justice system is essential for democracy and development

**BEIJING:**  
- asserts that equality between women and men is a matter of human rights and a condition for social justice  
- acknowledges that women may be vulnerable to violence perpetrated by people in positions of authority, including law enforcement  
- advocates for more training of all officials in humanitarian and human rights law and for the punishment of perpetrators of violent acts against women, including police, prison officials and security forces

DEVAW: Declaration on the Elimination of Violence Against Women

UNDRIP: United Nations Declaration on the Rights of Indigenous Peoples

Vienna Programme: The Vienna Declaration and Programme of Action

Beijing: The Beijing Declaration



## Conclusion: Reinventing the Relationship

No amount of services, supports, or changes to policy can hope to restore justice for Indigenous women, girls, 2SLGBTQQIA people, and their families, if the change doesn't begin with what witnesses emphasized most: relationships.

“THE RELATIONSHIP WAS TOTALLY DIFFERENT. IN THE BEGINNING I WAS, I WAS REALLY DISAPPOINTED WITH THE POLICE IN THEIR LACK OF REACTING AS QUICKLY AS I NEEDED THEM TO. BUT IN THE END I ENDED UP LOVING A FEW OF THEM JUST LIKE THEY'RE MY OWN FAMILY.... THERE WAS SO MANY IN THE END THAT I FELT TOTALLY DIFFERENT ABOUT THEM. LIKE SOME OF THEM, THEY JUST FELT LIKE, IT FELT LIKE THEY WERE GOING THROUGH THE JOURNEY WITH ME AND IT JUST, I FELT A BOND WITH THEM IN THE END. IN THE BEGINNING, NO, BUT IN THE END I COULD SEE THAT A FEW OF THEM, THEIR HEARTS, THEIR HEARTS WERE IN IT.”

Pamela F.

In talking about her work as part of the Provincial Partnership Committee on Missing Persons with the Government of Saskatchewan, Betty Ann Pottruff described the need to build trusting relationships as a fundamental step in protecting and respecting justice in the lives of Indigenous women, girls, 2SLGBTQQIA people, and their families.

Well, I think it has been mentioned earlier today, one of the major issues that you need to deal with in work like this is building trust. Because if you don't build the trust and focus on relationships, then – then it's going to be much more difficult for you to be successful. People have to feel they're in a safe environment in which they can – they can say what they want to say, even if what they have to say, you know, might be hard to hear. There's got to be ... safety in ... who you're dealing with, and in understanding that your view is going to be respected, you're going to be listened to, and – and every member there is – is of the same value. Everyone is to be respected and – and treated as equals.<sup>124</sup>

Testifying as the mother of a missing person, Pam F. explained how she built relationships with officers who did ultimately become invested in the search for her daughter.

The relationship was totally different. In the beginning I was, I was really disappointed with the police in their lack of reacting as quickly as I needed them to. But in the end I ended up loving a few of them just like they're my own family.... There was so many in the end that I felt totally different about them. Like some of them, they just felt like, it felt like they were going through the journey with me and it just, I felt a bond with them in the end. In the beginning, no, but in the end I could see that a few of them, their hearts, their hearts were in it.<sup>125</sup>



As the testimony demonstrates in these examples of positive relationship, the police involved in organizing and supporting searches for missing women in relationship with family and Indigenous communities occupy a powerful position that can shape the path of healing or further harm – at times, regardless of the outcome of the search.

This chapter has documented important barriers to justice, including those rooted in inter-generational trauma; in social, economic, and political marginalization; in lack of political and institutional will; and in a failure to acknowledge the agency and expertise of Indigenous women, girls, 2SLGBTQQIA people, and their families. Within both an Indigenous and human rights framework, these encounters highlight crucial disconnections between Indigenous Peoples and justice systems, where the basic right to justice is compromised. We have also looked to different solutions, both human rights-based and Indigenous-led, to argue that finding justice for those victims and preventing violence for the future rest in a fundamental reorientation of relationships among Indigenous women, girls, and 2SLGBTQQIA people, society, and the institutions designed to protect.



## Findings: Right to Justice

- The Canadian justice system is premised on settler-colonial society's values, beliefs, laws, and policies. It is a justice system that fails to include Indigenous concepts of justice. The Canadian justice system has been imposed on Indigenous Peoples and has oppressed and replaced the Indigenous justice systems that served Indigenous communities effectively since time immemorial.
- The government of Canada used the Royal Canadian Mounted Police (RCMP) and its predecessor, the Northwest Mounted Police, to implement and enforce laws and policies designed to control, assimilate, or eliminate Indigenous Peoples. On behalf of the Government of Canada, the RCMP: ensured the forced relocations of Indigenous communities; removed children from their families and communities to place them in residential schools; enforced laws that prohibited traditional spirituality and ceremonies; enforced the *Indian Act* governance structures, including the pass system, at the behest of Indian agents; facilitated the apprehension of children during the Sixties Scoop; and enforced other discriminatory and oppressive legislation and policies.
- This historic role of the RCMP has not changed significantly. The RCMP must still enforce present-day discriminatory and oppressive legislation and policies in areas such as child welfare and land and resource disputes.
- The historic and present-day role of the RCMP, the continued racism and sexism by many RCMP officers directed at Indigenous Peoples, the high rates of missing and murdered Indigenous women, girls, and 2SLGBTQQIA people, and lack of resolve have caused many Indigenous Peoples and communities to lose trust and confidence in the Canadian justice system, the RCMP, and police services in general.
- The language used in the Canadian justice system, especially the language used in the *Criminal Code* and in criminal justice proceedings, minimizes the nature and severity of violent offences and serves to minimize the responsibility of the offender and the impact of the crime.
- The Canadian criminal justice system fails to provide justice for Indigenous people, especially missing and murdered Indigenous women, girls, and 2SLGBTQQIA people. The system's failure to effectively hold accountable those who commit violence against Indigenous women, girls, and 2SLGBTQQIA people means that violence against Indigenous women, girls, and 2SLGBTQQIA people is met with impunity.
- The failure of the Canadian justice system to protect Indigenous women, girls, and 2SLGBTQQIA people is well established and documented by the Royal Commission on Aboriginal Peoples and the Aboriginal Justice Inquiry of Manitoba. The lack of effective response by the federal government, in particular, to remedy this failure prevents the fundamental paradigm shift that is imperative to end the genocide.



### **Victims Services Programs**

- In many provinces and territories, victim services programs do not have sustainable, long-term funding. As a result, victim services programs in Canada are inconsistently delivered across jurisdictions.
- Victim services programs are often designed to facilitate prosecution and conviction instead of meeting the justice, safety, security, and health and wellness needs of victims of violence. This means that the onus is on the victim to seek out help to meet their needs. This places the victim in the position of navigating a complicated system at a time of trauma, often to find that the services they need do not exist.
- In addition, victim services programs do not necessarily take into account the cultural and social realities and needs of Métis, Inuit, and First Nations women, girls, and 2SLGBTQQIA people, and often lack cultural safety and language accessibility. They are limited in terms of time and scope of services and eligibility. Governments have a positive obligation to deliver victim services as a human right and to resource these services appropriately.

### **Legal Aid and Legal Instruments**

- Legal aid systems and services are inadequate, inaccessible, and inconsistent. As a result, access to courts, dispute resolution mechanisms, and legal remedies is inadequate and inconsistent. The inaccessibility of the justice system continues to be a barrier for many Indigenous women, girls, and 2SLGBTQQIA people seeking to assert their rights. Any meaningful recourse that the Canadian justice system can offer Indigenous women, girls, and 2SLGBTQQIA people is inaccessible for many people, due to geographical isolation, cost, language and other barriers, and lack of legal services.
- Legal instruments designed to provide protection, such as protection orders, are underutilized and ineffective because of inadequate community resources and enforcement mechanisms. Therefore, they do not adequately protect Indigenous women, girls, and 2SLGBTQQIA people.

### **Sentencing**

- There is a commonly held belief that Indigenous offenders receive more lenient sentences because of the application of the Gladue principles at sentencing; there is also a commonly held belief that all offenders receive a more lenient sentence when the victim is an Indigenous woman, girl, or 2SLGBTQQIA person.
- There is a lack of research about the effectiveness of Gladue principles and section 718.2(e) of the *Criminal Code* on the safety of Indigenous women, girls, and 2SLGBTQQIA people and Indigenous communities. In any event, sentencing, as it is currently carried out, is not resulting in creating safer communities or reducing the rates of violence against Indigenous women, girls, and 2SLGBTQQIA people.



- The objectives of section 718.2(e) of the *Criminal Code* and Gladue principles are not being met with respect to the incarceration of Indigenous women, as those rates are increasing.
- The application of Gladue principles and the production of Gladue reports are not consistent between jurisdictions. There are no established standards for what must be included and considered in such reports.
- Those in the justice system have not considered Gladue reports as a right, and Gladue reports have not been accessible to women facing sentencing or properly applied by courts and corrections.
- Gladue reports have limited value when the infrastructure and resources for alternatives to incarceration, such as community-based rehabilitation and healing-focused services, are not available in the community to support sentencing options.
- The use of Gladue reports and sentencing principles are not adequately explained to families and survivors. The manner with which prosecutorial discretion is exercised in cases involving Indigenous women, girls, and 2SLGBTQQIA people has left many families and Indigenous people to question the quality of prosecution and to believe racism and sexism have played a role in that. Families are led to believe that prosecution services, lawyers, and judges do not put the same value on their lives and the lives of their murdered loved ones as is placed on the lives of non-Indigenous people.
- Many cases of the murder of Indigenous women, girls, and 2SLGBTQQIA people by their intimate partners occurred in the context of a pattern of ongoing and escalating violence and abuse. The principles of sentencing as set out in the *Criminal Code* generally are not properly explained to victims and families. Further *Criminal Code* sentencing principles are not always consistent with Indigenous Peoples' principles and values. These factors contribute to Indigenous Peoples' distrust of the justice system.
- There is a lack of transparency regarding plea negotiations and the exercise of prosecutorial discretion generally, which further contributes to Indigenous Peoples' distrust of the justice system and a sense that Indigenous victims of crime are devalued.



## Notes

- 1 Bernice C. (Sagkeeng First Nation), Part 1, Public Volume 15, Winnipeg, MB, p. 14.
- 2 Bernice C. (Sagkeeng First Nation), Part 1, Public Volume 15, Winnipeg, MB, pp. 47-48.
- 3 Cheryl M. (Mi'kmaq), Part 1, Public Volume 18, Membertou, NS, p. 13.
- 4 Cheryl M. (Mi'kmaq), Part 1, Public Volume 18, Membertou, NS, p. 19.
- 5 Cheryl M. (Mi'kmaq), Part 1, Public Volume 18, Membertou, NS, p. 7; Mont, "Victoria Rose Paul: Investigation Report."
- 6 Bernice C. (Sagkeeng First Nation), Part 1, Public Volume 15, Winnipeg, MB, pp. 38-39.
- 7 World Justice Project, "What is the Rule of Law?"
- 8 United Nations General Assembly, "Declaration of Basic Principles of Justice."
- 9 United Nations General Assembly, "Declaration of the High-Level Meeting," para. 14 and 15 as quoted in United Nations Development Programme, "Access to Justice."
- 10 *Ibid.*, para. 13.
- 11 United Nations Development Programme, "Access to Justice," 6.
- 12 *Ibid.*, 3-4.
- 13 *Ibid.*, 5.
- 14 Campbell, "New light on Saskatoon's 'Starlight Tours'"; Brave NoiseCat, "I Am Colten Boushie."
- 15 See Shantz, "Another deadly year."
- 16 Blu W. (Cree/Mi'kmaq/Métis), Part 1, Public Volume 117, Vancouver, BC, pp. 33-34.
- 17 Amnesty International Canada, *Stolen Sisters*.
- 18 Kassandra Churcher, Mixed Parts 2 & 3, Public Volume 7, Quebec City, QC.
- 19 Kassandra Churcher, Mixed Parts 2 & 3, Public Volume 7, Quebec City, QC., p. 33.
- 20 Correctional Investigator of Canada, *Office of the Correctional Investigator Annual Report 2017-2018*.
- 21 Kassandra Churcher, Mixed Parts 2 & 3, Public Volume 7, Quebec, QC, pp. 35-36.
- 22 Kassandra Churcher, Mixed Parts 2 & 3, Public Volume 7, Quebec City, QC, p. 36.
- 23 Marilyn W. (Cree). Part 1, Public Volume 30, Saskatoon, SK, p. 20.
- 24 Kassandra Churcher, Mixed Parts 2 & 3, Public Volume 7, Quebec, QC, pp. 38-39.
- 25 Interview with Bernie Williams and Audrey Siegl, September 30, 2018, by Kelsey Hutton, pp. 43-44.
- 26 Conroy and Cotter, "Self-reported Sexual Assault," p. 16.
- 27 Bernice C. (Sagkeeng First Nation), Part 1, Public Volume 15, Winnipeg, MB, pp. 48-49.
- 28 Kassandra Churcher, Mixed Parts 2 & 3, Public Volume 7, Quebec City, QC, p. 39.
- 29 Marlene J., Part 1, Public Volume 6, Smithers, BC, p. 44.
- 30 Jennisha Wilson, Mixed Parts 2 & 3, Public Volume 16, St. John's, NL, p. 131.
- 31 Michele G. (Musqueam), Part 1, Public Volume 84, Vancouver, BC, p. 67.
- 32 A.B. (Squamish Nation), Part 1, Statement Volume 367, Vancouver, BC, p. 26.
- 33 Farida Deif, Part 3, Public Volume 9, Toronto, ON, p. 88.
- 34 Jamie L. H. (Indigenous/Irish), Part 1, Public Volume 78, Vancouver, BC, pp. 24-25.
- 35 Dr. Robyn Bourgeois (Cree), Mixed Parts 2 & 3, Public Volume 17, St. John's, NL, p. 52.
- 36 Chief Terry Armstrong, Mixed Parts 2 & 3, Public Volume 5, Quebec City, QC, p.139; Retired Chief Clive Weighill, Part 2, Public Volume 8, Regina, SK, p. 62.
- 37 Farida Deif, Part 3, Public Volume 9, Toronto, ON, pp. 93-94.
- 38 Farida Deif, Part 3, Public Volume 9, Toronto, ON, pp. 90-91.
- 39 Farida Deif, Part 3, Public Volume 9, Toronto, ON, p. 83.
- 40 Translation ours. Lise J. (Innu), Part 1, Public Volume 32, Maliotenam, QC, p. 109.
- 41 Mealia Sheutiapik (Inuit, Frobisher Bay), Mixed Parts 2 & 3, Public Volume 16, St. John's, NL, p. 25.
- 42 Lanna Moon Perrin (Anishinaabe), Mixed Parts 2 & 3, Public Volume 17, St. John's, NL, pp. 204-205.
- 43 Farida Deif, Part 3, Public Volume 9, pp. 83, 92-93.
- 44 Farida Deif, Part 3, Public Volume 9, Toronto, ON, p. 93.



- 45 Kassandara Churcher, Mixed Parts 2 & 3, Public Volume 7, Quebec, QC, p. 37.
- 46 Kassandara Churcher, Mixed Parts 2 & 3, Public Volume 7, Quebec, QC, p. 37.
- 47 RCMP, “Missing and Murdered.”
- 48 Human Rights Watch, *Those Who Take Us Away*, p. 80. See also, “Summary of the Forensic Document Review Project,” Annex 1, Volume 1b, in this report.
- 49 Bernice C. (Sagkeeng First Nation), Part 1, Public Volume 15, Winnipeg, MB, p. 17.
- 50 Bernice C. (Sagkeeng First Nation), Part 1, Public Volume 15, Winnipeg, MB, pp. 15-16.
- 51 Bernice C. (Sagkeeng First Nation), Part 1, Public Volume 15, Winnipeg, MB, pp. 22-23.
- 52 Bernice C. (Sagkeeng First Nation), Part 1, Public Volume 15, Winnipeg, MB, p. 23.
- 53 Bernice C. (Sagkeeng First Nation), Part 1, Public Volume 15, Winnipeg, MB, p. 29.
- 54 Bernice C. (Sagkeeng First Nation), Part 1, Public Volume 15, Winnipeg, MB, pp. 23-24.
- 55 Bernice C. (Sagkeeng First Nation), Part 1, Public Volume 15, Winnipeg, MB, p. 29.
- 56 Tanya Talaga (Anishinaabe/Polish), Part 3, Public Volume 10, Toronto, ON, p. 64.
- 57 Pamela F. (Burnt Church First Nation), Part 1, Public Volume 44(b), Moncton, NB, p. 11.
- 58 Pamela F. (Burnt Church First Nation), Part 1, Public Volume 44(b), Moncton, NB, pp. 12-13.
- 59 Pamela F. (Burnt Church First Nation), Part 1, Public Volume 44(b), Moncton, NB, p. 13.
- 60 Paul T. (Mikisew Cree Nation), Part 1, Public Volume 20, Edmonton, AB, p. 14.
- 61 United Nations, “CCPR/C/CAN/CO/6 – Concluding observations on the sixth periodic report of Canada.”
- 62 Marilyn W. (Cree), Part 1, Public Volume 30, Saskatoon, SK, pp. 4-5.
- 63 Tom C., Part 1, Public Volume 4, Smithers, BC, p. 113.
- 64 Tom C., Part 1, Public Volume 4, Smithers, BC, pp. 134-135.
- 65 Pamela F. (Burnt Church First Nation), Part 1, Public Volume 44(b), Moncton, NB, p. 14.
- 66 Delores S. (Saulteaux, Yellow Quill First Nation), Part 1, Public Volume 26, Saskatoon, SK, p. 27.
- 67 Marilyn W. (Cree), Part 1, Public Volume 30, Saskatoon, SK, pp. 12-13.
- 68 For example, see Human Rights Watch, *Those Who Take Us Away*.
- 69 Commissioner Brenda Lucki, Part 2, Public Volume 7, Regina, SK, pp. 10-11; Deputy Commissioner Brenda Butterworth-Car (Tr’ondëk Hwëch’in Hän Nation), Part 2, Public Volume 9, Regina, SK, pp. 326-27; Chief Superintendent Mark Pritchard, Part 2, Public Volume 9, Regina, SK, pp. 216-217, 222, 236-237.
- 70 Farida Deif, Part 3, Public Volume 9, Toronto, ON, p. 102.
- 71 Chief Terry Armstrong, Mixed Parts 2 & 3, Public Volume 5, Quebec City, QC, p. 55.
- 72 Mike Metatawabin (Fort Albany First Nation), Mixed Parts 2 & 3, Public Volume 5, Quebec City, QC, pp. 45-53.
- 73 Paul T. (Mikisew Cree Nation). Part 1, Public Volume 20, Edmonton, AB, pp. 14-15.
- 74 Delores S. (Saulteaux, Yellow Quill First Nation), Part 1, Public Volume 26, Saskatoon, SK, p. 18.
- 75 Lillian S. (Mishkeegogamang Ojibway Nation), Part 1, Public Volume 38, Thunder Bay, ON, pp. 18-20.
- 76 Naomi Giff-MacKinnon, Part 2, Volume 1, Calgary, AB, p. 141.
- 77 Carol W. (Muskeg Lake Cree Nation), Part 1, Public Volume 31, Saskatoon, SK, p. 57.
- 78 John Phelps, Part 2, Public Volume 1, Calgary, AB; Naomi Giff-MacKinnon, Part 2, Public Volume 1, Calgary, AB.
- 79 Naomi Giff-MacKinnon, Part 2, Public Volume 1, Calgary, AB, p. 142.
- 80 Naomi Giff-MacKinnon, Part 2, Public Volume 1, Calgary, AB, p. 140.
- 81 Naomi Giff-MacKinnon, Part 2, Public Volume 1, Calgary, AB, pp. 141-142.
- 82 Fred F., Part 1, Public Volume 44(b), Moncton, NB, p. 63.
- 83 John Phelps, Part 2, Public Volume 1, Calgary, AB, p. 58.
- 84 John Phelps, Part 2, Public Volume 1, Calgary, AB, p. 53.
- 85 John Phelps, Part 2, Public Volume 1, Calgary, AB, pp. 59-60.



- 86 Blu W. (Cree/Mi'kmaq/Métis), Part 1, Public Volume 117, Vancouver, BC, pp. 28-29, 32-33.
- 87 Charlotte M. (Kitchenuhmaykoosib Inninuwug First Nation), Part 1, Public Volume 38, Thunder Bay, ON, p. 107.
- 88 Marilyn W. (Cree), Part 1, Public Volume 30, Saskatoon, SK, pp. 8-9.
- 89 Pamela F. (Burnt Church First Nation), Part 1, Public Volume 44(b), Moncton, NB, p. 63.
- 90 Dr. Robyn Bourgeois (Cree), Mixed Parts 2 & 3, Public Volume 17, St. John's, NL, pp. 49-50.
- 91 Fred F., Part 1, Public Volume 44(b), Moncton, NB, pp. 40-41
- 92 Fred F., Part 1, Public Volume 44(b), Moncton, NB, p. 41.
- 93 Leanne Gardiner, Part 2, Public Volume 1, Calgary, AB, p. 87.
- 94 Betty Ann Pottruff, Part 2, Public Volume 1, Calgary, AB, p. 178.
- 95 Marilyn W. (Cree), Part 1, Public Volume 30, Saskatoon, SK, pp. 9-10.
- 96 Delores S. (Saulteaux, Yellow Quill First Nation), Part 1, Public Volume 26, Saskatoon, SK, p. 28. Since providing their testimony, additional information about the investigation into the death of Nadine M. has been made public through the release of a report that reviews the investigation and identifies procedural errors, lack of leadership, and poor communication. For more information see Leo, "The whole investigative system."
- 97 Marilyn W. (Cree), Part 1, Public Volume 30, Saskatoon, SK, p. 10.
- 98 Commissioner Brenda Lucki, Part 2, Public Volume 6, Regina, SK, p. 34.
- 99 Marilyn W. (Cree), Part 1, Public Volume 30, Saskatoon, SK, pp. 16-17.
- 100 Pamela F. (Burnt Church First Nation), Part 1, Public Volume 44(b), Moncton, NB, p. 11.
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