

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



Cette publication est également disponible en français :

Réclamer notre pouvoir et notre place : le rapport final de l'enquête sur les  
femmes et les filles autochtones disparues et assassinées, volume 1a

CP32-163/2-1-2019E-PDF

ISBN: 978-0-660-29274-8

COVER IMAGE:

Special thanks to the artists whose work appears on the cover of this report:

Dee-Jay Monika Rumbolt (Snowbird), for *Motherly Love*  
The Saa-Ust Centre, for the star blanket community art piece  
Christi Belcourt, for *This Painting is a Mirror*



# Table of Contents

## Preface

Acknowledgements	1
Foreword by Chief Commissioner Marion Buller	5
Foreword by Commissioner Michèle Audette	7
Foreword by Commissioner Qajaq Robinson	9
Foreword by Commissioner Brian Eyolfson	11
Foreword by Executive Director Jennifer Rattray	13
Foreword by Director of Research Dr. Karine Duhamel	14
Reflections from the National Family Advisory Circle (NFAC)	15
Our Women and Girls Are Sacred: Reflections from the National Inquiry Elders and Grandmothers Circle	33
Introduction to the Final Report: Understanding Violence against Indigenous Women, Girls, and 2SLGBTQQIA People	49

## **Introduction to Section 1: Establishing a New Framework** 89

<b>CHAPTER 1: Centring Relationships to End Violence</b>	<b>93</b>
Introduction: Building a Solid Foundation	93
Why Start with Relationships?	95
Encounters That Make a Difference	98
An Intersectional Approach to Encounters	102
Four Pathways That Maintain Colonial Violence	111
Indigenous Women, Girls, and 2SLGBTQQIA People as Rights Holders	117
Promoting and Maintaining Healthy Encounters	122
Conclusion: Bringing It All Together	124

<b>CHAPTER 2: Indigenous Recognitions of Power and Place</b>	129
Introduction: Women Are the Heart of Their Communities	129
Two-Eyed Seeing: Diverse Legal Orders and Inherent Indigenous Laws	132
Understanding How Laws Are Lived, in Community	137
Stories as Rights, Stories as Medicine	140
Indigenous Expressions of the Right to Culture, Health, Safety, and Justice	145
Existing Systems of Relationship, Governance, and Identity	162
Conclusion: Finding Solutions through New Relationships	173
<b>CHAPTER 3: Emphasizing Accountability through Human Rights Tools</b>	181
Introduction: Why Human Rights?	181
The International Human Rights Context	183
Applying International Human Rights Instruments to Ensure Accountability	199
Domestic Rights Instruments in Canada	202
Indigenous Rights and Human Rights: A Complicated Relationship	218
Conclusion: Understanding the Need for Self-Determined Solutions	221
<b>CHAPTER 4: Colonization as Gendered Oppression</b>	229
Introduction: The Context of Colonization for Indigenous Women, Girls, and 2SLGBTQIA People	229
Understanding Colonization as a Structure	231
The Logic of Discovery: Early European Exploration among First Nations and Impacts on Gender Relations	234
A Religious Enterprise: Early Colonization among First Nations and Métis	236
The Early Colonial Context of Violence against Gender-Diverse People	239
Complex Relationships in Fur Trade Country	241
For Queen and Country: Shifting First Nations Experiences within the Context of Canada	244
Colonial Encounter: Distinctive Métis Experiences	283
Colonial Encounter: Distinctive Inuit Experiences	294
Conclusion: A Crisis Centuries in the Making	312

<b>Introduction to Section 2: Encountering Oppression</b>	<b>321</b>
<b>CHAPTER 5: Confronting Oppression – Right to Culture</b>	<b>327</b>
Introduction: Identity and Culture	327
Defining “Culture”	329
Pathway to Violence: Intergenerational and Multigenerational Trauma	331
Deeper Dive: The Need for a Systems-Level Approach to Transforming Child Welfare	339
Pathway to Violence: Social and Economic Marginalization	379
Pathway to Violence: Lack of Will and Insufficient Institutional Responses	381
Deeper Dive: Media and Representation	385
Pathway to Violence: Denying Agency and Expertise in Restoring Culture	397
Self-Determined and Decolonized Systems	399
Linking Culture to International Human Rights Instruments	402
Conclusion: “Stop making an industry out of me”	406
Findings: Right to Culture	408
<b>CHAPTER 6: Confronting Oppression – Right to Health</b>	<b>413</b>
Introduction: Connecting Health and Safety	413
Defining “Health”	414
Current Approaches to Health in Canada	418
Pathway to Violence: Intergenerational and Multigenerational Trauma	420
Pathway to Violence: Social and Economic Marginalization	442
Deeper Dive: Understanding Distinctive Experiences of Danger in the Lives of 2SLGBTQQA People	447
Pathway to Violence: Lack of Will and Insufficient Institutional Responses	461
Deeper Dive: Issues Specific to Inuit and Remote Communities	472
Pathway to Violence: Denying Agency and Expertise in Restoring Health	488
Connecting to International Human Rights	493
Conclusion: Creating a New Normal	497
Findings: Right to Health	498

<b>CHAPTER 7: Confronting Oppression – Right to Security</b>	503
Introduction: “We’re not safe. Nobody is safe.”	503
Defining “Human Security”	504
Pathway to Violence: Intergenerational Trauma and Interpersonal Violence	508
Pathway to Violence: Social and Economic Marginalization	519
Deeper Dive: Understanding Intersectional Métis Experiences	526
Deeper Dive: Enhancing Interjurisdictional Cooperation to Promote Safety	561
Pathway to Violence: Lack of Will and Insufficient Institutional Responses	575
Deeper Dive: Resource Extraction Projects and Violence Against Indigenous Women	584
Pathway to Violence: Denying Agency and Expertise in Restoring Safety	595
International Human Rights Instruments and Human Security	608
Conclusion: Challenging “the way it is”	612
Findings: Right to Security	614
<b>CHAPTER 8: Confronting Oppression – Right to Justice</b>	621
Introduction: “Safety and justice and peace are just words to us”	621
Defining “Justice”	623
Pathway to Violence: Intergenerational and Multigenerational Trauma	627
Pathway to Violence: Social and Economic Marginalization	631
Deeper Dive: Criminalizing and Incarcerating Indigenous Women	635
Pathway to Violence: Lack of Will and Insufficient Institutional Responses	648
Deeper Dive: The Sex Industry, Sexual Exploitation, and Human Trafficking	656
Deeper Dive: The Need to Reform Law Enforcement to Increase Safety	674
Pathway to Violence: Denying Agency and Expertise in Restoring Justice	703
International Human Rights Instruments and Principles of Justice	711
Conclusion: Reinventing the Relationship	715
Findings: Right to Justice	717





## 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.

# PREFACE



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



# PREFACE



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.







## 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

## P R E F A C E

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





## Jennifer Rattray, Executive Director

I would like to express my gratitude and a profound thank you to the family members and survivors I have met since joining the National Inquiry, and all those I met before. You guide this work every step of the way and it is my hope that you see yourselves throughout this *Final Report*. Collectively we have taken a non-Indigenous legal process, and tried to transform it into a process that is worthy of your Truths.

I would like to thank Chief Commissioner Buller, Commissioner Audette, Commissioner Robinson and Commissioner Eyolfson. Your vision, commitment and steadfast leadership is an inspiration and an example of what can be done when we come together to make the change we want to see in the world. Working together, the sum is truly greater than its parts. It has been a gift to work with you.

I would like to thank our staff and every one of our dedicated team members. You gave the very best of yourselves, despite many personal sacrifices. No one will ever know all of the hours you spent, late at night and in the early hours of the morning, to do this work in a good way. I see your heart and your excellence on every page of this report.

I thank my ancestors for all they sacrificed. You guide me each day and I am here because of you. Thank you to the Elders and Grandmothers, mentors, colleagues and friends in my life for your unwavering encouragement and support. And thank you to my family, my husband and son, who are my light and my life.

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.

With a full heart, *ekosani*.



## Dr. Karine R. Duhamel, Director of Research

**A**s I look back over the past year since I first joined the National Inquiry into Missing and Murdered Indigenous Women and Girls, I realize how far we have come and how much I've learned. I've learned from my co-workers, from my fellow directors, and from Commissioners, but most of all – I've learned from the Elders, Grandmothers, the families, and the survivors. While this journey has not always been without its challenges for me, both personally and professionally, I am honoured and humbled by the incredible trust placed in us, to hear these truths and to share them within this report.

This National Inquiry represents a historic moment, yes – but also a historic opportunity. We must look up, look forward, look within – and refuse to turn away. The solutions proposed in this report can make this world safer for Indigenous women, girls, and 2SLGBTQQIA people because they are fundamentally based on the experiences that were shared and on the collective wisdom that was generated out of a process that challenged “the rules” and that sought to do things differently.

While this hasn't always been a smooth process, I hope that this report and that this work make a difference; I hope it's not like every other public inquiry, or commission. I hope that the governments, institutions, and service providers will listen, and act on the advice and the needs of survivors and families whose words represent the heart of this report, and will work to fulfill their obligations within the context of Indigenous and human rights. I hope that the vision we have outlined and the obligations we have set forth reflect the needs of those who came forward to share their truths and experiences, and I hope that they ultimately contribute to a better world for all Indigenous women, girls, and 2SLGBTQQIA people – those close to me, and those who I don't yet know.

As this report emphasizes, each of us has a role. For me, this work is about reclaiming power and place; it is about becoming who we ought to be, as Indigenous women, and claiming the space we need to do it.

Miigwetch for the patience of my family throughout this process and for the trust placed in me by our tireless and dedicated staff, by the Executive Director, by the Commissioners, and of course, by family members and by survivors; I carry your truths in my heart, in my work, and in all my actions into the future.

All my relations.



## 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 an 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 sɣtɛmtəna: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 2SLGBTQIA 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>

- 
- |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>1 Interview with Pénélope Guay, September 18, 2018, by Annie Bergeron, p. 6.</p> <p>2 Interview with Laureen “Blu” Waters, October 4, 2018, by Kelsey Hutton, p. 12.</p> <p>3 Some quotes have been edited for clarity in collaboration with the Grandmothers.</p> <p>4 Interview with Laureen “Blu” Waters, October 4, 2018, by Kelsey Hutton, p. 7.</p> <p>5 Interview with Pénélope Guay, September 18, 2018, by Annie Bergeron, p. 22.</p> <p>6 Interview with Louise Haulli, September 14, 2018, by Lisa Koperqualuk, p. 3 and 9.</p> <p>7 Interview with Kathy Louis, September 26, 2018, by Kelsey Hutton, p. 42.</p> <p>8 Interview with Leslie Spillett, December 4, 2018, by Kelsey Hutton, pp. 3-4.</p> <p>9 Interview with Laureen “Blu” Waters, October 4, 2018, by Kelsey Hutton, p. 5.</p> <p>10 Interview with Bernie Williams and Audrey Siegl, September 30, 2018, by Kelsey Hutton, p. 6.</p> <p>11 Interview with Bernie Williams and Audrey Siegl, September 30, 2018, by Kelsey Hutton, p. 2.</p> <p>12 Interview with Bernie Williams and Audrey Siegl, September 30, 2018, by Kelsey Hutton, pp. 12-13.</p> <p>13 Interview with Bernie Williams and Audrey Siegl, September 30, 2018, by Kelsey Hutton, p. 63.</p> | <p>14 Interview with Louise Haulli, September 14, 2018, by Lisa Koperqualuk, pp. 1-2.</p> <p>15 Interview with Pénélope Guay, September 18, 2018, by Annie Bergeron, pp. 2-3.</p> <p>16 Interview with Laureen “Blu” Waters, October 4, 2018, by Kelsey Hutton, p. 26.</p> <p>17 Interview with Pénélope Guay, September 18, 2018, by Annie Bergeron, pp. 7-8.</p> <p>18 Interview with Pénélope Guay, September 18, 2018, by Annie Bergeron, p. 8.</p> <p>19 Interview with Laureen “Blu” Waters, October 4, 2018, by Kelsey Hutton, p. 14.</p> <p>20 Interview with Laureen “Blu” Waters, October 4, 2018, by Kelsey Hutton, p. 15.</p> <p>21 Interview with Bernie Williams and Audrey Siegl, September 30, 2018, by Kelsey Hutton, p. 22.</p> <p>22 Interview with Bernie Williams and Audrey Siegl, September 30, 2018, by Kelsey Hutton, pp. 22-23.</p> <p>23 Interview with Kathy Louis, September 26, 2018, by Kelsey Hutton, p. 114.</p> <p>24 Interview with Kathy Louis, September 26, 2018, by Kelsey Hutton, pp. 115-116.</p> <p>25 Interview with Laureen “Blu” Waters, October 4, 2018, by Kelsey Hutton, pp. 13-14.</p> <p>26 Interview with Laureen “Blu” Waters, October 4, 2018, by Kelsey Hutton, p. 19.</p> |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

# FOREWORD

- 27 Interview with Laureen “Blu” Waters, October 4, 2018, by Kelsey Hutton, p. 16.
- 28 Interview with Laureen “Blu” Waters, October 4, 2018, by Kelsey Hutton, p. 18.
- 29 Interview with Leslie Spillett, December 4, 2018, by Kelsey Hutton, p. 29.
- 30 Interview with Bernie Williams and Audrey Siegl, September 30, 2018, by Kelsey Hutton, p. 74.
- 31 Interview with Laureen “Blu” Waters, October 4, 2018, by Kelsey Hutton, pp. 25-26.
- 32 Interview with Leslie Spillett, December 4, 2018, by Kelsey Hutton, p. 16.
- 33 Interview with Pénélope Guay, September 18, 2018, by Annie Bergeron, p. 13.
- 34 Interview with Kathy Louis, September 26, 2018, by Kelsey Hutton, p. 100-101.
- 35 Interview with Kathy Louis, September 26, 2018, by Kelsey Hutton, p. 44.
- 36 Interview with Kathy Louis, September 26, 2018, by Kelsey Hutton, p. 46.
- 37 Interview with Leslie Spillett, December 4, 2018, by Kelsey Hutton, p. 17.
- 38 Interview with Leslie Spillett, December 4, 2018, by Kelsey Hutton, pp. 19-20.
- 39 Interview with Leslie Spillett, December 4, 2018, by Kelsey Hutton, p. 38.
- 40 Interview with Louise Haulli, September 14, 2018, by Lisa Koperqualuk, p. 9.
- 41 Interview with Laureen “Blu” Waters, October 4, 2018, by Kelsey Hutton, p. p. 32.
- 42 Interview with Leslie Spillett, December 4, 2018, by Kelsey Hutton, p. 7.
- 43 Interview with Pénélope Guay, September 18, 2018, by Annie Bergeron, pp. 24-25.
- 44 Interview with Pénélope Guay, September 18, 2018, by Annie Bergeron, p. 26.
- 45 Interview with Louise Haulli, September 14, 2018, by Lisa Koperqualuk, pp. 5-6.
- 46 Interview with Bernie Williams and Audrey Siegl, September 30, 2018, by Kelsey Hutton, p. 54.
- 47 Interview with Bernie Williams and Audrey Siegl, September 30, 2018, by Kelsey Hutton, p. 56.
- 48 Interview with Leslie Spillett, December 4, 2018, by Kelsey Hutton, pp. 8-9.
- 49 Interview with Louise Haulli, September 14, 2018, by Lisa Koperqualuk, p. 3.
- 50 Interview with Pénélope Guay, September 18, 2018, by Annie Bergeron, p. 4.
- 51 Interview with Pénélope Guay, September 18, 2018, by Annie Bergeron, p. 16.
- 52 Interview with Bernie Williams and Audrey Siegl, September 30, 2018, by Kelsey Hutton, p. 29.
- 53 Interview with Bernie Williams and Audrey Siegl, September 30, 2018, by Kelsey Hutton, pp. 14-15.
- 54 Interview with Laureen “Blu” Waters, October 4, 2018, by Kelsey Hutton, p. 8.
- 55 Interview with Leslie Spillett, December 4, 2018, by Kelsey Hutton, p. 5.
- 56 Interview with Leslie Spillett, December 4, 2018, by Kelsey Hutton, p. 34.
- 57 Interview with Leslie Spillett, December 4, 2018, by Kelsey Hutton, p. 39.
- 58 Interview with Laureen “Blu” Waters, October 4, 2018, by Kelsey Hutton, p. 24.
- 59 Interview with Louise Haulli, September 14, 2018, by Lisa Koperqualuk, pp. 12-13.
- 60 Interview with Pénélope Guay, September 18, 2018, by Annie Bergeron, pp. 14-15.
- 61 Interview with Kathy Louis, September 26, 2018, by Kelsey Hutton, p. 30.
- 62 Remen, My Grandfather’s Blessings, 7, as quoted in Louis, p. 37.
- 63 Interview with Kathy Louis, September 26, 2018, by Kelsey Hutton, p. 23.
- 64 Interview with Pénélope Guay, September 18, 2018, by Annie Bergeron, p. 28.
- 65 Interview with Kathy Louis, September 26, 2018, by Kelsey Hutton, pp. 118 and 124.
- 66 Interview with Kathy Louis, September 26, 2018, by Kelsey Hutton, p. 126.
- 67 Interview with Bernie Williams and Audrey Siegl, September 30, 2018, by Kelsey Hutton, p. 81.
- 68 Interview with Bernie Williams and Audrey Siegl, September 30, 2018, by Kelsey Hutton, p. 79.
- 69 Interview with Bernie Williams and Audrey Siegl, September 30, 2018, by Kelsey Hutton, p. 7.
- 70 Interview with Bernie Williams and Audrey Siegl, September 30, 2018, by Kelsey Hutton, p. 82.





## 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 83 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 2SLGBTQQIA 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 2SLGBTQQIA 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 2SLGBTQQIA 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 2SLGBTQQIA 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 2SLGBTQIA 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, 2SLGBTQIA, 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 2SLGBTQIA 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 promoting 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 an 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 2SLGBTQQIA 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.

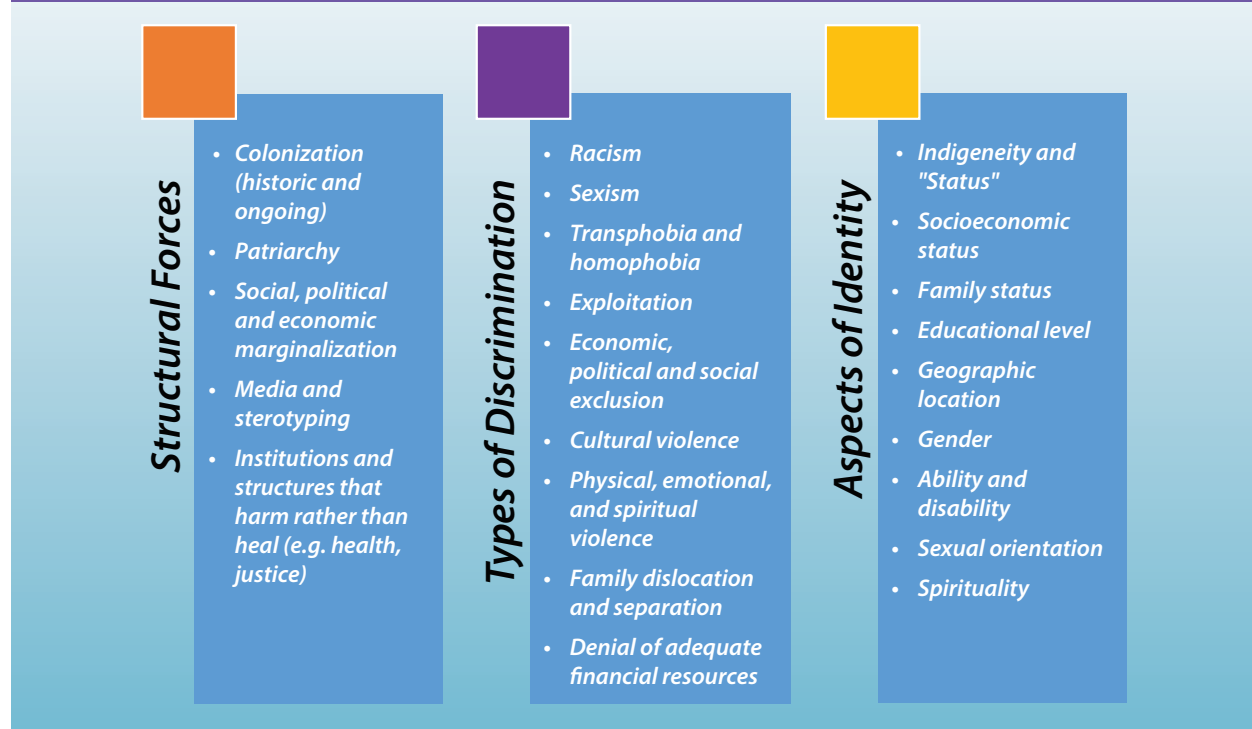
In the following chapters, we follow the lead of families and similarly highlight these important teachings. We often use the word “encounter” to describe these moments in order to signal their importance as a pivotal or distinct moment, which family members or survivors have detailed as the precise 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 2SLGBTQQIA 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.*

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 development 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 (Xwémalhkwu of the Coast Salish), Part 3, Public Volume 4, Quebec City, QC, p. 110.
- 46 Fay Blaney (Xwémalhkwu 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 2SLGBTQQIA 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 2SLGBTQQIA 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 (Xwémalhkwa 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.
- 95 Brafford and Thom, *Dancing Colors*; Anderson, *Life Stages and Native Women*.
- 96 Joan Scottie, in *Arnait Nipingit*, 119.
- 97 Anderson, *Life Stages and Native Women*; Cruikshank, *Life Lived Like a Story*.
- 98 Blackman and Davidson, *During My Time*.
- 99 Turnbaugh and Turnbaugh, *Basket Tales*.
- 100 Wight, “Women and Art in Salluit”; Graburn, *Eskimos Without Igloos*; Roberts, *The Inuit Artists of Sugluk*.
- 101 Anderson, “Leading by Action.”
- 102 Carter, “Your Great Mother”; Miller, “Victoria’s ‘Red Children.’”
- 103 Bringhurst, *A Story as Sharp*.
- 104 Amy Hudson (Inuit, NunatuKavut), Part 3, Public Volume 9, Toronto, ON, p. 151.
- 105 Anderson, *A Recognition of Being*, 65.
- 106 Joann Green (Heiltsuk), Part 1, Public Volume 90, Vancouver, BC, p. 18.
- 107 Cited in Morris, “Gifted Woman,” 76.
- 108 Anderson, “Leading by Action,” 113.
- 109 Bennett and Rowley, *Uqalurait*.
- 110 Anderson, *A Recognition of Being*, 95.
- 111 For more on Plains marriage traditions, see Carter, *The Importance of Being Monogamous*.
- 112 Anderson, *A Recognition of Being*, 30.
- 113 Pratt, Bone, and the Treaty and Dakota Elders of Manitoba, with contributions by the AMC Council of Elders, *Untuwe Pi Kin He*, 104.
- 114 Dr. Janet Smylie (Cree/Métis), Mixed Parts 2 & 3, Public Volume 2, Iqaluit, NU, p. 160.
- 115 Pauktuutit, “Midwifery.”
- 116 Bodenhorn, “I’m Not the Great Hunter.”
- 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.
- 119 Becky Kilabuk (Inuit, Pangnirtung), Mixed Parts 2 & 3, Public Volume 4, Iqaluit, NU, p. 241.
- 120 Albert McLeod (Nisichawayasihk Cree Nation/Métis community of Norway House), Part 3, Public Volume 8, Toronto, ON, p. 57.
- 121 Anderson, *A Recognition of Being*, 89.
- 121 Morris, “Gifted Woman.”
- 123 Boas, *The Social Organization*.
- 124 Jeffrey McNeil-Seymour (Tk’emlups te Secwepemc/English), Mixed Parts 2 & 3, Volume 4, Iqaluit, NU, p. 170.
- 125 Armstrong and Cardinal, *The Native Creative Process*, 102.
- 126 Anderson, *Life Stages and Native Women*.
- 127 Brody, *The Other Side of Eden*.
- 128 Trott, “The Gender of the Bear.”
- 129 Jeffrey McNeil-Seymour (Tk’emlups te Secwepemc/English), Mixed Parts 2 & 3, Public Volume 4, Iqaluit, NU, pp. 189, 193.
- 130 Albert McLeod (Nisichawayasihk Cree Nation/Métis community of Norway House), Part 3, Public Volume 8, Toronto, ON, p. 89.
- 131 Dr. Val Napoleon (Saulteau First Nation and Gitksan), Part 3, Public Volume 1, Winnipeg, MB, p. 110.
- 132 Dawnis Kennedy (Minnawaanigogizhigok) (Anishinaabe), Part 3, Public Volume 2, Winnipeg, MB, p. 189.
- 133 Dr. Val Napoleon (Saulteau First Nation and Gitksan), Part 3, Public Volume 2, Winnipeg, MB, p. 32.
- 134 Brenda Gunn (Métis), Part 3, Public Volume 6, Quebec City, QC, p. 71.
- 135 Interview with Bernie Williams and Audrey Siegl, September 30, 2018, by Kelsey Hutton, p. 81.
- 136 Dawnis Kennedy (Minnawaanigogizhigok) (Anishinaabe), Part 3, Public Volume 2, Winnipeg, MB, pp. 169-170.
- 137 Walsh, *Beginnings*, 26.
- 138 Anderson, *Life Stages of Native Women*.
- 139 Simpson and Ladner, *This Is an Honour Song*, 8.
- 140 Whiteduck, “But It’s Our Story.”







## 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 Dorrough, 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 2SLGBTQQA 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 2SLGBTQQA 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 2SLGBTQQIA 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.*

<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 2SLGBTQIA 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 2SLGBTQIA 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/aanc-inac/R32-429-1969-eng.pdf](http://publications.gc.ca/collections/collection_2018/aanc-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:

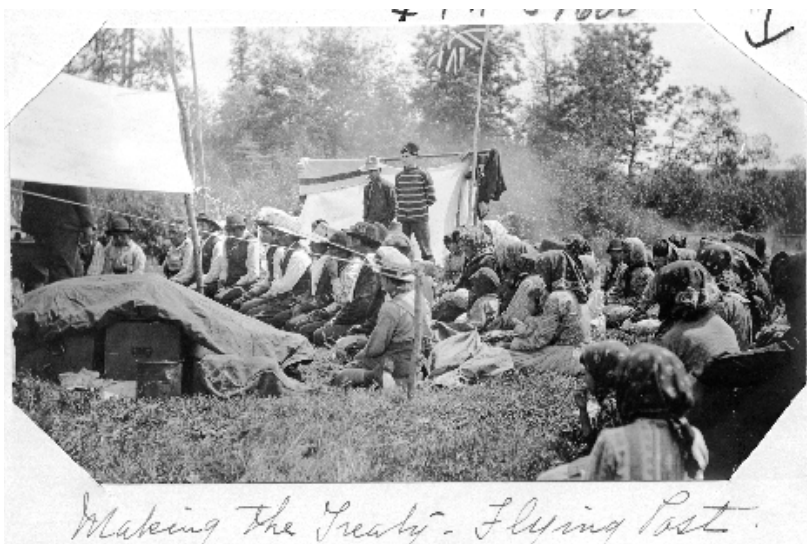
Us First Nations carry pain ... the land was taken away from us, our way of life. We used to follow the buffalo, and the buffalo was taken. We can no longer just go nomadically around because of the fences that were put up. We had freedom to go whenever we wanted on Turtle Island, and they took that 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

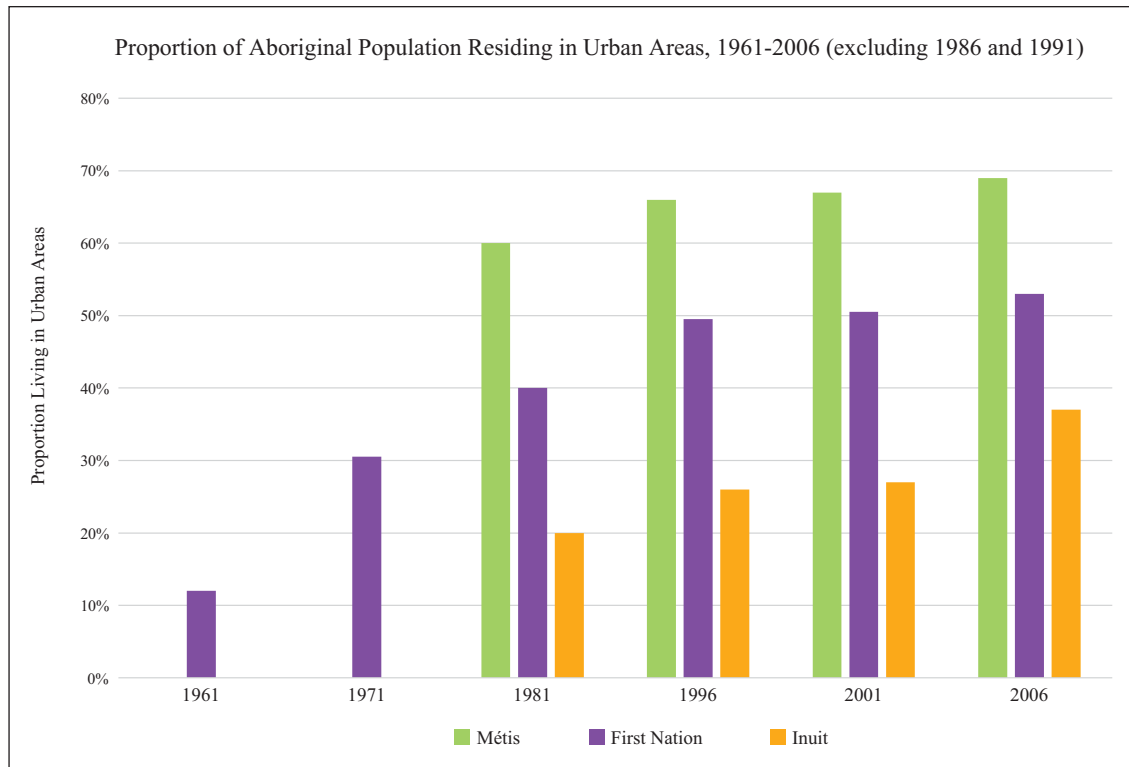
The relocation of Indigenous women to cities can be understood in the context of the harsh encounters with the Canadian state that resulted in dire social, economic, and political realities. The establishment of reserves in the 19th century and the forced relocation to lands that were unfit for agriculture, 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 2SLGBTQQIA 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.

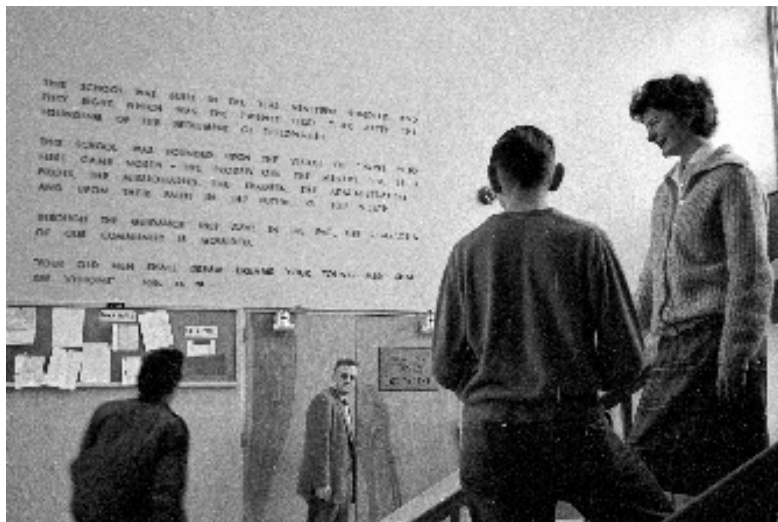


When Qallunaat first arrived to the North, they were very scary, such as RCMPs.... When they tell people, Inuit people, to do this and that, we had to – we had no choice but to say yes, and that’s from being scared, fear.... They came into the communities as if they were higher than Inuit, and Inuit 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.

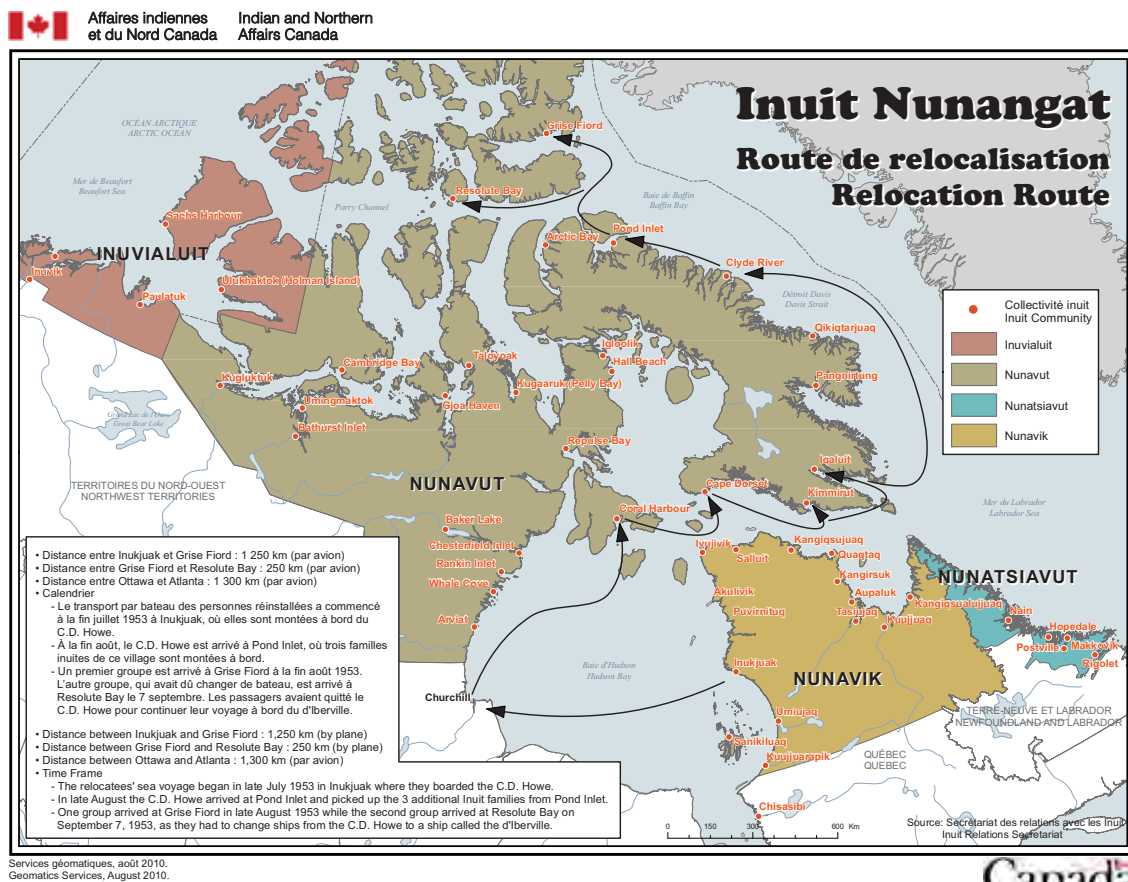
III Ibid., 23.

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>



*Qaqaqtunaaq, 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.*
- 64 "Traffic in Indian Girls" was the title of a news article that ran in the *Morning Press* (Toronto) on January 30, 1886, in which the writer alleged that Indian agents and contracts near Fort McLeod were smuggling whiskey and human traffic into the territories and sending the women to "frontier towns for immoral purposes." A copy of the article is available at <https://cdnc.ucr.edu/?a=d&d=MP18860130.2.5&e=-----en--20--1--txt-txIN-----1>.
- 65 Dominion of Canada, *Annual Report of the Department of Indian Affairs*, 1884, lix.
- 66 *The Criminal Code of the Dominion of Canada, as Amended in 1893*, s. 191 (a), (b), and (c).
- 67 Backhouse, "Nineteenth-Century Canadian Prostitution Law"; Bourgeois, "Race, Space, and Prostitution."
- 68 For more on this, see Shaver, "Prostitution"; Backhouse, "Nineteenth-Century Canadian Prostitution Law."
- 69 Rande C. (Kwakwaka'wakw), Part 1, Public Volume 94, Vancouver, BC, p. 37.
- 70 *Saskatchewan Herald*, 15 March 15, 1886, cited in Carter, *Capturing Women*, 188.
- 71 Daschuk, *Clearing the Plains*, 122, 134.
- 72 In CHC, Sessional Papers 14 33, no 15 (1909): 110, cited in Carter, *Capturing Women*, 162.
- 73 Carter, *Capturing Women*.
- 74 *Ibid.*, 172-174.
- 75 Quoted in Morgan, "The North-West Mounted Police," 56.
- 76 *Ibid.*
- 77 For a more detailed explanation, see Anderson, *A Recognition of Being*, 82-85.
- 78 Carter, *Capturing Women*, 165.
- 79 *Ibid.*, 183.
- 80 *Macleod Gazette*, March 16, 1886, cited in Carter, *Capturing Women*, 183.
- 81 *Ibid.*
- 82 Carter, *Capturing Women*, 167-68.
- 83 *Ibid.*, 169.
- 84 *Ibid.*, 181.
- 85 *Ibid.*
- 86 Macleod, *The North-West Mounted Police*, 145. See also National Archives, RG 18, vol. 24, file 667-1888, cited in Carter, *Capturing Women*, 189.
- 87 Smith, "Bloody Murder," 13, cited in Carter, *Capturing Women*, 189.
- 88 Gray, *Talk to My Lawyer!*, 7.
- 89 Adams, *Prison of Grass*, 78.
- 90 Interview with Bernie Williams and Audrey Siegl, September 30, 2018, by Kelsey Hutton, pp. 44-45.





- 91 See Miller, *Shingwauk's Vision*.
- 92 See also LeBeuf, *The Role of the Royal Canadian Mounted Police*.
- 93 APTN Investigates, [www.aptn.ca/news/wp-content/uploads/sites/4/2014/10/SchoolLetter1.jpg](http://www.aptn.ca/news/wp-content/uploads/sites/4/2014/10/SchoolLetter1.jpg).
- 94 Truth and Reconciliation Commission of Canada, Volume 1, 28.
- 95 Ibid., 681-685.
- 96 Ibid., 682.
- 97 McCallum, *Indigenous Women*, 32–33.
- 98 Ibid.
- 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>.
- 101 Truth and Reconciliation Commission of Canada, *The Survivors Speak*, 98.
- 102 Ibid., 95.
- 103 Ibid., 98.
- 104 Elaine D. (Métis), Part 1, Statement Volume 13, Smithers, BC, p. 12.
- 105 Shaun L. (Kaska Dena, Crow Clan), Part 1, Public Volume 3, Whitehorse, YT, p. 7.
- 106 Rande C. (Kwakwaka’wakw), Part 1, Public Volume 94, Vancouver, BC, pp. 28-29.
- 107 As quoted in Henderson, *Settler Feminism*, 179.
- 108 For a more detailed discussion, see Crews, “Biological Theory.”
- 109 Clément, “Eugenics.”
- 110 Ibid.
- 111 Eugenics Archive, “Feeble-mindedness.”
- 112 For more on the history of forced sterilization, see Stote, “The Coercive Sterilization.”
- 113 Kirkup, “Indigenous women coerced.”
- 114 *M.R.L.P. and S.A.T. v. The Attorney General of Canada, The Government of Saskatchewan, Saskatchewan Health Authority et. al.* (16 Feb. 2018), Q.B. No. 1485 of 2017 (Statement of Claim), accessed at <https://www.mauricelaw.com/upload/Class-Action-Docs/Notice-to-Defendants-Q.B.-No-1485-of-2017.pdf>.
- 115 See Norris and Clatworthy, “Urbanization and Migration Patterns.”
- 116 See Norris and Clatworthy, “Aboriginal Migration,” 3-5.
- 117 Ibid.
- 118 Price, Travato and Abada, “Urban Migration.”
- 119 Peters and Andersen, *Indigenous in the City*, 8-9.
- 120 McCallum, *Indigenous Women, Work, and History*, 7.
- 121 Bohaker and Iacovetta, “Making Aboriginal People ‘Immigrants Too’,” 443.
- 122 For more detail, see McCallum, *Indigenous Women, Work, and History*, 66-119.
- 123 Bohaker and Iacovetta, “Making Aboriginal People ‘Immigrants Too’,” 443.
- 124 For more detail, see McCallum, *Indigenous Women, Work, and History*, 66-119.
- 125 Rande C. (Kwakwaka’wakw), Part 1, Public Volume 94, Vancouver, BC, p. 44.
- 126 Razack, “Gendered Racial Violence,” 97.
- 127 For an examination of how some regulations exacerbate inequality in general, see White, “How Zoning Laws Exacerbate Inequality” and Driedger, “Residential Segregation.” The policies and laws associated with forced segregation are distinct from the concept of “clustering,” which sometimes sees people group themselves into communities within urban centres. The practices we refer to here specifically deal with criminalization of particular populations and neighbourhoods as related to urban planning and to zoning and nuisance laws.
- 128 Ramachandran, “Indigenous peoples in the grip of ‘criminalization’.”
- 129 Razack, “Gendered Racial Violence,” 117.
- 130 Tara Williamson, “Just what was the Sixties Scoop?”
- 131 Johnston, *Native Children and the Child Welfare System*; Truth and Reconciliation Commission of Canada, *Interim Report*, 14–15.



- 132 Senate Standing Committee on Social Affairs, Science and Technology, “The Shame Is Ours.”
- 133 Clancy, “Survivors recall the Sixties Scoop.”
- 134 Stevenson, “Selling the Sixties Scoop.”
- 135 Ibid.
- 136 Bonnie F. (First Nations), Part 1, Public Volume 81, Vancouver, BC, pp. 15-16.
- 137 Cynthia C. (Ermineskin Cree Nation/Maskwacis), Part 1, Public Volume 81, Vancouver, BC, p. 5.
- 138 Shaun L. (Kaska Dena, Crow Clan), Part 1, Public Volume 3, Whitehorse, YT, pp. 8-9.
- 139 Desrosiers, “Le système de santé au Québec,” 16.
- 140 D’Amours, “Survol historique de la protection,” 411.
- 141 For more detail on this particular aspect, please see the Quebec-specific volume of this report.
- 142 Sigouin, “Les mécanismes de protection de la jeunesse.”
- 143 Macdougall and St. Onge, “Rooted in Mobility.”
- 144 Ross, “Canadian Hero?”
- 145 For a more detailed treatment of the history of Métis “country wives,” see Van Kirk, *Many Tender Ties*.
- 146 Payment, “‘La Vie en Rose?’” 20–22.
- 147 Ibid., 21.
- 148 Poelzer and Poelzer, *In Our Own Words*, 33–34.
- 149 Payment, “‘La Vie en Rose?’” 20.
- 150 See Carter, *The Importance of Being Monogamous*.
- 151 Ibid., 152.
- 152 Sealey and Lussier, *The Métis*, 92.
- 153 Thistle, “The Puzzle of the Morrissette-Arcand Clan.”
- 154 Thistle, “‘Poster #8: Batoche, 1885’.”
- 155 Payment, “‘La Vie en Rose?’”, 26.
- 156 Thistle, “The Puzzle of the Morrissette-Arcand Clan.”
- 157 Sealey and Lussier, *The Métis*, 133. See also Payment, “‘La Vie en Rose?’” 28.
- 158 Payment, “‘La Vie en Rose?’” 26.
- 159 Augustus, “The Scrip Solution,” iii.
- 160 Ens and Sawchuk, *From New Peoples*, 159. See also Robinson, “Métis Scrip in Canada.”
- 161 Sealey and Lussier, *The Métis*, 135.
- 162 Ibid., 96–97.
- 163 St-Onge, “The Dissolution of a Métis Community.”
- 164 See also Milne, “The Historiography of Métis Land Dispersal.”
- 165 Ens and Sawchuk, *From New Peoples*, 239.
- 166 Niemi-Bohun, “Colonial Categories,” 96.
- 167 Augustus, “The Scrip Solution,” 77.
- 168 Ibid.
- 169 Niemi-Bohun, “Colonial Categories,” 96.
- 170 Adese, “‘R’ is for Métis,” 209.
- 171 Logan, “A Métis Perspective on Truth and Reconciliation,” 76.
- 172 Ibid., 77–78.
- 173 Ibid.
- 174 Elaine D. (Métis), Part 1, Statement Volume 13, Smithers, BC, p. 7.
- 175 Logan, “A Métis Perspective on Truth and Reconciliation,” 82–83.
- 176 Elaine D. (Métis), Part 1, Statement Volume 13, Smithers, BC, p. 7.
- 177 Logan, “A Métis Perspective on Truth and Reconciliation,” 82.
- 178 Ibid.
- 179 Ens and Sawchuk, *New Peoples*, 256–57.
- 180 Ibid.
- 181 Ibid.
- 182 Ibid., 207.
- 183 Campbell, *Halfbreed*, 36–37.
- 184 Burley, “Roostertown.”
- 185 Ens and Sawchuk, *New Peoples*, 305–7. See also Payment, *The Free People*, 276–77.
- 186 As quoted in Reder and Shield, “‘I write this for all of you’.”
- 187 Campbell, *Halfbreed*, 114.
- 188 Logan, “A Métis Perspective on Truth and Reconciliation,” 80.



- 189 Carrière, “Adoption of Métis Children.”
- 190 Manitoba Metis Federation, *They Are Taking Our Children From Us*.
- 191 Barkwell, Longclaws, and Chartrand, “Status of Métis Children.”
- 192 Carrière and Richardson, “The Invisible Children.”
- 193 Elaine D. (Métis), Part 1, Statement Volume 13, Smithers, BC, p. 46.
- 194 Cited in Barkwell, Longclaws, and Chartrand, “Status of Métis Children,” 34.
- 195 Ibid.
- 196 Carrière and Richardson, “The Invisible Children,” 51–52.
- 197 Carrière and Richardson, “The Invisible Children.”
- 198 Hagar Idlout-Sudlovenick (Inuit), Mixed Parts 2 & 3, Public Volume 1, Iqaluit, NU, pp. 38-39.
- 199 René Fossett, *In Order to Live Untroubled*.
- 200 Ray, *The Canadian Fur Trade*; Stevensen, *Inuit, Whalers, and Cultural Persistence*; Nunavut Wildlife Management Board, *Final Report of the Inuit Bowhead Knowledge Study*.
- 201 Ray, *The Canadian Fur Trade*; Tester and Kulchyski, *Tamarniit (Mistakes)*.
- 202 Qikiqtani Truth Commission, *Paliisikkut: Policing in Qikiqtaaluk*.
- 203 Ross, *Whaling and Eskimos*.
- 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).
- 206 Qikiqtani Truth Commission, *Paliisikkut: Policing in Qikiqtaaluk*, 38.
- 207 Ibid., 43.
- 208 As quoted in the film *EI-472 KIKKIK*, (1:16:00 –1:18:30).
- 209 Qikiqtani Truth Commission, *Paliisikkut: Policing in Qikiqtaaluk*, 43-44.
- 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.”
- 228 Fennario, “One in three Inuit youth.”
- 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*.
- 233 Wachowich et al, *Saqiyuq*, 103-104.
- 234 Qikiqtani Truth Commission, *Aaniajurliriniq: Health Care in Qikiqtaaluk*, 50-51.
- 235 Redfern, “Supporting Civil Development,” 105.
- 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 2SLGBTQIA 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.

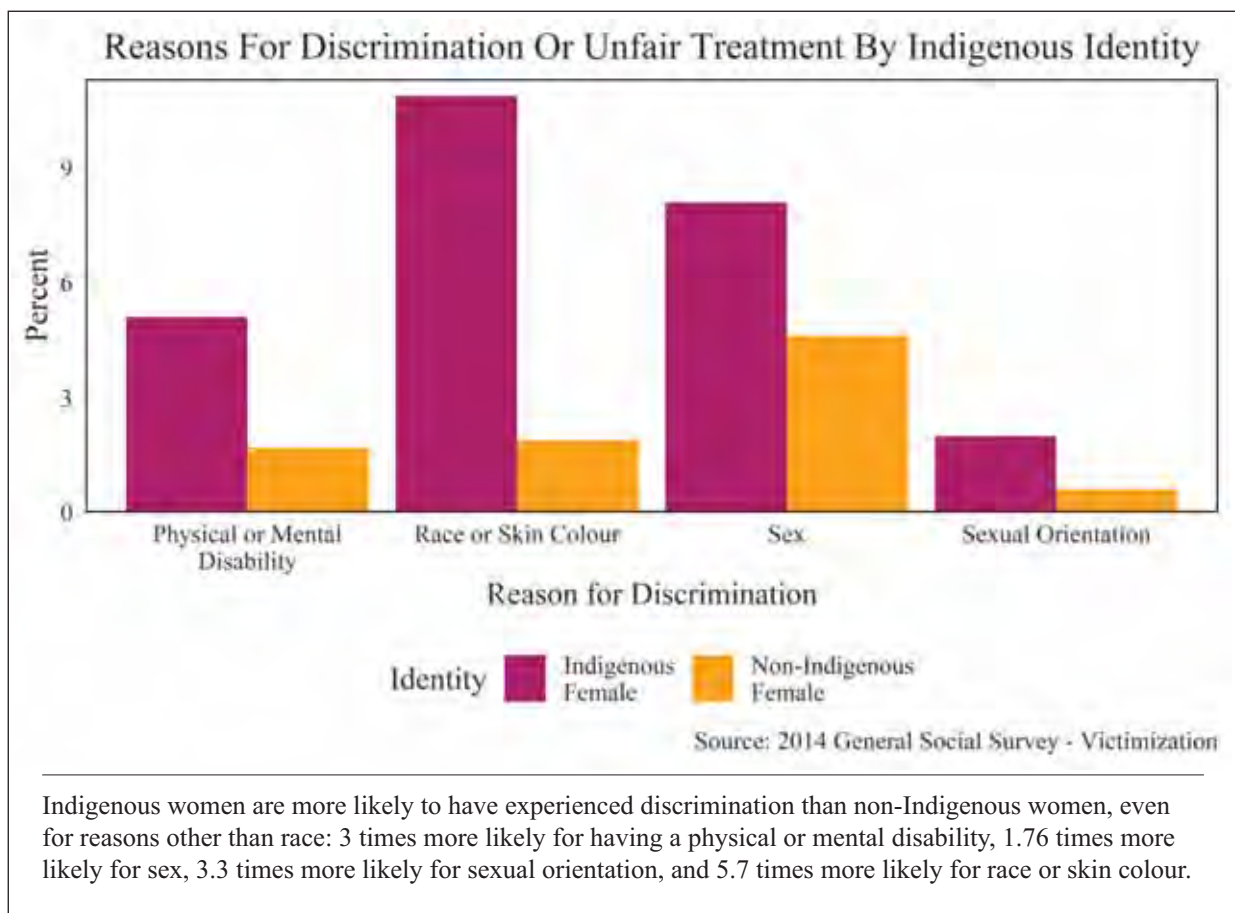


For 2SLGBTQQIA people, stories of cultural loss and violation that continue to have impacts today describe the fundamental shift from the value and respect many Two-Spirit and gender-diverse people held within traditional Indigenous cultures to extreme and at times violent exclusion and erasure from those communities.

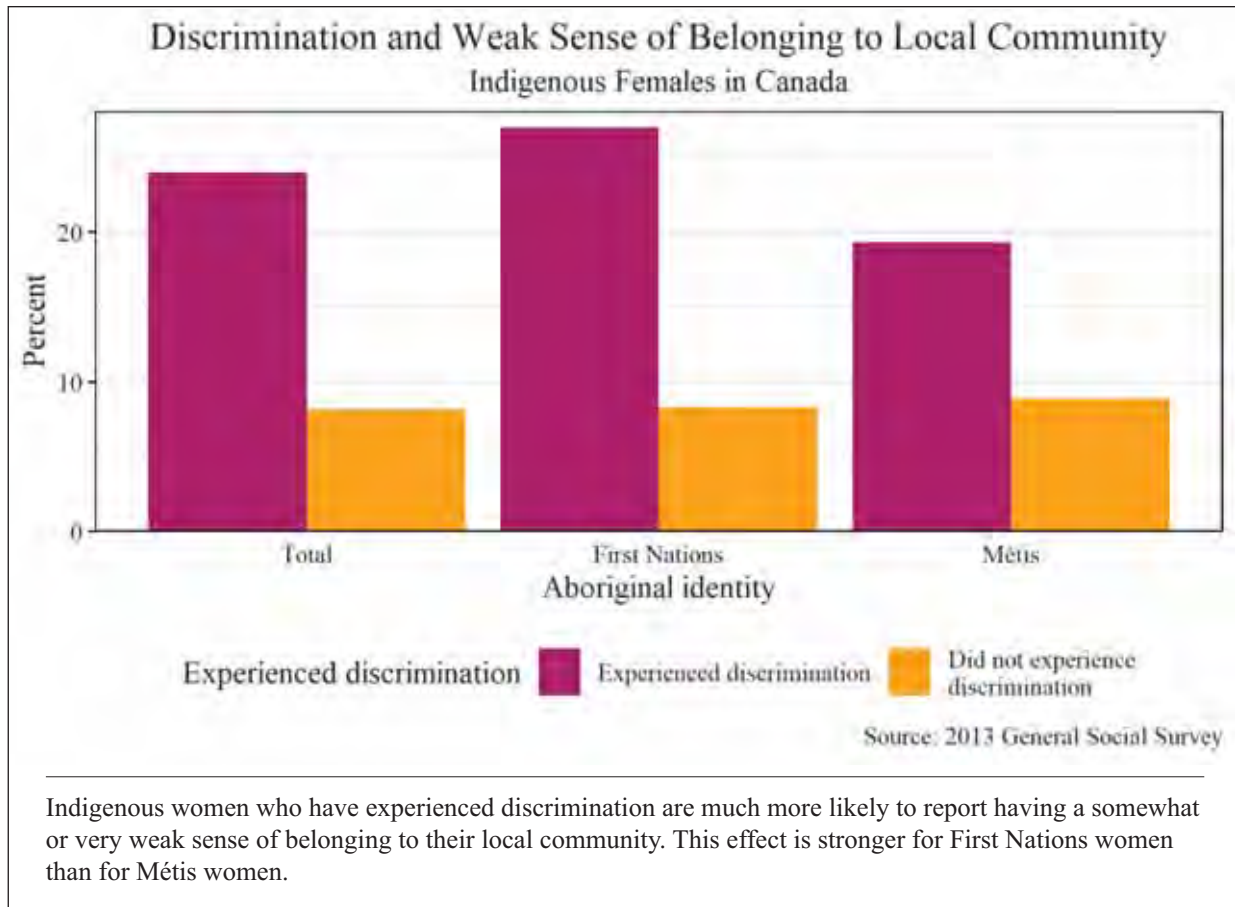
Overall, these “patterns of cultural violence,” as described by legal anthropologist Rosemary J. Coombe, also include

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>L</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>II</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 Serv-

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 services 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	Nunatsiaq News, "Judge: Nunavut child protection," as cited in Rae, "Inuit Child Welfare," p. 11.	TTT	Dr. Cindy Blackstock (Gitksan), Part 3, Public Volume 10, Toronto, ON, p. 260.
GGG	Office of the Auditor General, <i>2011 March Report of the Auditor General of Canada</i> .	UUU	CCRC, "The System Needs Fixing."
HHH	Commission des droits de la personne et de droits de la jeunesse Québec, "Investigation into Child and Youth."	VVV	Gaetz et al., "Without a Home," 49-50.
III	Rae, "Inuit Child Welfare," 11-12.	WWW	Gaetz, "Coming of Age," 2.
JJJ	Commission des droits de la personne et de droits de la jeunesse Québec, "Investigation into Child and Youth."	XXX	Cora Morgan (Sagkeeng First Nation), Mixed Parts 2 & 3, Public Volume 11, Winnipeg, MB, pp. 153-154.
KKK	Rae, "Inuit Child Welfare," 11-12.	YYY	Dr. Mary Ellen Turpel-Lafond (Cree), Mixed Parts 2 & 3, Public Volume 13, Winnipeg, MB, p. 77.
LLL	Fennario, "One in three Inuit youth."	ZZZ	Grammond, "Federal Legislation," 136.
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.	AAAA	Ibid.
NNN	Dr. Cindy Blackstock (Gitksan), Part 3, Public Volume 10, Toronto, ON, p. 246.	BBBB	Ibid.
OOO	<i>First Nations Child and Family Caring Society of Canada v Attorney General of Canada</i> (for the Minister of Indian and Northern Affairs Canada) 2016 CHRT.	CCCC	Dr. Valérie Gideon (Mik'maq Nation of Gesgapegiag), Part 2, Public Volume 4, Calgary, AB, p. 50.
PPP	First Nations Child and Family Caring Society, "Memorandum of Fact," 8.	DDDD	Canada, Indigenous Services Canada, "Government of Canada."
QQQ	<i>First Nations Child and Family Caring Society of Canada v Attorney General of Canada</i> (for the Minister of Indian and Northern Affairs Canada) 2016 CHRT 2.	EEEE	Ibid.
RRR	Ostroff, "Trudeau budget continues illegal discrimination."	FFFF	Ibid.
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.	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.

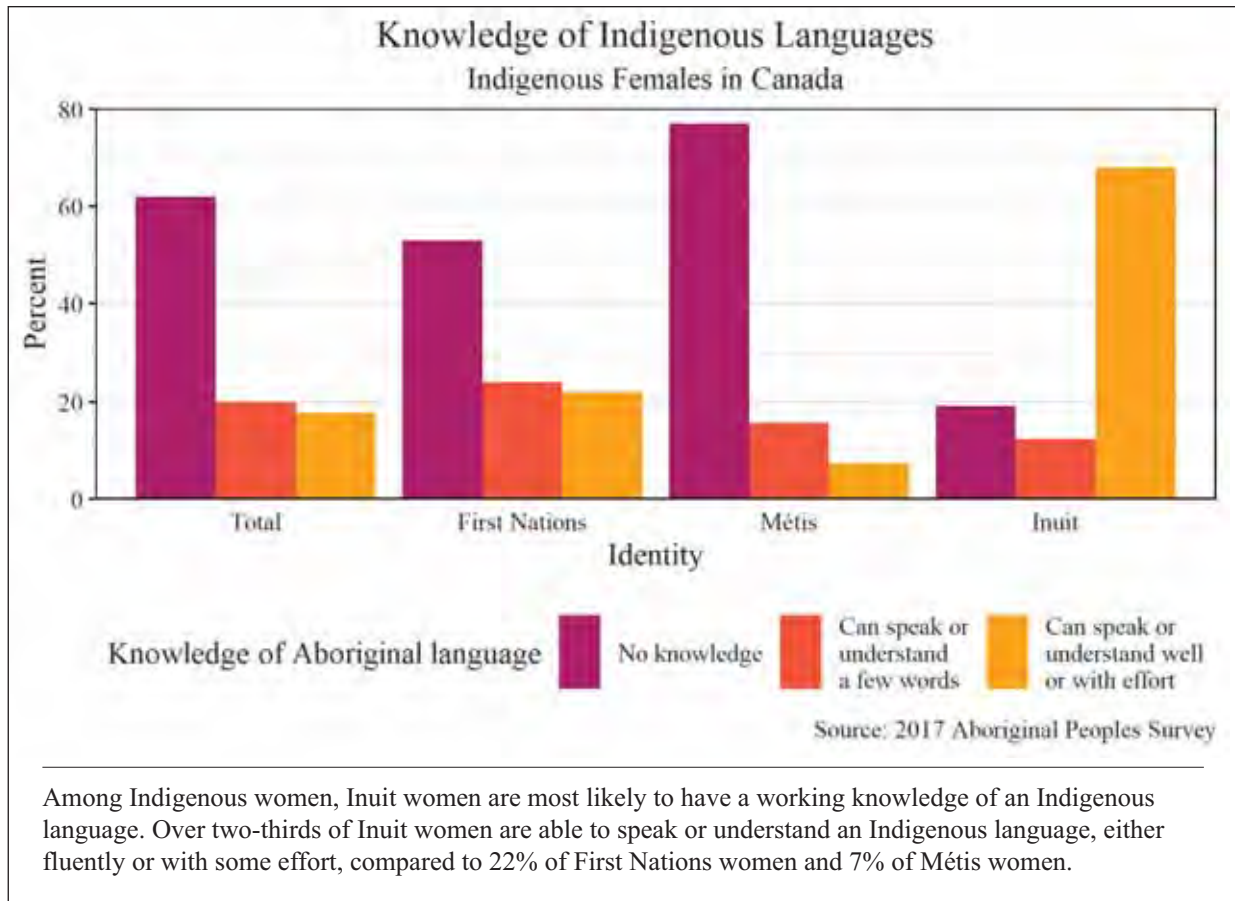
Like Ann, many other witnesses have siblings who died in residential schools. Many of them were never notified, only learning about the deaths when they returned home. As Elder Jal T. said:

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 McIvor decisions, see Lehmann, "Summary of the McIvor 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 2SLGBTQQIA 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 2SLGBTQQIA people sends the message that Indigenous women, girls, and 2SLGBTQQIA 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 2SLGBTQQIA 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 2SLGBTQQIA 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 Wenthe 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	Garcia-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	Garcia-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	Garcia-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:

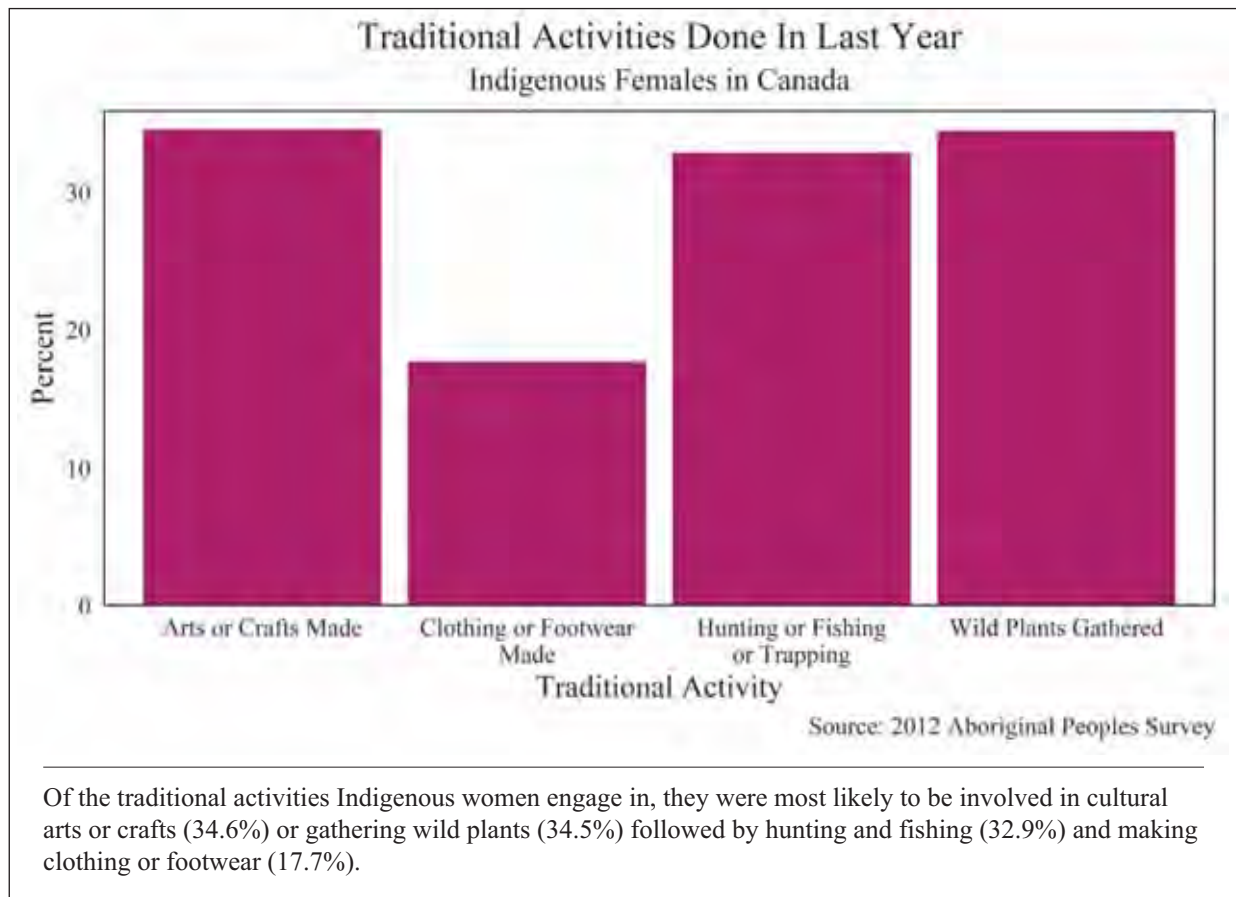
I want our future generations to acknowledge their history. Of all the things that have happened to our parents, our ancestors. I want my language back. I fought to keep my language. Now, I have – I can speak my language.... I want my kids to speak my language fluently. I want my homeland back. On the 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>
---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

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.

<p><b>DEVAW:</b></p> <ul style="list-style-type: none"><li>- women entitled to equal enjoyment and protection of all human rights</li></ul>	<p><b>UNDRIP:</b></p> <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>	<p><b>VIENNA PROGRAMME:</b></p> <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>	<p><b>BEIJING:</b></p> <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>
---------------------------------------------------------------------------------------------------------------------------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

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.

---

## 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.
- 53 Wendy L. (Squamish Nation), Part 1, Statement Volume 370, Richmond, BC, pp. 22-23.
- 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.
- 60 Currie, “Exploring Risk and Protective Factors,” as quoted in King, et al., “Indigenous Health,” 79.
- 61 Jakubec, “AIDS-Related Stigma” as quoted in King, et al., “Indigenous Health,” 79.
- 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.”
- 71 For more on this, see Carrière and Richardson, *Calling Our Families Home*.
- 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.
- 92 Carol M. (Nisga'a Gitanyow), Part 1, Statement Volume 357, Richmond, BC, pp. 74-75.
- 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).

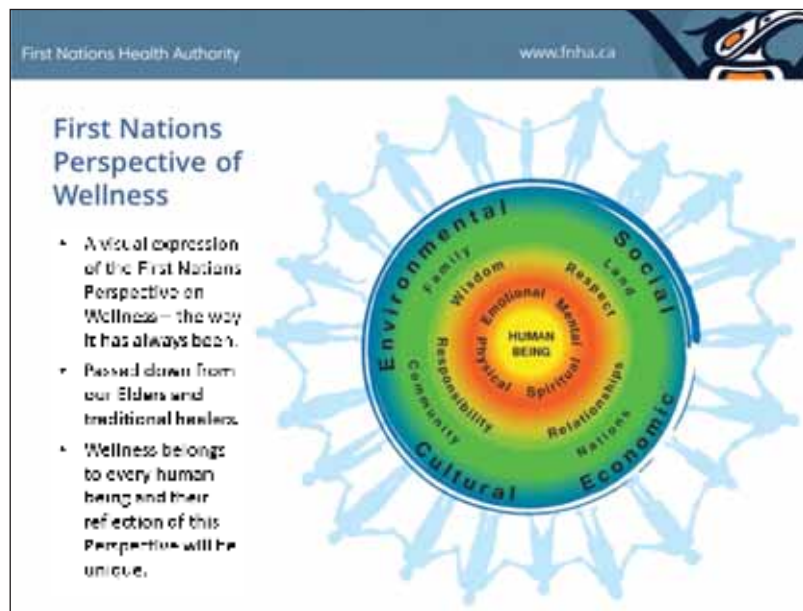
The Second Circle illustrates the importance of Mental, Emotional, Spiritual and Physical facets of a healthy, well, and balanced life. It is critically important that there is balance between these aspects of wellness and that they are all nurtured together to create a holistic level of well-being in 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.

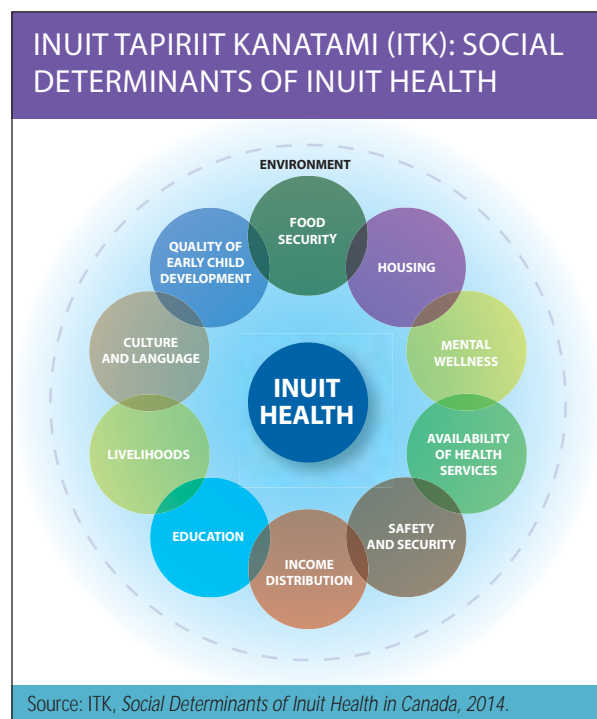
The people who make up the Outer Circle represent the First Nations Health Authority’s vision of strong children, families, elders, and people in communities. The people are holding hands to demonstrate togetherness, respect and relationships, which in the words of a respected BC elder can be stated 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.



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.

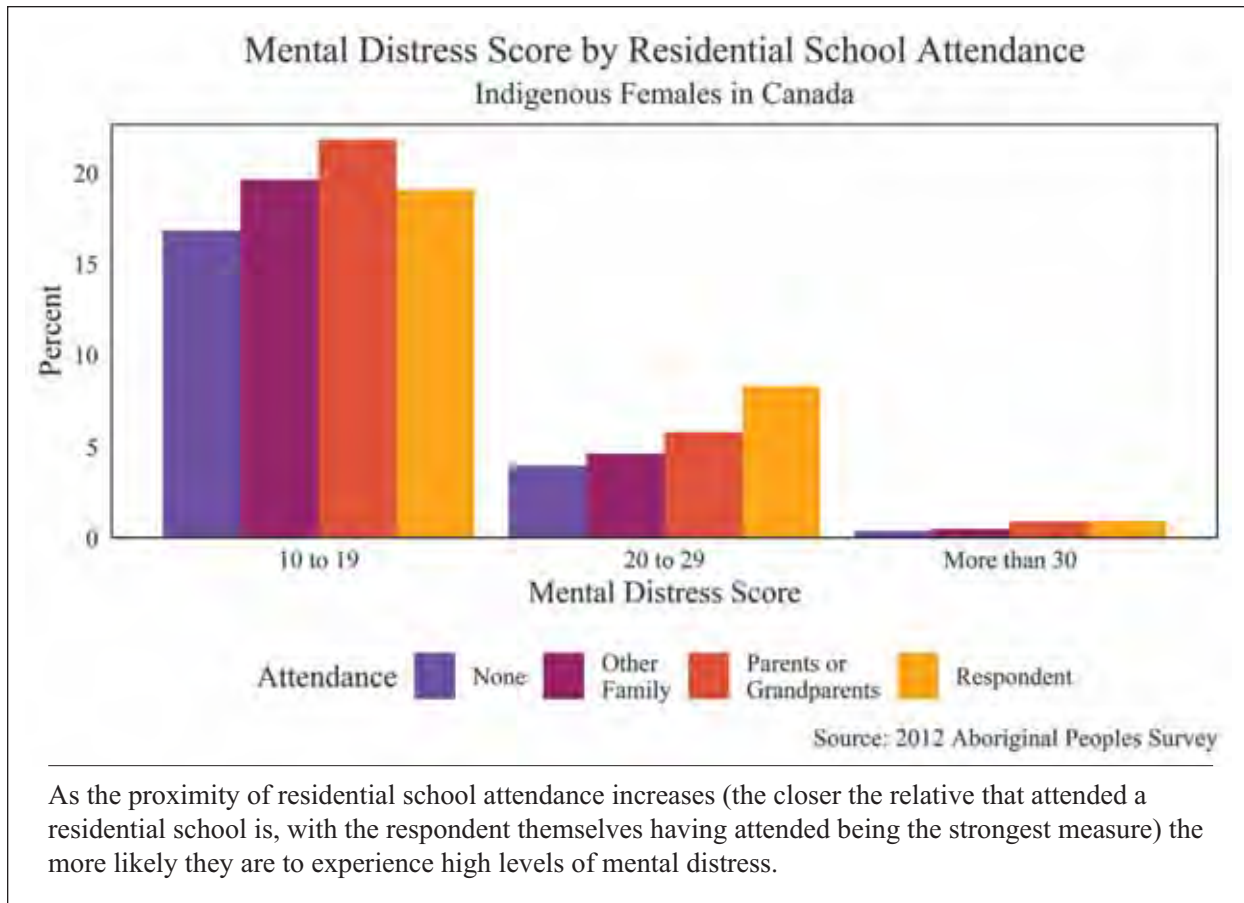
Like Sharna, many witnesses described how these acts of cultural, institutional, and interpersonal violence carry – among other things – significant health consequences for Indigenous people, including widespread trauma, suffering, and pain, which can, in turn, lead to further violence. For Indigenous 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**

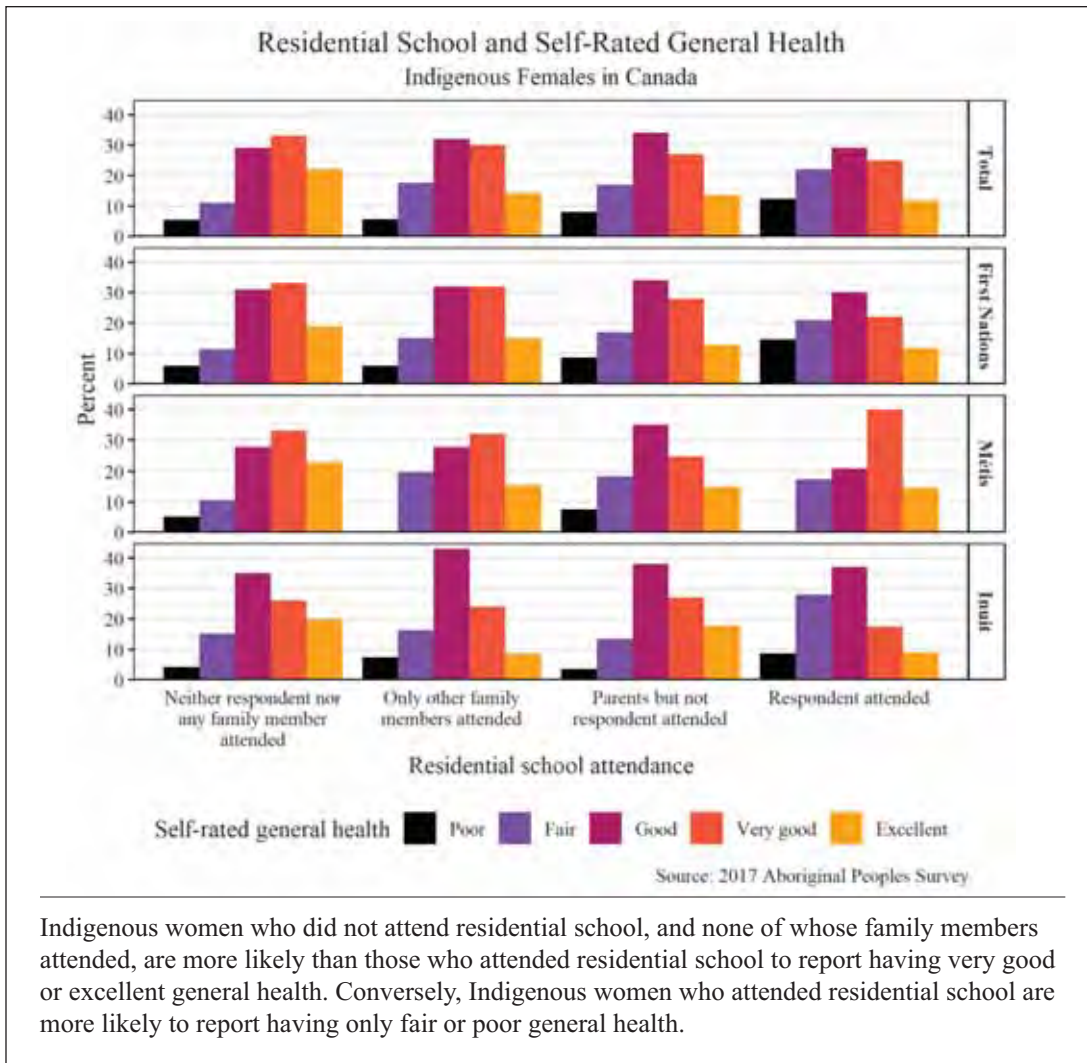
In describing their experiences of health and wellness, the families of missing and murdered Indigenous women, girls, and 2SLGBTQQIA people, survivors, and others who spoke about the impacts of violence offered stories that demonstrate the resilience and strength Indigenous Peoples and communities cultivate 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.

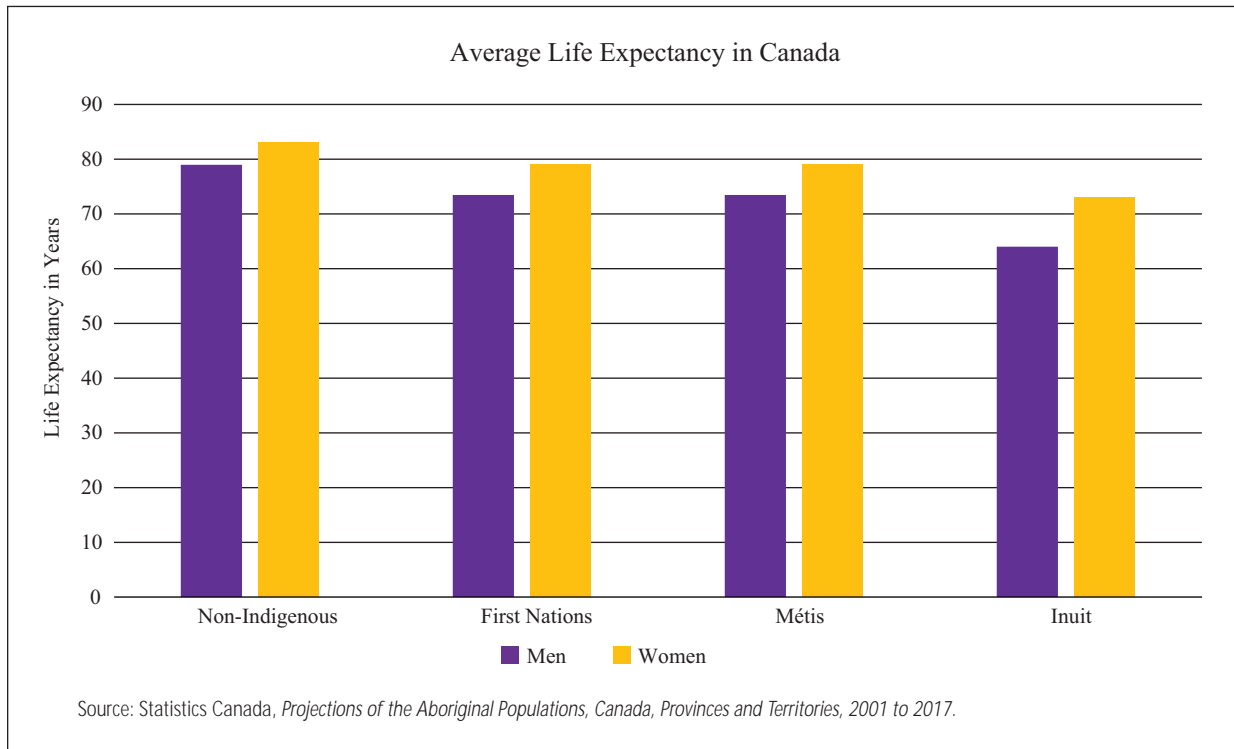
The indigenous community is young and the fastest growing by far – more than 50 percent of indigenous people in Canada are under the age of 15. This is the time to stop generation after generation of disaster, poverty, isolation, addiction and suicide – we’ve created all that. We have an apartheid system 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

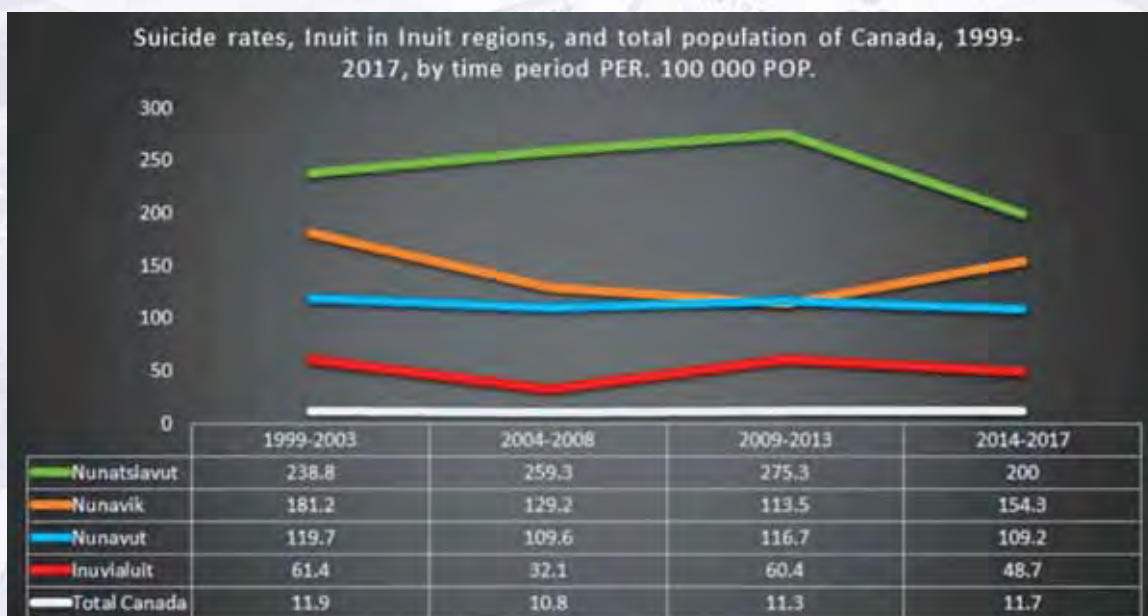
Part of the way forward begins with listening. As O'Soup contends, children and youth must be at the table in discussing the way forward: "It is their right to be at the tables when decisions are being made about them, when they are being discussed. They need to have a voice. And that voice just can't 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>xxiii</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>xxiv</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.

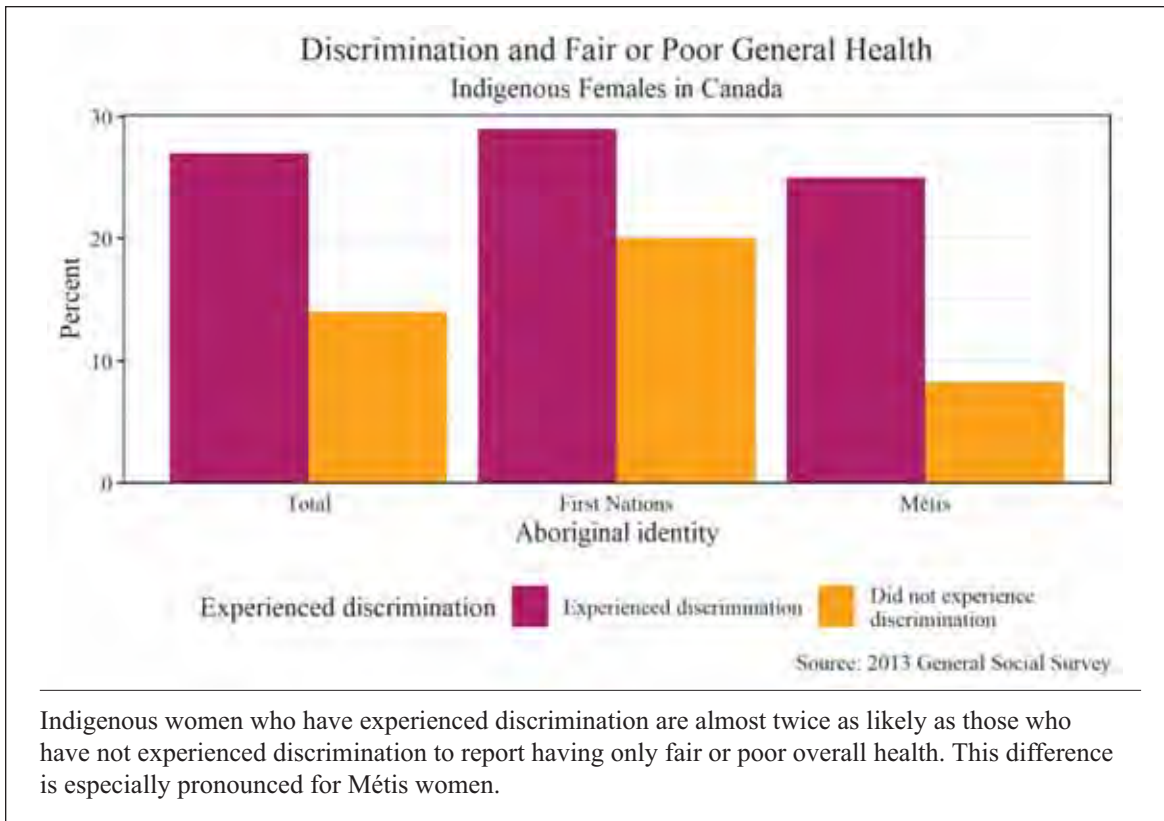
For example, researchers have found that, compared with those who did not attend residential school, residential school survivors are more likely to suffer various physical and mental health problems.<sup>47</sup> According to Bombay, the most recent First Nations Regional Health Survey likewise found 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>



---

For Indigenous women, the rate of drug use is highest among those whose parents attended residential school. This trend holds for all Indigenous identity groups, but is most pronounced for First Nations and least pronounced for Inuit.

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 2SLGBTQQIA 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 2SLGBTQQIA 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 2SLGBTQQIA 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>111</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>11v</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**



**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.



POPULATION INCREASE

### 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>

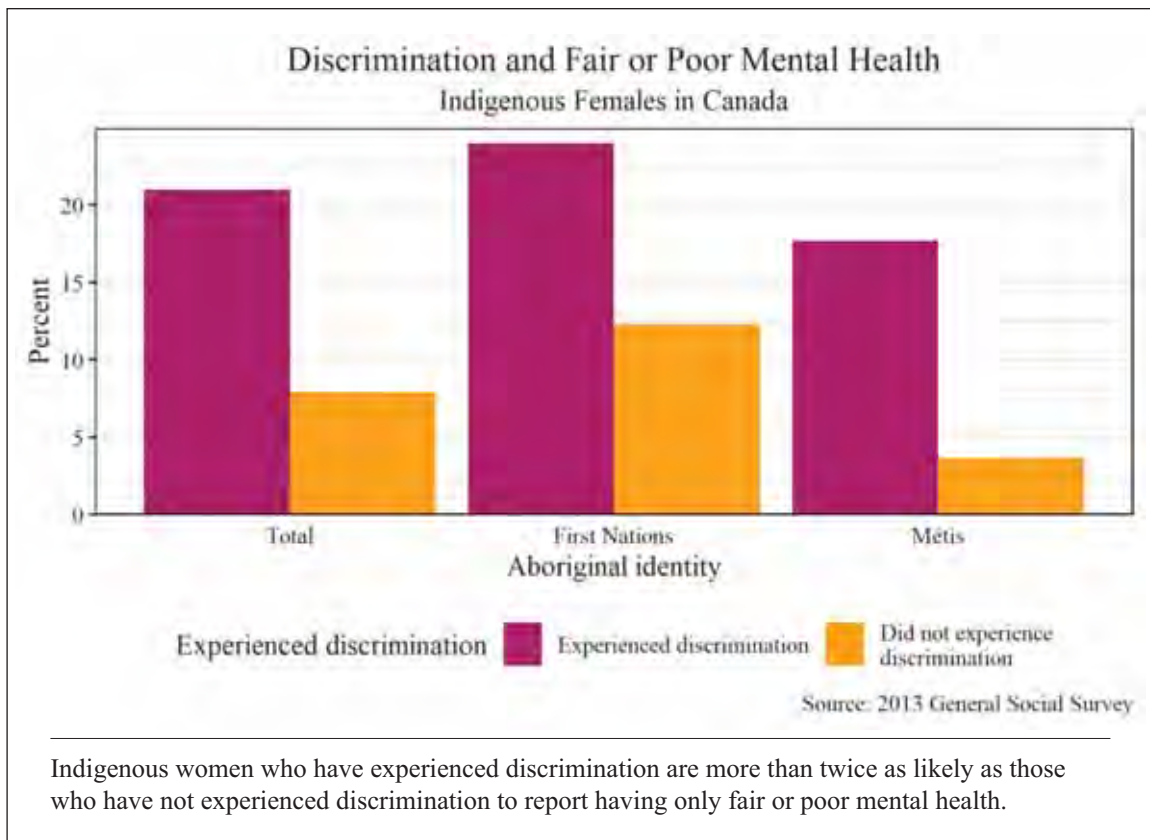
Jaylene herself had a similar experience in trying to secure proper medical care.

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.

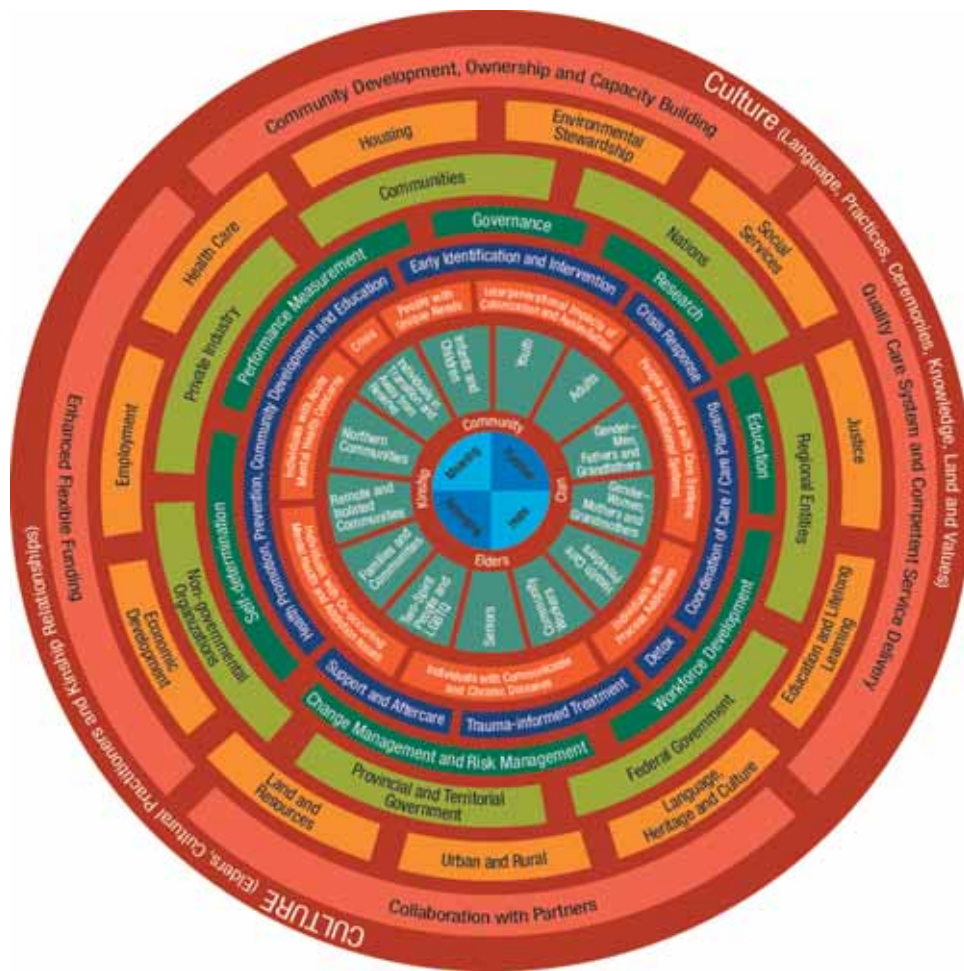
### Reporting Gaps in Mental Health Services

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 2SLGBTQQA 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.

---

## 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 2SLGBTQQIA 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 2SLGBTQQIA 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 2SLGBTQQIA 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 2SLGBTQQIA 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.

- 
- |   |                                                                                                                                       |   |                                                                                                                         |
|---|---------------------------------------------------------------------------------------------------------------------------------------|---|-------------------------------------------------------------------------------------------------------------------------|
| 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.
- DD Ibid.
- EE Ibid.
- FF Kim C.-M. (Inuit, Labrador), Part 1, Public Volume 49, Happy Valley-Goose Bay, NL, p. 10.
- GG Inuit Tapiriit Kanatami, “Inuit Statistical Profile,” 17.
- HH Laura M. (Inuit, Rankin Inlet), Part 1, Public Volume 46(a), Rankin Inlet, NU, pp. 15-16.
- 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.
- ZZ Farida Deif, Part 3, Public Volume 9, Toronto, ON, pp. 110–111.
- AAA Emilia A. (Inuit), Part 1, Public Volume 47(b), Rankin Inlet, NU, p. 3.
- 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.”

<b>IESCR:</b> <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>	<b>ICCPR:</b> <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>	<b>CEDAW:</b> <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>	<b>ICERD:</b> <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>	<b>CRC:</b> <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>
-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

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>
---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

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 (Inupiaq), 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 Lavallee (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.
- 130 World Health Organization, "Health of Indigenous Peoples."
- 131 Brenda Gunn (Métis), Part 3, Public Volume 6, Quebec City, QC, p. 38.
- 132 Chrystal S. (Musqueam), Part 1, Statement Volume 385, Richmond, BC, pp. 47-48.



## 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 beget 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.



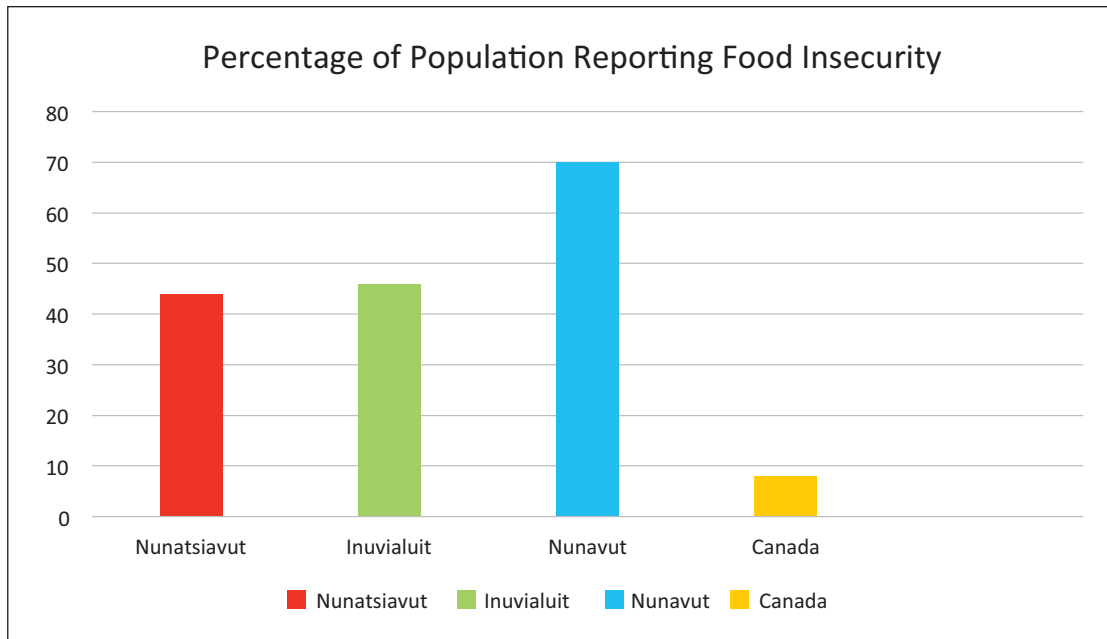


Many people in Inuit Nunangat also experience food insecurity at a higher level than elsewhere in Canada. “Food insecurity” refers to a situation when the food purchased doesn’t last long enough, or when there isn’t enough money to buy more food or healthy food. It can also apply in situations when members 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>

---

## 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.



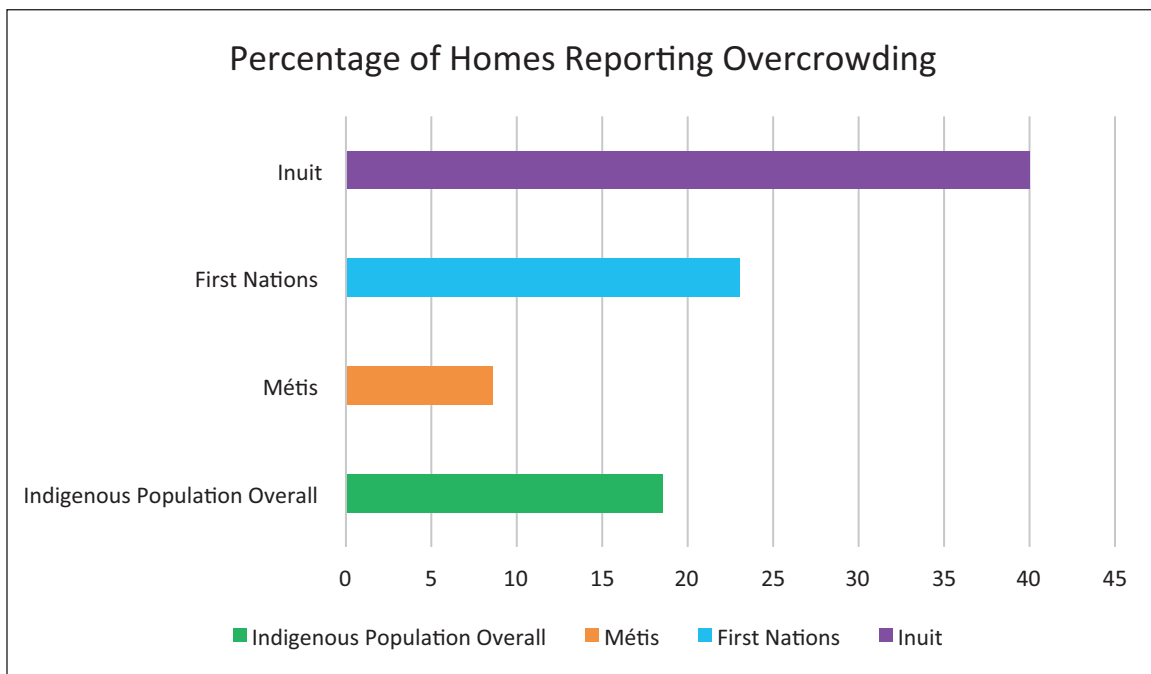
- A Wildcat, "Wahkohtowin in Action," 14.
- B Dr. Janet Smylie (Cree/Métis), Mixed Parts 2 & 3, Public Volume 3, Iqaluit, NU, p. 18.
- C Dr. Janet Smylie (Cree/Métis), Mixed Parts 2 & 3, Public Volume 2, Iqaluit, NU, p. 148.
- D Gaudry, "Métis."
- E Library and Archives Canada, "Métis Scrip Records," <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, NU, p. 109.
- I Gaudry, "Métis."
- J Sammons, "Leaving Ste. Madeleine," 152.
- K Herriot, *Towards a Prairie Atonement*, 49.
- L Ibid.
- M Ibid., 45.
- N Ibid., 49.
- O Ibid., 46.
- P Ibid.
- Q Ibid.
- R Sammons, "Leaving Ste. Madeleine," 152.
- S Herriot, *Atonement*, 22.
- T Zeilig and Zeilig, *Ste. Madeleine*, 4.
- U Herriot, *Atonement*, 88. See also Sammons, "Leaving Ste. Madeleine," 152.
- V Sammons, "Leaving Ste. Madeleine," 157.
- W Lena Fleury, "Oral History interview with Lena Fleury of Binscarth, Manitoba," 22 June 1993. Accession No. 1997-44, Location Code C2420. Metis Women of Manitoba Inc. oral history project records, Archive of Manitoba. See also Sammons, "Leaving Ste. Madeleine," 157.
- X Herriot, *Atonement*, 77.
- Y Sammons, "Leaving Ste. Madeleine," 155.
- Z Zeilig and Zeilig, *Ste. Madeleine*, 168–69.
- AA Gaudry, "Métis."
- BB Shore, "The Métis," 1.
- CC Cited in Gaudry, "Métis."
- DD Carter, "An Infamous Proposal."
- EE Duhamel and McCrae, "Holding Their End Up."
- FF Common, "Métis veterans launch class action lawsuit."
- GG Allard-Chartrand et al., "Métis Children and Families," 40.
- HH *Daniels v. Canada* (Indian Affairs and Northern Development) 2016 SCC 12.
- II LaRocque, "Violence in Aboriginal Communities," 73.
- JJ Farida Deif, Part 2, Public Volume 9, Exhibit 26, Toronto, ON, p. 85.
- KK Farida Deif, Part 2, Public Volume 9, Exhibit 31, Toronto, ON, pp. 115-116.
- LL O'Donnell and Wallace, "First Nations, Métis and Inuit Women," <https://www150.statcan.gc.ca/n1/pub/89-503-x/2010001/article/11442-eng.htm>.
- MM Hobson, "They're stealing our identity."
- NN Ibid.
- OO Richardson, "Metis Identity Creation," 60.
- PP Ibid., 61.
- QQ Michele G. (Métis), Part 1, Statement Volume 467, Dartmouth, NS, p. 3.
- RR Michele G. (Métis), Part 1, Statement Volume 467, Dartmouth, NS, p. 5.
- SS Sharon P. (Métis), Part 1, Statement Volume 223, Prince George, BC, p. 28.
- TT S.A. (Métis), Part 1, Statement Volume 29, Vancouver, BC, pp. 1-2.
- UU Canada, Statistics Canada, "Aboriginal Peoples Highlight Tables, 2016 Census."
- VV Cited in Hawkes, *Aboriginal Peoples and Government Responsibility*, 260.
- WW Aboriginal Peoples Television Network, "Alberta Métis settlements."
- XX Cornet, "Fresh hopes for land claim."
- YY Virginia C. (Métis), Part 1 Statement Volume 117, Saskatoon, SK, p. 29.
- ZZ Harold R. (Métis), Part 1, Statement Volume 81, Edmonton, AB, pp. 4-5.
- AAA Harold R. (Métis), Part 1, Statement Volume 81, Edmonton, AB, p. 5-6.
- BBB Fallon F. (Métis), Part 1, Public Volume 11, Winnipeg, MB, p. 37, 43-45, 50.
- CCC Fallon F. (Métis), Part 1, Public Volume 11, Winnipeg, MB, pp. 46-47.
- DDD Fallon F. (Métis), Part 1, Public Volume 11, Winnipeg, MB, p. 47.
- EEE Karin S., Part 1, Statement Volume 4, Whitehorse, YT, p. 3.
- FFF Virginia C. (Métis), Part 1, Statement Volume 117, Saskatoon, SK, p. 27.
- GGG Fallon F. (Métis), Part 1, Public Volume 11, Winnipeg, MB, p. 37.
- HHH Dr. Janet Smylie (Cree/Métis), Mixed Parts 2 & 3, Public Volume 2, Iqaluit, NU, p. 116.
- III Dr. Janet Smylie (Cree/Métis), Mixed Parts 2 & 3, Public Volume 2, Iqaluit, NU, pp. 122-123.





## 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.

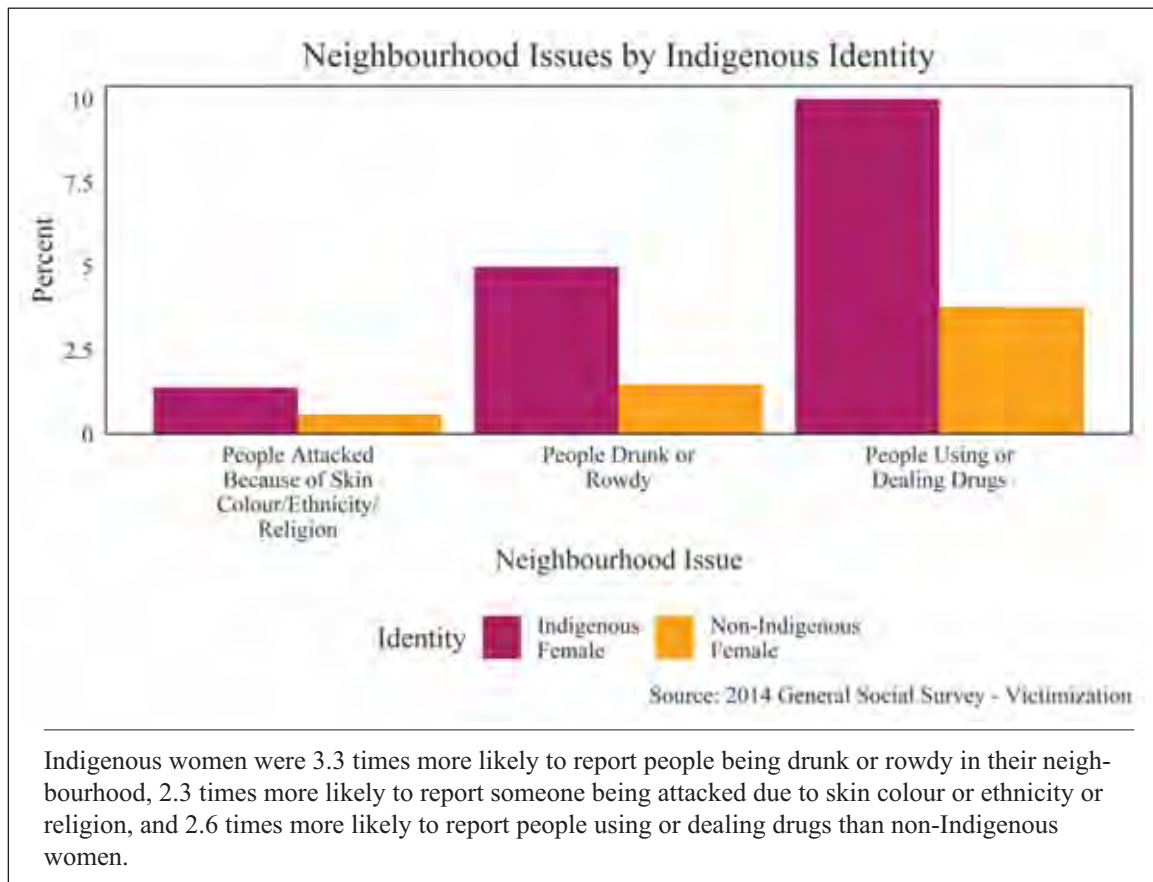
Soon we decided to separate and divorce and it became a fight for who would get the marital home on the reserve that was in both our names. Because you can’t sell the land on reserve – it’s Crown land – you have to revert to band policy. I remained living in the house with my three kids and I became 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

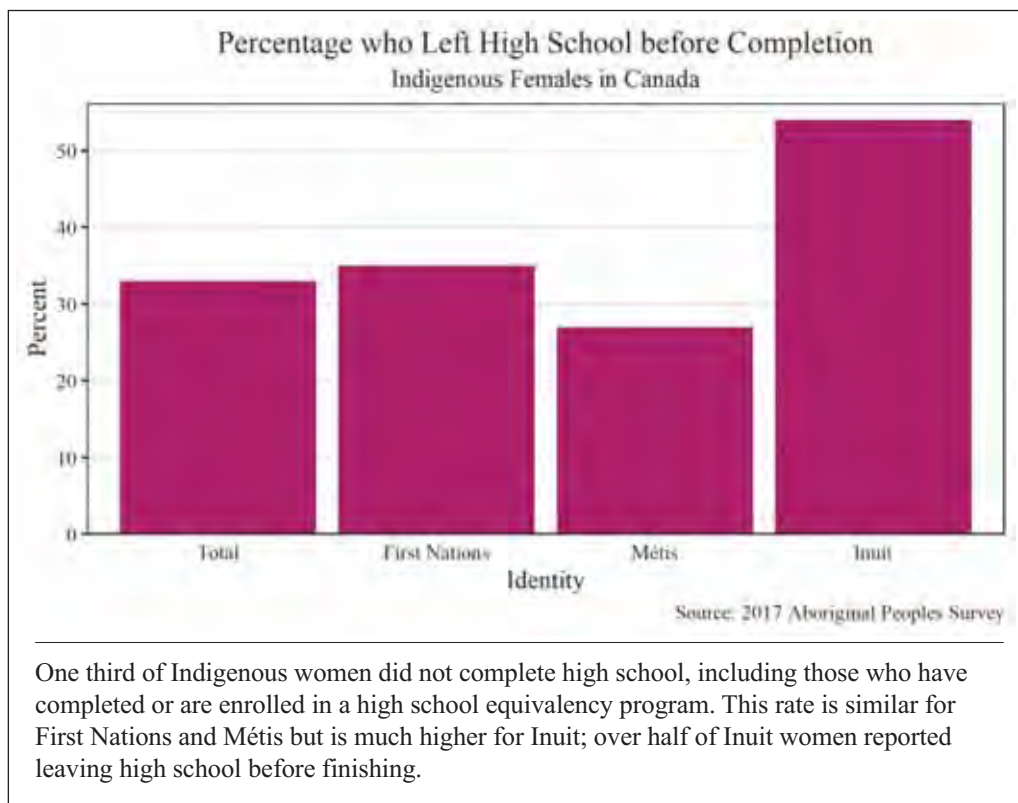


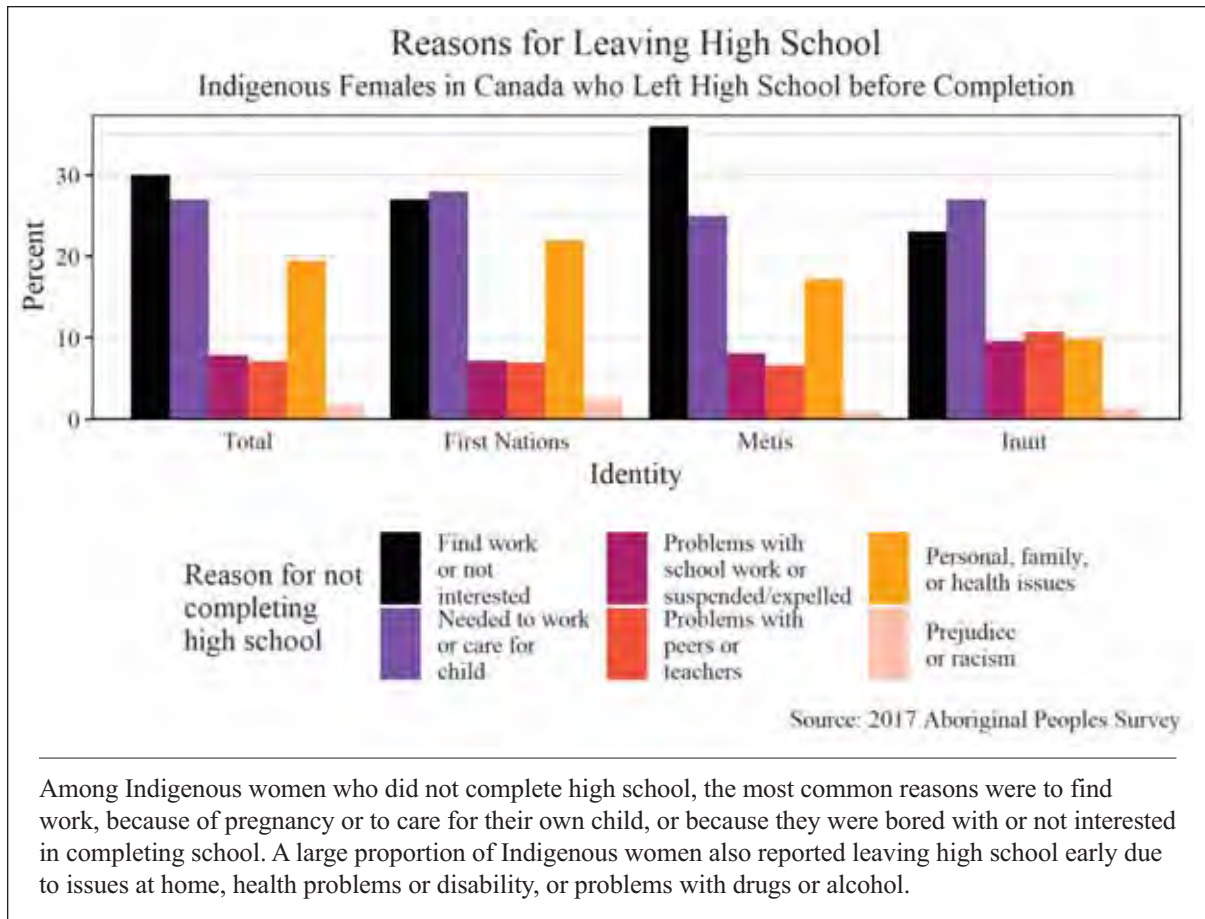


provincial schools.<sup>95</sup> In addition to being a significant barrier to high school completion,<sup>96</sup> the requirement of having to travel a significant distance from a home community in order to attend school also creates distinct risks for violence. As Pertice Moffitt explained, while 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 2SLGBTQIA 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 2SLGBTQIA 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 Suicide 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.

---

## 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 2SLGBTQQIA 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 2SLGBTQQIA 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 2SLGBTQQIA 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 2SLGBTQQIA 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.

---

## Findings

- There is substantial evidence of a serious problem demonstrated in the correlation between resource extraction and violence against Indigenous women, girls, and 2SLGBTQQIA 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 2SLGBTQQIA 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 2SLGBTQQIA people experience as a result of these industries, it is clear that Indigenous women, girls, and 2SLGBTQQIA 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 2SLGBTQQIA 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 2SLGBTQQIA 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 2SLGBTQIA 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 2SLGBTQIA 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.
- 52 Ibid.
- 53 Inuit Tapiriit Kanatami, "Inuit Statistical Profile 2018," 16.
- 54 Canada, Statistics Canada, "Aboriginal People and the Labour Market."
- 55 Moyser, "Aboriginal People Living Off-Reserve," 13.
- 56 Ibid., 8.
- 57 Press, "Over 80% of reserves."
- 58 Ibid.
- 59 Canada, Statistics Canada, "Labour Market Experiences," 5.
- 60 Ibid., 10.
- 61 Inuit Tapiriit Kanatami, "Inuit Statistical Profile 2018," 17.
- 62 Mavis Windsor (Heiltsuk Nation), Part 1, Public Volume 90, Vancouver, BC, pp. 21-22.
- 63 Jennisha Wilson, Mixed Parts 2 & 3, Public Volume 16, St. John's, NL, p. 158.
- 64 Canada, Statistics Canada, "The Housing Conditions," 3.
- 65 Ibid., 3-4.
- 66 Ibid., 3
- 67 Inuit Tapiriit Kanatami, "Inuit Statistical Profile 2018," 13.
- 68 Ibid.
- 69 Ibid., 4.
- 70 Lance S. (Nakota Nation), Part 1, Public Volume 26, Saskatoon, SK, p. 150.
- 71 Minnie K. (Shuswap, Salman Arm), Part 1, Public Volume 86, Vancouver, BC, pp. 44-45.
- 72 Mavis Windsor (Heiltsuk Nation), Part 1, Public Volume 90, Vancouver, BC, p. 65.
- 73 Rebecca M. (Pictou Landing First Nation), Part 1, Public Volume 17, Membertou, NS, p. 153.
- 74 Peach and Ladner, "Missing Out and Missing," 91.
- 75 Dr. Pertice Moffitt, Mixed Parts 2 & 3, Public Volume 16, St. John's, NL, pp. 89-90.
- 76 Michele G. (Musqueam), Part 1, Public Volume 84, Vancouver, BC, pp. 69-70.
- 77 Jennisha Wilson, Mixed Parts 2 & 3, Public Volume 16, St. John's, NL, p. 48.
- 78 Rebecca M. (Pictou Landing First Nation), Part 1, Public Volume 17, Membertou, NS, pp. 149-150.
- 79 Rebecca M. (Pictou Landing First Nation), Part 1, Public Volume 17, Membertou, NS, pp. 150-151.
- 80 Marge H. (Ka:'yu:'k't'h'/Heiltsuk Nation), Part 1, Public Volume 110, Vancouver, BC, pp. 8-9.
- 81 Viola Thomas (Kamloops Tk'emlups te Secwepemc), Part 1, Public Volume 104, Vancouver, BC, pp. 18-19.
- 82 Jamie Lee Hamilton (Indigenous/Irish), Part 1, Public Volume 104, Vancouver, BC, pp. 20-21.



- 83 Monique F. H. (Cree), Part 1, Public Volume 17, Membertou, NS, p. 98.
- 84 Marlene J., Part 1, Public Volume 6, Smithers, BC, p. 42.
- 85 Marlene J., Part 1, Public Volume 6, Smithers, BC, p. 43.
- 86 Mealia Sheutiapik (Inuit, Frobisher Bay), Mixed Parts 2 & 3, Public Volume 16, St. John's, NL, pp. 12-13.
- 87 Daoud, et al., "The Contribution of Socio-Economic Position."
- 88 Dr. Robyn Bourgeois (Cree), Mixed Parts 2 & 3, Public Volume 17, St. John's, NL, pp. 15-16.
- 89 Cheylene Moon (Scottish/Upper Nicola), Part 1, Public Volume 96, Vancouver, BC, p. 27.
- 90 Canada, Statistics Canada, "Aboriginal Peoples Highlight Table."
- 91 Dr. Amy Bombay (Ojibway, Rainy River First Nations), Mixed Parts 2 & 3, Public Volume 10, Winnipeg, MB, p. 146.
- 92 National Collaborating Centre for Aboriginal Health, "Education as a Social Determinant," 4.
- 93 Ibid., 5.
- 94 Assembly of First Nations, Chief Roddy S. (Frog Clan, Gitsegukla First Nation), Part 1, Public Volume 7, Smithers, BC, p. 62.
- 95 Assembly of First Nations, Chiefs Assembly on Education, "A Portrait."
- 96 Ibid.
- 97 Dr. Pertice Moffitt, Mixed Parts 2 & 3, Public Volume 16, St. John's, NL, pp. 99-100.
- 98 Lisa B. J. (Cree, O'Chiese First Nation), Part 1, Public Volume 89, Vancouver, BC, pp. 43-44.
- 99 Mealia Sheutiapik (Inuit, Frobisher Bay), Mixed Parts 2 & 3, Public Volume 16, St. John's, NL, pp. 19-20.
- 100 Connie L. (Onion Lake First Nation), Part 1, Public Volume 27, Saskatoon, SK, pp. 145-146.
- 101 Eva P. (Alexis Nakota Sioux Nation), Part 1, Public Volume 31, Saskatoon, SK, p. 22.
- 102 Leslie K., Part 1, Public Volume 27, Saskatoon, SK, pp. 83-84.
- 103 Raylene K., Part 1, Public Volume 27, Saskatoon, SK, p. 88.
- 104 Jenny L. (Nisichawayasihk Cree Nation), Part 1, Public Volume 13, Winnipeg, MB, pp. 152-153.
- 105 Jennisha Wilson, Mixed Parts 2 & 3, Public Volume 16, St. John's, NL, p. 38.
- 106 Monique F. H. (Cree), Part 1, Public Volume 17, Membertou, NS, p. 91.
- 107 Monique F. H. (Cree), Part 1, Public Volume 17, Membertou, NS, p. 105.
- 108 Jennisha Wilson, Mixed Parts 2 & 3, Public Volume 16, St. John's, NL, pp. 151-152.
- 109 Josie Nepinak (Anishinaabe, Pine Cree First Nation), Part 2, Public Volume 4, Calgary, AB, p. 172.
- 110 Jenny L. (Nisichawayasihk Cree Nation), Part 1, Public Volume 13, Winnipeg, MB, p. 148.
- 111 Diane Redsky (Shoal Lake 40 First Nation), Mixed Parts 2 & 3, Public Volume 18, St. John's, NL, p. 87.
- 112 Jennisha Wilson, Mixed Parts 2 & 3, Public Volume 16, St. John's, NL, p. 60.
- 113 Jamie Lee Hamilton (Indigenous/Irish), Part 1, Public Volume 104, Vancouver, BC, pp. 17-18.
- 114 Danielle E. (Kawacatoose First Nation), Part 1, Public Volume 31, Saskatoon, SK, p. 86.
- 115 Erin Pavan (Anishinaabe), Part 1, Public Volume 96, Vancouver, BC, p. 10.
- 116 Fialka Jack (Mowachah), Part 1, Public Volume 96, Vancouver, BC, pp. 5-6.
- 117 Erin Pavan (Anishinaabe), Part 1, Public Volume 96, Vancouver, BC, pp. 29-30.
- 118 Erin Pavan (Anishinaabe), Part 1, Public Volume 96, Vancouver, BC, pp. 11-12.
- 119 Josie Nepinak (Anishinaabe, Pine Cree First Nation), Part 2, Public Volume 4, Calgary, AB, p. 178.
- 120 Canada. *2017-2018: A Year in Review: Canada's Strategy to Prevent and Address Gender-Based Violence.*
- 121 Ibid.
- 122 Beattie and Hutchins, "Shelters for Abused Women," 5.
- 123 Amnesty International, "Canada: Close the Funding Gap."
- 124 Ibid.
- 125 Ibid.



- 126 Susan Aglukark (Inuit, Arviat), Mixed Parts 2 & 3, Public Volume 12, Winnipeg, MB, pp. 203-204.
- 127 Josie Nepinak (Anishinaabe, Pine Cree First Nation), Part 2, Public Volume 5, Calgary, AB, p. 202.
- 128 Sandra Montour (Turtle Clan, Mohawk), Part 2, Public Volume 4, Calgary, AB, p. 213.
- 129 Barbara H. (Ebb and Flow First Nation), Part 1, Public Volume 10, Winnipeg, MB, p. 114.
- 130 Charlotte M. (Kitchenuhmaykoosib Inninuwug First Nation), Part 1, Public Volume 38, Thunder Bay, ON, p. 101.
- 131 Chief Vivian T. (Wet'suwet'en), Part 1, Public Volume 4, Smithers, BC, p. 82.
- 132 Halie B. (Namgis/Kwa'kwa'kawakw/Tlingit/Scottish), Part 1, Public Volume 111(a), Vancouver, BC, p. 55.
- 133 Josie Nepinak (Anishinaabe, Pine Cree First Nation), Part 2, Public Volume 4, Calgary, AB, p. 163.
- 134 Nakuset (Cree), Part 2, Public Volume 4, Calgary, AB, p. 107.
- 135 Cee-Jai J. (Beaver Clan, Nak'azdli Whut'en, Carrier Nation), Part 1, Public Volume 39, Thunder Bay, ON, p. 29.
- 136 Sandra Montour (Turtle Clan, Mohawk), Part 2, Public Volume 4, Calgary, AB, p. 223.
- 137 Josie Nepinak (Pine Cree First Nation), Part 2, Public Volume 4, Calgary, AB, p. 169.
- 138 Nakuset (Cree), Part 2, Public Volume 4, Calgary, AB.
- 139 Nakuset (Cree), Part 2, Public Volume 4, Calgary, AB, p. 101.
- 140 Nakuset (Cree), Part 2, Public Volume 4, Calgary, AB, pp. 142-143.
- 141 Nakuset (Cree), Part 2, Public Volume 4, Calgary, AB, p. 115.
- 142 Gladys R. (Gitksan/Wet'suwet'en), Part 1, Public Volume 4, Smithers, BC, pp. 166-167.
- 143 Josie Nepinak (Anishinaabe, Pine Cree First Nation), Part 2, Public Volume 4, Calgary, AB, pp. 192-196.
- 144 Sandra Montour (Turtle Clan, Mohawk), Part 2, Public Volume 4, Calgary, AB, p. 216.
- 145 Lanna Moon Perrin (Anishinaabe), Mixed Parts 2 & 3, Public Volume 17, St. John's, NL, pp. 186-187.
- 146 Cee-Jai J. (Beaver Clan, Nak'azdli Whut'en, Carrier Nation), Part 1, Public Volume 39, Thunder Bay, ON, pp. 28-29.
- 147 Nakuset (Cree), Part 2, Public Volume 4, Calgary, AB, pp. 99-100.
- 148 Michele G. (Musqueam), Part 1, Public Volume 84, Vancouver, BC, p. 37.
- 149 Chief Vivian T. (Wet'suwet'en), Part 1, Public Volume 4, Smithers, BC, p. 83.
- 150 Cee-Jai J. (Beaver Clan, Nak'azdli Whut'en, Carrier Nation), Part 1, Public Volume 39, Thunder Bay, ON, p. 12.
- 151 Grace T. (Eagle Clan, Tsimshian), Part 1, Public Volume 118, Vancouver, BC, p. 14.
- 152 Dr. Allan Wade, Mixed Parts 2 & 3, Public Volume 14, Winnipeg, MB, pp. 16-17.
- 153 Jocelyn K. (Cheslatta Carrier Nation), Part 1, Public Volume 5, Smithers, BC, pp. 142-143.
- 154 Cee-Jai J. (Beaver Clan, Nak'azdli Whut'en, Carrier Nation), Part 1, Public Volume 39, Thunder Bay, ON, p. 32.
- 155 Cee-Jai J. (Beaver Clan, Nak'azdli Whut'en, Carrier Nation), Part 1, Public Volume 39, Thunder Bay, ON, pp. 33-34.
- 156 Michele G. (Musqueam), Part 1, Public Volume 84, Vancouver, BC, pp. 57-58.
- 157 Halie B. (Namgis/Kwa'kwa'kawakw/Tlingit/Scottish), Part 1, Public Volume 111(a), Vancouver, BC, p. 55.
- 158 Mealia Sheutiapak (Inuit, Frobisher Bay), Parts 2 & 3, Public Volume 16, St. John's, NL, p. 22.
- 159 Jamie L. H. (Indigenous/Irish), Part 1, Public Volume 78, Vancouver, BC, p. 21.
- 160 Diane Redsky (Shoal Lake 40 First Nation), Mixed Parts 2 & 3, Public Volume 18, St. John's, NL, p. 206.
- 161 Jennisha Wilson, Mixed Parts 2 & 3, Public Volume 16, St. John's, NL, p. 53.
- 162 Jennisha Wilson, Mixed Parts 2 & 3, Public Volume 16, St. John's, NL, pp. 55-56.
- 163 Diane Redsky (Shoal Lake 40 First Nation), Mixed Parts 2 & 3, Public Volume 18, St. John's, NL, p. 207.
- 164 Shae-Lynn Noskye (First Nations), Part 1, Public Volume 96, Vancouver, BC, p. 43.





- 165 Josie Nepinak (Anishinaabe, Pine Cree First Nation), Part 2, Public Volume 4, Calgary, AB, p. 169.
- 166 Jennisha Wilson, Mixed Parts 2 & 3, Public Volume 16, St. John's, NL, pp. 54-55.
- 167 Dr. Allan Wade, Mixed Parts 2 & 3, Public Volume 14, Winnipeg, MB, p. 143.
- 168 Jennisha Wilson, Mixed Parts 2 & 3, Public Volume 16, St. John's, NL, p. 50.
- 169 Dr. Allan Wade, Mixed Parts 2 & 3, Public Volume 14, Winnipeg, MB, pp. 197-198.
- 170 Jennisha Wilson, Mixed Parts 2 & 3, Public Volume 16, St. John's, NL, p. 154.
- 171 Josie Nepinak (Anishinaabe, Pine Cree First Nation), Part 2, Public Volume 4, Calgary, AB, p. 186.
- 172 Dr. Amy Bombay (Ojibway, Rainy River First Nations), Mixed Parts 2 & 3, Public Volume 10, Winnipeg, MB, p. 173.
- 173 Nakuset (Cree), Part 2, Public Volume 4, Calgary, AB, p. 142.
- 174 Jennisha Wilson, Mixed Parts 2 & 3, Public Volume 16, St. John's, NL, p. 41.
- 175 Erin Pavan (Anishinaabe), Part 1, Public Volume 96, Vancouver, BC, p. 31.
- 176 Jennisha Wilson, Mixed Parts 2 & 3, Public Volume 16, St. John's, NL, pp. 47-48.
- 177 Jennisha Wilson, Mixed Parts 2 & 3, Public Volume 16, St. John's, NL, p. 49.
- 178 Nakuset (Cree), Part 2, Public Volume 4, Calgary, AB, p. 133.
- 179 Tamara S., Part 1, Public Volume 15, Winnipeg, MB, p. 51.
- 180 Josie Nepinak (Anishinaabe, Pine Cree First Nation), Part 2, Public Volume 4, Calgary, AB, p. 177.
- 181 Owen, "Challenges and Opportunities," 20.
- 182 McKay and Benjamin, "A Vision for Fulfilling the Indivisible Rights," 156.
- 183 Danielle E. (Kawacatoose First Nation), Part 1, Public Volume 31, Saskatoon, SK, p. 96.
- 184 Ina C. (Serpent River First Nation), Part 1, Public Volume 38, Thunder Bay, ON, pp. 24-25.
- 185 Danielle E. (Kawacatoose First Nation), Part 1, Public Volume 31, Saskatoon, SK, p. 117.





## 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 First Nations woman who died while in custody of the Truro Police Force, offered another piece of the story told repeatedly 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 2SLGBTQQIA 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 later following a 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 Alexandria 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.”

Alexandria 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 2SLGBTQQIA 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. Cassandra 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>

---

## 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.





- A Correctional Investigator of Canada, *Office of the Correctional Investigator Annual Report 2017-2018*.
- B Ibid.
- C Ibid.
- D Kassandra Churcher, Mixed Parts 2 & 3, Public Volume 7, Quebec City, QC, p. 32.
- 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.
- L Kassandra Churcher, Mixed Parts 2 & 3, Public Volume 7, Quebec City, QC, p. 35.
- 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.
- O Kassandra Churcher, Mixed Parts 2 & 3, Public Volume 7, Quebec City, QC, p. 36.
- P Kassandra Churcher, Mixed Parts 2 & 3, Public Volume 7, Quebec City, QC, p. 36-37.
- Q Kassandra Churcher, Mixed Parts 2 & 3, Public Volume 7, Quebec City, QC, p. 33.
- R Kassandra Churcher, Mixed Parts 2 & 3, Public Volume 7, Quebec City, QC, pp. 33-34.
- S Kassandra Churcher, Mixed Parts 2 & 3, Public Volume 7, Quebec City, QC, p. 33.
- T Kassandra Churcher, Mixed Parts 2 & 3, Public Volume 7, Quebec City, QC, p. 34.
- U Kassandra Churcher, Mixed Parts 2 & 3, Public Volume 7, Quebec City, QC, p. 35.
- V Kassandra Churcher, Mixed Parts 2 & 3, Public Volume 7, Quebec City, QC, p. 38.
- W Kassandra Churcher, Mixed Parts 2 & 3, Public Volume 7, Quebec City, QC, p. 38.
- X Kassandra Churcher, Mixed Parts 2 & 3, Public Volume 7, Quebec City, QC, p. 37.
- Y Kassandra Churcher, Mixed Parts 2 & 3, Public Volume 7, Quebec City, QC, p. 37.
- Z Savannah Gentile, Mixed Parts 2 & 3, Public Volume 7, Quebec City, QC, p. 227.
- AA Savannah Gentile, Mixed Parts 2 & 3, Public Volume 7, Quebec City, QC, p. 227.
- BB Savannah Gentile, Mixed Parts 2 & 3, Public Volume 7, Quebec City, QC, pp. 114-115.
- CC Fallon Andy (Anishinaabe, Couchiching First Nation), Part 3, Public Volume 8, Toronto, ON, pp. 139-140.
- DD Savannah Gentile, Mixed Parts 2 & 3, Public Volume 7, Quebec City, QC, p. 55.
- EE Savannah Gentile, Mixed Parts 2 & 3, Public Volume 7, Quebec City, QC, p. 55.
- 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.
- OO Canada, Task Force on Federally Sentenced Women, *Creating Choices*.
- 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.



- XX Ross, "Exploring Criminal Justice," 9.
- YY Kassandra Churcher, Mixed Parts 2 & 3, Public Volume 7, Quebec City, QC, p. 109.
- ZZ Kassandra Churcher, Mixed Parts 2 and 3, Public Volume 7, Quebec City, QC, pp. 110-111.
- AAA Annual Report, *Office of the Correctional Investigator 2017-2018*, 63.
- BBB *Ibid.*, 64.
- CCC Canada, Correctional Service Canada, "Response to the 45th Annual Report of the Correctional Investigator 2017-2018."
- DDD Leresche, "Native American Perspectives on Peacemaking."

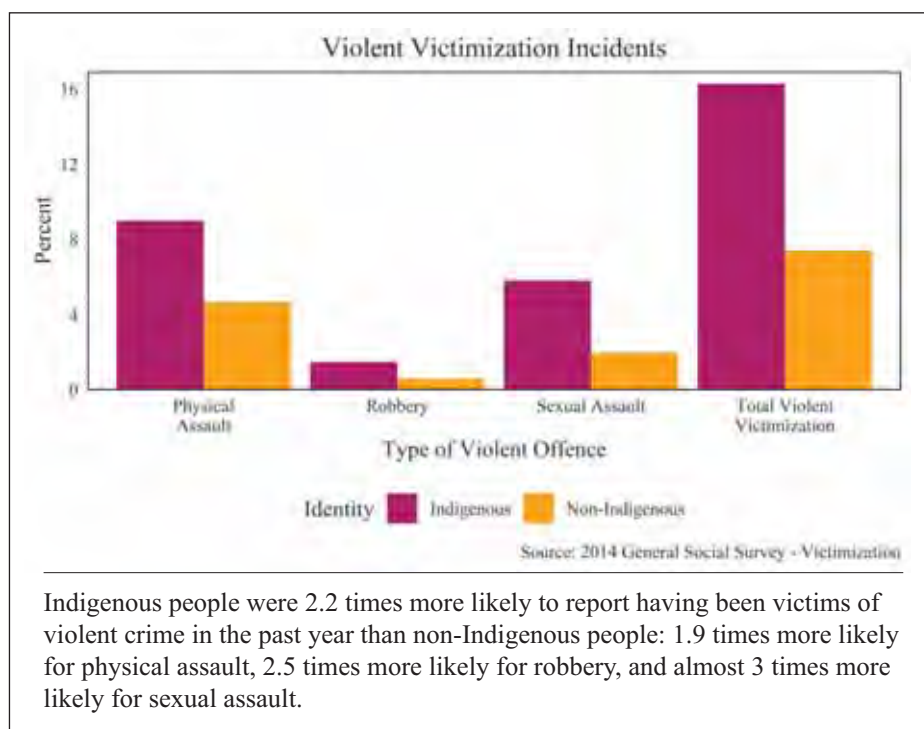




## Pathway to Violence: Lack of Will and Insufficient Institutional Responses

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>

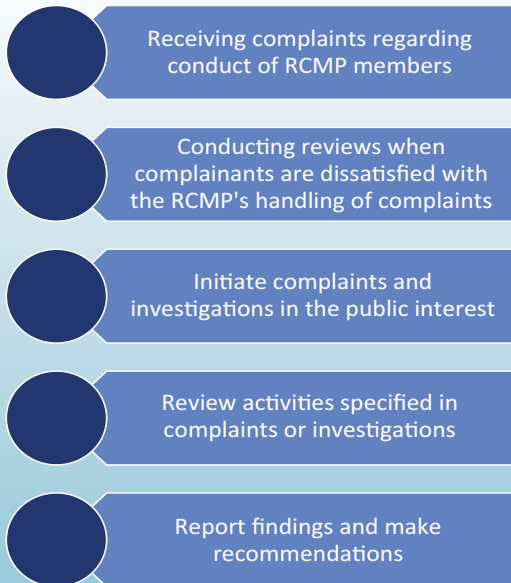
Confusion over whether a person can be reported missing until 24 hours have passed was expressed by a number of families. For Amber’s family, this arbitrary time frame is embedded within other stereotyped and racist beliefs held by the officer who, much like the officer responding to Bernice’s reports, 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 2SLGBTQQIA 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 2SLGBTQIA people.

- 
- 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 2SLGBTQQIA 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 2SLGBTQQIA 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 2SLGBTQQIA 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>

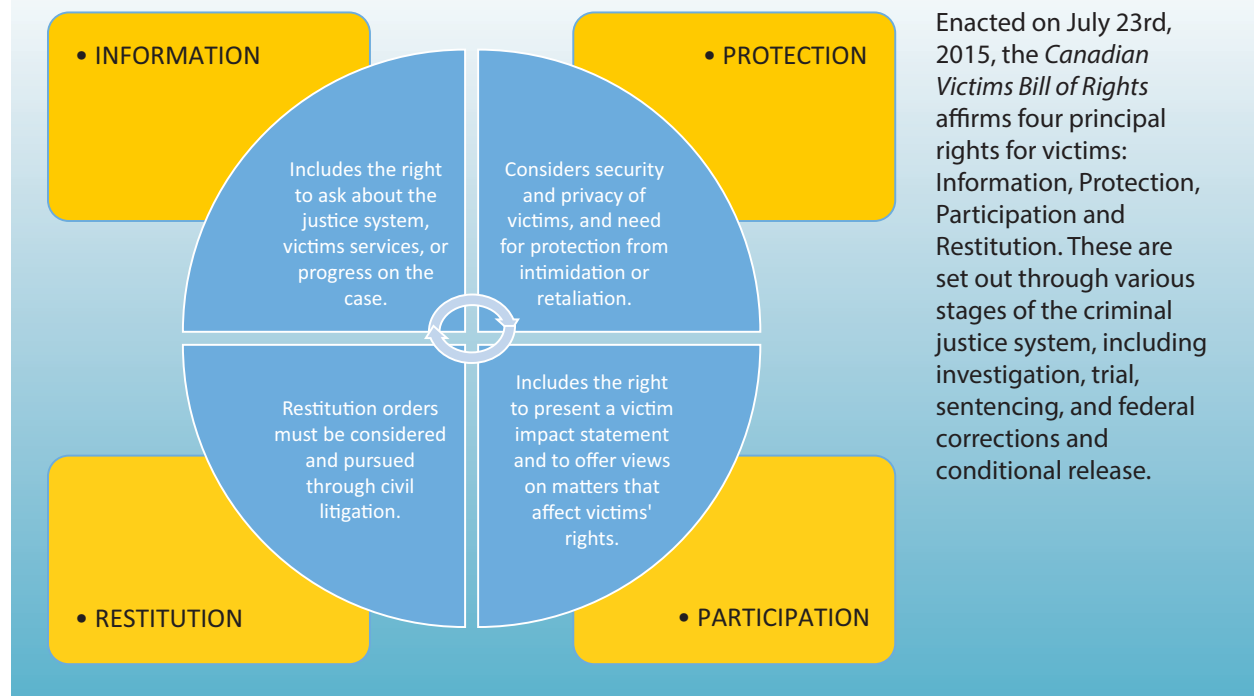


While this recommendation may certainly ease the immediate burden faced by families as they search for a missing loved one, their stories also make clear the need for systemic change that ensures that the families and communities have immediate access to search-and-rescue services equivalent to the services 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>

© Her Majesty the Queen in Right of Canada, 2015  
Cat. No. PS18-22/2015E-PDF  
ISBN: 978-1-100-25407-4

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 Alexandria 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.





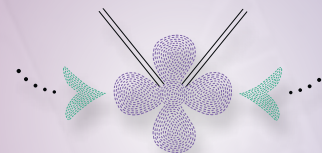
- 45 Kassandara Churcher, Mixed Parts 2 & 3, Public Volume 7, Quebec, QC, p. 37.
- 46 Kassandara Churcher, Mixed Parts 2 & 3, Public Volume 7, Quebec, QC, p. 37.
- 47 RCMP, “Missing and Murdered.”
- 48 Human Rights Watch, *Those Who Take Us Away*, p. 80. See also, “Summary of the Forensic Document Review 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.
- 101 Alaya M. (Sandy Bay Ojibway First Nation), Part 1, Public Volume 13, Winnipeg, MB, p. 19.
- 102 Pamela F. (Burnt Church First Nation) Part 1, Public Volume 44(b), Moncton, NB, p. 25.
- 103 Wilfred C. (Waterhen First Nation), Part 1, Public Volume 15, Winnipeg, MB, p. 72.
- 104 Wilfred C. (Waterhen First Nation), Part 1, Public Volume 15, Winnipeg, MB, pp. 72-73.
- 105 Pamela F. (Burnt Church First Nation), Part 1, Public Volume 44(b), Moncton, NB, p. 113.
- 106 Bernice C. (Sagkeeng First Nation), Part 1, Public Volume 15, Winnipeg, MB, pp. 33, 39.
- 107 Bernice C. (Sagkeeng First Nation), Part 1, Public Volume 15, Winnipeg, MB, pp. 55-56.
- 108 For example, Oppal, "Forsaken."
- 109 Bernice C. (Sagkeeng First Nation), Part 1, Public Volume 15, Winnipeg, MB, p. 38.
- 110 Bernice C. (Sagkeeng First Nation), Part 1, Public Volume 15, Winnipeg, MB, p. 38.
- 111 Marilyn W. (Cree), Part 1, Public Volume 30, Saskatoon, SK, pp. 5-6.
- 112 Tom C., Part 1, Public Volume 4, Smithers, BC, p. 114.
- 113 Fred F., Part 1, Public Volume 44(b), Moncton, NB, p. 38.
- 114 Fred F., Part 1, Public Volume 44(b), Moncton, NB, pp. 40-41.
- 115 Chief Danny Smyth, Mixed Parts 2 & 3, Public Volume 18, St. John's, NL, p. 11.
- 116 Chief Danny Smyth, Mixed Parts 2 & 3, Public Volume 18, St. John's, NL, p. 13.
- 117 Chief Danny Smyth, Mixed Parts 2 & 3, Public Volume 18, St. John's, NL, p. 14.
- 118 Chief Danny Smyth, Mixed Parts 2 & 3, Public Volume 18, St. John's NL, p. 47.
- 119 Chief Danny Smyth, Mixed Parts 2 & 3, Public Volume 18, St. John's, NL, pp. 39-40.
- 120 Chief Danny Smyth, Mixed Parts 2 & 3, Public Volume 18, St. John's, NL, p. 56.
- 121 Chief Danny Smyth, Mixed Parts 2 & 3, Public Volume 18, St. John's, NL, p. 60.
- 122 Brenda Gunn (Métis), Part 3, Public Volume 6, Québec City, QC, p. 58.
- 123 United Nations Development Programme, "Access to Justice," pp. 8-9.
- 124 Betty Ann Pottruff, Part 2, Public Volume 1, Calgary, AB, pp. 183-184.
- 125 Pamela F. (Burnt Church First Nation) Part 1, Public Volume 44(b), Moncton, NB, pp. 29-30.

To continue reading the *Final Report*, please see  
*Reclaiming Power and Place: The Final Report of the National Inquiry  
into Missing and Murdered Indigenous Women and Girls*,  
Volume 1b





Enquête nationale sur  
les femmes et les filles autochtones  
disparues et assassinées

# RÉCLAMER NOTRE POUVOIR ET NOTRE PLACE

LE RAPPORT FINAL  
DE L'ENQUÊTE NATIONALE SUR  
LES FEMMES ET LES FILLES  
AUTOCHTONES DISPARUES ET  
ASSASSINÉES

Volume 1a



RÉCLAMER NOTRE  
POUVOIR ET NOTRE PLACE

Enquête nationale sur les femmes et les  
filles autochtones disparues et assassinées  
Volume 1a

[www.mmiwg-ffada.ca/fr](http://www.mmiwg-ffada.ca/fr)



Réclamer notre pouvoir et notre place : le rapport final de l'Enquête nationale sur les femmes et les filles autochtones disparues et assassinées, volume 1a



This publication is also available in English:

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

CP32-163/2-1-2019F

ISBN: 978-0-660-29277-9

IMAGE DE COUVERTURE :

Nous adressons des remerciements particuliers aux artistes dont les œuvres figurent sur la page couverture de ce rapport :

Dee-Jay Monika Rumbolt (Snowbird), pour *Motherly Love*

Le Centre Saa-ust, pour l'œuvre d'art communautaire de courtepointe à motif étoilé

Christi Belcourt, pour *This Painting is a Mirror*

# Table des matières

## Préface

Remerciements des commissaires	1
Mot d'introduction de Commissaire en chef Marion Buller	5
Mot d'introduction de Commissaire Michèle Audette	7
Mot d'introduction de Commissaire Qajaq Robinson	9
Mot d'introduction de Commissaire Brian Eyolfson	11
Mot d'introduction de Jennifer Rattray, directrice générale	13
Mot d'introduction de Karine R. Duhamel, PhD, directrice de la recherche	14
Réflexions des membres du Cercle conseil national des familles	17
Nos femmes et nos filles sont sacrées : Réflexions du Cercle des Aînées et des Grand-mères de l'Enquête nationale	35
Introduction au rapport final : Comprendre la violence faite aux femmes, aux filles et aux personnes 2ELGBTQQIA autochtones	53

## **Introduction à la section 1 : Établissement d'un nouveau cadre** 101

### **CHAPITRE 1: Mettre l'accent sur les relations pour éradiquer la violence** 105

Introduction : établir une base solide	105
Pourquoi commencer par les relations?	107
Des rencontres qui changent des vies	110
Une approche intersectionnelle en matière de rencontres	115
Les quatre facteurs qui maintiennent la violence coloniale	124
Les femmes, les filles et les personnes 2ELGBTQQIA autochtones en tant que titulaires de droits	131
La promotion et le maintien de rencontres saines	136
Conclusion : unifier le tout	139



<b>CHAPITRE 2: La reconnaissance du pouvoir et de la place des femmes, des filles et des personnes 2ELGBTQQIA autochtones</b>	<b>143</b>
Introduction : les femmes au cœur de leur communauté	143
L’approche à double perspective : les divers ordres juridiques et les lois autochtones inhérentes	146
Comprendre comment les lois sont vécues en communauté	151
Les récits en tant que sources de droits et de remèdes	154
Les expressions autochtones du droit à la culture, à la santé, à la sécurité et à la justice	160
Les systèmes de relations existants, la gouvernance et l’identité	178
Conclusion : trouver des solutions grâce à de nouvelles relations	190
<b>CHAPITRE 3 : Favoriser la responsabilisation grâce aux instruments des droits de la personne</b>	<b>197</b>
Introduction : Pourquoi les droits de la personne?	197
Le contexte international des droits de la personne	200
Assurer la responsabilisation par l’application des instruments internationaux relatifs aux droits de la personne	217
Les instruments de droit national du Canada	220
Les droits des Autochtones et les droits de la personne : une relation complexe	237
Conclusion : Comprendre le besoin de solutions autodéterminées	240
<b>CHAPITRE 4: La colonisation : un outil d’oppression fondé sur le genre</b>	<b>247</b>
Introduction : le contexte de la colonisation pour les femmes, les filles et les personnes 2ELGBTQQIA autochtones	247
Comprendre la colonisation comme une structure	249
La logique de la découverte : les premiers explorateurs européens chez les Premières Nations et les répercussions sur les rapports de genre	252
Une entreprise religieuse : les débuts de la colonisation parmi les Premières Nations et les Métis	255
Les débuts du contexte colonial de violence contre les personnes de diverses identités de genre	257
Les relations complexes au pays de la traite des fourrures	260

Pour la reine et le pays : l'évolution de l'expérience des Premières Nations dans le contexte du Canada	263
Rapports avec les colons : les expériences différentes des Métis	308
Rapports avec les colons : les expériences distinctes des Inuits	321
Conclusion : une tragédie qui résulte de plusieurs siècles de colonialisme	339
<b>Introduction à la section 2 : Combattre l'oppression</b>	<b>349</b>
<b>CHAPITRE 5 : Combattre l'oppression : le droit à la culture</b>	<b>355</b>
Introduction : identité et culture	355
Définir la « culture »	357
Les facteurs favorisant la violence : le traumatisme intergénérationnel et multigénérationnel	360
Réflexion Approfondie : La nécessité d'une approche systémique pour transformer la protection de l'enfance	368
Les facteurs favorisant la violence : la marginalisation sociale et économique	414
Les facteurs favorisant la violence : le manque de volonté et les interventions insuffisantes de la part des institutions	416
Réflexion Approfondie : Les médias et la représentation	421
Les facteurs favorisant la violence : le déni de la capacité d'agir et de l'expertise dans le rétablissement de la culture	435
Les systèmes axés sur l'autodétermination et la décolonisation	437
Lier la culture aux instruments internationaux des droits de la personne	441
Conclusion : « Cessez de faire de moi une industrie »	445
Conclusions : le droit à la culture	447
<b>CHAPITRE 6: Combattre l'oppression : le droit à la santé</b>	<b>453</b>
Introduction : établir un lien entre la santé et la sécurité	453
Définir la « santé »	454
Les approches actuelles en matière de santé au Canada	458
Les facteurs favorisant la violence : le traumatisme intergénérationnel et multigénérationnel	461

Les facteurs favorisant la violence : la marginalisation sociale et économique	484
Réflexion Approfondie : Comprendre la réalité de la violence coloniale distinctive dans la vie des personnes 2ELGBTQQIA	490
Les facteurs favorisant la violence : le manque de volonté et de réaction des institutions	506
Réflexion Approfondie : Questions propres aux communautés inuites et éloignées	518
Les facteurs favorisant la violence : le déni de la capacité d’agir et de l’expertise pour le rétablissement de la santé	536
Établir des liens avec les droits internationaux de la personne	541
Conclusion : créer une nouvelle conception de ce qui est « normal »	545
Conclusions : le droit à la santé	547

## **CHAPITRE 7 : Combattre l’oppression : le droit à la sécurité** **553**

Introduction : « Nous ne sommes pas en sécurité. Personne n’est en sécurité. »	553
La définition de la « sécurité humaine »	554
Les facteurs favorisant la violence : le traumatisme intergénérationnel et la violence interpersonnelle	559
Les facteurs favorisant la violence : la marginalisation sociale et économique	570
Réflexion Approfondie : Comprendre les expériences intersectorielles vécues par les Métis	578
Réflexion Approfondie : Renforcer la coopération intergouvernementale pour favoriser la sécurité	615
Les facteurs favorisant la violence : le manque de volonté et les interventions insuffisantes de la part des institutions	631
Réflexion Approfondie : Projets d’extraction de ressources et violence à l’égard des femmes autochtones	642
Les facteurs favorisant la violence: le déni de la capacité d’agir et de l’expertise des femmes autochtones pour rétablir la sécurité	655
Les instruments internationaux relatifs aux droits de la personne et à la sécurité humaine	671
Conclusion : remettre en question la perception selon laquelle « c’est comme ça que ça se passe »	674
Conclusions : droit à la sécurité	677



<b>CHAPITRE 8 : Combattre l’oppression : le droit à la justice</b>	<b>685</b>
Introduction : « La sécurité et la justice ne sont pour nous que des mots »	685
Définir la « justice »	687
Les facteurs favorisant la violence : le traumatisme intergénérationnel et multigénérationnel	692
Les facteurs favorisant la violence : marginalisation sociale et économique	696
Réflexion Approfondie : L’incarcération des femmes autochtones	700
Les facteurs favorisant la violence : le manque de volonté et les interventions insuffisantes de la part des institutions	714
Réflexion Approfondie : L’industrie du sexe, l’exploitation sexuelle et la traite des personnes	723
Réflexion Approfondie : La nécessité de réformer la fonction d’application de la loi pour une sécurité accrue	744
Les facteurs favorisant la violence : le déni de la capacité d’agir et de l’expertise pour rétablir la justice	776
Les instruments internationaux des droits de la personne et les principes de justice	784
Conclusion : réinventer la relation	789
Conclusions : le droit à la justice	791



## Remerciements des commissaires

En tant que commissaires, nous avons reçu le mandat d'enquêter sur toutes les formes de violence que vivent les femmes et les filles inuites, métisses et Premières Nations, y compris les personnes 2ELGBTQQIA. Nous avons été investis du devoir sacré d'entendre les témoignages des familles et des survivantes de la violence afin de formuler des recommandations concrètes et pratiques visant à renforcer la sécurité des personnes, des familles et des communautés. L'héritage des personnes qui ne sont plus parmi nous ne sera pas oublié, car tous les Canadiens ont l'obligation morale d'assumer ce devoir sacré, qui appelle à faire tomber les obstacles systémiques, à mettre fin à la violence et à créer des espaces plus sûrs pour les femmes, les filles et les personnes 2ELGBTQQIA autochtones.

Nous désirons honorer la mémoire de toutes les femmes, les filles et les personnes 2ELGBTQQIA inuites, métisses et des Premières Nations disparues et assassinées, y compris l'esprit des personnes disparues et assassinées dont les familles ont partagé l'histoire avec nous. Vous avez été enlevées, mais vous n'êtes pas oubliées et votre vie, vos rêves, vos espoirs et votre absence font dorénavant partie de l'histoire vivante du Canada, et ce, pour toujours.

Nous tenons à remercier les familles qui ont partagé avec nous leur vérité douloureuse, leur savoir, leur sagesse, leurs expériences et leur expertise.



# PRÉFACE



Nous honorons votre force, votre courage et votre persévérance dans votre quête de justice et de guérison suite à la perte de vos grands-mères, de vos mères, de vos sœurs, de vos tantes, de vos filles, de vos nièces, de vos cousines et de vos amies proches.

Nous voulons rendre hommage aux survivantes de la violence qui nous ont fait part de leur histoire. Vous avez fait preuve d'une force, d'un courage et d'une résilience à toute épreuve en partageant votre vérité propre, car beaucoup d'entre vous vivent encore aujourd'hui des traumatismes et de la violence systémique. Nous sommes extrêmement touchés que vous nous ayez confié vos expériences.

Nous chérissons les expressions artistiques que vous nous avez soumises, y compris les chansons, les poèmes et les autres formes d'art. Merci aux artistes, aux membres de famille, aux survivantes et à tous ceux qui, partout au pays, ont été touchés ou qui ont décidé de passer à l'action grâce à ces expressions artistiques. Votre art restera un puissant outil commémoratif et patrimonial pour partager la vérité et les connaissances ainsi qu'une source de guérison et d'inspiration.

Nous témoignons notre plus sincère gratitude aux Grands-mères du Cercle consultatif des Grands-mères qui ont travaillé à nos côtés et qui nous ont offert, à nous ainsi qu'à tout le personnel de l'Enquête nationale, leur soutien, leur sagesse, leurs encouragements, leurs conseils, leur protection et leur amour. Ces Grands-mères resteront pour nous une source d'inspiration qui nous pousse à travailler toujours plus fort et à viser l'excellence. Nous leur témoignons notre gratitude en vivant selon les enseignements et la sagesse qu'elles ont partagés avec nous.



# PRÉFACE



Nous tenons à remercier les familles et les survivantes qui nous ont guidés et aidés en tant que membres du Cercle conseil national des familles. Pendant de nombreuses années, vous avez lutté pour qu'on vous entende et pour qu'on reconnaisse votre quête de justice menée au nom de vos proches et de toutes les femmes, les filles et les personnes 2ELGBTQQIA autochtones. Vous vous êtes battues pour la mise sur pied d'une enquête nationale sur les injustices et sur la violence subies par les femmes, les filles et les personnes 2ELGBTQQIA inuites, métisses et des Premières Nations. On ne nous a pas donné le temps, les outils, ni les pouvoirs nécessaires pour faire tout ce que nous espérions accomplir. Mais vous avez été là, à nos côtés, à chaque étape de ce parcours. Nous vous remercions humblement de votre appui, de la confiance que vous nous avez témoignée et de la vérité que vous avez partagée avec nous.

Nous avons été honorés de l'appui des Aînés et des Gardiens du savoir de tout le pays qui ont offert leurs conseils, leur savoir, leur sagesse, leurs prières, leurs traditions et leurs cérémonies dans le cadre des audiences, des séances de consignation des déclarations et d'autres événements communautaires de l'Enquête nationale. En vous asseyant avec nous, en alimentant le qulliq et ses flammes sacrées, en offrant des cérémonies, des chants, des prières et des paroles de sagesse, vous nous avez aidés à passer au travers de ce processus d'enquête juridique très complexe, tout en y intégrant les cultures, les langues et les spiritualités distinctives des Premières Nations, des Métis et des Inuits et en créant des occasions de guérison. Vous nous avez rappelé que chaque étape de notre processus devait être fondée sur une intention sincère et axée sur un but, en plus de prendre racine dans la force des relations humaines et de la réciprocité.



# PRÉFACE



Nous voulons rendre hommage aux communautés d'un bout à l'autre du pays qui nous ont accueillis sur leurs territoires et dans leurs foyers. À chacune des audiences, vous nous avez aidés à créer des espaces sûrs où s'exprimaient la culture, la langue, l'esprit et la compassion. Dans ces lieux sûrs, des vérités douloureuses ont été révélées et certaines personnes ont pu y entreprendre un processus de guérison.

Nous remercions les membres des comités consultatifs sur les Métis, sur les Inuits, sur les personnes 2ELGBTQQIA et sur le Québec, qui ont pris le temps d'explorer les enjeux et de proposer des pistes de solution. Votre expertise, vos conseils et vos orientations ont contribué à l'élaboration du présent rapport et des recommandations visant l'élimination de la violence faite aux femmes, aux filles et aux personnes 2ELGBTQQIA inuites, métisses et des Premières Nations.

Nous tenons à remercier chaleureusement tout le personnel de l'Enquête nationale et les employés contractuels. Vous avez fait preuve d'une détermination et d'un dévouement exemplaires pour nous permettre d'aller aussi loin que possible dans la réalisation de notre mandat dans le temps dont nous disposions. À maintes reprises, vous avez réussi l'impossible : 24 audiences à travers le pays, la consignation des déclarations de près de 750 personnes, huit visites d'établissements correctionnels, quatre dialogues facilités, huit réunions de validation du rapport final et de nombreuses autres réunions qui étaient nécessaires pour remplir ce mandat national. Vous avez concrétisé notre vision consistant à trouver la vérité, à honorer la vérité et à donner vie à la vérité.



## Commissaire en chef Marion Buller

**T**out d’abord, je reconnais et je salue l’esprit des femmes et des filles autochtones disparues et assassinées. Je reconnais également le courage des survivantes. Leur esprit et leur détermination ont guidé nos travaux. Ces personnes autochtones admirables sont au cœur de ce rapport qui explore les facteurs systémiques qui ont mené à la perte de leur dignité, de leur humanité et, trop souvent, de leur vie. Ce rapport porte sur un génocide planifié, fondé sur la race, l’identité et le genre.

La violence contre les femmes, les filles et les personnes 2ELGBTQQIA autochtones est une tragédie nationale d’une ampleur démesurée. À cette tragédie s’ajoute celle du refus des gouvernements d’accorder la prolongation de deux ans demandée par l’Enquête nationale pour remplir son mandat. Par conséquent, les gouvernements ont choisi de laisser plusieurs vérités inexprimées et inconnues. Plusieurs voix se sont élevées et ont critiqué notre travail. Elles continueront de le faire et c’est tant mieux : la critique constructive joue un rôle primordial. Et les nombreux points de vues exprimés témoignent des passions que soulève le problème de la violence contre les femmes et les filles autochtones.

En tant que nation, nous vivons une tragédie : quel que soit le nombre de femmes et de filles autochtones disparues et assassinées, il est trop élevé. Les meurtres, les disparitions et la violence incessants prouvent que cette crise s’est accentuée au point de devenir une situation d’urgence nationale exigeant la mise en œuvre de mesures d’intervention efficaces et opportunes.

Dans le cadre de l’Enquête nationale et au cours du peu de temps dont nous avons disposé pour réaliser nos travaux, les familles et les survivantes ont fourni d’importantes vérités. Ces vérités nous forcent à réexaminer les causes profondes de la violence et, par conséquent, à reconsidérer les solutions. Maintenant que nous connaissons ces vérités, j’espère que nous arriverons à mieux comprendre la réalité des Autochtones et à saisir que leurs droits, comme Autochtones et comme personne, sont bafoués lorsqu’ils sont la cible de violence. À vrai dire, nous vivons dans un pays dont les lois et les institutions perpétuent la violation des droits fondamentaux de la personne et des Autochtones. Ces atteintes aux droits s’apparentent ni plus ni moins à un génocide, planifié et souvent dissimulé, contre les femmes, les filles et les personnes 2ELGBTQQIA autochtones. Cette tragédie perpétrée en sol canadien ne cadre pas avec les valeurs que le pays prétend défendre.



Dans ce rapport, nous employons des termes crus pour exprimer de dures vérités, par exemple « génocide », « colonisation », « meurtre » et « viol ». Exclure ces mots crus du rapport équivaut à nier les vérités des familles, des survivantes, des travailleurs de première ligne et des responsables d'organisations locales. Nous avons utilisé des mots crus, car la violence contre les femmes, les filles et les personnes 2ELGBTQQIA autochtones représente une véritable crise à laquelle il est fondamental de mettre un terme. Nous avons tous un rôle à jouer dans cette lutte.

Ce rapport est également porteur d'espoir. Je suis persuadée qu'un changement se produira, d'autant plus maintenant que je connais la capacité de résilience des familles, des survivantes et des communautés autochtones. Un Aîné a dit : « Nous devons tous mettre de côté notre culpabilité et notre honte. » Pour y parvenir, il est essentiel de reconnaître la vérité. Par conséquent, les Canadiens non autochtones doivent réfléchir aux stéréotypes sur les Autochtones couramment utilisés et lutter contre le racisme dans tous les contextes. Les Autochtones doivent, eux, se servir de la vérité pour reconstruire leur vie, leurs familles, leurs communautés et le Canada lui-même. Les gouvernements, pour leur part, doivent mettre en œuvre un nouvel ordre social décolonisé et rien de moins. Ils ont l'occasion de transformer leurs relations avec les Autochtones et de bâtir un avenir meilleur en partenariat véritable avec eux.

Les sceptiques se montreront craintifs et se plaindront du coût financier trop élevé de la reconstruction. Ils diront que le nécessaire a été fait et que suffisamment de fonds y ont déjà été consacrés. Je leur répondrai qu'en tant que nation, nous ne pouvons pas nous permettre d'abandonner la reconstruction. Abandonner signifierait permettre délibérément que se poursuive ce génocide dans notre propre pays.

Je remercie les membres de famille et les survivantes qui ont partagé avec nous, dans le cadre des audiences et des séances de consignation des déclarations, leur vérité douloureuse au sujet des expériences tragiques qu'il ont vécu. Je suis honorée d'avoir versé des larmes avec vous, de vous avoir serrés dans mes bras et de partager avec vous l'espoir d'un avenir meilleur. Votre résilience restera pour moi une source d'inspiration.

J'éprouve une profonde admiration pour les gens sur le terrain et les militants qui sont directement témoins de l'ampleur de la violence contre les femmes, les filles et les personnes 2ELGBTQQIA autochtones. Ils savent depuis toujours que cette violence doit cesser. Grâce à la grande détermination dont ils ont fait preuve au fil du temps, ils ont forcé les gouvernements à leur prêter attention et à mettre sur pied une enquête nationale sur les causes profondes d'une crise qui a frappé plusieurs générations. Selon nous, cette enquête n'est que la première étape du processus.

Le Canada peut être un pays formidable et se montrer à la hauteur des attentes des Canadiens. Collectivement, nous ne devons nous contenter de rien de moins. Pour y parvenir, nous aurons besoin de vision, de courage et de leadership. J'ai vu ces qualités, et bien d'autres encore, chez les Autochtones d'un océan à l'autre. Je les invite à relever le défi d'être les dirigeants qui permettront l'existence d'une nouvelle réalité et d'un nouvel ordre social marquant l'avènement d'un pays sûr et sain pour tous.



## Commissaire Michèle Audette

**D**epuis l’aube de l’humanité, toutes les sociétés se sont préoccupées d’assurer la sécurité des membres de leur communauté. Or, encore aujourd’hui, des rapports de l’Organisation mondiale de la Santé indiquent qu’au cours de leur vie, 35 % des femmes dans le monde sont victimes de violence physique ou sexuelle, et ce chiffre ne représente que les cas de violence signalés.

Au Canada, les statistiques démontrent que les femmes et les filles autochtones sont douze fois plus susceptibles d’être victimes de violence que les femmes non autochtones. Selon Statistique Canada, entre 1997 et 2000, le taux d’homicides était près de sept fois plus élevé pour les femmes autochtones que pour les femmes non autochtones. Lorsqu’un péril prend une telle ampleur, il revient à tous d’assumer ses responsabilités, de cerner clairement le problème et de prendre des mesures énergiques pour corriger cette situation qui prend ses origines dans le contexte historique et politique du Canada.

Cela dit, les statistiques sont impuissantes à exprimer ce que vivent véritablement les familles et les communautés lorsqu’elles perdent ainsi des êtres chers. La famille s’étend bien au-delà du concept de lignée biologique et elle est formée de diverses composantes qui font sa diversité et sa richesse. Chacune d’entre elles mérite de vivre dans un environnement qui permettra à tous ses membres de se développer pleinement, sereinement et en toute sécurité.

L’Enquête nationale a été une expérience d’apprentissage personnel et professionnel enrichissante, mais aussi éprouvante. La réalisation de notre mandat a été une tâche ardue et je me suis sentie souvent impuissante en entendant les témoignages de toutes les personnes qui ont généreusement contribué à l’exercice que nous leur proposons.

Notre mission était de faire la lumière sur une crise sociale qui affecte les femmes, les filles et les personnes 2ELGBTQQIA autochtones à tous les jours de leur existence. Une situation exposée depuis longtemps mais qu’on a tardé à étudier sous tous ses aspects. Cette commission dont je fais partie a examiné une situation qui touche toutes les communautés autochtones du Canada, qui implique aussi tous les citoyens et citoyennes du Canada, sur toute la durée des 500 ans de leur histoire commune.

Il s'agit d'un examen sans précédent qui porte sur les violences faites aux personnes parmi les plus vulnérables de ce pays et qui vise à en cerner les causes systémiques. Jamais la vérité sur les violences faites aux femmes et aux filles autochtones n'a eu une telle occasion d'être connue et reconnue. Au sein de l'organisation, nous avons poussé et repoussé constamment les limites de nos équipes pour atteindre nos objectifs.

Pourquoi tant d'efforts? Pour que les choses changent. Je termine mon mandat en constatant, en toute humilité, que l'Enquête nationale aura permis d'honorer les luttes que mènent des familles et des survivantes depuis les 40 dernières années. Cette commission d'enquête que 3000 familles avaient demandée aura permis de faire rejaillir la lumière sur des faits trop souvent cachés.

La violence faite aux femmes et aux filles autochtones n'est pas le résultat d'un événement isolé. C'est hélas le quotidien d'un trop grand nombre d'êtres humains, plusieurs parmi les plus vulnérables de ce pays. Nous avons aujourd'hui l'occasion de souligner l'extraordinaire résilience des femmes et des filles autochtones, qui s'emploient depuis toujours à défendre leurs droits et à tracer une route pour l'avenir. Une route que nous devons tous emprunter ensemble. Nous voulons offrir aux victimes une reconnaissance honorable et aux familles, la possibilité d'offrir enfin un avenir meilleur à leurs enfants.

Le présent ne se comprend que relié à un passé qu'il faut connaître, comprendre et accepter pour que l'avenir ait un sens. Nous devons maintenant aller plus loin et proposer un vrai projet de société qui permettra au Canada de répondre adéquatement à cet immense problème de société et de sortir de cette impasse. Tous nos efforts auront permis de déterminer des pistes, des moyens et des actions pour initier ce mouvement. Chaque Canadien, à sa façon, peut et doit s'engager pour que les choses changent. Ensemble, nous avons le devoir de prendre des mesures concrètes pour prévenir et éradiquer la violence faite aux femmes et aux filles autochtones et assurer leur sécurité.

Cette commission d'enquête n'est pas la fin d'un mouvement, mais bien une étape dans un processus sain et porteur d'espoir, un projet de société. Aujourd'hui est le premier jour du Canada de demain. On ne peut pas changer le passé, mais on peut travailler ensemble à modeler un avenir meilleur, bâti sur la richesse qu'apport chacune des communautés qui le composent et ainsi s'engager ensemble à mieux assurer la sécurité des femmes et des filles autochtones.

#Éradiquerlaviolence #lesfemmesetlesfillesontsacrées #Mercilavie

Michèle Audette

Commissaire





## Commissaire Qajaq Robinson

**E**n tant que personne non autochtone, je tiens à souligner l'accueil, le respect et la gentillesse dont ont fait preuve les communautés autochtones à mon égard et envers beaucoup d'autres personnes tout au long de l'Enquête nationale. En revanche, je reconnais que les organismes gouvernementaux et le public canadien ne font pas toujours preuve du même accueil, du même respect et de la même gentillesse, et ce, envers de nombreux Autochtones. Tout au long de ce processus, j'en suis venue à mieux comprendre dans quelle mesure le Canada, pays où je vis et que j'apprécie, n'offre pas la même expérience de vie aux femmes, aux filles et aux personnes 2ELGBTQQIA autochtones. L'État, par ses lois, ses politiques et ses façons de faire, ne nous considère pas comme tous égaux, ni ne nous traite comme tels.

Les actions continues de nos gouvernements pour nier et violer les droits de la personne et les droits des Autochtones de même que les attitudes coloniales, sexistes et racistes des non-Autochtones contrastent avec l'accueil, le respect et la gentillesse que vous m'avez démontrés. Malgré les nombreux instruments et lois qui imposent des obligations en matière de droits de la personne aux gouvernements fédéral, provinciaux et territoriaux, et en dépit de la reconnaissance et de l'affirmation des droits des Autochtones dans notre Constitution et des nombreux jugements appelant à la reconnaissance et au respect de ces droits, les peuples autochtones, et particulièrement les femmes, les filles et les personnes 2ELGBTQQIA autochtones au Canada, ne vivent pas cette réalité.

Le refus généralisé de reconnaître ces droits et la déshumanisation des femmes, des filles et des personnes 2ELGBTQQIA autochtones sont toujours présents. Ils constituent les fondations sur lesquelles le Canada est bâti et sur lesquelles il continue de fonctionner aujourd'hui. Ce sont les causes de la violence que nous avons été appelés à examiner. Il s'agit d'une vérité difficile à accepter pour la population canadienne d'aujourd'hui : nous nous targuons d'être une société juste et dotée de principes, au sein de laquelle la règle de droit prévaut et qui respecte les droits de la personne et la dignité humaine. Cependant, nous n'avons pas vu que notre propre place et nos privilèges en tant que Canadiennes et Canadiens résultent de violations flagrantes des droits de la personne à l'endroit des peuples autochtones. Ces violations se perpétuent de façon explicite et parfois plus subtilement chaque jour partout au Canada. Cette vérité blesse chacune et chacun d'entre nous, et elle mine gravement nos valeurs et notre potentiel en tant que pays.

# PRÉFACE

Alors nous, Canadiennes et Canadiens non autochtones, que nous faut-il faire maintenant? Nous devons reconnaître notre rôle et devenir des acteurs de la reconstruction de cette nation. Nous devons reconnaître que la tragédie de la violence envers les femmes et les filles autochtones existe depuis des centaines d'années et qu'elle prend racine dans le colonialisme profondément ancré dans le tissu social de ce pays. Nous sommes ici aujourd'hui à cause de nombreuses années de décisions et d'actions qui, même si elles ont permis de bâtir le Canada, ont dérobé aux peuples autochtones, et particulièrement aux femmes, aux filles et aux personnes 2ELGBTQQIA autochtones, leur humanité, leur dignité et, ultimement, leur vie. Il s'agit d'un génocide.

Nous devons participer activement à la décolonisation du Canada. Nous devons obliger l'ensemble des institutions, des gouvernements et des organismes à remettre en question, de façon consciente et critique, les idéologies qui les gouvernent. Nous devons examiner d'un œil critique nos systèmes de lois et de gouvernance afin de déterminer de quelles manières ils excluent et oppriment les peuples autochtones. Nous devons exiger des explications de la part de tous les dirigeants et leur demander de protéger et de respecter l'humanité et la dignité des femmes, des filles et des personnes 2ELGBTQQIA autochtones. Et s'ils échouent à le faire, nous devons les tenir pour responsables.

Enfin, pour mettre un terme au génocide, reconstruire le Canada et en faire une nation décolonisée, nous devons travailler en partenariat avec les peuples autochtones et ce partenariat doit être véritable et équitable. J'espère que le rapport final de l'Enquête nationale sur les femmes et les filles autochtones disparues et assassinées servira d'outil pour nous aider à atteindre cet objectif.



*Martha Kyak a conçu et fabriqué cet amauti. La création de cet amauti a été un processus de guérison pour elle. Martha a dédié cet amauti à la mémoire de sa sœur Lily.*



## Commissaire Brian Eyolfson

Lorsque je réfléchis aux réalisations de l'Enquête nationale, j'éprouve une profonde gratitude à l'égard des membres de famille et des survivantes de la violence dont la voix et les apports ont fait progresser les travaux. Au cours du déroulement de l'Enquête nationale, nous avons entendu des témoignages livrés avec courage par des grands-mères, mères, sœurs, tantes, filles, grands-pères, pères, frères, oncles, fils et autres membres de famille, notamment des familles du cœur, au sujet de leurs proches qui ont disparu, ont été assassinées ou ont survécu à la violence. À titre de commissaire de l'Enquête nationale, j'ai eu l'honneur et le privilège d'apporter ma contribution et de saisir cette occasion de faire changer les choses.

Ce fut une expérience incroyable de constater la force et le courage extraordinaires des familles et des survivantes qui ont partagé leur vérité propre avec nous tous. Ces vérités resteront gravées dans mon cœur à jamais. De plus, cette force et cette résilience dont elles font preuve me permettent d'espérer que la tache qui obscurcit ce pays depuis trop longtemps peut être effacée. La publication de ce rapport final marque une étape importante et constitue également une excellente occasion d'honorer les vérités partagées par les familles et les survivantes avec l'Enquête nationale et avec la population canadienne.

Le mandat confié à l'Enquête nationale, c'est-à-dire d'enquêter et de faire rapport sur les causes systémiques de toutes les formes de violence, y compris la violence sexuelle, contre les femmes et les filles autochtones, était très large. Dans l'exécution de son mandat, il était important pour l'Enquête nationale de créer un processus qui accorde une place centrale aux membres de famille et aux survivantes, de paver la voie à la guérison ainsi que de découvrir la vérité, d'honorer la vérité et de donner vie à la vérité. En effet, il faut impérativement transformer le discours à propos des femmes, des filles et des personnes 2ELGBTQQIA autochtones qui font partie de ce pays et de nos nations. Tout au long de nos travaux, nous avons noué plusieurs belles relations partout au pays et celles-ci se poursuivront bien après la fin du mandat de l'Enquête nationale. Dans chacune des régions où nous nous sommes rendus, des Aînés nous ont offert leurs conseils. Et nous les avons écoutés, notamment en allumant le qulliq et en entretenant ses flammes sacrées à chacune des audiences que nous avons tenues, en nous efforçant d'être inclusifs en tenant compte de tous les Autochtones, y compris les personnes 2ELGBTQQIA, et en respectant les protocoles locaux.



Réaliser cet important mandat ne fut pas de tout repos et les obstacles ont été nombreux au cours de ce périple qui nous a menés d'un océan à l'autre. Toutefois, les voix des familles, des survivantes, des experts, des Gardiens du savoir et des autres témoins, par exemple les travailleurs de première ligne, les parties ayant qualité pour agir, nos Grands-mères et les membres du Cercle conseil national des familles ont apporté une contribution essentielle. Les archives créées, le quilliq et ses flammes sacrées et tous les liens tissés au cours de l'Enquête nationale renforcent et soutiennent les mesures d'action concrètes et pratiques qui peuvent être mises en œuvre pour éradiquer les causes systémiques de la violence et pour accroître la sécurité des femmes, des filles et des personnes 2ELGBTQQIA autochtones au Canada.

Les droits fondamentaux des femmes, des filles et des personnes 2ELGBTQQIA au Canada, y compris les droits de la personne et les droits des Autochtones, doivent être protégés et respectés de manière concrète et équitable. Plusieurs femmes, filles et personnes 2ELGBTQQIA autochtones se voient refuser leurs droits fondamentaux alors que d'autres personnes au Canada les tiennent pour acquis, par exemple l'accès à un logement sûr et à l'éducation. Depuis trop longtemps, les politiques, les pratiques et les attitudes coloniales et discriminatoires soumettent les femmes, les filles et les personnes 2ELGBTQQIA autochtones de partout au pays à la violence. Pour plusieurs d'entre elles, cette violence est devenue la norme. Il est urgent de prendre des mesures décisives pour mettre fin à cette tragédie.

Les gouvernements, mais également tous les habitants du Canada, ont le devoir et la responsabilité de prendre part aux actions visant à contrer la violence à l'égard des femmes, des filles et des personnes 2ELGBTQQIA autochtones. Pour y parvenir, il faut également effectuer un examen critique des attitudes et des comportements qui ont des conséquences sur la vie des femmes, des filles, des personnes bispirituelles et transgenres autochtones au pays, notamment les représentations négatives des femmes, des filles et des personnes 2ELGBTQQIA autochtones dans les médias. De plus, il est essentiel que les hommes prennent des mesures pour mettre un terme à la violence contre les femmes et les enfants, comme le recommande la campagne Moose Hide. Par exemple, ils peuvent dénoncer la violence, se responsabiliser les uns les autres, contribuer à la guérison des jeunes et être des modèles pour eux. Il est aussi d'une importance capitale que nous écoutions ce que les femmes, les filles et les personnes 2ELGBTQQIA autochtones ont à dire quant aux problèmes urgents à traiter, car elles sont les mieux placées pour proposer des solutions mettant fin à la violence et pour assumer un rôle dans cette lutte.

Je crois fermement que le travail de l'Enquête nationale ainsi que les conclusions et les recommandations contenues dans ce rapport final constituent une base solide pour entreprendre des transformations profondes. Grâce à cette occasion qui se présente et à la volonté de plusieurs personnes, nous pouvons effectuer les changements nécessaires pour assurer la sécurité des femmes, des filles et des personnes 2ELGBTQQIA autochtones des générations à venir. Honorons la vérité et donnons vie à la vérité en mettant en œuvre des actions concrètes.

Nos femmes et nos filles sont sacrées.

Chi-Meegwetch



## Jennifer Rattray, directrice générale

Je tiens à exprimer ma gratitude et mes profonds remerciements aux membres des familles et aux survivantes que j'ai eu le privilège de rencontrer depuis mon arrivée à l'Enquête nationale ainsi qu'à tous ceux et celles que j'ai rencontrés auparavant. Vous nous avez guidés tout au long de nos travaux et j'espère que ce rapport final traduira fidèlement votre réalité. Ensemble, nous avons choisi d'adopter un processus judiciaire non autochtone et nous avons tenté de l'adapter pour qu'il soit digne de vos vérités.

Je désire remercier la commissaire en chef Buller, la commissaire Audette, la commissaire Robinson et le commissaire Eyolfson. Votre vision, votre engagement et votre leadership inébranlable sont une source d'inspiration. Ils témoignent de ce que nous pouvons accomplir lorsque nous unissons nos forces pour changer le monde. En travaillant ensemble, nous accomplissons bien plus que la somme de nos contributions individuelles. Ce fut un privilège de travailler avec vous.

J'aimerais remercier tous nos employés et chacun des membres dévoués de notre grande équipe. Vous avez donné le meilleur de vous-mêmes, malgré de nombreux sacrifices dans votre vie personnelle. Personne ne saura jamais toutes les heures que vous avez passées à travailler tard dans la nuit et au petit matin, à faire ce travail comme il se doit. Chaque page de ce rapport témoigne de votre engagement sans faille et de l'excellence de votre travail.

Je remercie mes ancêtres pour tout ce qu'ils ont sacrifié. Jour après jour, vous guidez mes actions. Vous êtes la raison de mon engagement dans cette grande aventure. Merci aux Aînés et aux Grands-mères, aux mentors, aux collègues et aux amis; vous qui êtes à mes côtés et qui me soutenez sans relâche. Merci enfin à ma famille, à mon mari et à mon fils, qui sont ma lumière et ma vie.

Je continue de prier pour que cette tragédie nationale prenne fin. Ce rapport final indique la voie à suivre. Ce chemin a été tracé par les nombreux membres des familles et des survivantes, qui ont partagé des témoignages empreints de souffrances et d'espoir, et par les Gardiens du savoir, les experts et les témoins représentant diverses institutions qui ont pris le temps de comparaître devant nous. Il nous faut à présent affronter courageusement ces vérités et faire preuve de volonté afin de travailler tous ensemble à faire du Canada le pays qu'il devait être.

Je suis avec vous de tout mon cœur, ekosani.



## Karine R. Duhamel, PhD, directrice de la recherche

**L**orsque je repense à la dernière année, pendant laquelle je me suis jointe à l'équipe de l'Enquête nationale sur les femmes et les filles autochtones disparues et assassinées, je constate le chemin parcouru et tout ce que j'ai appris. Mes collègues, les autres directeurs, les commissaires, mais surtout, les Grands-mères, les familles et les survivantes m'ont transmis tant de connaissances. Même si ce parcours ne fut pas toujours sans difficulté pour moi, sur le plan personnel et professionnel, je suis honorée et touchée par la confiance qu'on nous a accordée, en tant qu'organisation, pour écouter ces vérités et pour les partager dans ce rapport.

Cette Enquête nationale représente un moment historique, bien sûr, mais également une occasion historique. Nous devons faire face à cette tragédie, nous tourner vers l'avenir, faire un travail d'introspection et refuser de détourner le regard. Les solutions proposées dans ce rapport peuvent accroître la sécurité des femmes, des filles et des personnes 2ELGBTQQIA autochtones dans ce monde. Elles sont essentiellement fondées sur les expériences partagées et sur la sagesse collective née d'un processus qui a remis en question les « règles » et qui a cherché à faire les choses autrement.

Bien que ce processus ne fut pas toujours sans heurts, j'espère que ce rapport et ces travaux donneront des résultats concrets, contrairement aux autres enquêtes ou commissions publiques. Comme les témoignages des survivantes et des familles sont au cœur de ce rapport, j'espère aussi que les gouvernements, les institutions et les fournisseurs de services seront sensibles aux conseils et aux besoins qu'elles ont exprimés et qu'ils agiront en conséquence et de manière à remplir leurs obligations en matière de droits des Autochtones et de droits de la personne. En outre, j'espère que la vision et les obligations que nous avons exposées reflètent les besoins des personnes qui sont venues partager avec nous leur vérité propre et leurs expériences. Ultiment, j'espère qu'elles contribueront à la formation d'un monde meilleur pour toutes les femmes, les filles et les personnes 2ELGBTQQIA autochtones, celles de mon entourage comme celles que je ne connais pas encore.



# PRÉFACE

Comme le souligne ce rapport, nous avons tous un rôle à jouer. Mon rôle, bien que modeste dans le portrait plus global, s'est révélé être l'expérience la plus significative de ma vie. En tant que femmes autochtones, il nous faut reprendre notre pouvoir, regagner notre place, réaliser notre plein potentiel et revendiquer l'espace nécessaire pour y parvenir.

Miigwetch à ma famille d'avoir fait preuve de patience tout au long de ce processus. Miigwetch au personnel, à la directrice générale, aux commissaires et, bien entendu, aux membres de famille et aux survivantes de m'avoir accordé leur confiance. Je porte vos vérités dans mon cœur, dans mon travail et dans toutes mes actions futures.

À vous tous, mes amis.



## Réflexions des membres du Cercle conseil national des familles

Le rôle du Cercle conseil national des familles (CCNF) est d'aider l'Enquête nationale à orienter ses travaux et de porter la voix des communautés et celle des familles de femmes et de filles autochtones disparues et assassinées dans l'expression de leur vérité propre. Pour ce faire, le CCNF fournit des avis dans la planification et lors de la tenue des audiences afin que les histoires des familles et la preuve présentée par les témoins experts soient entendues par les commissaires. Le CCNF veille aussi à ce que les expériences vécues par ces familles, tout comme leurs inquiétudes, soient prises en considération par les commissaires lorsqu'ils contre-interrogent les témoins et qu'ils examinent la preuve qui leur est présentée.

Les membres du CCNF sont des bénévoles qui conseillent l'équipe de l'Enquête nationale. Les membres n'interviennent pas dans les opérations. Ils ont été invités par les commissaires à participer en fonction de trois considérations :

- Il s'agit de leaders de longue date qui prennent la défense de leurs proches.
- Ils ont fait part de leur intérêt à apporter leur soutien à l'Enquête nationale.
- Ils représentent bien la diversité des Nations régions géographiques, communautés urbaines et rurales du pays.



Nous avons demandé aux membres du CCNF de nous partager, sur une base volontaire, leurs réflexions sur leur propre expérience de l'Enquête nationale et les espoirs qu'ils entretiennent quant au rapport final et aux conclusions de l'Enquête nationale. Nous soulignons leur contribution inestimable à ce processus. Nous les remercions infiniment de leur temps, leur expertise et leur engagement.



*Les membres du CCNF à Vancouver discutent du rapport final et le commentent.*



## Disparue, par Gladys Radek

Tamara Lynn Chipman a conquis le cœur de son père dès sa naissance. Même sa mère savait qu'elle serait une fille à papa. Lorsque Tamara a perdu son grand-père, la personne qu'elle aimait le plus au monde, elle s'est accrochée à son père et s'est mise à le suivre comme son ombre. Tamara aimait les bateaux de pêche, les voitures rapides et les chiens. C'était une aventurière. En grandissant, elle est devenue une jeune femme longiligne, charmante et magnifique dont le sourire pouvait illuminer la journée de quiconque. Hier petit garçon manqué-fille à son papa, elle est devenue la jeune mère, à 19 ans, d'un garçon à qui elle est liée à jamais. Elle n'avait peur de rien et profitait pleinement de la vie.

Puis un jour, tout à coup, quelque chose d'étrange s'est produit. Ses appels ont cessé, elle n'est plus venue cogner à notre porte, nous n'avons plus entendu de joyeux « bonjour » ni de « dis-moi papa, qu'est-ce qu'on fait aujourd'hui? ». Soudainement, notre monde s'est écroulé. Tamara avait disparu. Les jours ont fait place aux semaines, aux mois, puis aux années. Elle est disparue le 21 septembre 2005 à la pointe nord de la route des larmes en Colombie-Britannique.

Notre famille a mis sur pied des équipes de recherche et les a envoyées dans les montagnes, le long des chemins de fer, dans les fossés et les ponceaux, dans les ruelles des communautés que même les anges n'oseraient fouler. Nous avons fouillé les eaux locales, provinciales, nationales et internationales pour trouver notre petite fille avant de nous rendre compte que tant d'autres personnes, comme elle, manquaient à l'appel.

La flamme éternelle continue de brûler dans l'espoir que bientôt, elle apparaîtra à notre porte et demandera : « Dis-moi papa, qu'est-ce qu'on fait aujourd'hui? ». Nous nous demandons si elle est au chaud, si elle est en sécurité, si elle est vivante, si elle est retenue contre son gré, si on la viole ou la torture, si on l'achète ou la vend. Que lui est-il arrivé? Est-elle morte? Quelqu'un quelque part sait quelque chose. Nous pour qu'un jour, on vienne à nous pour nous dire la vérité sur ce qui s'est passé. Toutes les familles éprouvées par la disparition d'un être cher ont la même réflexion. Nous sommes des milliers à vivre ce cauchemar tous les jours de notre vie.

Parmi toutes les expériences douloureuses liées à la disparition d'un être cher, la plus difficile est de subir le racisme qui se manifeste lorsque cet être cher est un frère ou une soeur des Premières Nations. Nous entendons des propos comme : « J'ai entendu dire qu'elle était une véritable fêtarde » ou encore « Était-elle recherchée par la police? ». Le pire, c'est lorsqu'on nous dit que « son mode de vie l'exposait à des risques élevés ». Ces étiquettes ont fait en sorte que la société en général croit que nos femmes et nos filles ne sont que des prostituées, des toxicomanes et des auto-stoppeuses et, par conséquent, qu'elles ne sont pas dignes d'intérêt ou d'effort.

Ce n'est pas vrai : Tamara est aimée, maintenant et pour toujours. Le gouvernement du Canada dans son ensemble est responsable de s'assurer que chaque citoyen est protégé par les lois du pays. Tous les habitants du Canada ont le devoir de vivre en paix et dans le respect des droits fondamentaux de la personne, notamment la sécurité et la justice. L'heure de la justice, de la résolution des deuils, de la reddition de comptes, de l'égalité et de la véritable réconciliation est venue.

Il est temps de METTRE FIN À LA VIOLENCE contre les femmes, les filles et les personnes 2ELBGTQQIA autochtones. Que voulons-nous? QUE JUSTICE SOIT FAITE! Quand le voulons-nous? MAINTENANT!

## Fallon Farinacci

Lorsque l'occasion de prendre part à l'Enquête nationale sur les femmes et les filles autochtones disparues et assassinées s'est présentée à moi, j'ai tout de suite su que je devais partager l'histoire de ma famille. Je devais être la voix de celles qui ne sont plus là pour prendre la parole. Ma participation à l'Enquête nationale comme membre du CCNF m'a permis d'entamer un réel processus de guérison. Le voile s'est enfin levé sur les blessures émotionnelles que je refoulais.

Cela a été un honneur pour moi de faire partie du CCNF. L'Enquête nationale sur les femmes et les filles autochtones disparues et assassinées a une portée beaucoup plus vaste que celle perçue par la plupart des Canadiens. En effet, il ne s'agit pas seulement de sensibiliser la population sur les vies perdues, mais aussi d'attirer l'attention sur les profondes blessures historiques que les Autochtones ont dû endurer. Il s'agit d'un mouvement vers la guérison pour chacun de nous.

Je suis extrêmement reconnaissante d'avoir pu participer au CCNF et d'avoir fait entendre ma voix, au nom de ma mère (et de mon père). Sans le CCNF, je n'ai pas l'impression que l'on aurait retrouvé, tout au long des travaux réalisés, ce même degré de respect pour les personnes qui ne sont plus parmi nous. Les membres du CCNF ont puisé au fond d'eux-mêmes, ils ont partagé leur vérité propre et ont uni leurs forces afin d'être porteurs de changements pour les générations futures. Je souhaite que l'Enquête nationale permette à chacun d'entre nous, aux membres de famille, aux survivantes et aux victimes de trouver la voie de la guérison, tout en sachant que celle-ci peut uniquement prendre naissance dans le changement.

## Myrna LaPlante

Les membres de notre famille LaPlante/Osmond ont commencé leur parcours en tant que proches de femmes et de filles autochtones disparues et assassinées en septembre 2007. Depuis cette date, ma famille participe à bon nombre d'activités en Saskatchewan et ailleurs au pays.

En février 2017, j'ai été invitée à une rencontre de membres de famille à Acton, en Ontario. C'est là que ma participation au Cercle conseil national des familles (CCNF) a commencé. C'est un réel honneur de servir comme membre de ce comité aux côtés d'autres membres de famille qui souhaitent aussi que justice soit faite. Mon but est d'apporter les connaissances et l'expertise tirées du travail bénévole que nous réalisons en Saskatchewan au nom des femmes et des filles autochtones disparues et assassinées.

L'Enquête nationale a donné à ma famille la possibilité de raconter l'histoire de notre tante Emily disparue aux commissaires et à la population nationale et internationale. Nous avons également pu leur faire part de nos recommandations concernant les femmes, les filles et les personnes 2ELGBTQQA autochtones disparues et assassinées.

La perte soudaine et inattendue de proches transforme tragiquement la dynamique d'une famille, et cela touche les interactions au sein de la famille et avec des entités extérieures, comme les relations de travail et les rapports interpersonnels, les liens avec les amis, les activités sociales et autres. Une grande tristesse est présente, les membres de la famille ont tendance à perdre leur entrain et les rassemblements de proches ne sont plus les mêmes. Chacun apprend à gérer cette perte plutôt qu'à en guérir vraiment. Pour ma part, l'Enquête nationale m'a donné la possibilité d'acquérir de nouvelles compétences et d'entamer un réel processus de guérison en suivant une formation pour obtenir la certification Edu-Therapy Grief Resolution grâce au financement accordé pour les services de soins de suivi.

Nous croyons que le rapport final reflète la vérité et que les témoignages reçus sont évalués et compilés dans le respect des familles. Nous sommes convaincus que toutes les histoires et les vérités racontées par les familles donneront suite à des recommandations et que celles-ci seront mises en œuvre rapidement par les gouvernements. Nous sommes aussi persuadés que les familles qui ont subi de lourdes pertes continueront d'obtenir du soutien.

L'amour et le soutien prodigués par notre famille du CCNF ont été extraordinaires pour moi. J'en suis réellement reconnaissante. Nous savons que bon nombre de familles vivent une situation semblable, nous savons que nous ne sommes pas seuls.



## Melanie Morrison

Je lutte depuis des années pour le changement et un de nos objectifs, à l'Association des femmes autochtones du Canada, était le lancement d'une enquête sur les femmes et les filles autochtones disparues et assassinées.

Nous voulions faire connaître les préoccupations par rapport à ce que nous avons vécu et face au traitement de nos cas. Il était important pour notre famille qu'un changement s'opère. Personnellement, j'ai vu ma participation à l'Enquête nationale comme une occasion de mieux faire entendre le cri du cœur de nos familles qui réclament des changements dans la façon dont les services de police traitent les cas des femmes et des filles autochtones disparues et assassinées.

Ma sœur a disparu le 18 juin 2006. Ma mère l'a d'abord cherchée auprès de ses amis et des gens qui savaient généralement où elle se trouvait. C'était contraire à ses habitudes de ne pas rentrer à la maison, car elle était une jeune mère. Elle avait d'ailleurs dit à ma mère qu'elle rentrerait tôt ce soir-là. Lorsque ma mère s'est rendue à la police, on lui a servi le stéréotype de la jeune fille de 24 ans qui était probablement sortie avec des amis et finirait par rentrer. C'était épouvantable, car les restes de ma sœur ont été trouvés quatre ans plus tard à moins d'un kilomètre de chez elle. Le service de police local était chargé du cas jusqu'à ce moment. Puis, après un suivi, le cas a été remis à la Sûreté du Québec et le dossier est toujours ouvert. Ma nièce a grandi sans sa mère. Ma fille et moi étions très proches de ma sœur et ma plus jeune n'a jamais connu sa tante. Ma mère ne s'en est jamais remise. Mon père est décédé en 2015. Il est mort sans que l'on sache pourquoi. Je veux que les gens voient ma sœur comme une personne et non juste comme une autre statistique ou une autre femme autochtone assassinée. Elle s'exprimait très bien et regorgeait d'énergie. Quand on lui a enlevé la vie, la lumière s'est éteinte et tout a changé.

Faire partie du CCNF et contribuer à changer les choses apporte une forme guérison. C'est comme une nouvelle lueur d'espoir qui, je le souhaite, ne s'éteindra jamais. Les dossiers de nos femmes sont mal gérés et j'espère que personne d'autre n'aura à vivre ce que nous vivons. Ces femmes et ces filles comptaient pour beaucoup de gens. Elles n'ont jamais eu la chance de réaliser leur potentiel puisqu'on leur a enlevé la vie. J'aimerais que tous les Canadiens considèrent que nos femmes sont importantes, car elles l'étaient pour nous. Au moment du drame, ma sœur allait bien. Elle venait de terminer un cours en entrepreneuriat et rêvait de bâtir une maison pour elle et sa fille. C'était pénible, car elle accomplissait toutes ces belles choses, puis ce malheur est arrivé. Je souhaite qu'un changement immédiat soit apporté à la façon dont la police gère les dossiers des Autochtones, tant dans les réserves qu'en dehors des réserves, afin que rien ne retarde les recherches de la personne disparue ou assassinée. Selon ma propre expérience, le clivage était flagrant. Dans la réserve, le cas de ma sœur n'était pas important, à l'extérieur de la réserve les gens ne se sentaient pas interpellés. Si la police locale et les services de police à l'extérieur de la réserve avaient communiqué entre eux, peut-être aurions-nous pu tourner la page.

## Darlene Osborne

Tansi, Kitatamiskatinawow, je suis membre du Cercle conseil national des familles et j'ai assisté à cinq audiences à travers le pays, soit à Winnipeg, à Regina, à Saskatoon, à Calgary et à Québec. John, mon mari, était souvent présent pour m'appuyer.

John et moi avons perçu beaucoup de sincérité dans les paroles et les larmes des familles venues partager leur histoire concernant la perte d'un proche. Cette Enquête nationale est un bon début, mais il reste beaucoup à faire. Le mandat noble et ambitieux de l'Enquête nationale nous laissait espérer que les nombreuses facettes de la vérité seraient pleinement explorées. Mais sa structure même et les processus guidant ses travaux l'ont empêchée de faire toute la lumière sur cette vérité. Tout compte fait, en tant que membres d'une des familles éprouvées, et grâce à l'Enquête, nous en ressortons unis et forts et nous portons un message simple : que la violence contre les femmes doit cesser et que nous devons trouver une façon, en tant que nation, de mettre fin à ces décès et à ces meurtres honteux qui peuvent être évités.

De nombreuses solutions ont été proposées par les familles et par les survivantes. Bien que le mandat de l'Enquête nationale se limite aux femmes et aux filles autochtones, beaucoup d'autres familles ayant perdu des hommes autochtones et des femmes non autochtones se sont exprimées. Il s'agissait de familles endeuillées et souffrantes qui n'ont pas eu voix au chapitre ni de moyen de contribuer à l'Enquête nationale. Leur histoire doit également être entendue.

Selon nous, il est nécessaire d'enquêter davantage sur les services de police dans ce pays. Nous craignons de ne pas pouvoir obtenir toute la vérité concernant la façon dont les services de police ont traité les enquêtes de nos proches à l'époque. Cette information est essentielle si nous souhaitons véritablement nous attaquer aux problèmes et apporter des changements afin que nos femmes et nos enfants ne manquent plus à l'appel, ou du moins, que ces crimes ne restent plus impunis.

Nous sommes conscients qu'en recherchant la vérité, nous devons également nous concentrer sur la guérison. Cette guérison doit avoir lieu si nous voulons lutter contre cette violence qui perdure. De nombreux membres de la Nation des Cris de Norway House ont perdu des proches à cause d'une violence insensée. Il est essentiel d'établir de véritables centres de guérison où des services de soins à long terme sont offerts, particulièrement aux enfants de femmes assassinées et disparues. Bon nombre de ces enfants sont maintenant des adolescents et de jeunes adultes qui se sentent perdus et en colère à cause de ce qu'on leur a volé. Un centre de guérison reconnaîtrait les plaies profondes que ces crimes ont laissées sur notre communauté. Un tel centre permettrait également à notre communauté d'offrir un endroit où entreprendre cette guérison, en répondant aux besoins de chacun des membres de famille.

Ce fut un honneur pour nous d’avoir pu prendre part au Cercle conseil national des familles. Nous espérons que nos paroles et nos réflexions seront interprétées comme traduisant un souhait sincère de changement, à la fois ancré dans une réflexion sérieuse sur les réussites et les échecs de ce processus et axé sur une tâche difficile : trouver la vérité et cerner les réponses qui permettront d’en finir avec la disparition de nos sœurs, de nos mères et de nos filles. La perte de nos proches a profondément affecté ceux qui étaient là lorsque ces personnes ont disparu et qui sont encore là maintenant, à chercher des réponses. Nous demandons plus d’actions du Canada.

## Barb Manitowabi

En tant que famille (Shailla, Michael, Jacob), nous avons pris part au processus de consignation de la vérité. Ma famille s’est également engagée à me soutenir tout au long de ma participation aux travaux en tant que membre du Cercle conseil national des familles. Nous avons témoigné afin de soigner nos traumatismes et de nous remettre des abus que nous avons subis. Nous avons également voulu éprouver un sentiment de justice et de validation ainsi que mieux comprendre l’oppression exercée sur notre peuple.

Dans nos témoignages, nous avons partagé l’expérience de notre famille en abordant plusieurs thèmes semblables à ceux des autres familles, notamment le traumatisme intergénérationnel, le racisme, les abus, les difficultés économiques et sociales continues, le problème de la violence latérale, notre grande méfiance à l’égard des institutions du Canada dont le mandat est de nous protéger et de prendre soin de nous et, en grande partie, l’échec des systèmes qui n’ont pas été en mesure de protéger et d’aider ma famille lorsqu’elle en avait le plus besoin. Par conséquent, traumatisés et victimisés de nouveau, nous avons été condamnés à une pauvreté et à une violence de plus grande ampleur. Le processus de consignation de la vérité fut l’occasion d’exprimer la peine, la douleur et la rage que nous, en tant que famille, n’arrivions pas à libérer autrement.

Après avoir témoigné, nos liens se sont resserrés et notre famille s’est renforcée. À cet égard, je suis reconnaissante.

Ce processus m’a transformée pour toujours. Pendant deux ans, nous avons sombré dans l’abîme le plus profond où la douleur et la souffrance nous transperçaient. L’Enquête nationale a révélé à maintes reprises l’incapacité du système de protéger la vie et les droits des femmes, des filles et des personnes 2ELGBTQQIA autochtones. Ce système vise fondamentalement à détruire et à faire éclater les familles. Notre réalité consiste à regarder la destruction, lente et douloureuse, des Autochtones. Le Canada a construit un système de règles et de lois fondé sur l’avidité, le racisme et la haine, qui continue encore aujourd’hui de déchirer nos familles. Les Canadiens ne peuvent pas nier les faits, aussi troublants soient-ils : il s’agit d’un génocide.



Depuis mon expérience de travail à titre de membre du CCNF et auprès des commissaires, je voue une profonde admiration au CCNF en raison de la dignité, de la force, de la beauté, du courage et de la persévérance dont il a fait preuve au cours des deux dernières années. Malgré la mauvaise presse et les manœuvres politiques qui sont venues s'ajouter au stress engendré par les témoignages et les audiences, nous sommes restés déterminés à remplir notre mission, c'est-à-dire à nous assurer que la vérité est entendue.

Nous avons tous voulu abandonner lorsque la douleur était trop grande. En ces moments de doute, nous avons essayé de rester concentrés et de nous rappeler les uns les autres pourquoi nous nous étions mobilisés – et pour qui. Nous l'avons fait pour les fils et les filles des générations à venir, car la guérison dépend du partage et de la connaissance de la vérité. Je suis fier d'être aux côtés d'autres survivantes et membres de famille et de savoir que nous avons fait tout notre possible pour aider la prochaine génération de survivantes et de guerriers.

Je remercie le CCNF et les commissaires d'avoir écouté et soutenu ma famille. J'aimerais également dire Gchi Miigwetch (merci beaucoup) aux amis de la famille et aux Aînés qui nous ont épaulés pendant de nombreuses tempêtes et qui m'ont personnellement aidée à maintenir mon engagement. Rebekka Ingram, Thohohente Kim Weaver, Maura Tynes, Gladys Radek, Lorna Brown, Ron Zink : je vous porterai éternellement dans mon cœur. Shailla, Micheal, Jacob : je vous aime.

## Jeremiah Bosse, veuf de Daleen Bosse

Au début, je me demandais si l'Enquête nationale serait vraiment efficace, utile. J'étais envahi par le doute, car je repensais à tous ces enjeux relatifs aux Premières Nations qui avaient été mis de côté.

À présent, j'espère que les conclusions de l'Enquête nationale toucheront le cœur des gens au Canada, qu'elles aideront les non-Autochtones à comprendre la nécessité du processus de réconciliation.

Aujourd'hui, j'ai espoir, pour la première fois, que nos voix, les voix des personnes victimes de violence, seront entendues. Les paroles de nos disparues résonnent! Nous serons là pour agir en leur nom. Nous les avons perdues, mais nous ne les oublions pas!

## Pamela Fillier

Ma fille Hilary a été portée disparue le 15 septembre 2009. Lorsque j'en ai informé les policiers, ils ont supposé qu'elle était allée faire la fête et ne sont pas partis à sa recherche. Finalement, c'est ma communauté qui a entrepris des démarches pour la retrouver. Nous avons contacté les médias. Dès que l'histoire a fait les manchettes, la police a lancé des recherches. Lorsque ma fille a été retrouvée, nous avons appris que son cousin germain l'avait assassinée. Il avait déjà purgé une peine de prison pour avoir violé la mère de ses enfants. Il avait été relâché même si son dossier indiquait des risques de récidive élevés. Sauf que maintenant, ma petite fille n'est plus.

L'Enquête nationale a été comme un processus de guérison pour moi. Je me sentais très seule, mais lorsque j'assiste aux audiences et aux rencontres du Cercle conseil national des familles, ce sentiment de solitude s'estompe. Je sais que les personnes qui m'entourent comprennent ce que je ressens, parce qu'elles ont vécu une expérience semblable. Chaque histoire est unique, mais il y a toujours un élément commun auquel on peut s'identifier. Je garderai contact avec ces femmes parce que j'ai vraiment l'impression que nous formons une famille.

Mon souhait, pour le rapport final, est qu'il sensibilise la population sur la présence encore importante du racisme au Canada. J'espère également que des lois plus sévères seront mises en place en ce qui concerne les violeurs, les pédophiles et les assassins. Le meurtrier de ma fille a été condamné à une peine de 25 ans de prison, mais au bout de 13 ans, il pourra demander des sorties d'une journée. Il avait pourtant déjà été inculpé dans un certain nombre de cas de violence. Je crains pour la sécurité des femmes et des filles de sa communauté, car il n'a manifesté aucun remords à l'égard du meurtre de ma fille, et j'ai peur qu'il récidive.

Une autre chose que j'aimerais voir se réaliser à la suite du rapport final serait la mise en place d'espaces sûrs pour les enfants. Je rêve de créer la Hilary House (la Maison d'Hilary), un refuge sûr où les enfants de la communauté pourraient aller jouer ou passer la nuit. J'aimerais qu'on y retrouve une salle d'arcade et un plancher de danse. De telles maisons n'existent pas dans les réserves, et je crois qu'il s'agirait d'une merveilleuse initiative qui contribuerait à garder nos enfants en sécurité.

## Priscilla Simard

Verna Mae Simard-Shabaquay est la fille de Charles et Tina Simard de Red Lake, en Ontario. Le couple a eu trois enfants : Cecil, Verna et Mitchel. Verna a grandi dans une famille chaleureuse et aimante. C'était une enfant joyeuse, aimable et pleine d'énergie. Son père l'appelait affectueusement Faon en raison de la douceur qu'elle inspirait. Sa mère est décédée lorsque Verna était très jeune. Son père n'a pu supporter la douleur de ce deuil. La Société d'aide à l'enfance (SAE) a pris les enfants en charge et les a placés dans une maison mennonite à Red Lake. Ils ont vécu dans des foyers d'accueil où de la violence physique et des abus sexuels se sont produits.

Plus tard, Verna s'est mariée, mais cette union n'a pas duré longtemps. Elle s'est occupée de ses enfants, mais ils ont été pris en charge par la SAE. Cette perte a alors été aggravée par le décès de son fils aîné. Verna est ensuite devenue grand-mère; elle adorait sa petite-fille, elle prenait soin d'elle et ne vivait que pour elle. La vie de Verna a été difficile et tragique et elle n'est pas parvenue à surmonter les nombreux traumatismes qu'elle a vécus : le chagrin causé par le décès de sa mère, la mort tragique de son père et le décès de son frère et celui de son fils aîné. Nous croyons que ces facteurs ont contribué à son mode de vie comportant des risques élevés : sa dépendance à l'alcool et à la drogue, ses nombreux partenaires et la relation violente avec son partenaire de vie qui a entraîné sa mort.

On raconte que Verna serait tombée d'une fenêtre du sixième étage du Regent Hotel sur Hastings Street, à Vancouver. Les circonstances entourant sa mort demeurent douteuses et inexplicables, mais la police de Vancouver a déterminé qu'aucun acte criminel n'avait été commis. Si de nouveaux renseignements émergeaient, le dossier pourrait être rouvert et réexaminé. Dans notre famille, nous croyons que la violence vécue avec son partenaire de vie a contribué au décès de Verna. Nous croyons qu'elle a été poussée par la fenêtre.

Dans le cadre des audiences de l'Enquête nationale sur les femmes et les filles autochtones disparues et assassinées qui se sont déroulées en décembre 2017 à Thunder Bay, en Ontario, la famille de Verna a recommandé que plusieurs changements soient apportés, y compris au processus d'enquête de la police de Vancouver, aux rapports de police, aux rapports des médecins légistes, aux protocoles d'intervention policière, à l'évaluation de la crédibilité des témoins et à l'appréciation de la preuve en fonction de l'environnement. La famille de Verna a aussi formulé des recommandations particulières concernant les enjeux relatifs à la protection de l'enfance, à la violence familiale et à la violence conjugale entraînant la mort, en plus d'aborder la mise en place nécessaire de stratégies holistiques de guérison.

Nous rendons hommage à la mémoire de Verna et nous demandons justice. Nous comptons sur l'Enquête nationale pour présenter ces recommandations et les faire avancer au nom des femmes comme Verna. On ne doit pas minimiser l'importance de ces recommandations, ni les ignorer, ni en reporter l'examen. La mise en œuvre de ces recommandations permettra d'éviter la souffrance et de rétablir la justice, et l'esprit de Verna connaîtra enfin le repos! Miigwech!



## Sylvia Murphy

C'est pour moi un honneur de participer à cette mission pour la justice. J'ai appris tant de choses grâce à l'Enquête nationale, j'y ai trouvé du soutien. Le dévouement des commissaires et du personnel de l'Enquête nationale et leur travail rigoureux, de même que la force et la générosité des témoins et des survivantes qui ont livré leur témoignage, ont marqué mon parcours de façon importante.

Le traumatisme intergénérationnel a touché la vie de ma mère, la mienne, celle de mes filles et celle de mes petits-enfants. Quelque chose ne tourne pas rond dans notre société : notre famille n'aurait pas dû vivre toute cette souffrance. Notre histoire marquée par le traumatisme tire son origine de la mort de mon père, laquelle a laissé ma mère, à 28 ans, seule pour élever 8 enfants. Mon expérience de prise en charge, où j'ai vécu d'abord dans un orphelinat, puis dans des foyers d'accueil, a suscité en moi de profonds sentiments de rejet, d'échec et d'isolement au sein d'un monde souvent cruel.

Heureusement, certains de mes combats se sont soldés par des réussites. Ma plus jeune fille célébrera sous peu deux ans de sobriété et de vie sans drogue ni alcool. Ces deux dernières années, elle a terminé sa douzième année, puis elle est entrée au collège pour étudier afin de devenir travailleuse de soutien en santé mentale. Elle s'efforce de guérir, un jour à la fois.

Mon propre parcours a aussi été marqué par bien des difficultés. Avec l'aide du Créateur, je me suis transformée en la personne que je suis aujourd'hui. Mes petits-enfants tracent leur voie dans ce monde, soutenus par l'amour de leurs mères et moi et par l'appui que nous leur prodiguons. Comme grand-mère, je m'efforce de guider mes filles, au meilleur de mes connaissances. Avec l'aide de différents programmes, nous poursuivons notre démarche d'amour et de guérison.

Le respect, l'amour et la patience sont essentiels afin d'améliorer le sort de tous. Pour y arriver, la contribution de chacun des membres de nos communautés est primordiale, y compris celle des Grands-mères, Gardiennes du savoir et détentrices de sagesse et de connaissances, qui guident, en tout temps, les personnes qui en ont besoin. Les hommes et les garçons sont tout aussi importants. Ils requièrent eux aussi des programmes et du soutien pour être les pères des générations à venir. Il est d'ailleurs nécessaire d'apporter des améliorations à ces programmes afin d'aider les hommes et les garçons à reconnaître l'importance de leur rôle dans la protection des femmes et des filles de ce monde.

Je nourris de nombreux espoirs pour l'avenir, mais ce qui compte le plus pour moi est de veiller à ce qu'un programme soit mis en place pour guider et soutenir les enfants pris en charge, afin que leur survie et celle des générations futures soient assurées.

Le Créateur nous donne de la force. Chaque jour, je prie pour que justice soit faite.

## Les Semmler

Lors de la mise sur pied de l'Enquête nationale, on m'a demandé de faire partie du Cercle conseil national des familles.

Je n'avais alors jamais participé aux marches ou aux rallyes pour les FFADA. Ma mère avait été assassinée par son conjoint de fait lorsque j'avais 8 ans. Comme elle n'avait pas disparu avant son assassinat, je ne m'étais jamais identifiée au groupe des proches de FFADA. Lorsque j'ai assisté au processus préalable à l'enquête à Yellowknife en 2016, j'ai senti une flamme s'allumer en moi, car je me suis rendu compte que je pouvais utiliser ma voix pour changer les choses. Au cours de la première rencontre des membres du CCNF, il y eut de nombreuses discussions sur les enjeux des Premières Nations ainsi que sur les chefs et les réserves. Les autres membres inuits du CCNF et moi avons dit qu'en tant qu'Inuits, nos problèmes et nos façons de les gérer étaient différents. Nous vivons dans une région éloignée de la planète et nos femmes sont aux prises avec beaucoup de violence familiale. Je voulais m'assurer que les gens de notre région auraient une voix et que leurs préoccupations seraient exprimées dans le cadre de ce processus national.

Raconter l'histoire de ma mère à l'Enquête nationale sur les FFADA m'a permis de réellement entamer un processus de guérison et m'a apporté un apaisement. D'autres personnes qui ont entendu mon témoignage ont décidé de raconter ce qu'elles avaient vécu. Il était important pour moi de partager ma vérité propre, mais également pour ma grand-mère, qui n'en avait jamais parlé jusqu'alors. Après avoir partagé notre histoire, elle s'est sentie soulagée, car elle avait enfin eu l'occasion de s'exprimer. De plus, elle s'est rendu compte que plusieurs autres personnes avaient vécu des expériences semblables.

J'espère que le rapport final contiendra des recommandations pertinentes pour les territoires du Nord afin d'assurer la sécurité des enfants, des femmes et des hommes de cette région. Les familles ont besoin de programmes et de services de soutien qui sont adaptés à leur culture. Les approches occidentales ne fonctionnent pas auprès des femmes inuites, car elles ne leur permettent pas d'être écoutées comme elles devraient l'être. J'espère aussi que les recommandations seront écrites d'une manière qui facilitera leur adoption par les provinces et par les territoires et qu'elles donneront lieu à des actions. Enfin, j'espère que tous les résidents du Canada prendront le temps de s'arrêter et de s'informer sur tout ce que les Autochtones ont subi avant de simplement dire que c'est de notre faute. Si cette mentalité ne change pas, notre situation restera la même.

## Pauline Muskego

Je n'oublierai jamais le jour où la commissaire Michelle Audette m'a appelée pour me demander si je voulais devenir membre du Cercle conseil national des familles (CCNF) de l'Enquête nationale sur les femmes et les filles autochtones disparues et assassinées.

Je me souviens de ce que j'ai ressenti en prenant conscience que j'honorerais la mémoire de toutes les FFADA de ce territoire. Ma défunte fille, Daleen Kay Boose (Muskego), fait partie des milliers de disparues qui ont été trouvées assassinées. Notre expérience, en tant que famille, et ce que toutes les familles ont vécu et continuent de vivre m'ont poussée à accepter la proposition et je me suis sentie me de faire partie du CCNF. Notre famille a été durement touchée par la perte de Daleen. Cette occasion de partager notre vérité propre a apaisé notre douleur, bien que la guérison soit un processus qui s'étend sur toute la vie pour de nombreux membres de famille.

En tant que membre du CCNF, les dernières années ont été difficiles, mais gratifiantes. En effet, l'Enquête nationale a été en mesure d'accomplir ses travaux, et ce, malgré son envergure, sa portée et le peu de temps dont elle disposait. L'Enquête nationale franchit actuellement les dernières étapes de son mandat. Il lui aurait été impossible d'y parvenir si les commissaires et le personnel n'avaient pas surmonté l'opposition, les difficultés et les obstacles pour continuer d'aller de l'avant. Cette enquête n'aurait pas eu lieu sans eux. À cet égard, je suis reconnaissante.

Je termine en disant merci. Ce fut un honneur de siéger à titre de membre du CCNF.

*« L'être aimé vit dans mon cœur à jamais. »*

## Toni Blanchard

J'ai décidé de m'impliquer au sein du CCNF pour donner une voix à notre région du Nord et pour m'assurer que des mesures soient prises.

Ma participation au groupe du CCNF contribue à ma guérison et me donne de la force.

Je veux que les gens puissent mettre un visage sur le nom de ma sœur, assassinée en 2008 à Whitehorse, au Yukon. Elle était une fille, une mère, une sœur, une tante, une petite-fille et elle était profondément aimée. Elle a laissé derrière elle trois magnifiques enfants qui l'aimaient très fort. C'est difficile pour moi de parler ouvertement de ce qui s'est passé, y penser me fait souvent pleurer et suscite des sentiments de haine en moi, que j'essaie de contenir. Toutes les femmes, les filles et les personnes 2ELGBTQQIA autochtones disparues et assassinées ont des proches qui les aiment et pour qui elles sont si importantes.

J'espère que l'héritage laissé par l'Enquête nationale permettra d'entamer un processus de décolonisation et que les gouvernements mettront en œuvre tous les appels à la justice.



## Norma Jacobs

Nation Guyohkohnyo Cayuga de la Confédération Haudenosaunee (Iroquois)

Comme d'autres peuples autochtones, les Haudenosaunee sont habitués de lutter pour leur survie. Nous sommes des prisonniers dans nos propres territoires, aux prises avec des traumatismes causés par l'arrivée des colons sur nos terres ancestrales, ce grand continent qu'est l'Amérique du Nord ou l'île de la Tortue, comme l'appellent les premiers peuples.

Nous luttons pour essayer de protéger notre « Mère la Terre ». Nous le faisons pour pourvoir aux besoins des futures générations – nos « descendants qui ne sont pas encore nés », comme nous les appelons – et pour leur laisser un précieux héritage.

Il y a longtemps, les Onkwehón:we, les premiers peuples, ont reçu un ensemble sacré composé de chansons, de langues, de familles, de cérémonies et de tous les autres éléments qui soutiennent notre mode de vie. Cependant, notre peuple a été battu, asservi et puni pour avoir parlé sa langue. Il a été contraint d'abandonner son territoire, a été tourné en ridicule en raison de son mode de vie et a été étiqueté négativement, ce qui a violé ses limites sacrées, spatiales comme temporelles.

Même après avoir pris conscience de notre propre histoire, nous n'osions pas en parler, par crainte d'une nouvelle punition ou même par peur de perdre ce que nous gardions en lieu sûr, dans notre propre esprit. Si nous voyions quelqu'un aller à l'encontre de nos valeurs et de nos principes, sans aucune obligation de rendre des comptes, nous ne disions mot. Nous avons appris à garder le silence et à maintenir le statu quo : ne pas parler, ne rien ressentir.

Maintenant, nous brisons ces chaînes et révélons notre vérité, alors même que nous sommes entourés par ceux qui nous ont maltraités et qui ont violé notre caractère sacré. Nous pouvons reconstruire, restructurer, rétablir nos cérémonies et ranimer nos langues, car elles constituent notre mémoire du sang.

Notre Création s'est accompagnée de prières et de cérémonies, guidées par un conseil sacré. Le Grand Conseil de la Confédération Haudenosaunee nous a donné nos ensembles de valeurs et de principes pour que nous puissions vivre cette aventure humaine avec dignité et intégrité.

Il y a 400 ans, les premiers peuples ont conclu avec les colons européens le premier traité, nommé le traité du wampum à deux rangs. Ce traité stipulait que les peuples devaient respecter leurs frontières sacrées mutuelles. Chaque traité était fondé sur de bonnes intentions, sur le respect, sur la compassion et sur l'amour.

De nos jours, toutes nos demandes concernent le respect de nos valeurs et de nos principes. Les colonisateurs doivent, selon notre perspective, témoigner du respect envers l'île de la Tortue à titre de visiteurs chez nous. Nous devons nous exprimer et inculquer le sens des responsabilités à chaque personne vivante.

En raison du statu quo, il faut tellement de temps pour soigner nos blessures et nos cicatrices ainsi que pour nous transformer nous-mêmes. Nous devons guérir pour nous-mêmes et nous devons également surmonter le traumatisme dont ont souffert nos ancêtres, d'une génération à l'autre. Toutefois, il nous faut nous écarter du statu quo, briser le cycle et rassembler nos forces pour ne plus avoir de relations négatives et douloureuses dans ce monde et dans notre vie. En nous transformant nous-mêmes, nous pouvons clore ce cycle et enseigner à nos descendants qui ne sont pas encore nés les valeurs et les croyances qui façonneront nos attitudes et nos comportements pour permettre un avenir plus équilibré.

## Nos valeurs et nos principes

Adenidao shra : faire preuve de compassion et de gentillesse

Dewadadrihwa noh Kwa:k : se respecter les uns les autres

Degayenawako:ngye : travailler ensemble

Dewagagenawako:ngye : s'entraider

Esadatgehs : réfléchir à ses propres actions

Gaihwaedagoh : assumer ses responsabilités

Gasgya:nyok : encourager les autres

Gasasdenhshra : unir les forces et se soutenir les uns les autres

Drihwawaihsyo : adopter une conduite morale honnête

Oihwadogehsra : être sincère et cohérent

Sgeno : avoir des pensées et poser des actes pacifiques

Ongwadeni:deo : « prendre soin des nôtres »

## Rebecca Moore

Je suis une femme l'nu. Je suis née et j'ai grandi dans le district Kijipuktuk de Mi'kma'ki (autrement nommé Halifax, en Nouvelle-Écosse).

Les Aînés de ma communauté m'ont appris que le devoir inhérent des femmes l'nu est de veiller à la qualité de l'eau et de la protéger pour les sept prochaines générations. Je crois qu'il est essentiel que les Canadiens comprennent cela. Je prends mon devoir inhérent très au sérieux. Cette tâche exige que j'y consacre bien des efforts, toute mon attention et une grande partie de mon temps.

Les responsabilités et les devoirs inhérents qui nous incombent, en tant que femmes l'nu, font de nous des cibles directes de violence, de harcèlement, de violence policière, de la désinformation répandue par les autres Canadiens, de criminalisation et d'incarcération. En réalité, les femmes ciblées ne sont pas seulement celles qui ont un mode de vie comportant des risques ou qui vivent dans la rue, mais plutôt les femmes autochtones en général. Cela s'explique par le fait que les colonies de peuplement sont avantageuses pour la société non autochtone.

En effet, la société et la « civilisation » profitent de l'absence de voix, de l'invisibilité, de la disparition et de l'effacement des femmes autochtones. Ainsi, si nous n'existons pas, les Canadiens peuvent, tout en déclarant gagner leur vie honnêtement et légalement, librement voler et exploiter ce qui nous revient de droit, d'une part en assouplissant le principe de la « primauté du droit » en leur faveur, et d'autre part en la resserrant pour réduire à néant notre existence et notre résistance.

Le rôle primordial des matriarches dans les communautés autochtones, lequel consiste à donner la vie, à agir comme grand-mère et comme mère de clan, à guider et à prendre des décisions, n'est pas attesté ni reconnu par les tribunaux et les systèmes coloniaux.

Le gouvernement canadien empêche les femmes autochtones d'occuper la place qui leur revient au sein des communautés autochtones et dans le reste du monde. En imposant des structures coloniales, le Canada prive les femmes de leur pouvoir décisionnel et le remet entre les mains des ministères gouvernementaux corrompus, des agences, des fournisseurs de services, etc.

En théorie, ce n'est pas illégal d'être l'nu, mais dans les faits, vivre et agir comme l'nu l'est. Nous avons des droits qui sont reconnus dans le Traité de paix et d'amitié, mais les faire valoir est une autre paire de manches vu la tendance des gouvernements à interdire toutes sortes de choses. Si nous, individus titulaires de droits inhérents et descendants de la terre elle-même, nous tentons par nos propres initiatives de chasser, de pêcher ou « de nous assurer une subsistance convenable », nous sommes traités comme des criminels par l'État.

Le gouvernement canadien empêche les femmes autochtones et leurs familles d'user de l'autonomie nécessaire pour gagner leur vie de façon convenable et assurer leur propre sécurité. Tant que les femmes autochtones n'auront pas la compétence et l'autorité nécessaires pour déterminer elles-mêmes comment gérer leurs propres territoires, nous serons en péril dans cette société canadienne soumise à la primauté du droit.



## Lorraine Clements

Je me suis réveillée un matin devant une montagne enneigée d'apparence douce, qui m'invitait à revenir auprès d'elle.

Une montagne de mon enfance.

Une montagne à laquelle je suis retournée cette semaine pour pouvoir partager ma vérité propre et pour suivre son chemin de la guérison.

Une montagne de douleur.

Une montagne d'apprentissage.

Une montagne d'espoir.

Gravir ma montagne n'a jamais été facile...

Je n'ai jamais réussi à atteindre son sommet.

Mais maintenant, en ce jour où je révèle ma vérité propre,

Ma montagne n'est plus trop haute.

Il me semble plus facile de la grimper.

Ma montagne est maintenant porteuse d'espoir.

Mon ascension n'est que le commencement, comme pour plusieurs autres personnes cette semaine.

Nous conquerrons le sommet de notre montagne.

Grâce à l'amour, à la gentillesse et ensemble, toujours, nous luttons contre les systèmes pour obtenir justice.



*Photo présentée par Lorraine Clements; aucune intention d'enfreindre les droits d'auteur.*



## Nos femmes et nos filles sont sacrées : Réflexions du Cercle des Aînées et des Grand-mères de l'Enquête nationale

### Introduction

Assez tôt dans le processus de l'Enquête nationale, les Aînées agissant à titre de conseillères auprès des commissaires, les « Grands-mères », comme on les appelle, se sont recueillies au Québec. Elles ont entrepris une cérémonie de sudation pour tenter de trouver des réponses à ces questions : Quelle forme doit prendre l'Enquête nationale sur les femmes et les filles autochtones disparues et assassinées? Quelle est la meilleure façon de réaliser ces travaux?

La hutte de sudation est rattachée à la Maison communautaire Missinak, un centre d'hébergement de la ville de Québec cofondé par Pénélope Guay, Aînée et Grand-mère spirituelle de la commissaire Audette. Pénélope raconte : « Nous nous sommes rassemblées, puis nous avons établi un plan, à notre manière. Nous avons voulu planifier le déroulement de l'Enquête pour les Grands-mères [et les Aînées] et pour les commissaires. En quoi notre travail consisterait-il? C'est ainsi que les choses se sont déroulées. Nous nous sommes entendues sur tout ce que vous voyez. Notre rôle, notre engagement. Nous avons décidé à ce moment comment tout cela allait être fait<sup>1</sup>. »





*Les membres du Cercle des Aînées et des Grands-mères. De gauche à droite : Leslie Spillett, Laureen « Blu » Waters, Audrey Siegl, Louise Haulli et Bernie Williams. Ne figurent pas sur la photo : Kathy Louis et Pénélope Guay.*

L'Aînée Laureen « Blu » Waters, Grand-mère du commissaire Brian Eyolfson, faisait aussi partie du groupe : « L'une des conclusions les plus profondes et les plus importantes qui a émergé de la cérémonie de sudation fut la nécessité de disposer d'un élément tangible et matériel représentant notre appartenance autochtone; c'est ainsi qu'est née l'idée d'utiliser des couvertures, couvertures qui sont suspendues dans les salles [lors des audiences]. Elles représentent les gens, leur nation, leur nom, leur territoire, les objets propres à leur culture... Cette cérémonie de sudation, tout comme l'idée qu'elle a fait germer, est l'une des choses les plus importantes dont je me souviens. Cela a eu comme effet de nous conditionner afin de veiller à ce que la dimension cérémonielle ne soit jamais oubliée, à ce qu'elle fasse partie de tout ce que nous faisons<sup>2</sup>. »

Le cérémonialisme, indépendamment de sa forme, est profondément enraciné dans l'identité culturelle d'un peuple. L'inclusion de cette solennité au sein d'un cadre juridique tel qu'une enquête publique est une manière de rappeler aux familles autochtones et aux survivantes que cette démarche vise à honorer leur caractère sacré et celui des proches qu'elles ont perdues. La structure apparemment rigide et légaliste de l'Enquête nationale lui a valu des critiques. Or, dans le cadre de notre mandat, les paroles des Grands-mères, qui nous ont orientées durant le processus, nous rappellent le principe directeur de cette Enquête, qui veut que les femmes, les filles et les personnes 2ELGBTQQIA soient sacrées.

Pour rendre hommage à leurs travaux, les six Grands-mères et Aînées ont été priées par l'Enquête nationale de s'asseoir avec l'équipe de la recherche, de manière à consigner dans le rapport final leurs réflexions à propos de cet exercice<sup>3</sup>. Bien que modeste, c'est une façon de reconnaître la contribution remarquable qu'elles ont apportée, en coulisses souvent, ainsi que les travaux similaires réalisés par les mères, les Grands-mères, les tantes et les soignantes de ce pays.

## **Le cercle des Grands-mères et des Aînées de l'Enquête nationale**

L'idée à l'origine du cercle est née à l'automne 2016. Chaque commissaire a choisi de demander conseil auprès d'une des Aînées de sa communauté. Blu se souvient que la première fois où le commissaire Eyolfson lui a offert du tabac, ce dernier a mentionné « chercher quelqu'un pour



l'appuyer, pour l'aider à accomplir ces importants travaux en cours, et pour veiller à ce que l'on y inclue la dimension spirituelle<sup>4</sup>».

Les commissaires ont choisi d'employer le terme « Grand-mère » pour refléter le lien de grande proximité qui s'est établi entre eux et leurs Aînées. Bien que ces dernières ne soient pas toutes leur grand-mère biologique, elles remplissent tout de même ce rôle traditionnel.

Voici les membres actuels du cercle des Grands-mères et des Aînées : Pénélope Guay, Innue francophone, Grand-mère de la commissaire Audette; Louise Haulli, Aînée inuite liée à la commissaire Robinson; Kathy Louis, Aînée crie liée à la commissaire en chef Buller; Laureen « Blu » Waters, Grand-mère du commissaire Eyolfson; et Bernie Williams, Haïda, Salish du littoral et Nuuchahnulth de langue anglophone, Grand-mère de la commissaire Audette. Leslie Spillett, Grand-mère de la directrice générale Jennifer Rattray, s'est jointe à l'Enquête au printemps 2018, alors qu'Audrey Siegl, nièce de Bernie et membre de l'équipe de soutien en santé de l'Enquête, apporte aussi son soutien au cercle.

Étant elles-mêmes Autochtones, survivantes et membres de famille, elles peuvent témoigner des nombreuses manières dont les femmes et les personnes 2ELGBTQQIA de leur peuple ont été dévalorisées et déshumanisées, devenant une cible de choix pour ceux qui commettent des actes de violence. Le fait de prendre part à l'Enquête a permis aux Grands-mères d'effectuer le travail qu'elles faisaient déjà, mais d'une façon différente. Chacune d'entre elles s'acquitte de ses fonctions en s'appuyant sur ses connaissances profondes des communautés et sur son expertise pratique.

Fière Innue, Grand-mère Pénélope est originaire de Mashteuiatsh, au Québec. Elle est convaincue que le fait de renouer avec sa culture recèle un pouvoir permettant de panser les plaies du passé. Sa mère, elle aussi Innue, a été dépouillée de son statut de membre des Premières Nations lorsqu'elle a marié un Métis, comme le prévoit la *Loi sur les Indiens*. À l'âge adulte, Pénélope a dû recouvrer sa culture par l'entremise de la guérison et se réapproprier son identité en tant que femme autochtone.

Il y a 20 ans, elle a cofondé avec sa fille la Maison communautaire Missinak, un centre d'hébergement pour femmes autochtones situé à Québec. Elle y rencontre de nombreuses jeunes femmes profondément affectées par le traumatisme engendré par les pensionnats indiens, par la toxicomanie et l'itinérance, et aussi par les répercussions qu'ont ces pensionnats encore aujourd'hui. N'ayant nulle part où aller, une bonne partie d'entre elles se retrouvent dans la rue, où elles sont exploitées. Toutefois, Pénélope est aussi parfois témoin de ce qu'elle nomme un « miracle<sup>5</sup>», c'est-à-dire un revirement extraordinaire qui survient lorsqu'une personne se voit accorder le temps et l'espace dont elle a besoin pour guérir.

L'Aînée Louise, pour sa part, habite Igloodik, un petit village du Nunavut comptant moins de 2 000 habitants. Elle s'est principalement consacrée dans le passé à renforcer les valeurs traditionnelles inuites et à rendre les connaissances et les compétences des siens plus accessibles au gouvernement de ce territoire. À titre de coordonnatrice des projets visant à promouvoir la valeur sociétale inuite à Igloodik, elle a offert des services de counseling traditionnels et animé

des émissions de radio portant sur les valeurs familiales de son peuple. Louise a aussi contribué à des initiatives de mieux-être communautaire propres à son village comme à son territoire, et a été membre du Tribunal des droits de la personne du Nunavut de 2004 à 2013; en outre, elle a agi comme spécialiste de la langue inuktitut dans les écoles primaires. Elle rend constamment visite aux Aînés d'Igloodik, veillant à ce qu'on les aide à accomplir les tâches ménagères.

Louise admet que la violence est un problème important dans l'Arctique, comme elle l'est tout autant pour de nombreuses communautés autochtones et métisses, mais la culture du silence y occupe une plus grande place : « Nous avons subi cela, mais, en tant qu'habitants de la région, nous sommes moins enclins à l'exprimer... De fait, les Inuits ont aussi eu droit à ce genre de maltraitance<sup>6</sup>. » Elle insiste sur tout ce qu'elle a appris en écoutant les récits des nombreuses autres femmes autochtones du Canada et sur l'importance d'enlever nos œillères et de nous arrêter, d'écouter les familles et les survivantes, et de tirer des leçons de ce dont elles nous font part.

L'Aînée Kathy déclare : « Je m'appelle Kathy Louis. Le point de vue que j'exprime est le mien, en tant qu'Aînée de la Nation crie Samson, et aussi celui de mes ancêtres, qui étaient des chefs et des guérisseurs. Avoir grandi sur une réserve est une expérience qui m'a habitée toute ma vie durant ». Kathy a été élevée par ses parents, et ses ancêtres lui ont inculqué des valeurs fortes à l'égard des traditions. Ayant survécu aux pensionnats, elle a consacré sa vie à aider son peuple à guérir, plus particulièrement les hommes et les femmes qui ont des démêlés avec le système de justice pénale. Kathy a siégé pendant de nombreuses années à la Commission nationale des libérations conditionnelles à titre de vice-présidente, région du Pacifique, où elle a contribué, avec deux de ses homologues masculins issus de Premières Nations, à la mise sur pied d'audiences canadiennes de libération conditionnelle tenues avec l'aide d'un Aîné. On lui a aussi décerné la Médaille du service méritoire du Canada de même que l'Ordre de la Colombie-Britannique. Dans le cadre de son travail, Kathy a rencontré de nombreuses femmes qui ont déjà usé de violence, mais elle affirme : « Selon mes observations, c'est ainsi qu'on les a traitées en grandissant, enfant comme jeune adulte; ces personnes portent aujourd'hui en elles cette expérience de vie, qui définit leurs relations. Tout cela découle du racisme, de l'oppression et de la colonisation<sup>7</sup>. »

À l'extérieur du cadre de l'Enquête nationale, Kathy fait du bénévolat auprès de plusieurs organisations autochtones de la ville de Vancouver. Elle planche d'ailleurs sur le projet « Aboriginal Family Healing Court Conference », propre à la Colombie-Britannique. Dirigée par un Aîné, cette initiative vise à aider les familles recevant des services du système de protection de l'enfance à établir un contrat de guérison, à renouer avec l'identité culturelle autochtone qui leur est propre, et à demeurer ensemble.

Grand-mère Leslie (ou Giizhigooweyaabikwe, qui signifie « femme du ciel peinte », de la bande White Bear) est une Crie/Métisse originaire du Nord du Manitoba. Elle a commencé sa carrière comme journaliste et photographe avant de se consacrer à ce que l'on appelle couramment le « développement communautaire », mais qu'elle désigne plutôt comme l'édification de la nation.

Leslie est l'une des principales fondatrices du Mother of Red Nations Women's Council of Manitoba; elle a siégé au conseil d'administration de l'Association des femmes autochtones du

Canada et a aussi fondé Ka Ni Kanichihk, un organisme de Winnipeg qui offre différents programmes dirigés par des Autochtones et destinés notamment aux familles des femmes, des filles et des personnes 2ELGBTQQIA disparues et assassinées. Leslie, qui sensibilise la population à ces enjeux depuis le début des années 2000, soutient : « L'une des formes extrêmes de la colonisation s'est manifestée par la brutalité à l'endroit des femmes et des filles autochtones, qui a revêtu toutes les formes existantes, y compris la discrimination et la violence menées par l'État, lesquelles sont à l'origine de blessures aussi profondes. À l'extrémité du spectre se trouvent, on le devine, les femmes assassinées tout simplement parce qu'elles étaient Autochtones, ou encore celles qui sont disparues pour la même raison<sup>8</sup>. »

Grand-mère Blu (ou Istchii Nikamoon, qui signifie « chant de la Terre ») est une Aînée bispirituelle crie, mi'kmaq et métisse s'affairant dans le secteur de Toronto. Elle est membre du clan du Loup, alors que sa famille provient de la réserve Star Blanket de Big River, en Saskatchewan, et de la Première Nation Eskasoni du lac Bras d'Or, en Nouvelle-Écosse. Elle travaille actuellement comme Aînée sur le campus du Collège Seneca, où elle transmet des enseignements traditionnels et offre des services de counseling individuel aux étudiants et aux membres de la faculté.

Blu a été élevée par sa Kokum (grand-mère), qui lui a enseigné la médecine traditionnelle. Elle lui a aussi appris à chasser l'oie, le lièvre, le canard et le rat musqué à High Park, le plus grand parc municipal de Toronto. À 10 ans, elle a été adoptée par une famille de race blanche. Plus tard, elle a cherché à renouer avec ces liens autochtones, ce qui a provoqué chez elle une grande souffrance. Blu remarque que bien des gens vivent la même chose : « De nombreuses personnes autochtones ont l'impression d'être perdues lorsque ces liens ne sont plus. Elles errent, sans dessein, constatant qu'une grande partie d'elles a disparu<sup>9</sup>. »

Grand-mère Bernie (ou Gul Giit Jaad, qui signifie « femme de l'épinette dorée », du clan Raven) est maître sculpteuse haïda, et aussi artiste et militante. C'est également une survivante et une membre de famille qui, toute sa vie durant, a défendu les intérêts des femmes autochtones, plus particulièrement dans le quartier Downtown Eastside de Vancouver.

L'art ayant été son premier coup de cœur, elle a été formée par le sculpteur haïda de renommée mondiale, Bill Reid, et a été sa seule et unique apprentie de sexe féminin. Les œuvres de Bernie sont reconnues partout dans le monde; l'une des créations dont elle est la plus fière est une couverture à boutons de tradition haïda qu'elle a confectionnée pour la première femme autochtone à recevoir le prix Nobel de la paix. Malgré les nombreuses formes de violence qu'on lui a infligées, l'art et la musique ont réussi à assurer sa sécurité. Aujourd'hui, la création artistique est, après ses enfants et ses petits-enfants, sa plus grande passion.

Cela dit, elle a aussi décidé de répondre à l'appel des Aînés pressant de défendre les intérêts de son peuple. Elle a pris part au mouvement du pouvoir rouge en 1974, guidée par d'autres Aînées autochtones dotées d'un dynamisme exceptionnel, comme Harriet Nahanee, Kitty Sparrow, Reta Blind, Viola Thomas, Carol Martin, Mary McCaskill, Noddy Bernice Brown et Phillipa Ryan, des femmes qui lui ont fait prendre conscience de sa vraie nature et du lien qui l'unit à la terre. En compagnie d'autres femmes et sans le moindre soutien financier, elle poursuit sa mission sur



le terrain, jusqu'au petit matin souvent, dans le quartier Downtown Eastside. Comme Bernie l'indique : « Tout ce que je voulais, c'était que la vérité se sache, car j'ai survécu aux agressions sexuelles, à la violence conjugale, à la rafle des années 1960, à l'externat indien et aux pensionnats. Je voulais que la vérité éclate au grand jour, que les gens sachent que des femmes comme moi ont perdu des membres de leur famille – ma mère et mes trois sœurs, en ce qui me concerne... Puis, qu'on raconte les récits dans l'ensemble du pays, qu'un dénominateur commun, si je peux dire, se dégage de tout cela. Vous comprenez? Tant de personnes au Canada, des êtres chers, ont été mal prises en charge<sup>10</sup>. »

Audrey Siegl (ou sɣʰemtna:t, St'agid Jaad) est « Musqueam depuis le premier lever du soleil<sup>11</sup> », elle qui a aussi des liens haïdas par l'entremise de Bernie. Audrey fait partie de l'équipe qui dispense des soins basés sur la médecine traditionnelle au sein de l'Enquête nationale. Elle est sur place lors de la grande majorité des événements publics pour soutenir les personnes qui en ont besoin.

Audrey est une survivante et aussi membre de famille; elle a hérité de ces fonctions en raison de son engagement social : « Beaucoup de gens disent que nous “protestons”... Je ne proteste en rien. Je *protège*. Il y a toute une différence. Ce à quoi je m'oppose est aussi important que [...] ce qui s'oppose à moi<sup>12</sup>. » Elle ajoute par la suite : « Je fais ce que je fais à cause de toutes les femmes qui m'ont précédée et qui n'ont pu le faire<sup>13</sup>. »

## Ouvrir la voie grâce aux perspectives des Grands-mères

Le rôle que les Grands-mères ont joué dans le cadre de l'Enquête a toujours été flexible, et il a évolué avec le temps.

Louise, Grand-mère agissant à titre de conseillère auprès de la commissaire Robinson, y a pris part avec la volonté de siéger aux côtés de cette dernière en tant qu'Aînée dans le but de l'appuyer<sup>14</sup>.

Pénélope explique, dans le même ordre d'idées : « Notre rôle est très important, car nous appuyons les travaux des commissaires de sorte que l'orientation de chaque avenue respecte les valeurs spirituelles de nos peuples. Nous sommes présentes du début à la fin... On nous demande notre avis, notre point de vue; on nous pose des questions. Nous sommes sans cesse à l'écoute. En tant que Grands-mères, nous suivons le déroulement de l'Enquête et nous nous rassemblons pour discuter de son avancement. Quels points peuvent être améliorés? Quelles mesures peuvent être prises? Nous nous réunissons aussi par l'entremise de Skype afin de discuter et de nous préparer pour ce qui s'en vient<sup>15</sup>. »

Aucun effort n'a été ménagé lors de l'Enquête nationale pour intégrer aussi souvent que possible aux audiences les traditions locales et la culture, sur les directives des Grands-mères. Comme Blu le souligne : « Chaque peuple a ses propres cérémonies sur lesquelles il s'appuie depuis la nuit des temps, et elles ont toutes une grande valeur. Aucune d'entre elles n'est plus précieuse qu'une autre<sup>16</sup>. » Ces cérémonies peuvent avoir trait à la manière dont les pièces sont aménagées, ou encore à la possibilité qu'une famille bénéficie des moyens de guérison tant autochtones qu'occidentaux.

La panoplie d'objets sacrés accompagnant le personnel de l'Enquête nationale d'une audience à l'autre fut l'un des rappels constants du pouvoir des femmes autochtones et de la place qu'elles occupent. À l'origine, le lot comprenait un panier en osier rouge, un qulliq (une lampe à l'huile inuite réservée aux femmes), une coupe de cuivre avec de l'eau, un bol servant à faire brûler les herbes sacrées et divers produits médicinaux. Cet ensemble s'est enrichi à chaque audience; les gens nous ont offert une charrette de la rivière Rouge, des gravures sur écorces de bouleau, des peaux de phoque, des photographies, des chants, des plumes, des pierres et de nombreux autres produits médicinaux. Pénélope soutient que : « Lorsque nous emportons nos objets sacrés, comme une plume d'aigle, ces objets nous servent de guide; c'est ainsi que nous faisons les choses [...]. C'est un peu notre façon de dire merci. De remercier le Créateur pour l'œuvre qu'il nous a aussi été possible d'accomplir<sup>17</sup>. »

Comme le souligne Pénélope, le fait que l'on ait accordé autant de visibilité à la spiritualité dans le cadre de l'Enquête nationale contribue à la rendre si unique : « Cela demeure important. C'est une enquête; il y a donc des commissaires, des témoins, des avocats. Le fait que la spiritualité se retrouve au cœur de cette enquête nous permet de travailler dans une atmosphère plus calme, enracinée dans des valeurs culturelles millénaires<sup>18</sup>. »

L'inclusion des façons de faire autochtones a été essentielle pour que le déroulement même de l'Enquête, et pas seulement la formulation des recommandations du rapport final, favorise l'apaisement et la décolonisation dans toute la mesure possible.

Les Grands-mères ont aussi mis à profit leurs forces de différentes manières durant le processus.

En effet, Blu a indiqué que son rôle, plus particulièrement lors des audiences, portait sur de nombreux aspects différents : « Nous sommes parfois à l'arrière de la salle, réconfortant une personne qui traverse un moment difficile, ou encore assises au premier rang, manifestant aux commissaires notre appui et rappelant à ces dernières que nous demeurons à leurs côtés, que nous veillons sur elles, que nous prions pour elles, que nous voulons nous assurer que le Créateur leur vienne en aide, mais aussi pour entendre les propos tenus et pour comprendre ce qui est porté à leurs oreilles [...]. Puis, le lendemain, une personne peut arriver à l'improviste, dans tous ses états, parce qu'elle s'aperçoit qu'on raconte son histoire. Cela a-t-il du sens? Cette dernière a vécu la même chose, mais elle n'a pu obtenir d'aide<sup>19</sup>. »

Bernie n'est pas une Aînée, mais plutôt une défenseure de la terre, une gardienne de la paix, et elle prend très au sérieux son rôle de Grand-mère au sein de l'Enquête nationale. Elle se consacre à soutenir les familles et les survivantes. Selon ses dires, cela revient à servir avec humilité, à tendre la main et à assurer le bien-être des commissaires, du personnel et de toutes les autres participantes.

Les Grands-mères ont souligné que même si leur mandat consistait à l'origine à guider les commissaires, elles ont collaboré avec toute l'équipe de l'Enquête nationale. Blu atteste : « Nous appuyons l'ensemble des membres de la commission, c'est-à-dire les caméramans, les équipes de sécurité, mais aussi les témoins, les travailleurs de la santé, le greffier. Vous savez, nous sommes là pour assister toutes celles et tous ceux qui prennent part à cette démarche; aucune personne n'y joue un rôle plus important qu'une autre<sup>20</sup>. »

En tant que membre de l'équipe de santé, Audrey apporte réconfort et guérison aux autres grâce à la médecine traditionnelle. Elle affirme que l'amour est le meilleur baume qu'elle a à offrir. Ensuite vient la patience, suivie de l'espace : « Ma grand-maman m'a appris qu'il faut être capable de faire ce qui doit être fait en s'appuyant uniquement sur ses propres moyens. Il est bien d'avoir en main les véritables produits médicinaux, mais si tu ne peux pas ... si tu n'es pas en mesure de travailler auprès d'une personne sans rien d'autre que tes propres aptitudes, ce n'est pas de bon augure<sup>21</sup>. »

Audrey a présenté certains des outils dont elle se sert : « J'ai un éventail en plumes d'aigle, et un éventail en plumes de hibou. J'ai différents types de sauge, des tabacs exceptionnels, de l'encens. J'ai des produits médicinaux qui m'ont été donnés et qui proviennent de partout au Canada, du nord au sud [...]. Je suis à la fois fière et honorée d'apporter mon aide à quiconque vient me consulter avec ses propres produits médicinaux; c'est mon travail<sup>22</sup>. »

L'Enquête nationale tire aussi parti du savoir des Grands-mères dans des domaines précis, comme l'expertise de l'Aînée Kathy à l'égard du système judiciaire, ou la connaissance approfondie du quartier Downtown Eastside de Vancouver de Bernie, et il s'inspire par ailleurs de leurs perspectives en tant que Québécoises, Inuites et femmes bispirituelles. La rédaction du rapport final a été orientée par les conseils qu'elles ont prodigués, assurant que celui-ci contribue à garantir la sécurité des femmes et des filles plutôt que d'être relégué aux oubliettes.

## **Que signifie l'adjectif « sacré »?**

L'un des apports les plus exceptionnels des Grands-mères à l'Enquête nationale fut d'aider les parties prenantes à bien saisir le sens du mot « sacré » dans la vie quotidienne et dans le cadre de la réalisation des travaux. Qu'entend-on par l'adjectif « sacré », et si les femmes et les filles sont effectivement sacrées, quelles en sont les répercussions sur nos travaux?

De l'avis des Grands-mères, le concept voulant que les femmes, les filles et les personnes 2ELGBTQQIA soient sacrées est aussi multidimensionnel que les gens en tant que tels.

L'Aînée Kathy, qui maîtrise la langue crie (dialecte Y), explique le sens littéral du terme « sacré » : « C'est un don, un pouvoir, que nous accorde le Créateur. Il y a différentes façons de le nommer, mais sa signification demeure la même. C'est une vision centrée sur le Créateur... C'est la sacralité de la vie<sup>23</sup>. » Après avoir réfléchi un instant, elle ajoute : « C'est [...] de jouir des dons qu'on nous a accordés et les utiliser à bon escient pour le bien de l'humanité<sup>24</sup>. »

Grand-mère Blu abonde dans le même sens : « Une des leçons que j'ai apprises, c'est qu'au moment de la Création, le Créateur nous a conçus, et que nous sommes tous un don. Chaque personne a des dons bien à elle, des dons qui l'habitent. Mais lorsque nous nous partageons ces dons en tant que collectivité, nous disposons alors d'une grande richesse. La valeur de cette richesse est bien plus grande que tout ce que produit le monde financier, car nous connaissons nos semblables, nous les comprenons et nous pouvons les aider, nous pouvons prendre soin les uns des autres, nous entraider, et faire ce qui est juste<sup>25</sup>. »



Blu, elle, croit que l'un de ses dons est d'être une personne bispirituelle. Elle se décrit ainsi : « En tant que personne bispirituelle, j'incarne à la fois la figure masculine et la figure féminine. C'est un équilibre fragile. Un jour, je me sens davantage féminine, alors que le lendemain, je me sens davantage masculine. À mon sens, c'est une bénédiction. Les autres, toutefois, y voient quelque chose d'anormal. Soit on est un homme, soit on est une femme, mais pas les deux. J'ignore combien de fois j'ai entendu dire, tout bêtement : "Dieu a créé Adam et Ève, et non pas Adam et Steve." Nombreuses sont les formes d'ignorance contre lesquelles nous devons nous battre sur une base quotidienne<sup>26</sup>. »

Blu fait valoir l'importance d'inclure dans le cadre du mandat de l'Enquête les personnes 2ELGBTQQIA (bispirituelles, lesbiennes, gaies, bisexuelles, transgenres, queers, en questionnement, intersexuées et asexuelles) et celles de diverses identités de genre, car elles ont toujours été partie prenante des cercles autochtones : « Nos personnes bispirituelles, nos personnes trans, ont toujours fait partie de la communauté. La colonisation les a ostracisées. Leur mode de vie a été qualifié d'inapproprié, et leur manière d'être a été bannie. Or, nous sommes encore là et nous devons transmettre à autrui les précieuses connaissances que nous acquérons en cours de route. Nous devons nous épauler les unes les autres et accomplir ensemble l'œuvre culturelle consistant à nous réapproprier notre identité<sup>27</sup>. »

L'une des manières les plus courantes pour les peuples autochtones de reconnaître la femme comme étant sacrée est en accueillant une nouvelle vie au sein de la communauté. Grand-mère Blu précise : « Nos femmes sont véritablement sacrées. Elles contrôlent tout. Elles sont l'assise de nos peuples, n'est-ce pas? [...] Ce sont les mères nourricières; ce sont elles qui maintiennent la vie, qui la créent. Oui, elles ont besoin d'un partenaire pour y parvenir, mais ce sont elles qui sont la source de la vie<sup>28</sup>. »

Cela dit, les femmes et les personnes 2ELGBTQQIA sont sacrées à de nombreux autres égards, car elles ont beaucoup de dons à offrir. Comme l'explique Leslie : « Je crois que la femme est, en quelque sorte, un portail pour la vie. Mais je crois aussi que ce n'est pas tout ce qu'elle est, vous comprenez? À mon avis, nous faisons bien plus que simplement donner naissance. Je ne cherche pas à atténuer le caractère sacré de la femme comme donneuse de vie, mais ... son rôle ne se limite pas à cela <sup>29</sup>. » Elle fait remarquer que chaque personne, tout comme chaque communauté, se réapproprie différemment les responsabilités propres à la femme, et que les mœurs évoluent.

Audrey, elle, voit les choses d'un autre œil : « Nos jeunes femmes, nos Grands-mères et les femmes qui nous accompagnent sont sacrées parce qu'elles existent. Nous sommes sacrées parce que nous avons survécu. »

À bien des égards, l'Enquête nationale puise ses origines dans des endroits comme le quartier Downtown Eastside de Vancouver, où le mépris du caractère sacré des femmes et des filles est omniprésent. Bernie et ses collègues arpentent les rues pour aider les femmes autochtones qu'elles croisent, leur rappeler qu'elles sont importantes. Bernie affirme : « Je les aborde pour leur dire tout simplement qu'il y a des gens qui les aiment... Téléphonnez à vos proches et dites-leur que vous êtes encore là. C'est le message que je leur transmets, elles qui se sentent

sèverement jugées. Je leur explique que quoi qu'il en soit, nous sommes là pour défendre leurs intérêts. C'est ça que je fais sur le terrain, j'essaie de leur donner un peu d'espoir. Peu importe ce qui se passe, nous nous battons pour elle et nous les apprécions<sup>30</sup>.

Grand-mère Blu résume les choses ainsi : « La femme donne la vie, mais elle ne peut le faire sans l'homme. La nature s'équilibre de cette manière. Les personnes bispirituelles rétablissent à nouveau cet équilibre de masculinité et de féminité. Notre existence ne repose pas sur notre sexualité ni sur notre identité de genre, mais bien sur le fait que nous sommes des êtres humains. C'est de mettre en pratique les enseignements prévus par nos ancêtres dont il est question, ces enseignements qui prônent la bienveillance, le respect, la franchise, l'honnêteté, l'humilité, l'amour, la sagesse. C'est d'adopter un mode de vie fondé sur ces valeurs. C'est concevoir son prochain comme un rouage important de la communauté et chercher à discerner les dons que possède cette personne de manière à enrichir notre mieux-être collectif. Vous comprenez<sup>31</sup>? »

Lorsque nous rendons hommage à nos propres dons, tout comme à ceux des autres, nous reconnaissons le caractère sacré de chacun d'entre nous.

## Comprendre et rétablir le pouvoir et la place des femmes

En se fondant sur le précepte voulant que les dons d'une personne soient respectés et mis à profit, l'Enquête nationale a pour mission de permettre aux femmes, aux filles et aux personnes 2ELGBTQQIA autochtones de « reconquérir le pouvoir et la place qui leur reviennent ». L'une des meilleures façons d'y parvenir est de reconnaître l'importance des manières d'enseigner, des manières de faire et des manières d'être des Autochtones. Le point de départ consiste souvent à apprendre, ou à réapprendre, ces coutumes autochtones.

Grand-mère Leslie a fait remarquer que cette approche est souvent rejetée lorsqu'elle oppose les peuples autochtones à des entités qui suggèrent leurs propres solutions : « Aujourd'hui encore, la culture dominante aborde la question autochtone sous l'angle de l'assimilation. Pour une raison quelconque, il faut devenir comme eux pour être acceptable. Il faut adopter leurs valeurs. Il faut concevoir les choses à leur manière. Sinon, notre raisonnement est inexact, voire défaillant<sup>32</sup>. »

Plusieurs Grands-mères ont raconté qu'elles ont aussi grandi à l'écart de leur culture. Grand-mère Pénélope, dont la mère a intériorisé une grande honte d'être Autochtone, a choisi de retrousser ses manches lorsqu'elle a découvert la véritable histoire des siens : « Aujourd'hui, je répète cette histoire partout où on m'invite. J'ai besoin d'au moins trois heures pour établir le fil des événements, allant du premier contact jusqu'à aujourd'hui. Que s'est-il passé? Que s'est-il passé dans les pensionnats? Comment en est-on venu à la *Loi sur les Indiens*, qui a dépossédé des femmes comme moi de leur identité et de leur fierté? Je crois que je continuerai à réciter cette histoire aussi longtemps que le Créateur me gardera en vie<sup>33</sup>. »

Les enseignements les plus importants qu'offre l'Aînée Kathy sont l'amour, le respect, le soutien, et aussi l'entraide, l'honnêteté et la bienveillance mutuelles. Elle affirme : « Plus l'existence d'une femme autochtone est centrée, plus elle réalise l'essence et la raison d'être véritables qui l'habitent. Je crois aussi que pour vivre sa vie et pour aider les autres, il faut

connaître et comprendre nos propres valeurs. Nous devons savoir qui nous sommes. Nous pouvons ensuite risquer de faire les choses différemment, de contribuer à la société et de changer les choses. Car nous pouvons tous y prendre part de cette manière. Lorsqu'une personne prend conscience des particularités dont le Créateur lui a fait don, tout devient possible. La concrétisation de cela se fait en continuant d'aller de l'avant<sup>34</sup>. »

Kathy est bien consciente que certaines des plus lourdes pertes des peuples autochtones d'aujourd'hui ont trait à la langue, à la culture et au sentiment d'appartenance. Elle a vu de ses propres yeux, ors d'audiences sur la libération conditionnelle de délinquants autochtones auxquelles assistaient des Aînés, comment la reconstitution de ce sentiment d'appartenance peut s'avérer efficace, disant qu'ils étaient « très, très réceptifs<sup>35</sup> ». Les cérémonies de sudation sont aussi importantes pour la guérison des femmes, tout comme la prestation d'une formation immersive dispensée à tous les fournisseurs de services faisant partie du système correctionnel.

À un certain moment, Kathy a indiqué que les détenus interagissaient mieux que les membres du personnel grâce à l'effet de la cérémonie et de la participation des Aînés et à leur incidence positive incroyable : « Les hommes et les femmes ont pris le chemin de la prison, admettant être incarcérés pour découvrir leur culture. Pour apprendre tout ce qui a rapport avec les traditions. Et pourtant, certains d'entre eux [...] ont hérité de ces traditions en grandissant, mais ne les ont jamais cultivées ni poursuivies<sup>36</sup>. » En réalisant ces travaux, elle a suivi les préceptes que sont l'amour, la compassion et le pardon accordé à autrui.

Selon Leslie, le travail qu'elle réalise à Ka Ni Kanichihk, où tous les programmes sont de nature culturelle et dirigés par des Autochtones, est un acte de souveraineté : « Nous savions que les solutions existaient; nous devons simplement apprendre à les mettre en œuvre de manière à avoir une réelle incidence au sein de la communauté<sup>37</sup>. » Elle a affirmé que son intention visait aussi explicitement à redonner le pouvoir aux femmes : « Je ne cherche pas, comment dire, à avoir le dessus sur les hommes. Je pense que nous voulons rétablir l'équilibre [...] au sein de nos groupes culturels, et montrer aux filles et aux garçons qu'il y a un endroit où on tient chacun d'eux et chacune d'elles en haute estime, qu'ils sont tous sacrés et tous précieux de manière égale, et que nous avons besoin d'eux pour former notre nation<sup>38</sup>. »

Leslie nous rappelle que : « L'autonomie nationale est impossible sans les femmes — et pas seulement sans les femmes —, mais sans que les femmes jouent un rôle égal et fondamental au sein de cette nation. L'identité nationale ne peut tout simplement pas se concevoir sans cela<sup>39</sup>. »

Cette reprise par les femmes du pouvoir et de la place qui leur revient se fera de manière différente à l'échelle du Canada en raison de la diversité des peuples autochtones. Comme le rappelle l'Aînée Louise, bien des plans élaborés au sud du pays sont voués à l'échec lorsque mis en place auprès des Inuits, car ils n'ont pas été mis au point par des Inuits.

Cependant, Louise perçoit aussi de nombreuses similitudes culturelles entre les Inuits et les membres des Premières Nations quant à la manière dont ils réagissent face aux blessures et aux traumatismes découlant de la colonisation : « Les Inuits de la région arctique et les Premières Nations forment un seul et même groupe, et certaines de nos valeurs culturelles sont aussi présentes chez l'autre peuple<sup>40</sup>. »



La proportion de femmes et de personnes 2ELGBTQQIA que nous perdons chaque jour est sans contredit l'un des plus grands obstacles nuisant au rétablissement du pouvoir et de la place qui leur revient. Blu explique que « [nous perdons] tous leurs enseignements. Toutes les leçons qu'elles ont apprises au cours de leur vie s'éteignent. Il faut beaucoup de temps pour atteindre le seuil de connaissance et de savoir qu'une autre personne a déjà franchi. Quand elles nous quittent trop tôt ou lorsque le monde spirituel les rapatrie, elles emportent avec elles toute leur sagesse et leur expérience<sup>41</sup>. »

Il faut donc, en définitive, prêter l'oreille à ce que disent les femmes, les filles et les personnes 2ELGBTQQIA autochtones. Il faut accorder de l'importance à leurs propos, et aussi lutter contre les stéréotypes et contre des siècles de colonisation qui ont dévalorisé et nié les nombreux dons qu'elles possèdent. Leslie met en évidence ce qui suit : « Aujourd'hui encore, je suis convaincue qu'il doit y avoir une structure indépendante qui exprime et fait valoir le point de vue des femmes autochtones. Cela ne signifie pas pour autant que notre apport à la nation et à notre communauté est nul. Mais c'est, je crois, quelque chose de vraiment nécessaire à ce stade-ci<sup>42</sup>. »

Pour citer Pénélope : « Il est vraiment important que les femmes autochtones prennent la parole. J'estime que plus elles parlent, plus elles retrouvent de leur force. Chaque femme qui fait entendre sa voix décuple nos forces. Nous prenons aussi, du même souffle, la place qui nous revient<sup>43</sup>. » Au bout d'un certain temps, elle ajoute : « Prendre la place qui nous revient, cela veut dire continuer d'avancer en dépit des écueils et des préjugés. C'est ce que nous devons faire; j'espère de tout cœur que nous en aurons la force. Je l'espère réellement<sup>44</sup>. »

## Les changements qu'apporte l'Enquête nationale

Les Grands-mères ont pu constater que certains des changements attribuables à l'Enquête ont déjà des retombées sur elles et sur leurs communautés, et elles ont dû relever de grands défis en ce sens.

Louise réfléchit à ce qui reste à faire, notamment dans les courts délais qui ont été impartis : « Il y a encore un travail considérable à réaliser. Les témoins que nous entendons racontent enfin leur histoire, les récits qu'ils ont maintenus enfouis au plus profond de leur être, la douleur qui les ronge depuis si longtemps, et les non-dits qu'ils recèlent depuis tant d'années sans pouvoir obtenir ni aide ni assistance.... C'est ce à quoi nous assistons aujourd'hui. C'est leur histoire qui fait couler de l'encre, ces personnes qui ont enfin la chance d'être soutenues et d'aspirer à une nouvelle étape de leur vie<sup>45</sup>. »

Il faut aussi reconnaître que l'inclusion des façons de faire autochtones au sein du cadre de l'enquête judiciaire n'a pas toujours été couronnée de succès. Le calendrier serré, les formalités administratives, les exigences bureaucratiques ainsi que des difficultés internes ont tous contribué à rendre ces travaux parfois éprouvants, quoique toujours gratifiants.

Bernie, Blu et Audrey ont toutes affirmé que cet exercice — tant dans le cadre de l'Enquête nationale qu'à l'extérieur de celui-ci — est épuisant, au point où il devient impossible de définir ce qu'est une « journée normale ». La violence, elle, subsistera au terme de l'Enquête nationale. Bernie en est témoin chaque jour : « Ce ne sont que des jeunes qui luttent pour assurer leur

survie et tout ce que cela implique. Ces jeunes n'ont rien... À moins que quelqu'un décide de pénétrer dans cet antre pour les en extirper, leur sort est scellé. Il n'y a que deux avenues possibles : soit ces personnes ont la chance d'être rescapées par quelqu'un qui veille à leur mieux-être, comme un membre de la famille ou de la parenté, soit elles se retrouvent six pieds sous terre<sup>46</sup>. »

De janvier à septembre 2018, Bernie a perdu aux mains de la violence qui sévit dans le quartier Downtown Eastside de Vancouver pas moins de 88 amis et membres de sa famille. Ce nombre est renversant. « Des enfants souffrent d'une véritable psychose; or, tout le monde ferme les yeux<sup>47</sup> », ajoute-t-elle.

La même réalité s'impose aussi à Winnipeg, où les femmes notamment blâmées pour la violence dont elles sont victimes : « Nous savons qu'elles ont été traitées de prostituées, de droguées. Et il y a aussi ces termes polis, qui les décrivent implicitement de façon raciste, comme "à risque", et autres. Cela permet aux gens de s'en laver les mains en se disant : "Dommage, mais cela ne nous concerne pas." C'est de leur faute, ce qui arrive. Les disparitions, les viols et les meurtres dont elles font l'objet sont causés en partie par leurs propres comportements, c'est-à-dire la manière dont elles s'habillent, les gestes qu'elles posent, le fait d'être Autochtones, et le fait d'être des femmes. Beaucoup de gens ne se rendent pas compte que le système lui-même induit la violence. Pourtant, les disparitions et les assassinats de femmes et de filles autochtones sont le résultat de la pauvreté imposée, du racisme juridique et individuel, de la discrimination et du patriarcat<sup>48</sup>. »

Toutefois, les Grands-mères ont aussi reconnu que des changements sont déjà en cours en raison de l'Enquête. Selon Louise, l'un des impacts les plus importants est l'augmentation du nombre d'Inuits qui décident de s'exprimer : « Nous avons enfin brisé le mur du silence, car nous pouvons depuis peu raconter nos histoires. Parce que les membres des Premières Nations ont accepté de replonger dans le passé et de partager leur vérité propre, nos propres histoires sont aujourd'hui entendues. Et c'est l'Enquête des commissaires qui a été l'élément déclencheur<sup>49</sup>. »

Pénélope constate elle aussi ces points communs entre les exposés : « C'est frappant; tous ces témoignages... Cela démontre à quel point nous sommes fragiles et, en même temps, à quel point nous sommes forts. Et c'est encore le cas aujourd'hui. C'est ce qui m'étonne; notre résilience<sup>50</sup>. »

Elle sait que nous arrivons à une étape cruciale : « C'est ce qu'il faut admettre avec l'Enquête nationale. Un tournant s'opère ici au Québec, comme dans l'ensemble des communautés du Canada. Chaque Autochtone sait maintenant qu'il n'est pas normal d'être un citoyen de deuxième classe dans son propre pays. Cela nous rendra plus fortes et plus forts. C'est ce qui résultera de l'Enquête nationale<sup>51</sup>. »

Le plus important, c'est le soutien, le réconfort et la guérison que l'Enquête nationale aura apportés aux familles et aux survivantes; l'œuvre des Grands-mères se perpétuera au-delà de l'Enquête nationale. Comme Bernie l'explique : « Participer à l'Enquête nationale est l'une des responsabilités les plus grandes et les plus lourdes que l'on m'ait jamais confiées. En parcourant notre magnifique nation, j'ai fait la rencontre d'Aïnés, de membres de famille et de survivantes tous aussi exceptionnels les uns que les autres, et j'ai eu la chance de marcher aux côtés de ces gens et de prendre part au changement. Ce qui m'étonne, c'est notre résilience en tant que

groupe. Malgré tout ce qui s'est passé, on trouve encore le moyen de blaguer et de faire front commun. Ce fut pour moi un processus de guérison [...]. Ça n'a pas toujours été facile, mais cet exercice nous a rassemblés et rendus plus forts<sup>52</sup>. »

Bernie souligne particulièrement l'apport des commissaires. « Je n'ai jamais vu quatre personnes aussi remarquables faire équipe, elles qui ont accompli tant de choses à partir du néant. Les vrais guerriers, ce sont eux. Ils y ont consacré des centaines d'heures et des centaines de jours, loin de leur famille. Le Créateur sait ce qu'il fait, et il savait exactement qui investir de cette mission. En ce qui me concerne, je vais les appuyer jusqu'au bout. »

L'Aînée Kathy, pour sa part, affirme : « L'Enquête nationale, dès son lancement, semblait être soumise à une règle différente par le gouvernement et la société en général. Cependant, je suis persuadée que nos ancêtres spirituels nous ont puissamment guidés pour que nous puissions mettre à profit ce que ces derniers et notre Créateur nous ont légué de plein droit, avec notre âme; ils nous ont fait don de leur génotype pour que nous puissions continuer à réparer les torts causés à nos proches, soit les mères, les filles, les sœurs, les tantes, les arrière-Grands-mères et les arrière-grand-tantes.

Je suis confiante face à l'avenir. Nous continuerons de cheminer vers une plus grande autonomie, une reconnaissance de qui nous sommes, de notre résilience. Je crois que la société canadienne reconnaîtra et respectera davantage la force des femmes autochtones. Certains d'entre nous doivent encore apprendre que les femmes (les peuples) autochtones tirent leur origine d'une puissante essence sacrée, d'enseignements et de connaissances relatives au pouvoir de l'individu. »

La violence à l'endroit des femmes, des filles et des personnes 2ELGBTQQIA autochtones porte atteinte à la conception selon laquelle nous sommes toutes et tous sacrés. Il en résulte parfois un traumatisme qui peut être long à surmonter, mais qui n'est pas une fin en soi. Audrey présente ainsi les choses : « Après avoir passé ma vie à me cacher et à avoir honte de ma personne, je suis maintenant fière, reconnaissante et plus forte. Plus forte grâce à la vérité, aux atrocités et aux traumatismes excessivement douloureux. Confiante en ma capacité de voyager et investie de suffisamment d'assurance pour discuter et me servir des produits médicaux qui existent depuis que le monde est monde, depuis que nous-mêmes existons<sup>53</sup>. »

## **Les prochaines étapes : l'Enquête nationale comme amorce et non comme aboutissement**

Comme Louise l'indique, l'Enquête nationale sur les femmes et les filles autochtones disparues et assassinées se veut un commencement, et non une fin. Dorénavant, tout le monde doit mettre la main à la pâte.

Il importe que de nombreux non-Autochtones soient prêts à « désapprendre » certains comportements acquis. Blu observe : « Bien des gens demeurent convaincus que tout cela n'est rien d'important. Ils font fi des histoires rapportées, qu'ils ignorent. Ils croient que les faits relatés se sont produits il y a 300 ans; ils ne comprennent pas pourquoi on continue d'en parler<sup>54</sup>. » Bernie ajoute : « Si une personne n'est pas scandalisée, c'est qu'elle n'écoute pas. Chaque Canadienne et Canadien doit regarder les choses en face. »



Leslie, elle, estime que lorsque chaque personne sera devenue un agent de changement, nous aurons franchi l'étape la plus importante : « Nous avons tous un rôle à jouer dans ce cheminement. Chacun de nous peut prôner le statu quo ou choisir de vivre autrement<sup>55</sup>. » Après quelques instants, elle ajoute : « Je fais confiance à la communauté, et au pouvoir du peuple. C'est là où se trouve le véritable pouvoir<sup>56</sup>. »

Leslie poursuit : « Il faut pleurer les nôtres, mais il faut aussi continuer d'avancer. Cela ne doit pas devenir une entrave. Et c'est là la puissance des prières des Grands-mères et des ancêtres; c'est à notre tour maintenant, à nous tous, de prier ardemment pour chaque être humain, et de propager l'amour. C'est la seule façon de guérir<sup>57</sup>. »

Blu a aussi insisté sur le fait que l'État doit en faire davantage : « Le gouvernement doit établir un dialogue avec les différentes communautés à propos des enjeux qui les touchent, qu'il s'agisse de l'eau, du territoire, du suicide, des personnes disparues ou du logement, ou encore du manque de ressources. Il doit commencer à écouter<sup>58</sup>. »

Louise a foi dans un avenir de collaboration, de compréhension mutuelle entre les peuples autochtones et non autochtones, que ce soit, par exemple, en tirant parti des valeurs culturelles des Inuits et des Premières Nations dans des domaines comme les services à la famille et autres programmes, où les approches bureaucratiques et autochtones semblent irréconciliables<sup>59</sup>.

Pénélope nous rappelle que la réappropriation des valeurs autochtones a aussi une dimension politique : « Je m'adonne à l'artisanat en compagnie d'un groupe de femmes et d'hommes autochtones; un jour, nous fabriquions des mocassins et j'ai dit : "Vous vous rendez compte que nos créations sont politiques? Car, si nous ne savons plus comment fabriquer nos mocassins, avec des broderies, c'est une partie de nous qui périt." Aujourd'hui, c'est ce qu'ils nous disent. Fabriquer nos mocassins est un geste politique, oui, c'est vrai. Parce que cela s'inscrit dans notre culture<sup>60</sup>. » Comme nous le verrons plus loin dans le rapport, la culture est le fondement de l'identité nationale. Enseigner à fabriquer des mocassins ne favorise pas seulement la croissance personnelle, mais consolide aussi l'identité culturelle de la nation.

Même si le cheminement peut s'avérer difficile, Kathy encourage les autres à « avoir confiance en leurs propres moyens; à écouter leur cœur<sup>61</sup>. » Elle cite M<sup>me</sup> Rachel Naomi Remen, professeure à l'Université de la Californie, qui a joué un rôle déterminant dans son processus de guérison : « Nous ne sommes pas au service des faibles ni des accablés. Nous servons l'intégralité de chaque individu et la plénitude de la vie. La facette de votre personnalité que j'aide est la même facette de ma personnalité qui se fortifie alors que je vous sers. Ce service est mutuel, contrairement à l'appui, au rétablissement et au renfort. Il y a de nombreuses manières de servir et d'améliorer la vie des gens qui nous entourent, que ce soit par l'amitié, la parentalité ou le travail, ou encore par la bonté, la compassion, la générosité et l'acceptation, ou que ce soit par des actes de philanthropie, en prêchant par l'exemple, en prodiguant des encouragements, en s'engageant de manière active ou en ayant la foi. Indépendamment de la manière dont cela est fait, on nous bénira pour notre service<sup>62</sup>. »

Kathy nous rappelle : « Nous n'avons qu'une vie à vivre et nous devons en tirer le meilleur parti alors que nous sommes sur Terre et contribuer au bien-être de l'humanité<sup>63</sup>. »

Entre-temps, les Grands-mères iront de l'avant grâce à une politique publique, par l'entremise de foyers pour femmes, en sensibilisant le public et en s'engageant dans leurs communautés d'origine.

Pénélope affirme qu'elle poursuivra son cheminement, peu importe les difficultés qu'elle devra surmonter : « J'ai l'intention de continuer à progresser en dépit des écueils éventuels et des prises de conscience déplaisantes. Je ne perdrai jamais espoir, car il y a toujours quelqu'un qui croise notre chemin pour nous aider à comprendre ce qui se passe [...]. Il importe de croire que nous pouvons changer ce qui se présente même si personne n'est du même avis. Quiconque est déterminé à modifier le cours des choses peut le faire. Nous pouvons changer la suite de l'histoire<sup>64</sup>. »

Kathy, par exemple, a été grandement touchée par l'oppression coloniale, à laquelle elle a survécu. Malgré cela, elle a tant donné à sa communauté. Elle soutient : « On peut continuer, devenir quelqu'un que nos parents et nos ancêtres reconnaîtraient; on peut faire quelque chose de sa vie. L'essence de la vie réside en l'enfant, mais elle peut être invisible à ses yeux. C'est un peu comme la fleur qui fleurit; elle a besoin de temps pour s'épanouir. Des années, parfois... Mais c'est dans ces moments que nous grandissons, car la situation nous contraint à grandir<sup>65</sup>. » Elle ajoute : « Cela ne s'applique pas seulement aux peuples autochtones. La société canadienne apprendra ce qui s'est passé grâce à nos écrits, à nos gestes et à nos dires. Elle n'aimera peut-être pas ce qu'elle va entendre, mais cela fait partie du processus de guérison<sup>66</sup>. »

Audrey invite les femmes autochtones « à devenir plus fortes et plus intelligentes, à devenir invincibles, à tisser des liens avec celles qui les entourent et à les appuyer, à honorer ces dernières et à les accompagner sur le chemin de la guérison<sup>67</sup> ». Elle ajoute : « Oui, c'est vrai qu'il nous reste tout un bout de chemin à faire, mais regardez tout ce que nous avons accompli; regardez sur qui et sur quoi nous nous appuyons pour aller de l'avant dans la dignité et le respect, pour abattre ces murs, pour maintenir la flamme en vie, pour continuer d'avancer dans l'amour, pour continuer d'avancer avec nos produits médicinaux, pour continuer à renouer avec nous-mêmes alors que nous survivons à un génocide et que nous devons rendre des comptes au gouvernement canadien sur la base de dispositions juridiques qu'il retourne contre nous afin de commettre un tel massacre<sup>68</sup>. »

Bernie ne peut accepter un refus comme réponse : « Aussi longtemps que nos femmes et nos enfants manquent à l'appel et sont assassinés en grand nombre, je vais continuer à me battre<sup>69</sup>. »

Bernie a confié qu'on lui a demandé à maintes reprises ce qui motive son travail. « Et je me remémore chaque fois, bien, Mère Teresa, alors qu'elle dorlotait ce magnifique bébé marron. Cette question lui a été posée alors qu'elle se trouvait à Calcutta. Sa réponse fut : "Nulle part ailleurs peut-on voir le visage de Dieu" [...] Ça m'a vraiment, vraiment touchée [...] Je ne pouvais cesser de pleurer. Au bout du compte, chaque personne qui vit sur cette planète, nous tous, en fait, nous sommes tous soumis aux aléas de la vie, qui que nous soyons. Pourquoi ces femmes? Pourquoi? Je ne peux exprimer que les sentiments qui m'habitent. Et, si jamais on me le demande, je n'ai aucun regret; je referais la même chose au nom de ces femmes, car elles sont importantes<sup>70</sup>. »

- 1 Entrevue avec Pénélope Guay, le 18 septembre 2018, par Annie Bergeron, p. 6.
- 2 Entrevue avec Laureen « Blu » Waters, le 4 octobre 2018, par Kelsey Hutton, p. 12.
- 3 Certaines citations ont été modifiées pour plus de clarté, en collaboration avec les Aînées et les Grands-mères.
- 4 Entrevue avec Laureen « Blu » Waters, le 4 octobre 2018, par Kelsey Hutton, p. 7.
- 5 Entrevue avec Pénélope Guay, le 18 septembre 2018, par Annie Bergeron, p. 22.
- 6 Entrevue avec Louise Haulli, le 14 septembre 2018, par Lisa Koperqualuk, pp. 3, 9.
- 7 Entrevue avec Kathy Louis, le 26 septembre 2018, par Kelsey Hutton, p. 42.
- 8 Entrevue avec Leslie Spillett, le 4 décembre 2018, par Kelsey Hutton, pp. 3-4.
- 9 Entrevue avec Laureen « Blu » Waters, le 4 octobre 2018, par Kelsey Hutton, p. 5.
- 10 Entrevue avec Bernie Williams et Audrey Siegl, le 30 septembre 2018, par Kelsey Hutton, p. 6.
- 11 Entrevue avec Bernie Williams et Audrey Siegl, le 30 septembre 2018, par Kelsey Hutton, p. 2.
- 12 Entrevue avec Bernie Williams et Audrey Siegl, le 30 septembre 2018, par Kelsey Hutton, pp. 12-13.
- 13 Entrevue avec Bernie Williams et Audrey Siegl, le 30 septembre 2018, par Kelsey Hutton, p. 63.
- 14 Entrevue avec Louise Haulli, le 14 septembre 2018, par Lisa Koperqualuk, pp. 1-2.
- 15 Entrevue avec Pénélope Guay, le 18 septembre 2018, par Annie Bergeron, pp. 2-3.
- 16 Entrevue avec Laureen « Blu » Waters, le 4 octobre 2018, par Kelsey Hutton, p. 26.
- 17 Entrevue avec Pénélope Guay, le 18 septembre 2018, par Annie Bergeron, pp. 7-8.
- 18 Entrevue avec Pénélope Guay, le 18 septembre 2018, par Annie Bergeron, p. 8.
- 19 Entrevue avec Laureen « Blu » Waters, le 4 octobre 2018, par Kelsey Hutton, p. 14.
- 20 Entrevue avec Laureen « Blu » Waters, le 4 octobre 2018, par Kelsey Hutton, p. 15.
- 21 Entrevue avec Bernie Williams et Audrey Siegl, le 30 septembre 2018, par Kelsey Hutton, p. 22.
- 22 Entrevue avec Bernie Williams et Audrey Siegl, le 30 septembre 2018, par Kelsey Hutton, pp. 22-23.
- 23 Entrevue avec Kathy Louis, le 26 septembre 2018, par Kelsey Hutton, p. 114.
- 24 Entrevue avec Kathy Louis, le 26 septembre 2018, par Kelsey Hutton, pp. 115-116.
- 25 Entrevue avec Laureen « Blu » Waters, le 4 octobre 2018, par Kelsey Hutton, pp. 13-14.
- 26 Entrevue avec Laureen « Blu » Waters, le 4 octobre 2018, par Kelsey Hutton, p. 19.
- 27 Entrevue avec Laureen « Blu » Waters, le 4 octobre 2018, par Kelsey Hutton, p. 16.
- 28 Entrevue avec Laureen « Blu » Waters, le 4 octobre 2018, par Kelsey Hutton, p. 18.
- 29 Entrevue avec Leslie Spillett, le 4 décembre 2018, par Kelsey Hutton, p. 29.
- 30 Entrevue avec Bernie Williams et Audrey Siegl, le 30 septembre 2018, par Kelsey Hutton, p. 74.
- 31 Entrevue avec Laureen « Blu » Waters, le 4 octobre 2018, par Kelsey Hutton, pp. 25-26.
- 32 Entrevue avec Leslie Spillett, le 4 décembre 2018, par Kelsey Hutton, p. 16.
- 33 Entrevue avec Pénélope Guay, le 18 septembre 2018, par Annie Bergeron, p. 13.
- 34 Entrevue avec Kathy Louis, le 26 septembre 2018, par Kelsey Hutton, pp. 100-101.
- 35 Entrevue avec Kathy Louis, le 26 septembre 2018, par Kelsey Hutton, p. 44.
- 36 Entrevue avec Kathy Louis, le 26 septembre 2018, par Kelsey Hutton, p. 46.
- 37 Entrevue avec Leslie Spillett, le 4 décembre 2018, par Kelsey Hutton, p. 17.
- 38 Entrevue avec Leslie Spillett, le 4 décembre 2018, par Kelsey Hutton, pp. 19-20.
- 39 Entrevue avec Leslie Spillett, le 4 décembre 2018, par Kelsey Hutton, p. 38.
- 40 Entrevue avec Louise Haulli, le 14 septembre 2018, par Lisa Koperqualuk, p. 9.
- 41 Entrevue avec Laureen « Blu » Waters, le 4 octobre 2018, par Kelsey Hutton, p. 32.
- 42 Entrevue avec Leslie Spillett, le 4 décembre 2018, par Kelsey Hutton, p. 7.



- 43 Entrevue avec Pénélope Guay, le 18 septembre 2018, par Annie Bergeron, pp. 24-25.
- 44 Entrevue avec Pénélope Guay, le 18 septembre 2018, par Annie Bergeron, p. 26.
- 45 Entrevue avec Louise Haulli, le 14 septembre 2018, par Lisa Koperqualuk, pp. 5-6.
- 46 Entrevue avec Bernie Williams et Audrey Siegl, le 30 septembre 2018, par Kelsey Hutton, p. 54.
- 47 Entrevue avec Bernie Williams et Audrey Siegl, le 30 septembre 2018, par Kelsey Hutton, p. 56.
- 48 Entrevue avec Leslie Spillett, le 4 décembre 2018, par Kelsey Hutton, pp. 8-9.
- 49 Entrevue avec Louise Haulli, le 14 septembre 2018, par Lisa Koperqualuk, p. 3.
- 50 Entrevue avec Pénélope Guay, le 18 septembre 2018, par Annie Bergeron, p. 4.
- 51 Entrevue avec Pénélope Guay, le 18 septembre 2018, par Annie Bergeron, p. 16.
- 52 Entrevue avec Bernie Williams et Audrey Siegl, le 30 septembre 2018, par Kelsey Hutton, p. 29.
- 53 Entrevue avec Bernie Williams et Audrey Siegl, le 30 septembre 2018, par Kelsey Hutton, pp. 14-15.
- 54 Entrevue avec Laureen « Blu » Waters, le 4 octobre 2018, par Kelsey Hutton, p. 8.
- 55 Entrevue avec Leslie Spillett, le 4 décembre 2018, par Kelsey Hutton, p. 5.
- 56 Entrevue avec Leslie Spillett, le 4 décembre 2018, par Kelsey Hutton, p. 34.
- 57 Entrevue avec Leslie Spillett, le 4 décembre 2018, par Kelsey Hutton, p. 39.
- 58 Entrevue avec Laureen « Blu » Waters, le 4 octobre 2018, par Kelsey Hutton, p. 24.
- 59 Entrevue avec Louise Haulli, le 14 septembre 2018, par Lisa Koperqualuk, pp. 12-13.
- 60 Entrevue avec Pénélope Guay, le 18 septembre 2018, par Annie Bergeron, pp. 14-15.
- 61 Entrevue avec Kathy Louis, le 26 septembre 2018, par Kelsey Hutton, p. 30.
- 62 Remen, *My Grandfather's Blessings*, 7, cité dans Louis, p. 37.
- 63 Entrevue avec Kathy Louis, le 26 septembre 2018, par Kelsey Hutton, p. 23.
- 64 Entrevue avec Pénélope Guay, le 18 septembre 2018, par Annie Bergeron, p. 28.
- 65 Entrevue avec Kathy Louis, le 26 septembre 2018, par Kelsey Hutton, pp. 118, 124.
- 66 Entrevue avec Kathy Louis, le 26 septembre 2018, par Kelsey Hutton, p. 126.
- 67 Entrevue avec Bernie Williams et Audrey Siegl, le 30 septembre 2018, par Kelsey Hutton, p. 81.
- 68 Entrevue avec Bernie Williams et Audrey Siegl, le 30 septembre 2018, par Kelsey Hutton, p. 79.
- 69 Entrevue avec Bernie Williams et Audrey Siegl, le 30 septembre 2018, par Kelsey Hutton, p. 7.
- 70 Entrevue avec Bernie Williams et Audrey Siegl, le 30 septembre 2018, par Kelsey Hutton, p. 82.



## Comprendre la violence faite aux femmes, aux filles et aux personnes 2ELGBTQQIA autochtones

### Introduction : une écoute attentive

Les femmes, les filles et les personnes 2ELGBTQQIA autochtones au Canada sont victimes de violence depuis trop longtemps. Les faits sont incontestables. Si cette Enquête nationale survient aujourd'hui, ce n'est pas parce que les peuples autochtones ont tardé à prendre la parole; c'est plutôt parce que le Canada, lui, a tardé à prêter l'oreille.

Plus de 2 380 personnes ont pris part à l'Enquête nationale sur les femmes et les filles autochtones disparues et assassinées, et certaines d'entre elles y ont contribué de plus d'une façon. Quatre cent soixante-huit survivantes d'actes de violence et membres de famille des femmes et des filles autochtones disparues et assassinées ont raconté leurs expériences et formulé des recommandations à l'occasion des 15 audiences communautaires, alors que plus de 270 de leurs homologues ont partagé leur récit lors des 147 séances privées ou à huis clos. De plus, presque 750 personnes ont consigné leurs déclarations par écrit et 819 autres ont créé des expressions artistiques qui seront conservées dans la collection patrimoniale autochtone de l'Enquête

nationale. Également, 83 témoins experts, Aînés, Gardiens du savoir, intervenants de première ligne et représentants des institutions ont livré leurs témoignages dans le cadre de neuf audiences qui leur étaient réservées.

Les vérités relatées dans le cadre de ces audiences racontent l’histoire – des milliers d’histoires, en fait, pour le dire plus justement –, d’actes de génocide perpétrés à l’endroit de femmes, de filles et de personnes 2ELGBTQQIA autochtones. La violence dénoncée tout au long de l’Enquête nationale représente une pratique sociale génocidaire, délibérée et raciale visant les peuples autochtones, y compris les Premières Nations, les Inuits et les Métis, ciblant tout particulièrement les femmes, les filles et les personnes 2ELGBTQQIA. Ces massacres sont les fruits des affirmations coloniales de souveraineté sur les territoires et les peuples autochtones, comme en témoignent la *Loi sur les Indiens*, la rafle des années 1960, les pensionnats indiens, les atteintes aux droits de la personne et aux droits des Autochtones, de même que les politiques actuelles, qui marginalisent ces derniers et entraînent une augmentation directe de l’incidence de la violence, des décès et du suicide chez leurs populations.

## Définir le génocide

Le terme « génocide » a été utilisé pour la première fois par Raphael Lemkin, juriste universitaire juif-polonais, lors d’une conférence tenue à Madrid en 1933. Ce dernier a précisé sa pensée dans un livre publié en 1944 dont l’objet porte sur les gestes posés par les Allemands dans le contexte de la conjoncture qui a mené à la Seconde Guerre mondiale. Inventé par Lemkin, le substantif « génocide » est un terme hybride formé de la racine grecque *genos* (« famille », « tribu » ou « race ») et du suffixe latin *-cide* (« meurtre »).

Dans sa forme originelle, le « génocide » désigne les mesures mises en œuvre par l’État pour détruire un groupe, et l’ensemble des gestes posés contre des individus à titre de membres de ce groupe. Selon la conception de Lemkin, le génocide s’articule en deux phases qui peuvent mener à l’établissement de la domination politique du groupe oppresseur. La première étape prévoit la destruction de la « position nationale du groupe », tandis que la deuxième porte sur ce qu’il appelle « l’imposition de la position nationale de l’opresseur », laquelle peut être infligée à la population restante sur le territoire, ou encore au territoire lui-même dans le contexte de la colonisation de terres par un nouveau groupe.

Ayant comme toile de fond les actes de l’État allemand durant la Seconde Guerre mondiale, Lemkin posa que le « génocide » se manifeste à plusieurs endroits, soit :

- la sphère politique, par des attaques à l’endroit des institutions politiques et leur désintégration subséquente;
- la sphère sociale, notamment par l’abrogation de lois existantes et l’imposition de nouveaux régimes judiciaires;
- la sphère culturelle, comme dans l’interdiction d’utiliser certaines langues en contexte scolaire et dans les médias;



- la sphère économique, par exemple par la destruction des assises financières du groupe, ou encore la prise de mesures pour paralyser ou faucher leur développement;
- la sphère biologique, comme dans l'imposition de mesures de réduction du taux de natalité chez certaines franges de la population;
- la sphère physique, notamment par la mise en péril de la santé et les tueries;
- la sphère religieuse, comme par la perturbation des cadres religieux et spirituels, et l'imposition de nouveaux systèmes;
- la sphère morale, notamment par la volonté de créer un climat d'avalissement au sein de ce groupe<sup>1</sup>.

La manière dont Lemkin définit le génocide tient compte d'un important principe, lequel ne restreint pas la définition du génocide à la destruction physique d'une nation ou d'un groupe ethnique. Comme il l'a expliqué :

De façon générale, le génocide n'implique pas forcément la destruction immédiate d'une nation, sauf lorsqu'il prend la forme de massacres visant tous les membres de cette nation. Il suppose plutôt l'existence d'un plan coordonné comprenant diverses mesures dont l'effet est de détruire les fondements essentiels de l'existence des groupes nationaux, dans le but d'anéantir ces groupes en tant que tels<sup>2</sup>.

Une démarche génocidaire a pour objectifs l'instauration de mesures visant la « désintégration des institutions politiques et sociales, des identités culturelles, nationales et linguistiques, de la religion et de l'existence économique des groupes nationaux, et aussi la destruction de la sécurité, de la liberté, de la santé et de la dignité de la personne, et même de la vie de tout individu appartenant à de tels groupes<sup>3</sup> ».

Il fallut attendre l'année 1948 pour que la définition du terme génocide soit intégrée au droit international, en réaction aux programmes d'exécution de masse menés par les nazis durant la Seconde Guerre mondiale. Or, cette définition même s'est trouvée restreinte dans un nouveau contexte d'après-guerre. Les rédacteurs cherchaient à déterminer si la définition de génocide devait revêtir un caractère universel, comme dans les autres catégories d'infractions criminelles, ou plutôt se limiter à des groupes en particulier, et si le fait d'exclure certains groupes ne faisait pas d'eux des cibles<sup>4</sup>. En fin de compte, Lemkin, qui participait aux travaux de rédaction, a fait valoir que les groupes sociaux et politiques ne devaient pas être inclus, car ils n'ont pas le même degré de stabilité que les formations non politiques. Les parties prenantes aux négociations, notamment l'Union soviétique, la Pologne, la Grande-Bretagne et l'Afrique du Sud, craignaient que l'exécution d'une telle convention puisse porter atteinte aux principes de la souveraineté des États<sup>5</sup>. Tout compte fait, la convention prit la forme d'un compromis, accepté par les États, au terme d'âpres négociations.

Le 9 décembre 1948, les Nations Unies ont adopté la *Convention pour la prévention et la répression du crime de génocide*. L'article II prévoit que

le génocide s'entend de l'un ou l'autre des actes ci-après, commis dans l'intention de détruire, en tout ou en partie, un groupe national, ethnique, racial ou religieux :

- (a) meurtre de membres du groupe;
- (b) atteinte grave à l'intégrité physique ou mentale de membres du groupe;
- (c) soumission intentionnelle du groupe à des conditions d'existence devant entraîner sa destruction physique totale ou partielle;
- (d) mesures visant à entraver les naissances au sein du groupe;
- (e) transfert forcé d'enfants du groupe à un autre groupe<sup>6</sup>.

Le Canada y a apposé sa signature en 1949 avant de ratifier formellement la convention en 1952.

Il est désormais largement accepté que des crimes correspondant à la définition qui est faite du génocide peuvent être perpétrés tant dans un contexte de conflit armé qu'en dehors d'une telle conjoncture<sup>7</sup>. Parallèlement, les définitions mises de l'avant ne font pas toujours consensus lorsqu'il est question de « l'intention », de la nature des groupes qu'elles incluent et de l'importance accordée à la destruction physique véritable, en totalité ou en partie, comme composante essentielle de son acception sémantique<sup>8</sup>.

D'une certaine manière, ces différences s'inscrivent dans une interprétation plus légaliste et plus sociale du terme. Comme l'explique Jacques Sémelin, historien et politologue, la conceptualisation légaliste du génocide à laquelle s'en remettent des spécialistes est contestée par ceux qui mettent en doute l'établissement d'une norme juridique internationale fondée sur le consensus politique de la communauté internationale obtenu en 1948 comme base pour examiner et évaluer des actes pouvant être visés par un ou plusieurs éléments de sa définition contemporaine<sup>9</sup>. Aujourd'hui, des domaines autres que le droit envisagent aussi le génocide en fonction de critères différents.

Lorsqu'on conçoit le génocide à titre de pratique sociale, comme Daniel Feierstein, directeur du Centre d'études sur le génocide de l'Université nationale Tres de Febrero, en Argentine, il s'accompagne de « croyances et de compréhensions communes, et aussi d'actions concertées », pouvant donner lieu au génocide ou à une tentative de génocide. Il englobe aussi des « représentations et des discours symboliques qui encouragent ou qui justifient le génocide<sup>10</sup> ». Feierstein soutient que le génocide en tant que pratique sociale est une « technologie de pouvoir ». Il consiste, dans un premier temps, à « détruire les relations sociales axées sur l'autonomie et la collaboration en anéantissant une part importante de la population », selon leur nombre ou selon leurs pratiques, et dans un deuxième temps, à « tirer parti de la terreur que suscite l'anéantissement pour établir de nouveaux modèles régissant l'identité et les relations sociales chez les survivants<sup>11</sup> ».

Comme l'explique Larry Krotz, écrivain et cinéaste canadien, l'emploi du terme « génocide » pour décrire les événements qui sont survenus en Amérique du Nord soulève les passions depuis des décennies. Mentionnons à cet effet le livre *The Genocide Machine in Canada: The Pacification of the North*, écrit en 1973 par Robert Davis et Mark Zannis; ainsi que l'œuvre de David E. Stannard, *American Holocaust: Columbus and the Conquest of the New World*, parue en 1993. Plus récemment, Dean Neu et Richard Therrien ont publié en 2003 *Accounting for Genocide: Canada's Bureaucratic Assault on Aboriginal People*<sup>12</sup>.

Au cours des dernières années, et à la lumière des travaux qui ont mené au dépôt du rapport final de la Commission de vérité et réconciliation du Canada (CVR), de nombreux penseurs autochtones se sont penchés sur l'applicabilité du terme « génocide » au dossier canadien. Comme l'a souligné Andrew Woolford, spécialiste de la question, les chercheurs de notre pays n'ont pas accordé suffisamment d'attention au génocide colonial canadien en partie, possiblement, à cause du fait que les limites spatiales et temporelles du cadre génocidaire au Canada ne sont pas clairement définies. Il remarque : « Si le colonialisme canadien de peuplement était génocidaire, où a-t-il pris racine et quand est-il survenu exactement? Et si l'on tient compte des effets intergénérationnels qui sont en jeu, mais aussi de la continuation des pratiques coloniales de peuplement, qui peut affirmer avec certitude que le génocide a bel et bien pris fin<sup>13</sup>? » Ce qui survient habituellement, comme il l'énonce, c'est que « la palette de nuances est passablement réduite en tentant d'insérer les caractéristiques de ce génocide dans un modèle d'étude comparative traditionnel tirant des conclusions selon une échelle d'analyse nationale plutôt que régionale et internationale<sup>14</sup> ».

Aujourd'hui, le gouvernement du Canada reconnaît officiellement cinq génocides : l'Holocauste, l'Holodomor, le génocide arménien de 1915, le génocide rwandais de 1994 et le nettoyage ethnique de Bosnie de 1992 à 1995. Krotz maintient que : « Dans le monde dans lequel nous vivons, le substantif "génocide" est le pire qualificatif pouvant décrire une action entreprise par des individus ou des groupes. Sa connotation est si atroce que, dans les faits, de nombreux événements historiques portant en eux les attributs qui sont propres au génocide parviennent difficilement – lorsqu'ils n'échouent pas, tout simplement – à être reconnus de la sorte. » Cependant, comme Woolford le prétend, et comme l'établissent clairement les témoignages entendus dans le cadre de l'Enquête nationale, nous devons envisager l'application du génocide en des termes tant légalistes que sociaux, et sous les formes qu'il prend encore aujourd'hui.

À titre de présidente de la gouvernance autochtone à l'Université Ryerson, Pamela Palmater explique :

Si vous le demandez aux femmes autochtones d'aujourd'hui, elles vous diront que la tragédie est loin d'être terminée. La *Loi sur les Indiens* est toujours discriminatoire envers ces dernières et leurs descendants sur le plan de la transmission du statut d'Indien et de l'appartenance aux Premières Nations. La prévalence de maladies cardiaques et d'accidents cérébrovasculaires est nettement plus élevée chez les femmes autochtones; le nombre de tentatives de suicide qui les caractérise est aussi plus grand; elles vivent dans la pauvreté de manière disproportionnée en tant que mères monoparentales; leur



surreprésentation dans le système carcéral a bondi de 90 % au cours de la dernière décennie; et 48 % de tous les enfants placés dans des familles d'accueil au Canada sont autochtones. Avec des statistiques aussi atroces, est-ce vraiment étonnant que nos sœurs disparues ou assassinées se comptent par milliers<sup>16</sup> ?

La perspective d'appliquer le concept de génocide en des termes à la fois légalistes et sociaux requiert aussi un examen des données historiques en tenant compte des manières précises avec lesquelles les initiatives visant à asservir et à éliminer les peuples autochtones ont été mises en œuvre. Il faut aussi tenir compte de l'incidence contemporaine qu'ont ces structures sur la façon dont bon nombre de programmes et de mesures législatives continuent d'être administrés. Voici quelques exemples propres au cadre canadien qui touchent les femmes, les filles et les personnes 2ELGBTQQIA autochtones : l'incapacité à protéger ces dernières de l'exploitation, de la traite et de meurtriers reconnus; le décès de femmes en détention; la crise de la protection de l'enfance; les mauvais traitements physiques, sexuels et psychologiques infligés aux femmes et aux filles autochtones dans les institutions publiques; le refus d'octroyer le statut d'Indienne et l'appartenance aux Premières Nations; le retrait des enfants; les réinstallations forcées et leurs conséquences; le sous-financement chronique et délibéré de services sociaux essentiels; les stérilisations forcées; et bien d'autres. Comme le souligne M<sup>me</sup> Palmater :

Pourquoi, donc, est-il si important de comprendre l'histoire du génocide perpétré au Canada? Parce qu'il n'appartient pas au passé. Les lois, les politiques et les mesures gouvernementales racistes que nous voyons actuellement se sont révélées être tout aussi létales pour les peuples autochtones que les actes génocidaires antérieurs. Encore aujourd'hui, on vole les enfants, sauf qu'au lieu de les enfermer dans des pensionnats comme autrefois, on les enferme dans des établissements d'accueil provinciaux. Avant, on offrait des primes pour les scalps d'Indiens; aujourd'hui, on les amène faire une virée sous les étoiles (décès en détention policière) [...] Aux yeux des peuples autochtones au Canada, le racisme ne se limite pas à accepter les injures et les insultes stéréotypées, à être tenus à l'écart du marché de l'emploi ou à être vilipendés dans la presse par les autorités gouvernementales : le racisme tue les nôtres.<sup>17</sup>

Comme l'ont affirmé Phil Fontaine, ancien chef national de l'Assemblée des Premières Nations, et Bernie Farber, directeur général du Mosaic Institute, dans un article d'opinion paru en 2013 : « Il est très rare qu'un génocide soit entièrement formé lorsqu'il émerge des entrailles du mal. Son évolution se fait plutôt de façon graduelle, un crime entraînant un autre [...]. Nous avons la conviction que la politique canadienne, depuis plus de 100 ans, peut être définie comme un génocide perpétré à l'endroit des Premières Nations<sup>18</sup>. » Comme les auteurs le font remarquer, le fait que les peuples autochtones soient encore là et que leurs populations continuent de croître n'atténue en rien la gravité des gestes posés, tout comme la résilience et la croissance continue de ces peuples n'atténuent aucunement les répercussions, tant historiques que contemporaines, des nombreuses actions détaillées dans ce rapport qui ont favorisé la violence endémique à l'égard des femmes, des filles et des personnes 2ELGBTQQIA autochtones.

Les structures du colonialisme de peuplement sont parties intégrantes de ce génocide, y compris la violence à l'encontre des femmes, des filles et des personnes 2ELGBTQQIA autochtones, et comme l'expliquent Andrew Woolford et Jeff Benvenuto, et « les effets intergénérationnels du génocide font que la progéniture des survivants doit endurer à son tour les souffrances causées par la violence généralisée qui n'a pas été directement exercée sur elle<sup>19</sup> ». Le génocide se veut la résultante des pratiques, des hypothèses et des actions sociales décrites dans ce rapport. Comme Danny P. l'a exprimé lors de son témoignage : « Les choses sont-elles vraiment différentes de nos jours comparativement à il y a 300 ans, alors que tout cela était acceptable sur le plan social? Est-ce que le fait d'assassiner les nôtres comme si de rien n'était demeure socialement acceptable aujourd'hui? [...] À mon sens, c'est là une forme de génocide systémique, qui se déroule encore en ce moment<sup>20</sup>. »

L'Enquête nationale accepte l'affirmation voulant que ces gestes, y compris la violence à l'encontre des femmes, des filles et des personnes 2ELGBTQQIA autochtones, constituent, dans les faits, un génocide. En effet, certaines vérités mises de l'avant durant les témoignages entendus et présentées tout au long de ce rapport portent sur les actions et les inactions de l'État qui trouvent leurs racines dans le colonialisme et les idéologies connexes, reposant sur une présomption de supériorité, idéologies qui ont servi à maintenir le pouvoir et le contrôle sur les terres et sur les individus en opprimant ces derniers et, dans bien des cas, en les éliminant. En raison de la gravité de cette question, l'Enquête nationale prépare un rapport supplémentaire sur le génocide canadien des peuples autochtones selon la définition juridique du « génocide ». Ce rapport sera publié sur notre site Web et accessible au public.

## Revendiquer... encore et toujours

Comme discuté dans le rapport provisoire, les femmes, les filles et les personnes 2ELGBTQQIA autochtones dénoncent la violence depuis des décennies. Certaines d'entre elles racontaient la destinée de leurs proches pour la première fois par l'entremise de l'Enquête nationale, alors que d'autres se sont plutôt confiées à la Commission royale sur les peuples autochtones, à la Commission d'enquête sur l'administration de la justice et les Autochtones au Manitoba, à Amnesty internationale pour le rapport *On a volé la vie de nos sœurs*, paru en 2004, ou à l'Association des femmes autochtones du Canada dans le cadre de l'initiative de recherche, d'éducation et d'orientation « Sœurs par l'esprit ».

En 2010, l'Association des femmes autochtones du Canada (AFAC) a confirmé l'existence de 582 dossiers de femmes et de filles autochtones disparues ou assassinées sur une période de plus de 20 ans<sup>21</sup>. En 2013, Maryanne Pearce a répertorié 824 victimes autochtones en préparant sa thèse de droit, qui porte sur les femmes disparues et assassinées<sup>22</sup>. Les éléments de preuve s'accumulant, la Gendarmerie royale du Canada (GRC) a dû mener son propre examen, lequel a permis de constater qu'entre 1980 et 2012, « le nombre de cas déclarés à la police de meurtres et de disparitions non résolues de femmes autochtones totalise 1 181<sup>23</sup> ».

Le rapport de la GRC indique aussi qu'à peu près 16 % de l'ensemble des homicides de femmes entre 1980 et 2012 visaient des Autochtones, en dépit du fait qu'elles ne représentent que 4 % de la population féminine<sup>24</sup>. Les statistiques, par contre, peuvent être trompeuses, car ce nombre se veut une moyenne étalée sur une longue période, minimisant de fait l'importance grandissante du problème : les femmes et les filles autochtones représentent désormais près de 25 % des victimes d'homicide<sup>25</sup>.

Lisa Meeches, célèbre cinéaste anishinaabe membre de la Première Nation de Long Plain au Manitoba, a contribué il y a quelques années à la création de la série documentaire *TAKEN*, qui relate des crimes bien réels, pour aider à trouver des réponses aux questions déchirantes qui perdurent à propos des femmes et des filles autochtones disparues et assassinées<sup>26</sup>. Dans le cadre de cette campagne, la société de production cinématographique de M<sup>me</sup> Meeches, Eagle Vision, s'est adjointe Maryanne Pearce et Tracey Peter, respectivement professeure agrégée et chef associée du département de sociologie de l'Université du Manitoba, pour convertir une version actualisée (2016) des données de M<sup>me</sup> Pearce en un rapport de cotes. Elles ont découvert que les probabilités étaient beaucoup plus grandes qu'elles ne l'avaient imaginé.

Selon leurs calculs, les femmes et les filles autochtones sont 12 fois plus susceptibles d'être assassinées ou portées disparues que toute autre femme au Canada, et 16 fois plus en comparaison des femmes de race blanche<sup>27</sup>. Le dévoilement de ces statistiques, tout comme les vérités racontées par les familles et les survivantes venant appuyer ces données, a été pour elles un autre instrument de plaidoyer.

Comme un nombre grandissant d'études le démontrent, les femmes, les filles et les personnes 2ELGBTQQIA autochtones sont assaillies de toutes parts, que ce soit par leur partenaire, les membres de leur famille, leur entourage et les tueurs en série. Les taux de violences conjugale et familiale sont extrêmement élevés<sup>28</sup>, tout comme le nombre d'agressions commises par de purs étrangers. Une femme autochtone est aussi plus susceptible d'être tuée par une connaissance qu'une femme non autochtone<sup>29</sup>, et elle est sept fois plus susceptible d'être ciblée par un tueur en série<sup>30</sup>. James Anaya, rapporteur spécial des Nations Unies sur les droits des peuples autochtones, affirme que le nombre de femmes et de filles autochtones disparues ou assassinées est « épidémique »<sup>31</sup>.

Outre le meurtre, les statistiques révèlent aussi que les femmes autochtones, sont aussi invariablement victimes d'agression physique et de vol à une fréquence plus élevée et de manière plus grave que tout autre groupe du Canada<sup>32</sup>. La violence sexuelle, quelle qu'en soit la forme, est aussi un problème de taille : les femmes autochtones sont agressées sexuellement au moins trois fois plus souvent que les femmes non autochtones<sup>33</sup>, et la plupart des femmes et des enfants victimes de traite au Canada sont des Autochtones<sup>34</sup>. De l'avis des chercheuses Cherry Kingsley et Melanie Mark, les jeunes et les enfants autochtones exploités sexuellement, dans certaines communautés, représentent plus de 90 % des prostitués visibles, alors que les Autochtones comptent pour moins de 10 % de la population<sup>35</sup>. La majorité des femmes autochtones qui sont ultérieurement victimes de violence sexuelle ou de traite ont été agressées sexuellement en bas âge, ce qui fait d'elles des proies faciles aux yeux des trafiquants, qui profitent à leur tour de cette vulnérabilité en s'attendant à ce que la société ferme les yeux<sup>36</sup>.



Les hauts taux de violence sont tout aussi alarmants pour les membres de la communauté 2ELGBTQQIA, qui sont souvent rejetés ou exclus des statistiques nationales. Égale Canada, à titre d'exemple, rapporte :

Les femmes lesbiennes, bisexuelles et transgenres (LBT), tout comme les personnes bispirituelles et celles de diverses identités de genre, font face à la discrimination et à la stigmatisation, et elles vivent des expériences violentes traumatisantes dans une proportion démesurément plus élevée que leurs homologues hétérosexuelles et cisgenres. De telles expériences sont l'œuvre de l'intolérance, de la peur ou de la haine à l'égard de la diversité des caractéristiques de la personne, qu'il s'agisse de son attirance, de son identité de genre ou de l'expression de son genre dans tous les contextes sociaux : à la maison, à l'école, dans la communauté, dans les lieux de culte et de spiritualité, dans l'espace public et dans les centres de santé<sup>37</sup>.

De façon plus particulière, une étude ontarienne portant sur les personnes autochtones bispirituelles et sur celles de diverses identités de genre conclut que 73 % d'entre elles avaient fait l'objet d'une certaine forme de violence attribuable à la transphobie, alors que 43 % ont été victimes de violence physique ou de violence sexuelle<sup>38</sup>.

Malgré l'ampleur et l'étendue de cette violence, bon nombre de personnes continuent de croire que la faute revient aux peuples autochtones en raison de leur mode de vie que l'on dit à risque. Toutefois, Statistique Canada signale que *même quand tous les facteurs de différenciation sont pris en considération*, les femmes autochtones demeurent exposées à un risque nettement plus élevé de violence que les femmes non autochtones. Cela vient confirmer ce que de nombreuses femmes et filles autochtones savent déjà, c'est-à-dire que le simple fait d'être une femme et une Autochtone fait d'elles des cibles<sup>39</sup>.

Le dénominateur commun de ces statistiques est que la violence contre les femmes, les filles et les personnes 2ELGBTQQIA autochtones n'est pas un problème qui touche uniquement certaines personnes ni certaines communautés, mais bien qu'elle est motivée par des facteurs systémiques, comme la marginalisation économique, sociale et politique, de même que le racisme, la discrimination et la misogynie, tous entrelacés dans le tissu sociétal canadien. Comme l'explique [Kohkom] : « Je suis en mode survie depuis que je suis toute petite; toujours sur mes gardes, à surveiller mes arrières. Parce que j'ai vu mes tantes et mes cousines être rudoyées par la police. Et, parce que le fait de grandir dans cette ville, cette province et ce pays en tant que femme issue d'une Première Nation, ça revient à se promener avec une cible dans le dos<sup>40</sup>. »

En relatant le décès de sa fille Jennifer, Bernice C., a exprimé avec éloquence la douleur qui accompagne la perte d'une enfant : « On me l'a volée; personne n'avait le droit de faire ça, de lui faire ça. Elle aurait pu être mère, se marier, mais on lui a pris son avenir. Quelqu'un a décidé qu'elle n'avait pas le droit de vivre, alors que c'est tout le contraire<sup>41</sup>. »

Comme l'a ajouté Tamara S., la sœur de Jennifer, le décès de cette dernière et les faits actes de violence dirigés contre elle sont caractéristiques des nombreuses autres relations qui mettent à mal la sûreté et la sécurité des femmes autochtones.

C'est vraiment déchirant de constater que tout cela se répète sans cesse. Ça ne touche pas seulement notre famille. Il y a l'histoire de Jen, mais il y a tant d'autres récits du même genre, tant d'autres femmes. C'est, c'est juste trop, ça devient une problématique de plus en plus apparente, qui est bien ancrée. Ce n'est pas le fruit du hasard. C'est une véritable épidémie. C'est un véritable génocide. Une autre forme de génocide perpétré à l'endroit des femmes<sup>42</sup>.

De l'avis de Tamara, le fait que la mort de Jennifer – tout comme la violence, les disparitions et les décès qui affligent tant de femmes autochtones – n'ait rien « d'aléatoire » est une autre caractéristique importante de l'histoire des relations et des rencontres violant la sûreté et la sécurité des femmes, des filles et des personnes 2ELGBTQQIA autochtones, telle que relatée par les familles, les amis et les proches. Lors de son témoignage, Danielle E. a décrit comment le quotidien des femmes et des filles autochtones, même en l'absence de violence physique ou sexuelle directe, se vit sous la menace constante de violence, empreint de la peur qui l'accompagne.

J'espère que tout cela aboutira à quelque chose de bien, de sorte que, en tant que femme autochtone, je n'aie plus à avoir peur en marchant dans la rue, parce qu'aujourd'hui, c'est le cas; cette peur, elle nous habite chaque jour, et on y devient tellement habituée qu'elle finit par faire partie de notre être. Or, il ne devrait pas en être ainsi, car ce n'est pas tout le monde dans la société d'aujourd'hui qui peut aller et venir sans éprouver une telle crainte, celle qui terrorise les femmes et les filles autochtones. J'ai sept filles et beaucoup de petites-filles, et je me fais constamment du souci pour elles. Je ne veux pas qu'elles fassent partie des statistiques<sup>43</sup>.

Comme le démontrent ces témoignages, la normalisation de la violence, ou la normalisation de l'absence de sûreté et de sécurité, pour le dire autrement, est un autre vecteur qui rend les femmes, les filles et les personnes 2ELGBTQQIA autochtones plus exposées à la violence. Les mesures prises, le cas échéant, pour venir en aide aux femmes autochtones victimes de violence étant insuffisantes, on incite ainsi les personnes agressives à passer à l'acte sans crainte d'être identifiées, traduites en justice ou châtiées.

## Interpréter le mandat

Les témoignages entendus lors de l'Enquête nationale sur les femmes et les filles autochtones disparues et assassinées ont mis en lumière un large éventail de problèmes ayant des répercussions sur la sécurité et le mieux-être de ces dernières. La tenue même de l'Enquête est attribuable à la pression grandissante exercée à l'échelle locale par les survivantes d'actes de

violence et les proches des femmes et des filles autochtones disparues et assassinées, les organismes communautaires et les organisations autochtones nationales, les organisations internationales de défense des droits de la personne, et par la Commission de vérité et réconciliation du Canada, qui a mené au déclenchement d'une enquête publique sur les taux disproportionnés de violence perpétrée à leur endroit. Nouvellement élu, le gouvernement fédéral a annoncé en 2015 la tenue d'une enquête publique, une possibilité qui avait été déclinée de manière acerbe par l'administration précédente. En septembre 2016, l'Enquête nationale sur les femmes et les filles autochtones disparues et assassinées, a officiellement amorcé ses travaux.

Le mandat de l'Enquête nationale (c'est-à-dire les objectifs à atteindre) est établi dans son cadre de référence. Plus précisément, l'Enquête nationale doit faire rapport sur :

- i. les causes systémiques de toutes formes de violence — y compris la violence sexuelle — à l'égard des femmes et des filles autochtones au Canada, notamment les causes sociales, économiques, culturelles, institutionnelles et historiques sous-jacentes qui contribuent à perpétuer la violence et les vulnérabilités particulières de ces femmes et de ces filles;
- ii. les politiques et les pratiques institutionnelles mises en place en réponse à la violence à l'égard des femmes et des filles autochtones au Canada, y compris le recensement et l'examen des pratiques éprouvées de réduction de la violence et de renforcement de la sécurité.

Les commissaires doivent faire des recommandations sur :

- i. les mesures pratiques et concrètes pouvant être prises pour éradiquer les causes systémiques de la violence et renforcer la sécurité des femmes et des filles autochtones au Canada<sup>44</sup>;
- ii. les façons d'honorer la mémoire des femmes et des filles autochtones disparues ou assassinées au Canada.

En termes simples, la Commission d'enquête nationale s'est vu confier le mandat de 1) faire rapport sur toutes les formes de violence 2) à l'endroit des femmes et des filles autochtones. Nous allons maintenant examiner tour à tour ces deux volets de même que les éléments de réflexion qui ont permis au personnel de l'Enquête nationale d'interpréter son mandat.

Dans un premier temps, il faut souligner que la réalisation de celui-ci ne s'est pas faite sans heurts. Par exemple, devoir tirer des conclusions relatives à « toutes les formes de violence » a considérablement élargi notre mandat en y incluant des enjeux comme la violence familiale, le racisme institutionnel dans les secteurs de la santé, de la protection de l'enfance, de l'administration de la justice et du travail des policiers, et d'autres formes de violence qui proviennent des mêmes structures de colonisation. Cela nous a aussi permis d'entendre des familles dont les proches ont péri par négligence, par accident ou par suicide, ou dont la cause



de décès est inconnue ou contestée. Nous avons donc retenu le terme « proches disparus » à des fins d'inclusion, plutôt que de référer uniquement aux personnes disparues et assassinées. De plus, nous avons choisi de limiter l'utilisation du terme « victime » de violence au système de justice pénale uniquement, faisant écho aux propos des familles et des survivantes suggérant que les qualificatifs de victimisation peuvent avoir un effet débilant.

Même si ce mandat nous a permis d'examiner des problèmes interreliés sur une base plus holistique, produire un rapport significatif sur toutes les formes de violence à l'endroit des femmes et des filles autochtones dans un délai d'à peine deux ans et demi s'est révélé extrêmement ambitieux. Il s'agit, en fait, du mandat le plus large jamais confié à une enquête publique canadienne.

Même le nom qu'elle porte, soit « l'Enquête nationale sur les femmes et les filles autochtones disparues et assassinées », laisse sous-entendre, à tort, que notre mandat s'est borné à recueillir des éléments de preuve de façon restrictive, se limitant à cette question particulière. Comme le démontre le présent rapport, nous considérerons la violence en son sens large, dans le temps et dans l'espace, reconnaissant que les circonstances qui mènent au ciblage des femmes, des filles et des personnes 2ELGBTQQIA autochtones, bien qu'elles résultent d'une combinaison de facteurs, sont enracinées dans des vérités plus profondes.

La confusion engendrée a donc été difficile à dissiper malgré le fait que de nombreuses survivantes d'autres formes de violence aient choisi de partager ouvertement leur vérité propre, et que presque chaque personne ayant témoigné afin d'évoquer la mémoire d'une proche disparue avait elle-même survécu à la violence. À notre plus grand regret, cet imbroglio peut avoir contrarié la volonté de certaines femmes et personnes 2ELGBTQQIA autochtones à prendre part à l'Enquête nationale pour relater d'autres expériences de violence parce qu'elles ont estimé ne pas être « admissibles » ou ont cru que l'exercice ne les visait pas. Nous invitons instamment toutes les survivantes d'actes de violence et tous les membres de famille des femmes et des filles autochtones disparues et assassinées à continuer de raconter leur histoire s'ils le souhaitent dans le but de sensibiliser les autres à de tels enjeux.

Dans un deuxième temps, il faut reconnaître que le second volet du mandat, c'est-à-dire faire rapport sur toutes les formes de violence « à l'endroit des femmes et des filles autochtones », est aussi très large. Dans le cadre de l'Enquête nationale, le terme « autochtone » se veut un nom collectif désignant les peuples des Premières Nations<sup>45</sup>, les Inuits<sup>46</sup> et les Métis<sup>47</sup> au Canada. Il englobe des centaines de peuples et de Nations autochtones distincts ayant leurs propres organisations politiques, économies, cultures, langues et territoires.

Tout au long du rapport, nous employons le terme « autochtone » pour désigner des expériences pouvant être communes aux Premières Nations, aux Métis et aux Inuits. Parallèlement, nous reconnaissons que chaque peuple autochtone a une appellation qui lui est propre. Plusieurs de ces appellations sont indiquées dans les notes en fin de chapitre, et aussi dans les récits des histoires et des vérités relatives à chaque contexte. Ce faisant, nous les admettons et les reconnaissons.

Un aspect important des travaux de l'Enquête nationale a été l'inclusion, dans le cadre de notre mandat, des personnes 2ELGBTQQIA (soit toute personne bispirituelle, lesbienne, gaie, bisexuelle, transgenre, queer, en questionnement, intersexuée ou asexuelle). Cela revêt une importance particulière pour quiconque ne répondant pas à la conception binaire du genre, soit « homme » ou « femme », son identité de genre se trouvant exclue d'un énoncé comme « les femmes et les filles autochtones ». Nous reconnaissons aussi que les femmes et les filles 2ELGBTQQIA autochtones font les frais de la violence de manière différente, car, dans leurs cas, à la discrimination fondée sur la race et sur le genre s'ajoutent l'homophobie, la transphobie et d'autres formes de discrimination semblables. Pour toutes ces raisons, nous avons élargi notre mandat et décidé d'utiliser l'expression « femmes, filles et personnes 2ELGBTQQIA autochtones » pour inclure les personnes non binaires et celles de diverses identités de genre, et aussi pour rappeler de façon explicite que les besoins des personnes de diverses identités de genre doivent également être pris en considération.

## Pouvoirs et limites de l'Enquête nationale

En règle générale, une enquête publique porte sur des questions qui revêtent une importance nationale (ou encore provinciale ou territoriale). Elle peut prendre la forme d'une commission royale, d'une commission de vérité et de réconciliation, ou d'une commission d'enquête. La durée de celle-ci, le budget dont elle dispose et sa structure fondamentale sont déterminés par l'administration qui la constitue, mais elle dispose de la latitude nécessaire afin de remplir son mandat avec une souplesse raisonnable, comme nous l'avons vu<sup>48</sup>.

Le mandat de l'Enquête nationale n'a pas été défini uniquement par le gouvernement fédéral, puisque chaque province et chaque territoire y a aussi donné son assentiment. Il faut préciser que ce n'est pas d'une seule grande enquête publique fédérale dont il est question, mais bien de 14 « enquêtes » conjointes menées simultanément et couvrant chacune des administrations fédérale, provinciales et territoriales du Canada. Bien que des enquêtes aient déjà touché concurremment plusieurs administrations, c'est la première fois que l'une d'elles regroupe de manière concertée les administrations provinciales, territoriales et fédérale l'ensemble du pays. C'est donc dire que l'Enquête nationale sur les femmes et les filles autochtones disparues et assassinées est la première enquête véritablement « nationale » à voir le jour au Canada.

Bien que notre mandat soit similaire dans chaque province et territoire, les règles et les exigences ne sont pas les mêmes partout. Ces règles, qui circonscrivent les pouvoirs et les limites de l'Enquête nationale, sont prévues par décret (ou décret administratif) dans chaque province et territoire et énoncées dans les lois applicables aux enquêtes publiques de chaque administration.

Il était essentiel que nous puissions agir librement dans chaque province et territoire, et ce, sans devoir nous limiter aux enjeux de compétence fédérale. Ce faisant, nous disposons de l'autorité requise pour exiger la production de documents par voie d'assignation afin de contraindre une personne à témoigner et pour enquêter sur les causes systémiques de la violence à l'égard des

femmes et des filles autochtones sous tous les angles jugés nécessaires. Ainsi, nous avons pu, par exemple, nous intéresser aux causes profondes ainsi qu'aux politiques, aux lois et aux pratiques gouvernementales. Toutefois, cette façon de procéder est venue nettement complexifier les exigences juridiques, car les lois et les règlements visant les enquêtes publiques au sein de ces administrations diffèrent, dans la plupart des cas.

Comme pour toute enquête publique, les commissaires ont le pouvoir de mener leurs travaux en amassant des éléments de preuve et en tenant des audiences pour entendre des témoins. Cette démarche se doit d'être aussi ouverte et transparente que possible, provoquant la création d'un « dossier public » renfermant des renseignements critiques qui subsisteront au terme de l'exercice. Les commissaires, seuls ou de concert, rédigent ensuite un rapport et recommandent des changements. Bien que les gouvernements ne soient pas tenus de mettre en œuvre ces derniers, le fait de diriger l'attention du public sur les enjeux soulevés et de sensibiliser la population à l'égard de ceux-ci, notamment pendant le déroulement des travaux d'enquête, aide à faire pression sur les autorités.

L'une des principales restrictions de l'Enquête nationale, qui s'applique de fait à toute enquête publique, est qu'elle ne permet pas de résoudre des cas particuliers ni de déterminer qui est responsable sur le plan juridique. En effet, une enquête publique doit se concentrer sur des problèmes systémiques et sur des solutions en tenant compte du fait que ces problèmes ne découlent pas de « quelques cas isolés ». L'Enquête nationale ne peut non plus nuire à une enquête criminelle en cours et doit se conformer aux règles entourant la protection de la vie privée et des renseignements personnels, comme le prévoient les cadres législatifs fédéraux, provinciaux et territoriaux.

Néanmoins, toute information nouvelle peut être transmise aux autorités compétentes si elle est révélée lors du processus de consignation de la vérité ou si les commissaires ont des motifs raisonnables de croire qu'elle traite d'une inconduite.

## Consignation de la vérité

Dans l'esprit de ces pouvoirs et de ces limites, les commissaires ont établi la structure d'ensemble de l'Enquête nationale, que l'on nomme maintenant le « processus de consignation de la vérité ».

Globalement, celle-ci se devait d'être d'abord centrée sur les familles (en veillant en premier lieu aux intérêts des survivantes d'actes de violence et des membres de famille des femmes et des filles autochtones disparues et assassinées, c'est-à-dire en leur donnant préséance sur les intérêts des détenteurs habituels du pouvoir, dont les politiciens, les gouvernements et la presse), de tenir compte des traumatismes (en favorisant la guérison sans créer de nouvelles blessures) et de provoquer la décolonisation (en accordant la priorité aux modes de connaissance, aux manières de faire et aux manières d'être des Autochtones). Ces objectifs sont tous ancrés dans le principe directeur de l'Enquête nationale : « Nos femmes et nos filles sont sacrées. » Une telle approche



voulait donner une assise aux femmes, aux filles et aux personnes 2ELGBTQQIA autochtones pour les aider à reprendre le pouvoir et la place qui leur reviennent.

L'Enquête nationale reconnaît aussi que, selon une perspective autochtone, il n'y a pas nécessairement une « vérité » absolue; chaque personne détient plutôt sa vérité propre, et c'est en consignait celles-ci collectivement que nous pouvons mieux cerner le problème. Il a donc été convenu de désigner cette démarche comme étant un « processus de consignation de la vérité », lequel permet aux participantes et aux participants de présenter différentes « vérités » ou perspectives.

Des personnes, des familles et des organisations d'horizons divers de même que les organes consultatifs de l'Enquête nationale ont énoncé ces vérités. On peut citer comme exemple le Cercle conseil national des familles (CCNF), regroupant des survivantes d'actes de violence ainsi que des proches de femmes et de filles autochtones disparues et assassinées; le Cercle des Grands-mères et des Aînées de l'Enquête nationale, grâce auquel les commissaires et la directrice générale ont pu travailler individuellement et en étroite collaboration avec une Aînée ou une Grand-mère; et les instances consultatives externes qui nous ont conseillé à l'égard de quatre composantes transversales clés trop souvent écartées des événements et des travaux de recherche d'envergure nationale portant sur les Autochtones, à savoir les Inuits, les Métis, les personnes 2ELGBTQQIA et le Québec.

La première partie de notre étude s'est concentrée sur les expériences vécues par les survivantes et les membres des familles touchées. Tous les parents, les amis, les défenseurs et les proches des femmes, des filles et des personnes 2ELGBTQQIA autochtones disparues et assassinées, ainsi que toutes celles qui ont survécu à la violence, avaient automatiquement le droit de participer aux audiences communautaires établies par l'Enquête nationale, de produire une déclaration ou de soumettre des expressions artistiques. Une campagne d'information publique a donc été mise sur pied afin de rejoindre le plus grand nombre de personnes qui soit et de faire connaître les moyens de communiquer avec le personnel de l'Enquête nationale. Cependant, il importe de préciser que nous n'avons approché directement ni membres des familles ni survivantes pour solliciter leurs propos sans avoir d'abord reçu une demande en ce sens, car nous avons la conviction que le choix de participer ou non revenait à chaque personne. Quand une personne signalait son intérêt, nous mettions tout en œuvre pour lui faciliter la tâche.

Chaque fois qu'un membre d'une famille touchée ou qu'une survivante s'est manifesté, que ce soit par courrier postal, par courrier électronique ou par téléphone, un membre de l'équipe de la Santé (renommée ultérieurement l'équipe des Relations avec les communautés et de la Santé) a pris contact avec cette personne pour en savoir davantage sur sa situation, pour, consigner ses coordonnées et s'enquérir de tout besoin urgent, le cas échéant. On lui a présenté les outils mis à sa disposition pour raconter sa vérité, ces différentes options s'inscrivant dans le cadre d'une approche qui tient compte des traumatismes, procure un plus grand contrôle à chaque étape du processus et favorise l'autodétermination.

Toute personne souhaitant témoigner pouvait, premièrement, prendre la parole lors d'une audience communautaire, devant le public et les commissaires. Ce faisant, son récit et les transcriptions de celui-ci étaient respectivement diffusé en direct sur le Web et rendues publiques par l'entremise du site Internet de l'Enquête nationale. Pour se conformer aux exigences de la législation relative à la protection de la vie privée, certaines informations relatives aux événements rapportés ont été retranchées. Notre approche se voulant décolonisatrice, nous avons visité uniquement les communautés qui nous ont invités à le faire, respectant les protocoles locaux et demandant conseil aux Aînés de l'endroit. Afin d'établir un espace culturellement sûr tenant compte des traumatismes, nous n'avons pas permis le contre-interrogatoire des survivantes et des membres des familles touchées; seuls les commissaires ont pu questionner ces personnes, et ce, uniquement à des fins de clarification.

Deuxièmement, les témoins pouvaient choisir de relater leur vérité à huis clos ou en privé lors d'une audience communautaire. Ainsi, les familles et les survivantes pouvaient s'adresser directement à un commissaire, à ses adjoints, aux employés de l'Enquête et aux parties sur place ayant qualité pour agir sans que le public en général puisse prendre connaissance de leurs propos. Ces mesures visaient à assurer, dans certains cas, la sûreté des personnes acceptant de témoigner et aussi à tenir compte des traumatismes subis, certaines d'entre elles pouvant difficilement raconter leur histoire devant le public. Que ce soit pour assurer la sécurité physique, la sécurité mentale ou la sécurité culturelle des participantes et des participants, la tenue d'audiences privées s'est avérée essentielle pour être en mesure d'entendre les récits authentiques des survivantes d'actes de violence ainsi que des membres des familles des femmes et des filles autochtones disparues et assassinées. Des transcriptions confidentielles de ces séances ont été produites dans le but de contribuer à cerner les tendances générales, rapporter les faits et établir les recommandations de l'Enquête nationale, mais elles ne seront pas rendues publiques au terme de celle-ci. Même si les vérités consignées à huis clos nous ont aidés à tirer des conclusions, aucune des déclarations faites lors de ces témoignages ne se retrouve dans ce rapport par souci de confidentialité.

Il était également possible de s'en remettre à l'une des personnes responsables de la consignation des déclarations. La personne consignatrice se rendait alors chez le membre de famille ou la survivante pour réaliser une entrevue enregistrée en personne, sur bande vidéo, de manière à ce que l'un des commissaires puisse la visionner ultérieurement. La personne livrant le témoignage pouvait demander à ce que sa déclaration et la transcription de celle-ci soient rendues publiques ou conservées uniquement pour fins d'examen à huis clos par les commissaires et les employés de l'Enquête nationale. Des événements ont aussi été organisés dans l'optique de consigner les déclarations, lesquels ont permis de recueillir en un seul lieu les propos de plusieurs participantes et participants.

Troisièmement, les expressions artistiques dépeignant une réaction ou renvoyant à une expérience liée à la violence touchant les femmes, les filles et les personnes 2ELGBTQQIA autochtones étaient aussi acceptées. Ces expressions sont conservées dans la collection patrimoniale autochtone. Les commissaires ont accepté que les personnes livrent leur témoignage sous différentes formes dans le cadre de l'Enquête nationale.

La décision d'inclure dans la définition de « famille » chacune des familles choisies, ou les « familles du cœur », comme on les appelle, fut aussi une mesure de décolonisation, qui tient compte des traumatismes vécus. Ces notions englobent la famille dans son sens large, allant au-delà de la famille nucléaire, biologique ou étendue d'une personne, de manière à y inclure quiconque estimait faire partie de la famille. Ces « familles du cœur » ont choisi de s'engager résolument dans le processus et de s'aider les unes les autres, par amour et par respect. Cette dimension est particulièrement importante pour de nombreuses personnes 2ELGBTQQIA, pour bien des femmes qui ont dû fuir leur famille biologique ou leur communauté en raison de la violence qui les affligeait, ou pour celles qui ont été séparées de leur famille de sang par les services de protection de l'enfance, par l'adoption ou par la rafle des années 1960.

Les parties 2 et 3 du processus de consignation de la vérité ont couvert les audiences des représentants des institutions et celles des experts et des Gardiens du savoir; les premières ont examiné les causes de la violence institutionnalisée ainsi que la réponse des institutions à cette violence, alors que les secondes, lors desquelles témoignaient des Aînés, des universitaires, des spécialistes du droit, des intervenants de première ligne, des jeunes, des spécialistes et autres, ont donné lieu à des recommandations visant les causes systémiques de la violence et des solutions envisageables. Lors de ce processus, les avocats de l'Enquête nationale et les parties ayant qualité pour agir ont pu questionner les témoins des parties 2 et 3 et les contre-interroger pour clarifier leurs propos. Ce faisant, ils ont directement contribué à déterminer les éléments couverts lors des audiences institutionnelles et de celles consacrées aux experts et aux Gardiens du savoir, éléments qui découlent des sujets de discussion et des enjeux désignés au moment des audiences communautaires comme étant importants aux yeux des familles et des survivantes. Ces séances nous ont permis d'abord d'entendre des représentants des institutions et des systèmes mentionnés par de nombreuses familles durant leur témoignage, puis d'explorer plus en détail leur fonctionnement. Elles ont aussi fait en sorte que les expériences et les problèmes recensés par les familles et les survivantes demeurent au cœur du processus de consignation de la vérité, même lors des témoignages d'experts et de responsables institutionnels.

L'Enquête nationale ne s'est pas contentée de consulter des « experts » cadrant avec une définition étroite issue d'une conception occidentale, mais a spécifiquement choisi d'inclure les Aînés et les Gardiens du savoir, c'est-à-dire des personnes autochtones respectées pour leur sagesse, leurs connaissances, leur expérience, leurs antécédents et leur intuition. En général, les individus et les communautés sollicitent leur aide et leurs conseils pour différentes questions tant traditionnelles que contemporaines. Les Gardiens du savoir, plus particulièrement, détiennent une expertise ou une connaissance intime des systèmes de savoir des Autochtones, notamment de leurs traditions intellectuelles, de leur vision du monde et de leurs lois. Certaines de ces personnes sont considérées comme les gardiennes et les gardiens du savoir traditionnel ou de la tradition orale au sein de leur famille, de leur communauté ou de leur Nation.

Les parties ayant qualité pour agir ont joué un rôle essentiel durant cette étape du processus de consignation, portant souvent à l'attention des témoins experts certaines des préoccupations exprimées par les survivantes d'actes de violence ainsi que les proches des femmes et des filles autochtones disparues et assassinées afin de recueillir leurs commentaires. Ces parties sont en



fait des groupes qui ont demandé le droit de participer au processus, car ils portent un intérêt direct et réel aux thèmes propres à l'Enquête nationale ou car ils représentent des intérêts distincts et que leur expertise et leur point de vue sont essentiels à l'exécution de notre mandat. On dénombre 94 parties ayant qualité pour agir, dont des groupes représentant des organisations non gouvernementales, des organisations de femmes autochtones, des groupes issus de la société civile et du gouvernement, ainsi que certains services de police. Ces parties ont joué un rôle important dans le processus de consignation de la vérité, notamment, dans un premier temps, en questionnant les témoins experts et institutionnels lors des audiences de consignation (le « contre-interrogatoire ») et, dans un deuxième temps, en présentant des observations finales une fois l'ensemble de la preuve recueilli dans le but de formuler, à l'intention des commissaires, des recommandations additionnelles visant à mettre fin à la violence. Ils ont aussi offert des conseils sur la manière d'interpréter les éléments de preuve recueillis, sur les principaux constats devant être dégagés ainsi que sur les mesures et les recommandations requises pour promouvoir la sûreté et la sécurité. Leurs observations sont accessibles en ligne sur notre site Web<sup>49</sup>. Les résultats de leur collaboration au processus ainsi que leur contribution particulière dans la proposition de recommandations et de ressources à envisager se reflètent fidèlement dans les appels à la justice, dont nous exigeons la mise en application en conclusion du présent rapport.

La preuve constituant le dossier public de l'Enquête nationale rassemble l'ensemble des témoignages, ou des vérités, recueillis lors des parties 1, 2 et 3 du processus de consignation de la vérité. Elle regroupe aussi les éléments déposés lors des témoignages de même que les documents qu'a obtenus notre équipe juridique par voie d'assignation. Pour les personnes qui ont défilé devant les commissaires lors de la partie 1, ces éléments sont principalement des photographies de leurs proches, des coupures de journaux et d'autres objets servant à appuyer leur récit. Lorsqu'il est question des parties 2 et 3 des audiences, ils prennent la forme de rapports, d'études, de dossiers publics et autres documents justificatifs pertinents.

## Réclamer notre pouvoir et notre place

Les conclusions des recherches qui ont été menées dans le cadre du processus de consignation de la vérité privilégiant les personnes avec expérience vécue et qui sont axées sur la place sacrée qu'occupent les femmes, les filles et les personnes 2ELGBTQQIA autochtones au sein de leur famille, de leur communauté et de leur Nation, dressent un constat qui insiste sur la mise en place de solutions autodéterminées et spécifiques répondant aux besoins de celles et de ceux qui sont désignés comme titulaires de droits. *Réclamer notre pouvoir et notre place : le rapport final de l'Enquête nationale sur les femmes et les filles autochtones disparues et assassinées* n'est pas le premier ouvrage – et certainement pas le dernier – à expliciter la violence faite aux peuples autochtones. Cependant, nous maintenons que son cadre de référence permet d'accorder à chaque dimension des droits et des relations une attention à la fois considérable et habilitante, qu'il s'agisse de rencontres individuelles quotidiennes qui alimentent la violence et la discrimination, ou encore de structures institutionnelles et systémiques de plus grande envergure qui doivent changer.

Par ses conclusions, le rapport relie les témoignages recueillis dans le cadre du processus de consignation de la vérité aux violations des droits fondamentaux et autochtones des femmes, des filles et des personnes 2ELGBTQQIA autochtones. En analysant du point de vue des droits de la personne, des droits des Autochtones et des identités de genre les vérités révélées lors du processus de consignation, nous soutenons que la violence dont font l'objet les femmes, les filles et les personnes 2ELGBTQQIA autochtones, ainsi que toutes les formes de violence perpétrée à l'endroit des peuples autochtones, constituent une atteinte aux droits de la personne. En exprimant leur vérité, les familles, les proches et les survivantes n'ont pas que dénoncé les actes de violence qu'elles ont ou que leur entourage a endurés, mais elles ont aussi relaté nombre de violations et transgressions des droits fondamentaux de l'être humain. Apporter les changements qui s'imposent pour mettre un terme à la violence n'est pas seulement une question de politique d'intérêt public, mais c'est aussi un enjeu juridique national et international.

À la suite des conclusions du processus de consignation de la vérité et de l'analyse de rapports antérieurs, les commissaires de l'Enquête nationale constatent que la principale raison expliquant que ces changements et recommandations n'aient pas encore été mis en œuvre est le fait qu'ils sont tributaires de la volonté des appareils bureaucratique et gouvernemental à modifier leurs propres lois, contrats et politiques. Bien qu'un bon nombre de ces écrits devraient effectivement être modifiés, ces textes sont en outre silencieux quant au rôle fondamental de la *relation*. Après tout, les lois canadiennes ne sont pas immuables; elles se fondent sur les valeurs des législateurs et sur les liens que ces derniers entretiennent.

En relatant leurs expériences dans le cadre de l'Enquête nationale, les survivantes et les proches des femmes et des filles autochtones disparues et assassinées n'ont pas parlé uniquement de violence, mais aussi des relations au sein desquelles cette violence se matérialise. Dans ce rapport, nous focalisons sur le rôle des relations, et aussi sur les rencontres significatives qui surviennent dans le cadre de telles relations, relations que les membres des familles de ces femmes et que ces survivantes estiment mener aux préjudices, à la violence et à la souffrance, ou encore atténuer ceux-ci. S'appuyant sur une leçon fondamentale qui se dégage des témoignages, soit celle voulant que les relations soient importantes, cet ouvrage présente de nombreux exemples illustrant de quelle manière de tels rapports – qu'ils soient étroits comme ceux qui unissent deux personnes, ou qu'ils soient plus distendus comme ceux qui relient deux visions différentes du monde – sont essentiels pour tenter de comprendre comment la violence poursuit sa lancée et comment nous pouvons stopper sa progression. Bien que nous préconisions dans le rapport et dans nos recommandations l'apport de changements aux relations sur lesquelles reposent les structures et les systèmes coloniaux, nous nous efforçons aussi de décrire, au moyen d'exemples, comment chaque individu peut, sur une base quotidienne, faire la différence pour mettre un terme à la violence.

Les survivantes et les membres de famille ont révélé que les relations produisent des moments critiques pouvant soit blesser, soit aider une personne. Que ce soit lors des audiences, dans les déclarations recueillies en privé ou par les expressions artistiques, ces personnes nous ont fait connaître un pan de leur vie lors duquel les relations, qu'elles soient saines ou abusives, ont eu

une incidence marquée sur leur existence. C'est là la clé qui permet de comprendre les causes réelles de la violence. En fonction de cela, nous nous intéressons aux relations qui sous-tendent les lois et les structures actuellement incapables de protéger les femmes et les personnes 2ELGBTQQIA.

Les conclusions de ce rapport sont formulées de manière à accorder la préséance aux vérités, aux expériences et à l'expertise des femmes, des filles et des personnes 2ELGBTQQIA autochtones en matière de violence perpétrée contre elles. En s'intéressant à ces dernières et à leurs témoignages dans le but de définir les mesures à prendre pour les soustraire définitivement à cette violence, ce rapport rend hommage à leur force, à leur résilience et à leur expertise.

Le chercheur Shawn Wilson, de la Nation des Cris d'Opaskwayak, a déclaré :

Un des éléments communs à la plupart de ces enquêtes autochtones est la considération accordée aux facteurs sociaux, historiques et économiques pour expliquer les différences entre les peuples autochtones et les peuples non autochtones, et ensuite dresser une liste de recommandations ayant pour objet d'adapter le système dominant aux besoins des Autochtones. Ces programmes reposent sur l'hypothèse voulant que si les conditions environnementales et économiques sont identiques tant pour les Autochtones que les non-Autochtones, les premiers pourront « s'élever afin de satisfaire aux normes » de la société dominante. C'est cette même attitude qui a favorisé l'assimilation forcée de la population autochtone rendue possible par des drames sociaux, comme les « générations volées » et les pensionnats indiens<sup>50</sup>.

Auparavant, « l'expertise » produite par le milieu universitaire et les gouvernements ou découlant des façons occidentales d'acquisition du savoir et de conduite de la recherche – des systèmes qui ont tous historiquement exclu les femmes, et plus particulièrement les femmes autochtones – était perçue comme la plus adéquate pour résoudre les problèmes complexes présentés dans ces pages, comme ceux liés à la culture, la santé, la sécurité et la justice. Ce rapport, contrairement à la majeure partie des travaux de recherche précédents, qui dépeignent les femmes autochtones comme des « victimes » ayant besoin d'être protégées ou sauvées, ou qui présentent leurs expériences comme étant d'un intérêt moindre que le savoir acquis par l'entremise des méthodes ou des approches occidentales, fait plutôt converger leurs voix afin de reconnaître que ce sont justement ces connaissances détenues par les femmes, les filles et les personnes 2ELGBTQQIA autochtones qui sont susceptibles de créer des milieux plus sains et plus sécuritaires pour chacune d'elles.

En ce sens, l'information présentée dans cet ouvrage et les recommandations qu'il propose ne sont ni faciles à comprendre, ni à mettre en œuvre. En effet, le savoir et l'expertise propres aux femmes, aux filles et aux personnes 2ELGBTQQIA autochtones sont ignorés depuis si longtemps que les lecteurs, les chercheurs, les décideurs politiques et le public en général devront, pour respecter ces opinions et ces enseignements, changer la manière dont ils conçoivent les solutions politiques ou les enjeux sociaux, ou comment ils les intègrent au sein



des systèmes déjà en place. Pour bien saisir cette expertise, il faut souvent remettre en question des façons de faire normalisées, sans négliger la propension à maintenir le statu quo, et faire preuve d'ouverture envers des idées novatrices et draconiennes.

Plus important encore, nous reconnaissons dans les pages qui suivent que les femmes, les filles et les personnes 2ELGBTQQIA autochtones disposent des solutions nécessaires pour contrer la violence, pour vaincre l'indifférence, et pour retrouver le pouvoir et la place qui leur revient. Greg M., dont la sœur Jackie est portée disparue depuis 1997, a déclaré : « Il est difficile d'être Autochtone de nos jours. Tant de choses nous sont défavorables. Cependant, nous sommes un peuple tenace. Voilà 10 000 ans que nous sommes ici – debout. Et cela n'est pas près de changer<sup>51</sup>. »

## Évaluation de la réponse du gouvernement fédéral aux recommandations du rapport provisoire de l'Enquête nationale

Lorsqu'une survivante d'actes de violence ou la famille d'une femme ou d'une fille autochtone disparue ou assassinée choisit de s'investir dans un exercice aussi lourd sur le plan émotionnel, de nombreuses craintes l'habitent, la plus grande étant la possibilité que tout cela ne mène à rien, ou encore que le rapport soit relégué aux oubliettes, et que les recommandations restent sans réponse. Comme Melanie D., membre d'une famille touchée, l'a affirmé :

Qu'est-ce que le gouvernement a l'intention de faire après cette enquête? C'est la question que je me pose. Genre, c'est quoi le plan d'action? J'espère que ce ne sera pas un autre rapport comme celui de la CRPA [Commission royale sur les peuples autochtones]. Et j'espère que ce ne seront pas 94 appels à l'action qui feront tourner en rond les discussions sur la réconciliation... Et je ne vise pas seulement le gouvernement, mais... Qu'est-ce que le Canada, l'ensemble du Canada, compte faire<sup>52</sup>?

*Nos femmes et nos filles sont sacrées : rapport provisoire de l'Enquête nationale sur les femmes et les filles autochtones disparues et assassinées* compte 10 recommandations nécessitant des mesures immédiates. Un grand nombre de ces recommandations portent sur les procédures mêmes de l'Enquête, le but étant de les simplifier et de mieux les adapter aux besoins des familles.

Il importe que les dirigeants ayant le pouvoir de mettre en œuvre ces recommandations soient tenus de rendre des comptes quant à l'avancement des travaux, avancement qui pourra se mesurer en fonction des progrès réalisés<sup>53</sup>. Comme le rapporte Terry L. : « Je n'entends que des belles paroles, et j'en ai assez. Il faut passer de la parole aux actes<sup>54</sup>. »

## Les 10 mesures immédiates que l'Enquête nationale réclame (tirées du *Rapport provisoire de l'Enquête nationale sur les femmes et les filles autochtones disparues et assassinées*)

### **1. La mise en œuvre de tous les appels à l'action de la Commission de vérité et réconciliation (CVR), en particulier ceux qui ont des répercussions sur les femmes et les enfants autochtones, notamment la mise en application immédiate du principe de Jordan et la mise en application immédiate et complète de la *Déclaration des Nations Unies sur les droits des peuples autochtones* (DNUDPA) comme cadre pour la réconciliation, et notamment d'un plan d'action, de stratégies et d'autres mesures concrètes du gouvernement fédéral pour atteindre les objectifs.**

À l'heure actuelle, cette mesure a été partiellement mise en œuvre, et nous reconnaissons que la tenue de l'Enquête nationale sur les femmes et les filles autochtones disparues et assassinées constitue en soi une réponse à cet appel à l'action. On peut aussi parler de l'appui accordé au projet de loi 262 et de son adoption, lequel émane de Romeo Saganash, député fédéral du NPD et critique en matière de réconciliation. Cette initiative vise à assurer l'harmonie des lois fédérales du Canada avec la Déclaration des Nations Unies sur les droits des peuples autochtones, déclaration que M. Saganash a lui-même aidé à établir. Au moment d'écrire ces lignes, le projet de loi faisait l'objet d'une deuxième lecture au Sénat. En 2018, le gouvernement fédéral a aussi accepté de faire avancer l'équivalent du principe de Jordan pour les enfants inuits, de sorte qu'aucun retard n'entrave la prestation de soins de santé à leur endroit. De plus, le projet de loi C-91 nommé *Loi concernant les langues autochtones*, qui prévoit la mise en place de mesures de financement stables et à long terme pour soutenir et promouvoir les langues autochtones, a été présenté au début de 2019.

Collectivement, ce sont là des mesures d'une grande importance qui devront être mises en application avec soin et faire l'objet d'un suivi rigoureux. En particulier, le fait de veiller à ce que les principes qui les animent soient appliqués à l'ensemble des services contribuant à promouvoir la sûreté et la sécurité des femmes, des filles et des personnes 2ELGBTQQA autochtones est un processus laborieux, mais qui, selon nous, doit progresser plus rapidement et plus efficacement.

### **2. Le respect complet de la décision du Tribunal canadien des droits de la personne (2016), qui a conclu que le Canada faisait preuve de discrimination raciale à l'endroit des enfants des Premières Nations.**

Cette recommandation n'a pas été mise en œuvre. Le Canada a désormais reçu sept ordonnances de non-conformité émanant du Tribunal canadien des droits de la personne (TCDP)<sup>55</sup>. Le recours intenté par la Société de soutien à l'enfance et à la famille des Premières Nations à l'encontre du Canada est de retour devant les tribunaux, la partie défenderesse rejetant désormais les allégations des enfants issus de Premières Nations sur la base de leur absence de statut en vertu de la *Loi sur les Indiens*. Mis à part les nombreux problèmes qu'entraîne l'attribution de

l'identité de Première Nation par l'entremise d'une législation coloniale comme la *Loi sur les Indiens*, problèmes que nous couvrons en détail ailleurs dans ce rapport, citons la décision du TCDP de n'établir aucune distinction entre les enfants inscrits et non inscrits des Premières Nations, et le jugement rendu récemment par la Cour suprême du Canada qui statue qu'Ottawa a une obligation fiduciaire envers les membres non inscrits des Premières Nations et envers les Métis. En date du 19 février 2019, le tribunal a émis une ordonnance de mesures provisoires pour le principe de Jordan en faveur de la Société de soutien à l'enfance et à la famille des Premières Nations, déclarant que les enfants non inscrits des Premières Nations, en cas d'urgence, seront couverts conformément au principe de Jordan jusqu'à ce que les éléments de preuve concernant la définition de « Premières Nations » aient été entendus<sup>56</sup>.

Compte tenu du fait que la *Loi canadienne sur les droits de la personne* interdit la discrimination fondée sur la race, la Société estime que le principe de Jordan s'applique aussi aux enfants inuits dans les cas où les services publics ont été retardés ou refusés.

L'Enquête nationale partage entièrement l'avis de Cindy Blackstock quand elle affirme que : « Vu la richesse dont dispose ce pays, je crois qu'il faut instaurer immédiatement et complètement la parité pour les enfants des Premières Nations et manière progressive et étalée dans le temps. Et, pour le dire franchement, s'ils ont les moyens de non de dépenser cinq milliards pour un pipeline, ils sont capables d'éliminer les inégalités en matière d'éducation et dans les autres domaines qui touchent les enfants<sup>57</sup>. »

### **3. Que le gouvernement fédéral trouve un moyen de fournir à la Commission d'enquête les coordonnées des familles et des survivantes qui ont participé au processus préalable à l'enquête, ou que le gouvernement fédéral fournisse aux familles et aux survivantes qui ont participé au processus préalable à l'enquête de l'information pour participer à l'Enquête nationale.**

À notre connaissance, rien n'a été fait en ce sens. De nombreuses familles ayant pris part à ce processus ont indiqué au personnel de l'équipe des Relations avec les communautés et de la Santé que, bien qu'elles se soient réjouies de voir l'Enquête nationale aller de l'avant, la démarche d'inscription, à leur sens, était floue, vraisemblablement par suite de la façon dont ces consultations préalables ont été menées au pays. Selon leurs dires, bon nombre des familles participantes ont cru que leurs coordonnées étaient automatiquement enregistrées et qu'elles étaient inscrites sur une liste qui allait permettre au personnel de l'Enquête de les contacter ultérieurement.

Le fait que l'Association des femmes autochtones du Canada (AFAC) et la Gendarmerie royale du Canada (GRC) avaient en main ces coordonnées est venu épaissir le brouillard. Les choses n'auraient pas dû se passer ainsi, car ces démarches étaient bel et bien distinctes. Nous tenons à nous excuser sincèrement auprès des survivantes et des membres des familles touchées pour le stress et la confusion que tout cela a engendrés, lesquels sont venus alourdir indûment notre processus d'inscription.



**4. Que les gouvernements fédéral, provinciaux et territoriaux fournissent, en plus du financement opérationnel habituel, du financement pour des projets visant à soutenir la participation pleine et utile des organisations autochtones à l'Enquête nationale.**

Cette recommandation a été partiellement appliquée. En effet, le gouvernement fédéral, comme nous l'exhortions, a augmenté le financement afin de favoriser la participation des parties ayant qualité pour agir, principalement des organisations autochtones. Toutefois, de nombreuses organisations locales et communautaires de moindre envergure, déjà sous-financées et sous-dotées en personnel, n'ont eu droit à aucune aide financière supplémentaire pour prendre part au processus ou pour promouvoir l'Enquête dans leur milieu. De plus, le fait de devoir acquitter les dépenses pour ensuite en demander le remboursement posait problème, ces organisations étant déjà aux prises avec des contraintes budgétaires et devant parfois composer avec des rentrées de fonds instables.

**5. Que le gouvernement fédéral mette sur pied un fonds pour la commémoration en collaboration avec des organisations autochtones nationales et régionales (y compris des organisations de femmes autochtones), en partenariat avec des coalitions de familles, des artistes autochtones et des intervenants à l'échelle locale qui ont lancé des événements et initiatives entourant la commémoration de la vie des femmes, des filles et des personnes 2ELGBTQQIA autochtones disparues ou assassinées.**

C'est l'une des quelques recommandations à laquelle le gouvernement du Canada a directement donné suite. Celui-ci, par l'entremise de Condition féminine Canada, s'est engagé à mettre sur pied un fonds de commémoration prévoyant 10 millions de dollars sur deux ans pour « honorer la vie et la mémoire des femmes, des filles et des personnes 2ELGBTQQIA autochtones disparues et assassinés<sup>58</sup> ». Ce fonds vise à aider les communautés autochtones à organiser et à mettre en œuvre des événements commémoratifs.

Nous constatons avec satisfaction que le gouvernement fédéral reconnaît le pouvoir de la commémoration publique dans le but « d'honorer la vérité, de favoriser la guérison, de sensibiliser le public et de faire progresser la réconciliation<sup>59</sup> ».

Toutefois, nous sommes très préoccupés par la manière dont il a réinterprété cette recommandation. Celle-ci soulignait spécifiquement l'importance d'inclure les organisations de femmes autochtones, les coalitions de familles, les artistes autochtones et les intervenants à l'échelle locale. Or, seuls les organismes légalement constitués sont admissibles en vertu de l'appel de propositions visant le fonds de commémoration, et il est impossible de déterminer clairement dans quelle mesure les autres entités pourront y avoir accès<sup>60</sup>. Sont donc exclues les coalitions de familles et les organisations locales que nous voulions inclure, lesquelles font avancer depuis des décennies la cause des femmes, des filles et des personnes 2ELGBTQQIA disparues et assassinées, et ce, avec un soutien minime.

Prenons un processus qui peut être long et coûteux, comme constituer légalement un organisme, puis ajoutons à cela le court délai d'inscription accordé aux entités souhaitant participer et nous obtenons presque certainement l'exclusion des groupes mêmes à qui s'applique cette recommandation.

**6. Que le gouvernement fédéral fournisse immédiatement des fonds supplémentaires au Programme de soutien en santé – résolution des questions des pensionnats indiens de Santé Canada et qu’il élargisse ses services pour répondre aux besoins accrus dans la foulée des travaux de la Commission, au moins pour la durée de l’Enquête nationale.**

À cet égard, le gouvernement du Canada s’est engagé à augmenter le soutien en santé et les services aux victimes en

affectant 21,3 millions de dollars sur trois ans pour compléter le soutien en santé offert par l’Enquête, par exemple, permettre l’élargissement des services afin d’inclure l’ensemble des survivantes, membres des familles et personnes touchées par la question des femmes et des filles autochtones disparues et assassinées; améliorer leur accès aux services de soutien en santé; prolonger la période pendant laquelle les services de soutien en santé seront disponibles jusqu’au 30 juin 2020<sup>61</sup>.

Il y a aussi eu engagement à « fournir une somme supplémentaire de 5,42 millions de dollars en 2019-2020 afin de prolonger l’échéancier de deux initiatives du ministère de la Justice du Canada : les unités de liaison pour l’information à l’intention des familles (ULIF) et le financement des organisations communautaires qui visent à appuyer les familles au-delà de la durée de l’Enquête<sup>62</sup> ».

Nous avons aussi accueilli favorablement cette annonce, et notamment la mise sur pied du Programme de soutien en santé – résolution des questions des pensionnats indiens, dont l’objectif est de répondre aux besoins en matière de santé des personnes qui ont pris part à l’Enquête nationale. Cela s’est avéré salutaire pour les membres des familles touchées et pour les survivantes.

Toutefois, notre opinion a été bien peu sollicitée au moment d’affecter ces fonds. Puisque la majorité du financement a été réparti par l’entremise des bureaux régionaux de la Direction générale de la santé des Premières Nations et des Inuits (DGSPNI), les services de soutien offerts aux survivantes d’actes de violence ainsi qu’aux proches des femmes et des filles autochtones disparues et assassinées ne couvraient ni les déplacements ni les pratiques de guérison culturelles, pas plus que les cérémonies de mieux-être et les frais de transport pour rencontrer les Aînés ou les praticiens de la médecine traditionnelle; seules les approches occidentales en matière de santé et de mieux-être, à savoir le counseling, étaient indemnisées. Même si le counseling demeure, en pratique, une composante importante du processus de guérison de nombreux Autochtones, la sécurisation culturelle doit aussi être au cœur de tout service de santé et de mieux-être destiné à leurs peuples. Toutefois, la DGSPNI a décidé de lever l’ensemble des critères d’admissibilité, permettant ainsi à quiconque de consulter, y compris celles et ceux affectés par la question des femmes, des filles et des personnes 2ELGBTQQIA autochtones, qu’ils soient membres inscrits ou non inscrits des Premières Nations, Inuits ou Métis.

De plus, puisque ce sont les bureaux régionaux qui ont été mandatés pour distribuer les fonds, les familles touchées et les survivantes ont eu de la difficulté à y accéder car elles peinaient déjà à accéder aux services de santé en raison de leur éloignement.

**7. Que le Programme de soutien en santé - résolution des questions des pensionnats indiens de Santé Canada verse des fonds aux organisations autochtones et à d'autres fournisseurs de services (y compris les gouvernements provinciaux et territoriaux) dans le cadre d'accords de contribution et de transfert de fonds aux familles et aux survivantes qui participent au processus de consignation de la vérité de la Commission d'enquête et à ses activités de commémoration.**

Cette recommandation avait pour objectif d'assurer que les familles et les survivantes puissent elles aussi avoir leur mot à dire sur la guérison et la commémoration, et non pas seulement les organisations établies. Nous avons finalement réussi à négocier des accords de contribution avec les participantes et les participants relativement à leurs programmes de suivi, ce que le gouvernement canadien n'avait jamais accepté auparavant. Ainsi, les familles et les survivantes peuvent enfin prendre en main chacun des aspects de leur guérison et de leur mieux-être. Nous discutons davantage de tout cela au chapitre 9.

**8. Que le gouvernement fédéral entreprenne un processus de mobilisation auprès des familles, des survivantes, des organisations autochtones et de la Commission d'enquête pour réfléchir à la possibilité de rétablir la Fondation autochtone de guérison.**

À ce jour, cette importante recommandation n'a pas été mise en œuvre.

**9. Que le gouvernement fédéral travaille en collaboration avec les provinces et les territoires pour mettre sur pied une escouade policière nationale vers laquelle la Commission pourrait diriger les familles et les survivantes dans le but d'évaluer ou de rouvrir des dossiers ou d'examiner des enquêtes.**

Le gouvernement du Canada a annoncé que des sommes de

9,6 millions de dollars sur cinq ans serviront à appuyer le nouveau Bureau national des normes et pratiques d'enquête de la Gendarmerie royale du Canada (GRC). Les membres de ce Bureau assureront une surveillance nationale des enquêtes majeures de la GRC. Une part importante de cette surveillance sera axée sur les enquêtes portant sur les femmes et les filles autochtones disparues et assassinées<sup>63</sup>.

Toutefois, cela *ne répond pas* à la recommandation de l'Enquête nationale. Nous continuons d'affirmer que le Canada doit se doter d'une force de police nationale et indépendante ayant comme mandat spécifique de subvenir aux besoins des survivantes d'actes de violence et des proches des femmes, des filles et des personnes 2ELGBTQQIA autochtones; celle-ci compterait notamment des membres et des enquêteurs n'appartenant pas à la police de même que des mécanismes de surveillance intégrés et transparents.

Notre opposition à ce que la GRC bénéficie d'un financement supplémentaire de cette manière tient essentiellement au fait que, encore une fois, c'est la police qui enquête sur la police. La GRC n'a pu prouver à la population canadienne que ses ressources sont capables d'assumer leur part de responsabilité. À vrai dire, bien des témoignages entendus ont mis en lumière des problèmes récurrents de racisme, de sexisme et de discrimination sous diverses formes, tant sur le plan général qu'individuel, lesquels rendent impossibles toute forme de surveillance digne de ce nom.



Par ailleurs, notre recommandation demandait la mise sur pied d'une escouade policière nationale, alors que la réponse du gouvernement n'inclut que la GRC, appareil policier ne chapeautant aucune autre enquête policière ni aucun autre domaine qui relèveraient d'une telle escouade.

L'imprécision des termes employés est aussi l'une des sources de nos préoccupations. Ceux-ci laissent entendre « qu'une part importante » sera consacrée aux enquêtes portant sur les femmes et les filles autochtones disparues et assassinées. En 2010, le gouvernement fédéral a réduit le financement accordé à l'initiative de recherche, d'éducation et de politique « Sœurs par l'esprit » de l'Association des femmes autochtones du Canada pour accroître celui versé à d'autres ministères et à la GRC, lui accordant par le fait même une portée générale plutôt que de l'affecter spécifiquement à la question des femmes et des filles autochtones<sup>64</sup>. Ces actions n'inspirent pas confiance pour l'avenir.

**10. Compte tenu du calendrier serré des travaux de la Commission d'enquête et de l'urgence d'établir des structures et des processus administratifs robustes, que le gouvernement fédéral propose des solutions de rechange et des options concernant ses règles administratives pour permettre à la Commission d'enquête d'exécuter son mandat.**

Nous reconnaissons, d'une manière globale, que de nombreuses améliorations ont été apportées dans le but d'accélérer certaines démarches administratives, notamment sur les plans de la dotation en personnel, des enquêtes de sécurité et de l'approvisionnement en biens et en services. Toutefois, certaines procédures administratives visant à résoudre les problèmes, conçues pour des organisations gouvernementales fédérales permanentes et établies, continuent de multiplier les retards importants et les frustrations. De telles procédures ne se prêtent tout simplement pas à la structure d'une Enquête soumise à un calendrier contraignant, et encore moins lorsque celle-ci doit accomplir son mandat selon une dimension culturelle autochtone devant respecter une approche de décolonisation et tenir compte des traumatismes vécus.

C'est la qualité du soutien apporté aux familles et aux survivantes ayant choisi de se confier qui a le plus souffert dans tout cela, car l'Enquête nationale devait épauler les témoins de manière à ce que leur participation n'entraîne pas un nouveau traumatisme. Un point critique a été atteint en janvier 2018 lorsque le gouvernement fédéral a remis en question le cadre de référence et l'autorité de l'Enquête nationale visant à fournir un soutien en matière de santé aux familles touchées et aux survivantes pendant leur préparation et durant leur témoignage, mais aussi après qu'elles aient raconté leur histoire. Cela a eu pour effet de freiner toutes les activités en ce sens pendant trois mois alors que les familles et les survivantes, y compris les personnes en crise, étaient laissées à elles-mêmes, dans la souffrance. Même après avoir résolu la question du financement, de nombreux règlements ont continué d'entraver les services de soutien, entraînant des délais et causant la perte d'un temps précieux, sans oublier les multiples modifications devant être apportées aux formalités administratives et les nouvelles signatures requises, qui ont été une source de stress pour les témoins et occasionné des retards dans les paiements.

## Réussites et échecs de l'Enquête nationale

Vu l'état de la situation, force est d'admettre que l'Enquête nationale a connu son lot de réussites tout comme son lot d'échecs.

L'un de nos grands triomphes est sans contredit le nombre élevé de personnes qui ont choisi de nous confier leur histoire. Ces témoignages, nous les considérons comme étant sacrés. Même s'il y a bien eu quelques ratés en cours de route, les survivantes d'actes de violence ainsi que les proches des femmes et des filles autochtones disparues et assassinées ont tout de même bénéficié d'un grand soutien. En effet, elles ont pu être accompagnées individuellement par les membres de l'équipe juridique et de l'équipe de santé pour raconter leurs expériences et continuer à recevoir du soutien dans le cadre du programme de suivi mis sur pied par l'Enquête nationale pendant plusieurs mois à la suite de leur déclaration. Nous sommes touchés par le nombre impressionnant de personnes qui ont choisi de parler pour aider les autres à réellement comprendre le degré de violence qui sévit dans ce pays.

En rompant le silence, ces dernières ont créé un élan qui transcende l'Enquête elle-même, et cet élan ne semble pas prêt de s'essouffler. Le traumatisme a de grandes répercussions, mais la guérison en a tout autant. Une Aînée inuite a indiqué aux membres du groupe de travail des Inuits de l'Enquête nationale que leurs travaux avaient « déjà contribué à sauver des vies ». Les effets curatifs de ces démarches gagnent graduellement les familles et les communautés. Dans les mois et les années à venir, l'une des plus importantes tâches qui attendent ce pays consistera à transformer ces ondes de choc en une vague de changement.

L'un des plus grands défis que nous avons dû relever a été de mener nos activités conformément aux règles et aux procédures du gouvernement fédéral, lesquelles sont prévues pour les ministères voués à perdurer et non pour une enquête publique de deux ans souhaitant s'acquitter de ses obligations d'une manière adaptée à la culture tout en tenant compte des traumatismes vécus. Réussir à se retrouver dans un dédale administratif issu d'un contexte complètement différent a été particulièrement épineux, en raison notamment de notre plus grande contrainte : le manque de temps.

Le délai de deux ans et quatre mois imparti lors de la constitution de l'Enquête nationale était insuffisant pour accomplir le mandat accordé, le plus large jamais confié à une enquête publique dans l'histoire du pays. Lorsque l'on tient compte du temps requis simplement pour embaucher les ressources, mettre en place l'infrastructure et établir des relations clés, ce calendrier a considérablement nui à notre capacité de travailler pleinement dans le respect de l'approche censée accorder la priorité aux familles, mener à la décolonisation et tenir compte des traumatismes. Ce qui s'accomplit habituellement en quelques mois au sein d'un ministère a dû être fait en l'espace de quelques semaines pour respecter les échéances. De plus, une bonne partie de nos audiences ont eu lieu successivement. En conséquence, nous n'avons jamais été en mesure d'aviser la population de leur tenue dans un délai aussi généreux que souhaité. Ce n'est qu'une fois les travaux bien avancés que les politiques et les systèmes appropriés furent finalement en place. Il a aussi été très difficile d'établir des relations avec les communautés

autochtones, les délais accordés étant insuffisants pour permettre à leurs membres de consulter leur famille, la communauté et les structures de gouvernance, et de travailler ensemble et collectivement. Dans certains cas, les membres de famille, qui ont reçu la confirmation de leur audience à court préavis, se sont sentis pressés.

Sur le plan organisationnel, le personnel de l'Enquête a dû s'armer de patience pour obtenir ordinateurs et téléphones, pour avoir accès à Internet et pouvoir utiliser la messagerie électronique, et pour accéder à un réseau informatique commun centralisé, des outils extrêmement importants à l'avancement d'une enquête se déroulant d'un océan à l'autre. Bon nombre d'entre nous avons dû remplir nos obligations par télétravail, en étant répartis dans différents fuseaux horaires, dans des endroits éloignés, investissant un nombre d'heures considérables à sillonner les routes. Des ennuis technologiques et informatiques récurrents conjugués aux exigences complexes propres à une enquête publique prenant place concurremment dans 14 administrations ont entraîné des retards dans le traitement des préparatifs de voyage, de la planification de l'hébergement, de l'approvisionnement, des approbations financières et des paiements.

Tout compte fait, ce sont des douzaines d'événements, petits et grands, qui ont été tenus partout au Canada dans le cadre de l'Enquête nationale, et ce, tant en milieu urbain que dans des localités du Nord du pays. Bien entendu, cela ne s'est pas fait sans accroc. Mentionnons à titre d'exemple l'audience communautaire qui a eu lieu à Smithers, laquelle a nécessité l'apport de centaines de litres d'eau, la municipalité étant visée pas un avis d'ébullition. Par ailleurs, les activités relatives à l'Enquête nationale ont monopolisé tout le parc hôtelier de la communauté de Rankin Inlet, alors qu'à Iqaluit, il a fallu nous approprier la quasi-totalité de la bande passante de l'endroit pour pouvoir diffuser l'audience en ligne. Un séisme ayant secoué Whitehorse avait endommagé le bâtiment réservé à l'origine pour y tenir la première audience communautaire, entraînant le déplacement de celle-ci au centre culturel Kwanlin Dun. Nous avons aussi dû recourir à de grandes tentes pour cette occasion.

Toutefois, ces contretemps n'ont été que passagers, alors que les communautés visitées, elles, sont constamment aux prises avec de tels inconvénients. Les gouvernements qui auront à appliquer les recommandations de l'Enquête nationale devront tenir compte de cela.

Cela dit, bien d'autres événements marquants sont survenus. Par exemple, l'Enquête nationale est venue appuyer les femmes et les filles autochtones en Cour suprême du Canada dans la cause *Barton c. Sa Majesté la Reine*<sup>65</sup>, qui s'est soldée au procès par l'acquiescement de Bradley Barton, l'homme accusé du meurtre de Cindy Gladue, morte d'une hémorragie après des rapports sexuels consensuels, selon l'accusé. Dans le cadre de cette affaire, nous avons fait valoir que l'acquiescement de M. Barton est représentatif de la manière dont les femmes autochtones sont perçues, à savoir des victimes moins crédibles et « moins importantes » que les femmes non autochtones, et aussi du fait que la justice ne sert pas les intérêts des femmes autochtones. Qui plus est, nous avons évoqué l'inaptitude du tribunal à appliquer la loi convenablement conformément à l'article 276 du Code criminel du Canada, et à admettre d'office l'importante victimisation dont font l'objet les femmes autochtones. Nous avons souligné que le racisme et la discrimination contre ces dernières existent et sont largement répandus, et que les tribunaux



doivent judiciairement reconnaître l'existence d'un parti pris systémique à l'encontre des plaignantes autochtones. Nous avons fait valoir que l'indifférence manifestée par l'ensemble des acteurs du tribunal, qui ont fréquemment qualifié la victime de « prostituée autochtone » plutôt que de la nommer, a pu contribuer au renforcement des croyances discriminatoires et des préjugés, mais également de la partialité des jurés quant à la disponibilité sexuelle des femmes autochtones et, dans le cas qui nous intéresse, de Cindy Gladue.

C'était donc la première fois qu'une enquête publique demandait la qualité d'intervenant à la Cour suprême du Canada. On prévoit que la décision du plus haut tribunal du pays, qui n'a pas encore été rendue, fera autorité et servira à préciser la portée des lois visant la violence sexuelle et le consentement. Il nous semblait impératif d'agir et de faire tout en notre pouvoir pour parler au nom des femmes autochtones relativement aux questions ayant une incidence significative sur un si grand nombre de survivantes et de familles.

Ce fut tout un défi d'élaborer une stratégie de communication permettant de nous adresser à la fois aux nombreuses parties prenantes, qu'il s'agisse des familles et des survivantes de l'ensemble du Canada, des organisations autochtones nationales et provinciales, ou encore des gouvernements fédéral et provinciaux. Nous avons dû employer une véritable trousse technologique pour rejoindre le public, dont une variété de canaux et de plateformes, allant des médias sociaux aux bulletins d'information électroniques en passant par des reportages diffusés grâce aux médias traditionnels imprimés, télévisés et radiodiffusés. Nous avons aussi dû tenir compte de la diversité des besoins et des perspectives sur les plans de la culture, de la langue et de la démographie.

Profitant des conseils des Grands-mères et des membres du Cercle conseil national des familles, l'Enquête nationale a créé, lors de chaque événement, un espace pour permettre aux familles de s'exprimer et de faire connaître leur vérité. La sensibilisation du public à l'égard de la question des femmes autochtones disparues et assassinées est en hausse. Par exemple, Twitter recensait en 2017 pas moins de 13 529 gazouillis et 112 millions de parutions couvrant tout un éventail de sujets, dont la diffusion de mises à jour relatives aux audiences communautaires. Lorsque nous avons diffusé en direct les audiences des représentants des institutions ainsi que celles des experts et des Gardiens du savoir par l'entremise de Facebook et de CPAC, des milliers de personnes ont suivi leur déroulement sur une base quotidienne, commentant les propos et partageant l'information, inspirées par la force des témoignages présentés.

Également, le site Web de l'Enquête nationale a fait l'objet d'une refonte en 2018 afin de mieux offrir de l'information actualisée sur les nouvelles et les événements. Une carte interactive indiquant les audiences et événements antérieurs et accompagnée de liens menant à des documents et à des vidéos a aussi été mise en ligne. Au début de 2019, d'autres mises à niveau ont été apportées à notre site Web pour permettre de classer et de publier des milliers de dépositions publiques, dont des témoignages de survivantes, de familles, d'experts, de chercheurs et de Gardiens du savoir, de même que des observations écrites, des déclarations, des ordonnances et des requêtes. La banque d'information désormais à la disposition du public est impressionnante; elle constitue un legs durable de vérité à l'intention de toute la population canadienne.

À plusieurs égards, cette banque d'information fait partie de l'héritage que nous laisse l'Enquête nationale, au même titre que le présent ouvrage. Même si le rapport final marque le point culminant de milliers d'heures de vérités racontées, il ne fait qu'effleurer la question de la violence à l'égard des femmes, des filles et des personnes 2ELGBTQQIA autochtones. La preuve accumulée appartient au public, qui peut en prendre connaissance par le truchement des vidéos et des transcriptions. Il est à souhaiter que les établissements d'enseignement, les gouvernements, les décideurs politiques et les particuliers voulant mieux comprendre ces enjeux consultent ce dossier public. Il s'agit là d'une occasion unique pour les Canadiennes et les Canadiens d'entendre de leurs propres oreilles ces vérités et de modifier les relations qui les unissent aux femmes et aux filles autochtones.

## Réponse au refus de la demande de prolongation de deux ans

Notre capacité à concilier le caractère pressant de ces enjeux avec la nécessité de remplir nos fonctions avec rigueur a beaucoup pâti du refus lorsque le gouvernement a refusé de prolonger l'Enquête nationale de deux ans, comme demandé, concédant plutôt six mois seulement pour achever la rédaction<sup>66</sup>.

On nous a demandé d'exécuter une tâche extrêmement complexe dans un délai que les administrations fédérales, provinciales et territoriales, bien au fait de la lourdeur de leur appareil bureaucratique, auraient dû savoir trop court dès le départ. En plus d'être profondément décevante, cette décision nuit aux milliers de femmes, de filles et de personnes 2ELGBTQQIA autochtones détruites par la violence, et aussi aux survivantes d'actes de violence, dont certaines exigent depuis des décennies la tenue d'une Enquête nationale. Comme Nahanni Fontaine l'a expliqué aux commissaires lors de l'audience communautaire de Winnipeg :

Je dis souvent que, enfin, on y travaille depuis 30 ans, si je pense à la route des larmes. Mais [...] collectivement, ça fait 50 ans qu'on est là-dessus. Prenons par exemple Helen Betty Osborne, ou certains des premiers dossiers de femmes disparues aux abords de la route des larmes, on parle bien de la fin des années 1950, non? Donc, ça fait plus de 50 ans que les familles des femmes et des filles autochtones disparues et assassinées, d'un bout à l'autre du pays, demandent doucement, bruyamment, courageusement et résolument qu'on s'attaque au problème. Et c'est grâce à ces familles si nous sommes ici aujourd'hui, aux côtés des femmes autochtones qui se sont levées pour ces dernières, qui ont fait pression, et qui s'expriment pour défendre les leurs<sup>67</sup>.

Ce délai supplémentaire nous aurait permis de tenir davantage d'audiences avec la communauté, les institutions et les experts, de manière à entendre un plus grand nombre de femmes et de personnes de diverses identités de genre touchées par l'exploitation et le trafic d'êtres humains, qui sont sans abri, qui sont placées dans des établissements fédéraux ou qui habitent dans d'autres régions ou des secteurs encore plus éloignés. Nous aurions pu, à coup sûr, nous attarder sur les spécificités régionales ou nous pencher sur des enjeux plus considérables ou plus complexes.

Mais, plus important encore, cette prolongation aurait permis à davantage de personnes de profiter d'une tribune publique nationale pour dénoncer et déplorer que des enjeux aient été, jusqu'à maintenant, passés sous silence. Offrir à une personne la possibilité de raconter ses vérités peut devenir une rencontre transformationnelle, notamment si cette dernière jouit après son témoignage d'un soutien à la fois souple et adapté. Un très grand nombre de personnes sont prêtes à le faire, et il importe de reconnaître leur courage. Il nous est impossible de déterminer l'issue de cette Enquête nationale, mais tout a été mis en œuvre pour qu'elle prenne la forme d'un processus de guérison. Néanmoins, nous aurions aimé que nos travaux aient un effet libérateur sur encore plus de familles et de survivantes.

Dans les limites temporelles qu'on nous a imposées, nous avons fait tout ce que nous pouvions pour rendre hommage à l'esprit des personnes qui nous ont quittés, et à celui des générations qui nous succéderont. Cependant, les femmes et les personnes 2ELGBTQQIA ne peuvent être reléguées indéfiniment au dernier rang des priorités, et il ne faut pas s'attendre à ce qu'elles se contentent de quelques dollars par-ci et d'un nouveau programme par-là.

*Réclamer notre pouvoir et notre place: le rapport final de l'Enquête nationale sur les femmes et les filles autochtones disparues et assassinées* demande à ce que survienne un changement réel, majeur et fondamental. Le reste du Canada doit être prêt à relever ce défi.

## Concepts fondamentaux permettant de mieux comprendre la violence

En dépit des délais serrés dont nous disposons pour faire ce travail essentiel, nous déposons avec humilité ce rapport final, un élément indispensable à la compréhension de la violence dans un contexte différent. Comme de nombreux témoins l'ont affirmé, endiguer l'épidémie de violence qui sévit contre les femmes, les filles et les personnes 2ELGBTQQIA autochtones – dont les pratiques sont celles d'un régime génocidaire, selon les constatations de l'Enquête nationale – passe d'abord par la reconnaissance de l'ampleur des torts qui ont été causés. Dans les pages de ce rapport, nous nous servons de toutes sortes de termes et de concepts pour aider à établir des liens critiques entre les expériences relatées et les problèmes soulevés dans le cadre de l'Enquête. Certains de ces termes et de ces concepts ont été employés par les familles et les survivantes, alors que d'autres ont été mis de l'avant par les Aînés, les Gardiens du savoir, les chercheurs et les militants. Nous expliquons brièvement ci-après certains de ces concepts, essentiels afin de comprendre pourquoi il est nécessaire d'apporter de profonds changements pour mettre fin à la violence à l'égard des femmes et des filles autochtones, plutôt que de recourir à des solutions provisoires.

Mentionnons avant tout que l'Enquête nationale a accordé un sens large au terme « **violence** ». Nous nous sommes d'abord appuyés sur la définition adoptée par l'Organisation mondiale de la Santé, qui l'entend comme la menace ou l'utilisation intentionnelle de la force physique ou du



pouvoir contre soi-même (le suicide ou les comportements autodestructeurs, par exemple), contre autrui (la violence interpersonnelle, par exemple) ou contre un groupe ou une communauté (un conflit armé, par exemple), qui entraîne ou risque fortement de causer un préjudice<sup>68</sup>.

Cette violence peut prendre plusieurs formes; elle peut être :

- physique (coup, étranglement, meurtre, etc.)
- sexuelle (commentaire déplacé, attouchement, viol, etc.)
- émotionnelle (injure, jalousie, humiliation, etc.)
- psychologique (menace, isolement social, traque, etc.)
- spirituelle (interdiction ou empêchement de pratiquer la religion ou de s'adonner à la spiritualité, dénigrement d'une telle religion ou d'une telle pratique spirituelle, etc.)
- culturelle (recours à la violence au nom de la culture, de la religion, de la tradition, etc.)
- verbale (vocifération, mensonge, mépris, etc.)
- financière (privation de fonds, destruction de la propriété personnelle, etc.)
- négligente (refus de satisfaire les besoins de quelqu'un qui ne peut les satisfaire sans les autres, par exemple)<sup>69</sup>

Nous avons ensuite élargi cette définition pour inclure la violence coloniale, culturelle et institutionnelle. Ensemble, elles mènent à la violence systémique ou structurelle, et aussi, dans bien des cas, à la violence latérale.

La **violence coloniale** découle de la colonisation ou du colonialisme; elle passe par la déshumanisation des peuples autochtones. Cette forme de violence est perpétuée par toutes sortes de stratégies différentes, que ce soit en privant les gens de ce qui est essentiel à leur existence, en se servant des lois et des institutions publiques pour réaffirmer les normes coloniales, en ignorant le savoir et les compétences des peuples autochtones, et en s'appuyant sur des concepts qui réfutent en permanence la présence de ces derniers et qui portent atteinte à leur dignité. Elle est aussi liée au racisme. Chaque analyse faite dans le cadre de l'Enquête nationale montre en effet un racisme sous-jacent, soulignant que celui-ci se manifeste de manière concrète et dévastatrice. Ainsi, le racisme ne se limite pas seulement à un ensemble d'idées; il doit plutôt être considéré comme un ensemble de pratiques enracinées dans les systèmes qui servent à cibler les peuples autochtones au fil des générations, ouvrant tout grand la porte à la violence intergénérationnelle et multigénérationnelle, et qui contribuent à la marginalisation économique, sociale et politique, de même qu'à l'immobilisme, au maintien du statu quo et au rejet de la participation de ces peuples, de leur expertise et de leur valeur.

Le **colonialisme**, lui, se définit comme une tentative d'imposition ou une imposition réelle, par un gouvernement colonisateur, de politiques, de lois, de mœurs, d'économies, de cultures, de systèmes et d'institutions pour appuyer et perpétuer l'occupation de territoires autochtones ainsi que l'asservissement des Autochtones, de leurs communautés et de leurs Nations, tout comme les manières internalisées et externalisées de penser et d'instruire qui en découlent. Une telle imposition se fonde spécifiquement sur la race et sur le sexe.

Cependant, il ne faut pas confondre « colonialisme » et « **colonisation** ». Si le colonialisme désigne l'idéologie qui prône la colonisation, la « colonisation » en tant que telle s'entend généralement du processus par lequel les Européens ont envahi et occupé les territoires nationaux des Autochtones.

Bien que certains parlent du présent comme de l'ère « **postcoloniale** », de nombreux Autochtones rejettent l'idée voulant que le colonialisme soit « terminé et révolu ». Comme l'affirme la chercheuse māorie Linda Tuhiwai-Smith : « À ce sujet, personne n'est plus éloquente que la militante aborigène Bobbi Sykes, qui déclara lors d'une conférence consacrée au postcolonialisme : « Quoi? Postcolonialisme, dites-vous? Est-ce qu'ils sont partis<sup>70</sup> ? »

On dénombre plusieurs types de violence, notamment dans le contexte de la colonisation. Cette dernière est fonction de la pratique de la **violence culturelle**, au sens plus large que celui mentionné ci-dessus, qui peut être définie conformément aux propos de Johan Galtung, spécialiste des questions relatives à la paix et à la résolution de conflits, voulant que « ce sont des aspects culturels [...] pouvant servir à justifier ou à légitimer la violence directe ou structurelle<sup>71</sup> ». Cela inclut la culture générale canadienne, d'inspiration occidentale, où l'ethnie blanche domine, et où les attitudes xénophobes et les politiques d'assimilation forcée témoignent toutes deux de la violence culturelle, qui provient elle-même des croyances racistes profondément ancrées dans la civilisation canadienne<sup>72</sup>.

Des modes de pensée systémiques comme le racisme, le sexisme et le colonialisme mènent aussi à la **violence institutionnelle**. Cette forme de violence est perpétrée par des institutions, comme l'armée, l'Église, le système d'éducation, le système de santé, les services de police et les premiers intervenants, ainsi que par le système judiciaire. Le fait que ces institutions soient tenues en haute estime au sein de la société et qu'elles aient adopté des règles précises pour régir leurs activités peut facilement « normaliser » la violence institutionnelle<sup>73</sup>. Ce faisant, elles sont plus difficiles à attaquer ou à modifier.

En raison de toutes ces formes de violence, de nombreux cas de **violence systémique ou structurelle** ont pris racine au fil du temps dans la société canadienne. Comme l'écrit Rauna Kuokkanen, politologue et spécialiste de la question : « Ces systèmes et structures que sont notamment le colonialisme, le capitalisme et le patriarcat reposent par nature sur la violence, qu'elle soit directe et interpersonnelle, ou encore structurelle, économique ou épistémique<sup>74</sup>. »

La **violence structurelle** s'entend comme l'écart entre le bien-être potentiel d'une personne ou d'une collectivité et son bien-être réel, cette disparité étant, par définition, *évitable*. De tels écarts sont attribuables aux injustices, aux inégalités et aux autres formes de violence incrustées dans le

quotidien, qui profitent à une poignée d'individus au préjudice des autres. Par exemple, un taux extrême de pauvreté n'est pas, en soi, une forme de violence structurelle. Cependant, quand les femmes et les filles autochtones sont frappées de façon disproportionnée par la pauvreté extrême, et quand le gouvernement fédéral et les autres institutions ont le pouvoir de s'attaquer aux inégalités et aux injustices responsables de ce taux disproportionné et qu'ils choisissent de ne pas le faire, c'est alors qu'émerge la violence structurelle<sup>75</sup>. Comme l'explique Robyn Bourgeois lorsqu'elle décrit sa propre approche pour comprendre la violence :

Il faut reconnaître que tous les mécanismes, qu'il s'agisse de l'exploitation des classes, de la discrimination contre les handicapés ou les personnes dites différentes, ou encore du racisme et du colonialisme, surviennent et interviennent les uns grâce aux autres, de manière intrinsèque. Ils se soutiennent mutuellement. En raison d'une telle articulation, il faut porter attention à la manière dont ces éléments s'imbriquent pour former un tout<sup>76</sup>.

Ces structures étant encore en place de nos jours, la « **décolonisation** » (ou le « **processus de décolonisation** », puisque la démarche se poursuit) est aussi un concept clé. La « décolonisation » se définit comme un processus social et politique ayant pour but de résister et de remédier aux multiples impacts de la colonisation, ainsi que de rétablir des peuples, des Nations et des institutions autochtones contemporains solides qui sont fondés sur les valeurs, les philosophies et les systèmes de connaissances traditionnels.

L'esprit de décolonisation nécessite l'action de personnes qui remettent en question consciemment et de manière critique la légitimité du colonisateur et qui réfléchissent aux incidences du colonialisme sur la vie collective. Selon Margaret Kovach, experte en méthodologie de recherche autochtone, l'objectif de la décolonisation est d'accorder une place à la perspective autochtone dans le quotidien, dans la recherche, dans le milieu scolaire et universitaire, et dans la société dans son ensemble sans qu'elle soit négligée, mise de côté, ridiculisée ou rejetée<sup>77</sup>.

Les concepts de « **résistance et de résurgence** » sont importants dans une optique de décolonisation. La « résistance » désigne les diverses stratégies employées par les peuples et les Nations autochtones pour résister au colonialisme. Aux yeux de ces peuples, la résistance ne se limite pas à la mobilisation massive, aux conflits armés et aux manifestations. Elle englobe un vaste ensemble de stratégies et d'activités destinées à promouvoir la décolonisation, de même que les modes de vie, les valeurs, les connaissances et les objectifs politiques propres aux Autochtones. La résistance autochtone comprend « les actes de résistance quotidiens » qui sont incarnés par les individus et les communautés ayant choisi de vivre selon leurs enseignements traditionnels en dépit des énormes pressions exercées par la société dominante. La « résurgence », en tant que concept apparenté, s'entend de l'amplification ou de la réapparition d'une activité ou d'une idée. Pour les peuples autochtones, le terme est surtout employé pour désigner l'amplification ou la réapparition de pratiques culturelles traditionnelles qui avaient cours en milieu terrestre et aquatique bien avant la colonisation et qui continueront d'exister bien après, tout comme la revitalisation des langues et des pratiques culturelles qui ont été la cible d'attaques.



## « Plus qu'un simple portrait accroché au mur » : accorder la priorité aux vies vécues

Ces concepts viennent éclairer nos constatations et appuient également les témoignages des personnes qui ont partagé leur vérité. Toutefois, ils ne suffisent pas, malgré leur grande portée, à fournir un début de justification à l'un des faits les plus graves relatés dans le cadre de l'Enquête nationale, à savoir que des familles, des communautés et des Nations tout entières ont perdu des proches. Comme l'a affirmé Bernice C., en parlant de sa fille Jennifer : « Elle est plus qu'un simple portrait accroché à un mur quelconque, ou découpé d'un vulgaire journal. Elle n'est pas qu'une simple statistique; il y en a aussi mille autres qui sont disparues. C'était notre fille<sup>78</sup>. »

Malgré tous les efforts déployés pour consigner ces vérités, nous concluons qu'il est impossible pour quiconque de déterminer le nombre exact de femmes et de filles autochtones disparues et assassinées au Canada. Des milliers de meurtres et de disparitions de femmes n'ont vraisemblablement pas été enregistrés, et ce, des décennies durant, et de nombreuses familles ont sans doute été incapables de trouver la force ou le courage de s'inscrire à l'Enquête nationale avant la fin de la période allouée. Cependant, l'un des éléments d'information les plus évocateurs est le nombre élevé de personnes qui ont choisi de raconter publiquement, pour la première fois, leurs expériences ou celles de leurs proches. À l'évidence, il y en a bien d'autres.

Comme l'ont clairement indiqué les témoins, nous ne pouvons oublier les êtres humains derrière ces nombres; ces femmes, ces filles et ces personnes 2ELGBTQQIA sont des enfants, des amies, des tantes, des mères et des Grands-mères. Elles étaient – ou auraient pu être – enseignantes, avocates, infirmières, protectrices de la terre et de l'eau, guérisseuses, artistes, entrepreneures, parents de famille d'accueil, travailleuses sociales; elles auraient pu être dirigeantes communautaires, et accomplir tant d'autres choses. Ce qu'il faut rappeler par-dessus tout, c'est que ces femmes avaient des rêves et des aspirations dont on les a injustement dépouillées.

Gwenda Y., dont le témoignage portait sur sa fille, Amber R., se souvient d'elle comme une jeune femme intelligente et affectueuse qui aimait les sports et les enfants, et qui passait son temps à s'occuper de sa nièce et de son neveu. Amber avait 19 ans lorsqu'elle a été portée disparue; elle envisageait de faire carrière comme enseignante ou policière.

Quand Gwenda se remémore les moments marquants de la vie de sa fille, elle la revoit danser. Amber adorait les pow-wow et les cérémonies, et elle a voyagé partout au Canada et aux États-Unis pour danser. C'est son père qui fabriquait ses tenues. Lorsqu'elle était jeune, les Aînées de la communauté lui ont demandé de veiller sur la pipe, incarnant la *White Buffalo Calf Woman*, gardant en main cet objet sacré pendant quatre jours lors de la cérémonie de la danse du soleil. Ce fut pour elle tout un honneur.

Gwenda se rappelle :

Je [...] restais assise à regarder Amber danser. C'était magnifique de la voir bouger avec autant de finesse, son châle flottant au gré de ses mouvements. On aurait dit qu'elle volait, qu'elle planait comme un aigle. Sans parler de son jeu de jambes, chacun de ses

pas semblant si légers. Elle se tenait sur ses orteils, se déplaçant avec délicatesse, et c'est ce que je [...] c'est ce dont je me souviens; je la regardais danser comme un aigle qui s'envole, à chaque pas qu'elle faisait<sup>79</sup>.

Sarah N., dont le témoignage portait sur sa grande sœur, Alacie, a expliqué que cette dernière « était une sœur aînée merveilleuse. Elle débordait d'amour, et elle a su me toucher directement et profondément. Elle veillait à ce que j'aie des vêtements, des vêtements propres, et elle peignait toujours mes cheveux pour que je sois présentable, comme le font les mères<sup>80</sup> ». Alacie et Sarah ont grandi dans les années 1970 et 1980 selon un mode de vie inuit plus traditionnel. Leurs parents s'aimaient et prenaient soin l'un de l'autre. On leur a inculqué les valeurs inuites et enseigné à

respecter les autres et à se respecter elles-mêmes, et aussi à prendre soin des autres. Si une personne a besoin d'aide, nous l'aidons. Nous ne l'abandonnons pas. Nous l'écoutons. C'est ce qu'on nous a enseigné. Si quelqu'un a faim, on partage, même si la nourriture se fait rare... On aime les grandes familles et on aime bien manger tous ensemble. C'est propre à la culture inuite. C'est encore comme ça aujourd'hui qu'on partage<sup>81</sup>.

Un jour, Alacie s'est établie à Montréal avec sa cousine Lizzie. Sarah a été atterrée d'apprendre après la mort de sa sœur que le service de police de Montréal n'avait même pas lancé de recherches pour la retrouver et qu'aucune enquête ne tentait d'élucider son décès. La perte tragique d'Alacie n'a pas effacé le souvenir d'une fille et d'une cousine très près des siens. Comme l'a raconté Lizzie : « Elle était si gentille, et elle débordait d'amour... Elle a toujours été là pour m'aider. Elle m'a donné à manger, alors que j'étais, en fait, une sans-abri. Non, pas tout à fait, mais je ne gagnais pas un sou... Pourtant, je pouvais compter sur ma cousine<sup>82</sup>. »

Pleinement vécues, ces vies et les récits qui en sont faits illustrent l'importance pour le Canada de confronter ce que Nicole B., une Métisse, appelle « le petit monde secret et ténébreux de notre pays », de cesser de prétendre qu'il s'agit d'un problème autochtone. C'est là un problème entièrement canadien... Commençons donc par une petite introspection pour reconnaître que « je suis, moi aussi, responsable de tout cela. C'est en partie de ma faute et, en tant que citoyenne ou citoyen canadien, je vais me lever et je vais faire quelque chose<sup>83</sup>. » »

## Conclusions découlant du processus de consignation de la vérité

Dénoncer consiste à raconter les histoires entendues et à donner un visage aux femmes, aux filles et aux personnes 2ELGBTQQIA trop souvent occultées par de simples statistiques. En faisant rapport des conclusions découlant du processus de consignation de la vérité, nous nous concentrons massivement sur les témoignages des familles, des amis, des survivantes d'actes de violence ainsi que des proches des femmes et des filles autochtones disparues et assassinées, témoignages recueillis lors des audiences communautaires, par des déclarations et par des expressions artistiques. Cet ouvrage collige leurs propos pour expliquer au grand public comment leur vie, leur famille et leur communauté ont été directement touchées par la violence,

et ce qui, selon eux, doit être fait pour laisser place au changement. Chaque chapitre présente un résumé illustrant les principaux points soulevés par les témoins à cet effet, qu'il s'agisse de préoccupations, d'enjeux ou de faits vécus. Dans le respect du mandat de l'Enquête nationale, les conclusions que nous présentons dans ces pages font la synthèse des causes profondes de la violence, telles que décrites par les membres des familles touchées, relativement à quatre grands thèmes, soit la culture, la santé, la sécurité et la justice.

Ces constatations sont présentées comme expériences communes, et comme expériences distinctives. Pour les illustrer, nous puisons dans les vérités exprimées aux quatre coins du pays et prenons assise sur les perspectives de diverses communautés. Nous présentons ainsi des exemples reflétant certaines des inquiétudes communes aux familles et aux survivantes, de même que des représentations réelles de l'incidence particulière d'un problème sur la personne, la famille ou la communauté. Lorsque, par exemple, nous abordons la question du logement des femmes autochtones habitant en milieu urbain, nous citons les déclarations d'un grand nombre de témoins qui se sont prononcés sur ce sujet dans le but de fournir des exemples précis qui reflètent largement les préoccupations exprimées par les autres participants. En raison de l'ampleur et du niveau de détail de l'information obtenue dans le cadre de l'Enquête nationale, nous devons toutefois, en même temps, encourager le public, les organisations autochtones et les chercheurs de demain à examiner plus attentivement chacun des sujets abordés dans ce rapport et à tirer parti de celui-ci pour poursuivre les travaux de même que le processus d'apprentissage.

Tout au long de ce rapport, nous employons l'acronyme « 2ELGBTQQIA » pour parler des personnes non binaires et de diverses identités de genre, afin de souligner notre intention d'inclure l'ensemble des expériences. Nous reconnaissons les différences importantes qui distinguent les identités de genre non binaires et nous nous penchons sur le sujet dans nos réflexions approfondies et dans le chapitre 11. Nous soutenons toutefois qu'une telle représentation plus étroite restreint notre capacité à illustrer l'ampleur des attaques menées par les gouvernements, les institutions et les fournisseurs de service et du traitement discriminatoire dont la conception autochtone du genre et des identités de genre a fait l'objet.

Nous avons également décidé de mentionner dans ce rapport uniquement le prénom et la première lettre du nom de famille des survivantes et des membres de famille qui ont partagé leur vérité propre. En effet, comme la violence à l'encontre des femmes, des filles et des personnes 2ELGBTQQIA autochtones perdure, et même si chaque personne citée dans ce rapport a accepté de rendre son histoire publique, nous ne voulions pas attirer l'attention plus que nécessaire sur les personnes elles-mêmes pour éviter de les exposer à des risques supplémentaires. Cependant, nous indiquons le nom complet des témoins qui se sont exprimés comme panélistes ou dans le cadre d'audiences de Gardiens du savoir, d'experts ou de représentants des institutions puisque leur témoignage n'était pas de nature personnelle. Dans les quelques occasions où un témoin a choisi de partager sa vérité propre dans plus d'un cadre, nous mentionnons soit l'initiale, soit le nom de famille au complet, selon le cas.

En plus de présenter un résumé des témoignages recueillis par l'entremise des déclarations, des expressions artistiques et des audiences communautaires, les pages qui suivent renferment aussi les fruits des audiences de représentants des institutions et des audiences d'experts et de Gardiens



du savoir (parties 2 et 3), tenues lors du processus de consignation de la vérité, ainsi que d'autres travaux de recherche pertinents, de manière à mieux contextualiser et à mieux comprendre les vérités relatées par les familles, les amis et les proches. Cette démarche nous a permis de dégager des points communs, des différences, des écarts ou des conclusions antérieures de même que des ouvrages relatifs à certains des problèmes soulevés par les familles, et qu'elles considèrent importants. Bon nombre des vérités décrites par ces dernières nous ont donné une description plus juste et plus personnelle de certains enjeux largement reconnus et signalés lors de travaux de recherche antérieurs ainsi que par les Aînés, les Gardiens du savoir, les intervenants de première ligne et les représentants institutionnels. Toutefois, d'autres vérités font ressortir, sur le plan des connaissances, des lacunes qui devront éventuellement être corrigées.

Nous avons examiné des témoignages provenant des quatre coins du Canada, y compris du Québec, et nous les avons intégrés à ce rapport. En outre, nous avons réalisé une étude provinciale de la violence à l'encontre des femmes, des filles et des personnes 2ELGBTQQIA autochtones au Québec, qui constitue le volume 2 de notre rapport final. Il s'agit d'un exemple du type de travaux axés sur une région particulière qui devront dorénavant être effectués afin de mieux comprendre les enjeux propres aux différentes régions du pays et de définir les solutions appropriées pour mettre fin à la violence perpétrée contre les femmes, les filles et les personnes 2ELGBTQQIA autochtones.

## Aperçu du rapport final

*Réclamer notre pouvoir et notre place : le rapport final de l'Enquête nationale sur les femmes et les filles autochtones disparues et assassinées* se divise en deux volumes, 1a et 1b, étant donné son grand nombre de pages. Il compte trois grandes sections, en plus de conclusions finales et des Appels à la justice. Il renferme aussi des observations faites par le Cercle des Grands-mères de l'Enquête nationale, des réflexions personnelles proposées par les membres du Cercle conseil national des familles, ainsi que des examens ciblés visant à analyser des enjeux spécifiques de manière détaillée. Le volume 1a comprend les sections 1 et 2. Le volume 1b contient la section 3, les Appels à la justice, un sommaire des résultats du Projet d'analyse judiciaire des documents ainsi qu'une bibliographie complète. Le rapport portant sur le Québec est publié dans un volume distinct (volume 2).

### Section 1 – Établir un nouveau cadre de référence

La **section 1** du rapport expose le contexte afin d'aider les lecteurs à mettre en perspective l'information présentée dans les sections ultérieures.

Au chapitre 1, qui s'intitule « Mettre l'accent sur les relations pour éradiquer la violence », nous décrivons les principaux enseignements relatifs à l'importance des relations qui ont été cités à maintes reprises durant le processus de consignation de la vérité. Comme l'ont souligné les témoins entendus dans le cadre de l'Enquête nationale, il faut d'abord comprendre la dynamique des relations pour pouvoir comprendre la violence à l'égard des filles, des femmes et des personnes 2ELGBTQQIA autochtones et y mettre un terme.

Le chapitre 2, « La reconnaissance du pouvoir et de la place des femmes, des filles et des personnes 2ELGBTQQIA autochtones », démontre comment les peuples autochtones ont toujours eu leurs propres conceptions de ce que sont les droits, les rôles et les responsabilités au sein de leurs communautés et de leurs Nations. Ces droits, fondés sur les systèmes de savoir et les visions du monde des Autochtones, sont à la fois relationnels et réciproques.

Le chapitre 3, que nous avons nommé « Favoriser la responsabilisation grâce aux instruments des droits de la personne », porte sur les instruments relatifs aux droits de la personne que le Canada s'est engagé à respecter. Nous soulignons que ceux-ci peuvent servir à des fins de reddition de comptes de la part des gouvernements, plus particulièrement dans le cadre de la relation qui unit l'État canadien aux peuples autochtones.

Au chapitre 4, intitulé « La colonisation : un outil d'oppression fondé sur le genre », nous soutenons que le processus et l'histoire de la colonisation ont mis en péril les droits des femmes et des personnes 2ELGBTQQIA autochtones en matière de culture, de santé, de sécurité et de justice. Si les femmes et les personnes de diverses identités de genre ont subi de la même façon que les hommes plusieurs répercussions de la colonisation, elles en ont vécu certaines de manière bien spécifique. Nous nous penchons sur les systèmes qui perpétuent une forme de violence fondée sur le genre et qui est à l'origine de la tragédie des femmes, des filles et des personnes 2ELGBTQQIA autochtones disparues et assassinées que nous connaissons aujourd'hui.

Notre analyse démontre que cette violence contre les femmes, les filles et les personnes 2ELGBTQQIA autochtones a pris racine il y a plusieurs siècles. Le processus de colonisation a, sans contredit, jeté les bases de la tragédie des femmes, des filles et des personnes 2ELGBTQQIA autochtones disparues et assassinées à laquelle nous sommes aujourd'hui confrontés.

## Section 2 – Le joug de l'oppression

La **section 2** met l'accent sur les témoignages des familles, des amis et des proches des femmes, des filles et des personnes 2ELGBTQQIA autochtones disparues et assassinées ainsi que sur les récits des survivantes de la violence. Ces témoignages nous permettent de mieux comprendre leurs contacts avec les formes d'oppression individuelles, institutionnelles et systémiques. Cette section aborde quatre domaines où l'on porte atteinte aux droits de la personne : la culture, la santé, la sécurité et la justice.

Au chapitre 5, « Combattre l'oppression : le droit à la culture », nous examinons le rôle de l'oppression sur le plan culturel dans la violence que subissent les femmes, les filles et les personnes 2ELGBTQQIA autochtones. Les relations qui unissent les peuples autochtones à leur culture et à leur identité ont été chamboulées sous l'effet des mesures colonialistes qui visaient à rompre leurs liens culturels et familiaux. Plusieurs témoignages de survivantes de la violence et de membres de familles de femmes et de filles autochtones disparues et assassinées puisent leur source dans ces premières occasions d'oppression culturelle.

Au chapitre 6, « Combattre l'oppression : le droit à la santé », nous adoptons une conception holistique de la santé afin d'examiner les répercussions de cette violence et de la perte d'êtres

chers sur la santé des survivantes et sur la vitalité des réseaux familiaux et des communautés autochtones. Les témoignages révèlent des actions spécifiques du système de santé à l'égard des Autochtones qui peuvent contribuer à aggraver les choses.

Au chapitre 7, « Combattre l'oppression : le droit à la sécurité », nous abordons le concept de la sécurité humaine, opposant celle-ci à une interprétation plus restreinte de l'état de sécurité. Nous examinons comment la sécurité physique, sociale et économique des femmes, des filles et des personnes 2ELGBTQQIA autochtones est compromise par la pauvreté et les enjeux en matière de logement, d'éducation et de transport, et comment ces facteurs peuvent exacerber la violence. Nous mettons également l'accent sur les difficultés auxquelles se heurtent les femmes, les filles et les personnes 2ELGBTQQIA autochtones lorsqu'elles tentent d'accéder au soutien dont elles ont besoin pour assurer leur sécurité.

Le chapitre 8, « Combattre l'oppression : le droit à la justice », discute du droit à la justice dans le contexte des expériences vécues par les familles des proches disparues et assassinées. Nous nous attardons aussi sur le récit que font les survivantes de la violence de leurs interactions avec les services de police, l'appareil judiciaire et le système correctionnel. Ces interactions mettent en relief une fracture marquée entre les peuples autochtones et le système de justice, laquelle porte atteinte à leur droit fondamental à la justice.

Tout au long de la section 2, nous proposons une série de « réflexions approfondies » qui explorent des thèmes spécifiques et décrivent comment les domaines de la culture, de la santé, de la sécurité et de la justice peuvent présenter des défis particuliers pour des institutions, des régions et des groupes précis.

### **Section 3 – Assurer la guérison des familles, des communautés et des Nations**

À la **section 3**, nous revenons sur de nombreux principes et pratiques qui ont servi d'assise à la section 1 et nous mettons l'accent sur différents modèles de guérison et sur les pratiques autochtones qui sont à privilégier.

Le chapitre 9, qui s'intitule « Accéder au mieux-être et à la guérison », porte sur l'approche adoptée par l'Enquête nationale pour assurer la santé et le mieux-être des survivantes et des membres des familles touchées. Nous nous attardons aussi sur ce que les familles et les survivantes qui ont pris part aux travaux de l'Enquête nationale nous ont enseigné à propos de la voie qu'elles ont empruntée vers la guérison.

Au chapitre 10, « La force de la commémoration et de l'invocation », nous nous intéressons à différentes initiatives mises de l'avant par l'Enquête nationale pour sensibiliser et informer le public, notamment : la collection patrimoniale autochtone, l'appel de proposition d'expressions artistiques et la publication du Guide de mobilisation des étudiants et des jeunes. Nous affirmons que ces initiatives et cette mobilisation tout comme les rencontres qui en découlent, aideront les femmes, les filles et les personnes 2ELGBTQQIA à se réapproprier leur rôle déterminant de messagères culturelles et de détentrice d'un savoir sacré pouvant bâtir un avenir plus sûr pour les générations qui leur succéderont.



Au chapitre 11, qui s'intitule « Accorder de l'importance aux expériences vécues personnellement et en première ligne », nous présentons un résumé de quatre séances de dialogues facilités qui ont eu lieu à l'automne 2018. Les participants, provenant de divers horizons, ont discuté de pratiques exemplaires et d'initiatives susceptibles de faire changer les choses. L'objectif n'était pas de recueillir des témoignages individuels, mais bien de rassembler des intervenants de première ligne, des organisateurs, des personnes qui ont vécu la violence, des Aînés, des chercheurs et des membres de l'équipe des relations communautaires et santé et de profiter de leur expérience des enjeux vécus par les Inuits, par les Métis, par les personnes 2ELGBTQQIA par les Autochtones vivant au Québec pour faire état des lacunes existantes et explorer des initiatives qui ont déjà connu du succès ailleurs. Pendant trois jours, les participants ont cerné les obstacles et ont discuté des pratiques exemplaires et des solutions à adopter à travers le prisme de la culture, de la santé, de la sécurité et de la justice.

## **Appels à la justice**

Nous terminons ce rapport en lançant des appels à la justice. Ces appels s'appuient sur les instruments garantissant les droits de la personne et des Autochtones de même que sur les lois autochtones et les valeurs exprimées par les membres de famille, survivantes, Gardiens du savoir et experts qui ont témoigné, et par les membres des groupes consultatifs internes et externes de l'Enquête nationale. Comme leur nom le suggère, les appels à la justice demandent à ce que des mesures soient prises – des mesures qui contribuent activement à établir des relations respectueuses avec les femmes, les filles et les personnes 2ELGBTQQIA autochtones, toutes titulaires de droits qui doivent être respectés. Ces mesures devront servir à rétablir la justice qui, dans le contexte plus large de la dépossession et de la marginalisation, a plutôt pris la forme d'une injustice.

Les Appels à la justice sont appuyés par les conclusions de faits à la fin de chaque chapitre et Réflexion approfondie. Les conclusions générales, quant à elles, se trouvent au début de la partie 4. De plus, les Appels à la justice prennent racine dans des principes de justice fondamentaux essentiels pour interpréter et mettre en œuvre ces Appels à la justice en vue d'un véritable changement.

Nous sommes tous responsables de faire en sorte que les femmes, les filles et les personnes 2ELGBTQQIA autochtones retrouvent un sentiment de sécurité sans plus tarder. Ces Appels ne sont pas simplement de principes louables; ils constituent des impératifs juridiques.

## **Résumé du Projet d'analyse judiciaire des documents**

En annexe, nous résumons le travail accompli dans le cadre du Projet d'analyse judiciaire des documents, qui a donné lieu à l'examen de 174 dossiers de police, soit 136 834 documents et 593 921 pages. Bien que la portée de ce travail d'envergure ait été limitée par la durée du mandat de l'Enquête nationale, notre analyse a démontré toute l'importance de se pencher à nouveau sur ces dossiers afin que justice soit rendue aux familles et aux survivantes, qui cherchent toujours désespérément des réponses.

## Conclusion : une invitation

Le fait que cette Enquête ne cherche pas à réparer les torts passés, mais bien les affronts présents, qui ne cessent de s'aggraver, est l'une de ses particularités. Les actes de violence provenant des structures de colonisation, conjugués au racisme, au sexisme, à l'homophobie et à la transphobie, sont dans les faits nombreux et fréquents; en plus d'être omniprésents et immédiats, ils présentent un caractère urgent.

Toutefois, cette violence est également *évitable*, dans la mesure où la population canadienne est disposée à opter pour le changement. Cette Enquête nationale a fourni aux femmes, aux filles et aux personnes 2ELGBTQQIA autochtones une tribune nationale pour qu'elles puissent faire entendre leur vérité propre, mais le vrai travail ne fait que commencer. Éradiquer la violence envers les femmes, les filles et les personnes 2ELGBTQQIA autochtones passe par la refonte complète des systèmes et une transformation en profondeur de la société tels que nous les connaissons. L'investissement qui sera consenti pour mettre fin à cette tragédie doit être équivalent ou supérieur à la dette accumulée au cours des cinq cent dernières années.

Chaque jour, les droits des femmes, des filles et des personnes 2ELGBTQQIA autochtones sont violés ou bafoués d'une manière tantôt apparente, tantôt insidieuse. Nous sommes d'avis que le rétablissement de ces droits est une priorité urgente, et qu'il pourrait marquer un tournant dans les rapports entre les peuples autochtones et les systèmes qui leur causent préjudice encore aujourd'hui. Plus particulièrement, la protection des droits, tout comme la promotion des droits fondés sur les concepts de culture et d'identité, de santé, de sécurité et de justice, est essentielle pour contribuer à résoudre la crise des femmes, des filles et des personnes 2ELGBTQQIA autochtones disparues et assassinées. Ces droits jouent également un rôle central dans la mise en œuvre de solutions holistiques qui permettront aux femmes, aux filles et aux personnes 2ELGBTQQIA autochtones de regagner leur pouvoir et de reprendre la place qui leur revient.

Documenter ces rencontres permet de mettre l'accent sur l'obligation de rendre des comptes et d'évaluer d'une manière réaliste la violence constante et réelle que vivent quotidiennement les femmes, les filles et les personnes 2ELGBTQQIA autochtones. Il s'agit d'un exercice essentiel pour comprendre comment transformer en profondeur notre société.

Le gouvernement, l'industrie, les communautés, les partenaires et la population doivent participer pleinement à cette transformation. Nous avons tous un rôle à jouer. En nous attardant aux instants précis de ces rencontres, soit les moments qui donnent naissance aux relations, nous établissons un lien commun entre tous ces récits. Nous avons choisi cette avenue parce qu'elle s'inscrit, selon nous, dans la mission de l'Enquête nationale, qui consiste à documenter de manière rigoureuse et précise les causes profondes de la violence et les violations constantes des droits fondamentaux des femmes, des filles et des personnes 2ELGBTQQIA autochtones. Nous espérons aussi qu'à la lecture de ce rapport, vous constaterez, lectrice et lecteur, qu'il est possible de changer les choses dès maintenant.

# INTRODUCTION

La lecture des témoignages pourrait bien faire germer certaines questions dans votre esprit ou vous inciter à étudier des pistes non explorées dans ce rapport. Après avoir pris connaissance d'une rencontre en particulier, il se peut aussi que vous vouliez en savoir plus sur une famille précise, ou encore sur la manière dont certains problèmes se manifestent dans le système de santé, l'appareil judiciaire et les autres institutions. Nous vous invitons à approfondir la réflexion et à intégrer ce que vous aurez appris dans votre propre vie, et au sein de votre communauté et de votre société. En prenant connaissance des histoires contenues dans ce rapport et disponibles en ligne, vous faites vous-même une rencontre de la plus haute importance : vous vivez un moment qui vient transformer une relation.



## Notes

- 1 Lemkin, *Axis Rule in Occupied Europe*, pp. 79; 82-89; 89.
- 2 Ibid., 79.
- 3 Ibid.
- 4 Feierstein, « Defining the Concept of Genocide, » 15.
- 5 Ibid.
- 6 Nations Unies, *Convention pour la prévention et la répression du crime de génocide*, Article II.
- 7 Schabas, *Genocide in International Law*, 46.
- 8 Bjørnland, Markuson et Mennecke, « *What Is Genocide?* » cité dans 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 et Benvenuto, « Canada and Colonial Genocide, » 375.
- 14 Ibid.
- 15 Krotz, « A Canadian genocide? »
- 16 Palmater, « Sexualized Genocide. »
- 17 Palmater, « The Ongoing Legacies. »
- 18 Fontaine et Farber, « What Canada committed against First Nations. »
- 19 Woolford et Benvenuto, « Canada and Colonial Genocide, » 380.
- 20 Danny P. (Première Nation Membertou), Partie 1, Déclaration publique 69, Membertou, N.-É., pp. 2, 4. Dans ce chapitre, comme dans tous nos chapitres, la citation est tirée de la transcription officielle de la langue dans laquelle la personne a témoigné, même si la citation a été traduite.
- 21 Association des femmes autochtones du Canada, « What Their Stories Tell Us. »
- 22 Pearce, « An Awkward Silence. »
- 23 Gendarmerie royale du Canada, « Les femmes autochtones disparues et assassinées. »
- 24 Ibid.
- 25 Mahony, Jacob et Hobson, « Women and the Criminal Justice System. »
- 26 TAKEN, « About the series. »
- 27 TAKEN, « Infographic. »
- 28 Boyce, « La victimisation chez les Autochtones au 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, « La victimisation chez les Autochtones au Canada, 2014. »
- 33 Conroy et Cotter, « Les agressions sexuelles autodéclarées au Canada, 2014. »
- 34 Canada, Sécurité publique Canada, « Plan d’action national de lutte contre la traite de personnes. »
- 35 National Aboriginal Consultation Project, *Sacred Lives*.
- 36 Association des femmes autochtones du Canada, « Boyfriend or Not. »
- 37 Bucik, « Canada: Discrimination and Violence, » 4.
- 38 Pyne et al., « Barriers to Well-Being. »
- 39 Boyce, « La victimisation chez les Autochtones au Canada, 2014. »
- 40 Kohkom (Première Nation Piapot), Partie 1, Déclaration publique 122, Saskatoon, Sask., p. 30.
- 41 Bernice C. (Première Nation Sagkeeng), Partie 1, Volume public 15, Winnipeg, Man., p. 51.
- 42 Tamara S., Partie 1, Volume public 15, Winnipeg, Man., pp. 51- 52.
- 43 Danielle E. (Première Nation Kawacatoose), Partie 1, Volume public 31, Saskatoon, Sask., p. 117.

- 44 Canada, Relations Couronne-Autochtones et Affaires du Nord Canada, « Cadre de référence de l'Enquête nationale ». Voir aussi Enquête nationale sur les femmes et les filles autochtones disparues ou assassinées, *Orientation juridique : règles de pratiques respectueuses*, disponible à [www.mmiwg-ffada.ca/wp-content/uploads/2018/07/Legal\\_Path\\_Rules\\_of\\_Respectful\\_Practice\\_2018-11-09\\_FR-3.pdf](http://www.mmiwg-ffada.ca/wp-content/uploads/2018/07/Legal_Path_Rules_of_Respectful_Practice_2018-11-09_FR-3.pdf).
- 45 Bien que le terme « Premières Nations » soit relativement nouveau, les Premières Nations de ce pays existaient avant le contact colonial et continuent d'exister aujourd'hui, malgré les politiques d'assimilation intentionnelle du gouvernement canadien (notamment au moyen de la *Loi sur les Indiens*) qui les ont fracturées et déplacées. Il s'agissait là d'un effort intentionnel visant à assimiler et donc à anéantir les Nations autochtones en tant que nations.
- 46 Les Inuits sont un peuple autochtone circumpolaire du Nord. La plupart des Inuits vivent dans l'Inuit Nunangat – la terre, l'eau et la glace qui composent la patrie des Inuits du Canada. Cette patrie est composée de quatre régions : Inuvialuit, dans l'ouest de l'Arctique; le territoire du Nunavut; Nunavik, dans le nord du Québec; et Nunatsiavut, dans le nord du Labrador. De nombreux Inuits vivent également dans des centres urbains tels qu'Edmonton, Winnipeg et Montréal. Le mot « Inuit » signifie « peuple » en inuktitut, qui est le nom générique de nombreux dialectes apparentés parlés par les Inuits. Il est utilisé pour désigner trois personnes ou plus. Le mot « Inuk » fait référence à une personne et Inuuk à deux.
- 47 Les Métis ont émergé en tant que peuple ou nation distincts des unions d'hommes européens et de femmes des Premières Nations au cours des 18<sup>e</sup> et 19<sup>e</sup> siècles. Les Métis vivent maintenant partout au Canada. La langue métisse traditionnelle est le michif, bien que de nombreux Métis parlent couramment d'autres langues européennes ou des langues des Premières nations.
- 48 Pour en savoir plus au sujet des enquêtes publiques, voir la ressource créée par la Legal Strategy Coalition on Violence Against Indigenous Women (LSC) à <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. (Clan de la grenouille, Fort St. James), Partie 1, Volume public 8, Smithers, C.-B., p. 16.
- 52 Melanie D. (Première Nation Crie Mikisew), Partie 1, Volume public 21, Edmonton, Alb., pp. 56-57.
- 53 Canada, Relations Couronne-Autochtones et Affaires du Nord Canada, « Examen du rapport provisoire ».
- 54 Terry L. (Kaska Dena, Clan du corbeau), Partie 1, Volume public 3, Whitehorse, Yn, p. 13.
- 55 Dès le 7 mars 2019.
- 56 Société de soutien à l'enfance et à la famille des Premières Nations du Canada, « I Am a Witness. »
- 57 Cindy Blackstock (Gitksan), Partie 3, Volume 10, Toronto, Ont., pp. 233–234.
- 58 Canada, Relations Couronne-Autochtones et Affaires du Nord Canada, « Examen du rapport provisoire ».
- 59 Ibid.
- 60 Canada, Condition féminine Canada, « En savoir plus sur l'appel de propositions visant le Fonds de commémoration des femmes et des filles autochtones disparues et assassinées ».
- 61 Canada, Relations Couronne-Autochtones et Affaires du Nord Canada, « Examen du rapport provisoire ».
- 62 Ibid.
- 63 Ibid.
- 64 Voices-Voix, « Sisters in Spirit – What Happened. »
- 65 Pour le mémoire complet de l'Enquête nationale à la Cour suprême du Canada, appelé «mémoire de l'intervenant», voir [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, Relations Couronne-Autochtones et Affaires du Nord Canada, « À propos de l'enquête indépendante ».
- 67 Nahanni Fontaine (Ojibway, Première Nation Sagkeeng), Partie 1, Volume public 15, Winnipeg, MB, p. 76.
- 68 Organisation mondiale de la Santé, « Rapport mondial sur la violence et la santé ».
- 69 Terre-Neuve et Labrador, « Types of Violence and Abuse. »
- 70 Tuhiwai Smith, *Decolonizing Methodologies*, 25.
- 71 Galtung, « Cultural Violence, » 1.
- 72 Kroeker, « Structural Violence in Canada. »

# INTRODUCTION

- 73 Curtin et Litke, *Institutional Violence*, xiv.
- 74 Kuokkanen, « Globalization as Racialized, Sexualized Violence, » 221–22.
- 75 Galtung, « Violence, Peace, and Peace Research, » 17.
- 76 Robyn Bourgeois (Crie), Parties II et III mixtes, Volume public 17, St. John's, T.-N.-L., p. 42.
- 77 Kovach, *Indigenous Methodologies*.
- 78 Bernice C. (Première Nation Sagkeeng), Partie 1, Volume public 15, Winnipeg, Man., p. 67.
- 79 Gwenda Y. (Dakota, Nation Standing Buffalo Dakota), Partie 1, Volume public 27, Saskatoon, Sask., p. 5.
- 80 Sarah N. (Inuite, Inukjuak), Partie 1, Volume public 64, Montréal, Qc, pp. 4–5. En Inuktitut, une seule personne est appelée Inuk, pas Inuite. Cependant, nous avons choisi d'utiliser le mot « Inuit » dans les notes finales pour désigner l'identité des membres de la famille et des survivants de manière à être aussi claire que possible.
- 81 Sarah N. (Inuite, Inukjuak), Partie 1, Volume public 64, Montréal, Qc, pp. 13–14.
- 82 Lizzie C. (Inuite, Kuujjuaq Rapid), Partie 1, Volume public 64, Montréal, Qc, p. 19.
- 83 Nicole B. (Métisse), Partie 1, Volume public 100, Vancouver, C.-B. p. 40.







## Établissement d'un nouveau cadre

Cette section du rapport final établit un cadre relatif aux expériences recueillies auprès des membres de famille, des survivantes, et des autres personnes qui ont participé aux audiences communautaires, aux audiences de représentants des institutions et aux audiences de Gardiens du savoir et d'experts de l'Enquête nationale. Nous reconnaissons que « le contexte social du racisme, du colonialisme et du sexisme engendre des conditions de violence et de mauvais traitements systémiques ciblés à l'encontre des femmes autochtones »<sup>1</sup>. Pour ces raisons, nous soutenons qu'il est nécessaire d'établir, pour commencer, un cadre qui met en lumière la façon dont la plupart des témoins ont partagé leurs expériences ou celles de leurs proches. Ces expériences s'inscrivent dans le contexte d'une incapacité à obtenir le respect des droits fondamentaux de la personne et des échecs conjoints des systèmes, des institutions et des fournisseurs de services individuels à offrir du soutien en se fondant sur les principes du respect et des bonnes relations. Ces moments propices à la création de relations ou de « rencontres », comme nous les appelons parfois, sont des outils importants pour comprendre comment les femmes, les filles et les personnes 2ELGBTQQIA<sup>2</sup> autochtones sont la cible de violence aujourd'hui.



Toutefois, pour mieux comprendre où nous en sommes actuellement, nous devons également prendre du recul pour examiner de quelle façon cette tragédie résulte des réalités particulières du colonialisme, du racisme et de la misogynie, qui s'inscrivent dans un contexte historique. Ce contexte a réfuté les rôles, les responsabilités et les droits importants des femmes et des personnes 2ELGBTQQIA autochtones dans leurs propres communautés et Nations, et a significativement contribué à les priver de leur pouvoir d'agir par le recours à une violence sanctionnée par l'État à différents égards. En outre, la définition de ces importantes réalités aide à comprendre en quoi les structures et les processus de colonisation, qui sont souvent relégués au passé, constituent aujourd'hui des facteurs non-négligeables.



*La Wooden Star Blanket est une œuvre d'art communautaire. Il s'agit d'une mosaïque composée de 128 carreaux individuels, dont chacun a été peint à la main par des survivantes de violence et des membres de famille des femmes, des filles et des personnes 2ELGBTQQIA autochtones disparues et assassinées, au cours du processus de consignation des déclarations à Richmond, en Colombie-Britannique. Cette œuvre symbolise l'importance des voix des survivantes et des familles qui ont partagé leurs vérités propres avec l'Enquête nationale.*

Ce cadre donne également un aperçu de la façon dont les femmes, les filles et les personnes 2ELGBTQQIA autochtones vivent la discrimination et la violence d'une manière intersectionnelle. Autrement dit, cela signifie que la structure de l'oppression, pour celles qui sont victimes de violence, comprend de nombreux facteurs qui déterminent le déroulement de leur vie et celui de leurs familles.

Nous nous tournons vers le passé et vers ces systèmes d'oppression intersectionnels tels qu'ils ont été élaborés pour envisager comment transformer le présent et l'avenir, en utilisant des outils qui font la promotion des droits fondamentaux de la personne dans des domaines clés comme la culture, la santé, la sécurité et la justice, dans le contexte des conceptions autochtones. Ces conceptions ne sont pas uniformes, pas plus qu'elles ne sont statiques. Elles se développent plutôt en relation avec les titulaires de ces droits – les femmes, les filles et les personnes 2ELGBTQQIA autochtones – à qui ce rapport est consacré. Les thèmes que nous abordons sous l'angle des droits sont ceux les plus représentés dans les divers systèmes et institutions avec lesquels les gens doivent composer, ainsi que dans les systèmes, les institutions et supprimer les agissements des personnes perçues comme ayant le plus contribué aux préjudices infligés.





*La commissaire Audette étreint une participante lors des audiences à Regina, en Saskatchewan.*

Indépendamment du contexte ou des particularités de ces conceptions, la première section du rapport final indique clairement que les solutions, imposées par des intervenants de l'extérieur ou par l'État, doivent, de fait, revenir aux femmes autochtones qui se définissent comme les dépositaires des droits des Autochtones et des droits de la personne. Cela doit également débiter par une reconnaissance de la façon dont le passé se répercute sur le présent, et porte donc atteinte aux générations futures.

Ainsi, la première section du rapport final se définit comme une plateforme et un point de départ qui vise une compréhension plus globale, en étant centré sur les personnes et les communautés, pour pouvoir mieux comprendre cette tragédie contemporaine que nous abordons dans la deuxième section du rapport. La section actuelle représente un cadre nouveau et unique pour aborder les expériences vécues et présentées dans les témoignages que nous avons entendus et en faire le point de départ de changements et de transformations.





## Mettre l'accent sur les relations pour éradiquer la violence

### Introduction : établir une base solide

Au fil de l'Enquête nationale, nous avons entendu des histoires de perte et de deuil. Nous avons constaté les effets de la disparition ou du meurtre des femmes, des filles et des personnes 2ELGBTQQIA autochtones de même que les conséquences de ces pertes sur leurs proches. Ces dernières – des mères, des filles, des sœurs, des tantes, des grands-mères, des nièces, des cousines et des membre de familles de cœur – étaient importantes. Leur départ a laissé des cicatrices que même le temps ne parviendra pas à guérir.

Nous rendons hommage à ces familles courageuses, à leurs proches ainsi qu'aux personnes qui ont survécu pour raconter leur histoire, mais aussi à toutes celles qui ne sont plus parmi nous, en présentant dans les pages qui suivent les vérités qu'elles ont révélées à l'Enquête nationale. Ces vérités sont des enseignements puissants transmis par ceux et celles qui savent mieux que quiconque comment mettre un terme à la violence qui menace la vie des femmes, des filles et des personnes 2ELGBTQQIA autochtones, à savoir les familles, les survivantes, les Gardiens du savoir, les Aînés, les grands-mères et les militantes, qui parlent toutes par expérience.

Lors de sa présentation devant l'Enquête nationale, la Gardienne du savoir Mavis Windsor, membre de la Première Nation Heiltsuk de Bella Bella, en Colombie-Britannique, et directrice du développement social de sa communauté, a précisé le sens d'un message maintes fois répété pendant le processus de consignation de la vérité : « Nous sommes l'héritage. Malgré le traumatisme, que nos communautés continuent à vivre, nous sommes capables de lutter contre la violence à l'égard des femmes dans nos communautés. La solution est à l'intérieur de nous-mêmes ... au sein de nos communautés<sup>3</sup>. »





Pendant son travail, l'Enquête nationale a beaucoup appris sur les différentes façons dont la violence façonne la vie des femmes, des filles et des personnes 2ELGBTQQIA, métisses et inuites et des Premières Nations dans tout le pays, ainsi que sur les stratégies créatives et courageuses que ces mêmes personnes utilisent pour changer les choses. En plus d'illustrer l'importance de la géographie, de la culture, de la tradition et de nombreux autres facteurs dans la formulation de recommandations utiles et l'introduction de changements dirigés par la communauté, les récits des personnes qui ont exprimé leur vérité respective ont mis en lumière un dénominateur commun : si nous voulons comprendre les causes de la violence et apporter les changements nécessaires pour y mettre un terme, nous devons reconnaître la force des relations et les *responsabilités* qui s'y rattachent.

Comme l'a exprimé la témoin experte mohawk Sandra Montour, directrice générale de Ganohkwasra Family Assault Support Services où elle offre des services de soutien aux femmes autochtones victimes de violence et à leur famille depuis plus de 30 ans :

[Nous devons] établir des relations. Il le faut parce que nos vies en dépendent. Nos vies en dépendent et la vie des femmes de notre communauté en dépend. Nous devons donc mener une lutte acharnée, nous montrer extrêmement diplomates et être capables de résoudre des problèmes et d'établir des relations<sup>4</sup>.

« NOUS SOMMES L'HÉRITAGE. MALGRÉ LE TRAUMATISME QUE NOS COMMUNAUTÉS CONTINUENT DE VIVRE, NOUS SOMMES CAPABLES DE LUTTER CONTRE LA VIOLENCE À L'ÉGARD DES FEMMES DANS NOS COMMUNAUTÉS. LA SOLUTION EST EN NOUS – AU SEIN DE NOS COMMUNAUTÉS. »

Mavis Windsor

Dans les pages suivantes, nous abordons deux importants enseignements. D'abord, nous accordons une place centrale à la voix des familles métisses et inuites, et des Premières Nations, et des survivantes dont les vérités sont empreintes de sagesse et de conseils quant à la façon de mettre un terme à la violence, une voix qui a été ignorée ou sciemment réduite au silence beaucoup trop longtemps. Ensuite, en nous inspirant de cette sagesse et de ces conseils, nous concentrons nos efforts sur les enseignements nous permettant, grâce aux relations, de comprendre les causes sous-jacentes de la violence pour déterminer et mettre en place les mesures requises pour qu'elle cesse.

Ensemble, nous pouvons transformer les relations qui continuent de causer du tort aux femmes, aux filles et aux personnes 2ELGBTQQIA autochtones, mais cette tâche n'est pas facile. En fait, elle est particulièrement difficile pour des personnes comme Mavis et Sandra, et aussi pour les nombreuses autres personnes autochtones résilientes dont nous présentons les témoignages, lesquelles s'efforcent de changer les relations desquelles elles n'ont ni capacité d'agir ni droit.



Comme l'observe Marilyn W. qui a raconté comment elle a perdu sa sœur aux mains de la violence :

Chacun de nous, en tant qu'individu, en nous réveillant, nous pouvons choisir d'apporter un peu de lumière dans ce monde ou choisir d'alimenter cette noirceur avec laquelle nous devons composer au quotidien. J'essaie, et c'est très difficile pour moi d'être ici, sans manifester ma colère. C'est très difficile de ne pas éprouver de la haine, même si ma culture se fonde sur l'égalité et sur l'amour. Il est question du génocide de notre peuple. Ça ne touche pas uniquement les femmes autochtones. C'est un combat spirituel<sup>5</sup>.

Afin de souligner l'importance de ce combat, et celle des solutions et recommandations présentées par les familles, nous examinons les mécanismes dont disposent les femmes, les filles et les personnes 2ELGBTQQIA en tant que titulaires de droits Autochtones et de droits de la personne. Dans les Appels à la justice présentés à la fin du présent rapport, nous traitons, sous l'angle de ces droits des enseignements concernant les relations qui découlent des travaux de l'Enquête nationale. Cette approche nous permet de rappeler que le changement ne peut plus reposer uniquement sur la bonne foi politique et morale des gouvernements. La mise en œuvre des demandes énumérées dans ce rapport incombe juridiquement aux gouvernements canadiens, à leurs institutions et à leurs représentants, qui doivent veiller à ce que les droits des femmes, des filles et des personnes 2ELGBTQQIA autochtones ne soient jamais plus bafoués ni ignorés. Un tel changement ne peut se faire sans la participation complète des communautés autochtones et des fournisseurs de services destinés à ces dernières, qui doivent travailler en partenariat pour produire les meilleurs résultats qui soient.

## Pourquoi commencer par les relations?

Un enseignement répété à maintes reprises lors du processus de consignation de la vérité oriente notre approche d'analyse des nombreuses vérités recueillies dans le cadre de l'Enquête nationale : les relations sont essentielles à la fois pour comprendre les causes de la violence et pour apporter les changements nécessaires de manière à mettre un terme à cette violence qui afflige les femmes, les filles et les personnes 2ELGBTQQIA autochtones. Shawn Wilson, chercheur membre de la Nation crie d'Opaskwayak du Nord du Manitoba, explique que de telles relations sont essentielles aux modes de connaissance des Autochtones. Selon cette vision du monde, chacun d'entre nous est une personne unique, mais nous nous définissons aussi par les relations qui nous unissent aux autres. Nous sommes la mère de quelqu'un, la fille de quelqu'un, et la famille de cœur d'une tierce personne. Nous sommes liés à nos ancêtres, à la terre dont nous provenons, et aux générations à venir. Bref, Wilson soutient que nous ne faisons pas qu'un, mais que nous sommes plutôt la résultante des relations qui façonnent notre existence<sup>6</sup>.

De nombreux témoins ont relaté, dans les premières minutes de leur allocution, le grand nombre de relations qu'entretenaient les victimes avec les autres, ce qui met en évidence l'importance



des relations pour les familles et les survivantes qui ont livré leur vérité dans le cadre de l'Enquête nationale. C'est le cas de Percy P., qui a amorcé son récit au sujet de Misty P., sa fille de 37 ans disparue en 2015, en prononçant les mots suivants :

[Misty] a grandi avec les tambours, les chansons, les cérémonies, la vie traditionnelle rattachée à la terre... Misty a suivi cette voie. Elle veillait sur la pipe, la pipe de la danse du soleil. Elle dansait lors des pow-wow. C'était une bonne fille, une sœur. Un être humain respectable. [...] Elle s'entourait des autres partout où elle allait. [...] Elle avait beaucoup de potentiel. Elle nous a emmenés aux Canadian Aboriginal Music Awards, et nous avons remporté le premier prix pour le tambour à main; ce fut tout un honneur. Et c'est elle qui avait organisé tout cela. Rien de tel n'est arrivé depuis qu'elle est partie. Notre organisatrice n'est plus; elle nous a été enlevée<sup>7</sup>.

Le décès d'un proche ainsi que la violence et le drame qui affectent une personne créent en elle un grand vide qui a une incidence constante sur sa santé et son bien-être. Les expériences qu'ont vécues les femmes inuites disparues et assassinées et leurs familles de même que les rencontres qu'elles ont eues dans le but de reprendre leur vie en main, de retrouver la santé et de bénéficier, à juste titre, de la justice et de la sécurité, ont déterminé le cours de leur existence.



*L'Aînée Rebecca Veevee allume le qulliq lors d'une audience tenue à Québec, au Québec.*

À l'instar de Percy P. et des nombreuses autres personnes qui ont livré leur vérité dans le cadre de l'Enquête nationale, les membres de famille touchés ont insisté sur le fait que, pour commencer à comprendre et à honorer celles dont la vie a été écourtée par la violence, il faut examiner attentivement l'ensemble des relations qui ont façonné leur existence et les vies que ces personnes ont à leur tour contribué à façonner. Raconter l'amour, l'affection, la sagesse et le bonheur que Misty

apportait à sa famille et à ses amis par l'entremise des relations aide les autres à prendre conscience du vide engendré par sa disparition. Toutefois, cela met aussi en lumière un contraste marqué avec d'autres relations dans le cadre desquelles des femmes comme Misty, plutôt que d'être chéries et aimées, sont manipulées, ignorées et maltraitées, leurs agresseurs ayant délibérément choisi la violence, leurs appels à l'aide ayant été reçus avec indifférence et leur valeur en tant que femme autochtone ayant fait les frais de préjugés racistes et sexistes.





Les vérités racontées par les membres de famille touchés et les survivantes démontrent également que les relations qui ont façonné la vie des proches disparues et assassinées sont autant d'occasions d'apprentissage, de compréhension et de transformation. Les témoignages ont souligné l'importance d'établir des relations solides et de renforcer les liens qui nous unissent les uns aux autres pour mieux nous protéger mutuellement. Dans le cadre de ses travaux portant sur les relations entre les Autochtones et les colons, le chercheur cri Willie Ermine fait référence aux relations comme des « espaces d'engagement en profondeur », ce qui permet de mettre en évidence de bien des façons les ressemblances et les différences entre les modes de connaissance des personnes représentées. Lorsque nous concevons les relations comme des « espaces d'engagement en profondeur », explique Ermine, nous portons attention aux paroles, aux gestes et aux comportements qui se manifestent en surface. Ces manifestations, toutefois, nous montrent également les attitudes, les croyances et les positions présentes sous la surface qui agissent comme « force profonde d'un autre niveau » et qui influencent la façon dont nous agissons et accumulons des connaissances. Cette force peut être à l'œuvre dans les relations. Afin d'apporter des changements durables à une relation pour qu'elle reflète un ensemble particulier de valeurs, notamment celles liées aux droits des femmes, des filles et des personnes 2ELGBTQQIA autochtones, il faut remettre en question cette « force profonde d'un autre niveau » et la modifier de sorte que le contexte sous-jacent reflète à son tour ces valeurs<sup>8</sup>.

Lors de leur témoignage, les membres de famille et les survivantes ont évoqué la nécessité de modifier les croyances et les positions sous-jacentes qui sont les causes systémiques ou les causes profondes de la violence, et qui cautionnent celle-ci.

Dans les pages qui suivent, nous mettons également l'accent sur les relations parce qu'elles nous révèlent comment ces croyances sous-jacentes ou systémiques s'ancrent, de façon troublante, dans le quotidien des femmes, des filles et des personnes 2ELGBTQQIA autochtones. Comme le montrent bien des relations décrites par les familles et les survivantes, on refuse aux femmes, aux filles et aux personnes 2ELGBTQQIA autochtones la possibilité de participer de façon égalitaire à la définition des conditions sur lesquelles se fondent les relations qui déterminent leur existence.

Pendant son témoignage, Cheryl M. a raconté qu'après des mois de militantisme et d'efforts déployés pour exiger que le Commissaire aux plaintes contre la police se penche sur l'enquête relative à la mort de Victoria P., les représentants du gouvernement ont finalement acquiescé à ses demandes lorsqu'elle s'est adjoint un professeur d'université réputé jouissant d'un vaste réseau de contacts, sa propre fonction de présidente de l'Association des femmes autochtones de la Nouvelle-Écosse pendant ce temps-là n'ayant visiblement aucune influence<sup>9</sup>.

Jamie L. H., pour sa part, a décrit le traitement violent, raciste et transphobique qu'elle a subi des policiers; son récit démontre à quel point l'inégalité du statut des femmes et des personnes 2ELGBTQQIA autochtones dans les relations est souvent exprimée et renforcée par des attitudes méprisantes, mais aussi par la menace de violence et de sévices :



C'était la période de l'Halloween... [Les policiers] ont commencé à faire éclater des pétards; je sursautais, je ne comprenais pas ce qui se passait. Ils tentaient probablement de me faire peur, faisant des remarques désobligeantes à mon sujet; ils ont fait une fouille à nu, me demandant de, vous savez, d'enlever mon soutien-gorge. Bien entendu, je portais des coussinets, et ils ont fait des blagues horribles à propos de ça; ils se les lançaient. Ce fut une expérience très humiliante<sup>10</sup>.

Si elle avait osé protester, elle se serait exposée à bien pire.

Ces exemples, que l'on doit à des femmes fortes et résilientes qui sont devenues d'ardentes défenseuses des droits des femmes, des filles et des personnes 2ELGBTQQIA autochtones, montrent en quoi leur capacité à nouer des relations et à participer à celles-ci comme elles l'entendent est restreinte par des croyances et des pratiques institutionnelles qui se veulent sous-jacentes, coloniales, patriarcales, racistes et hétéronormatives, et qui diminuent leur valeur au sein de ces relations. Dans ce contexte, les inégalités dont sont victimes les femmes et les personnes 2ELGBTQQIA autochtones n'ont pas simplement pour effet de les marginaliser ou de les contraindre à la passivité, mais elles font d'elles une cible pour la violence par l'entremise des relations qui leur sont imposées.

## Des rencontres qui changent des vies

En décrivant les relations qui permettent de comprendre la violence qu'elles ont vécue ou que leur proche disparue ou assassinée a vécue, les survivantes et les familles ont mis en lumière des moments précis de ces relations qu'elles estiment particulièrement importants pour expliquer les circonstances, causes, conséquences ou détails de la disparition ou du meurtre de cette dernière, ou encore la violence que les survivantes elles-mêmes ont vécue; c'est ce que nous avons nommé des « rencontres ».

Nous utilisons le terme « rencontre » pour désigner une panoplie de moments où les relations sont formées. Ces rencontres représentent un moment et un espace où la vision, les valeurs et les principes qui façonnent les familles, les communautés et la vie de chacun puisent leur source. Nous considérons qu'il s'agit également de moments transformationnels. Autrement dit, ces moments peuvent ultérieurement être la cause de préjudices ou la voie menant vers la guérison, selon le contexte. Participer à ces rencontres est une responsabilité importante de même qu'une occasion permettant de définir en bien les fondements d'une relation.

Survivante de la violence, Anni P. a raconté à l'Enquête nationale ce qu'elle a qualifié de « moment charnière », c'est-à-dire les gestes que sa partenaire a posés pour l'empêcher de se faire du mal. Ces gestes, ce faisant, ont fondamentalement modifié sa perception des relations, elle qui était auparavant incapable de concevoir que celles-ci puissent être fondées sur l'amour plutôt que sur la violence :



Il y a eu un moment charnière alors que je voulais en finir. Elle [Kim, la partenaire d'Anni] est restée avec moi, elle ne voulait pas me laisser sortir de chez moi, parce que si je sortais, je... c'était la fin. Dieu merci, elle est plus grande et plus forte que moi; elle m'a empêchée de faire une bêtise. Lorsque je me suis réveillée le lendemain matin, Kim était couchée par terre, devant la porte, pour ne pas que je puisse sortir de la chambre. Elle me protégeait, comme une gardienne, genre, pas question que tu sortes d'ici. Et c'est à ce moment-là que j'ai compris quelque chose. Quelqu'un m'aimait de tout son cœur<sup>11</sup>.

Darlene G., une femme des Premières Nations, a été victime de mauvais traitements dans son enfance et a survécu à la violence sexuelle. Elle a présenté sa vérité pendant l'audience communautaire de Membertou, en Nouvelle-Écosse, expliquant que sa « vie a vraiment changé de cap » alors qu'elle discutait avec son oncle et apprit que sa mère avait subi des sévices dans les pensionnats indiens. L'origine de ses problèmes de dépendance et de ceux de sa mère lui est alors apparue sous un jour nouveau, et cette prise de conscience l'a aidée sur la voie de la guérison. Elle explique :

Ma vie a vraiment changé chez [oncle V.]. Il est mon phare, vous savez. Il s'est assis à mes côtés un jour, aux funérailles de ma tante [R.]. Nous étions tous assis autour d'une table dans la cour arrière de mon oncle [L.]; j'étais sobre depuis cinq ans. Il m'a regardée et a dit : « Veux-tu savoir pourquoi ta mère agissait comme ça avec toi? Veux-tu savoir pourquoi elle était comme elle était, c'est-à-dire indifférente et froide? Parce qu'elle a été violée par les prêtres. » Il m'était impossible de comprendre ce qu'elle avait vécu, mais je pouvais quand même comprendre pourquoi elle était comme elle était; pourquoi elle buvait, elle... la façon dont elle buvait. Si je consommais drogue et alcool de la sorte, c'est à cause de l'abus systémique, l'abus générationnel, à cause du fait que le gouvernement a voulu changer qui nous sommes<sup>12</sup>.

Ces moments significatifs auxquels font référence Anni et Darlene nous enseignent comment établir des relations qui, en ce qui les concerne, ont eu une incidence marquée sur leur processus de guérison pour panser les plaies de la violence. Dans les prochaines pages, nous présentons des témoignages semblables, qui relatent des moments précis dans des relations, et qui sont cités par les familles et les survivantes comme étant d'importants apprentissages portant sur la forme que peuvent prendre de telles relations. Nous nous intéressons aussi à la façon dont une conversation ou un geste, aussi simples soient-ils, peuvent donner une orientation positive à une relation. Ces enseignements constituent des modèles sur lesquels sont fondées nombre de nos appels à la justice.





*Le commissaire Eyolfson serre dans ses bras Charlotte Wolfrey à Regina, en Saskatchewan.*

Malheureusement, les rencontres décrites par de nombreux membres de famille pendant l'Enquête nationale montrent que la responsabilité de façonner une relation a servi à causer du tort aux femmes, aux filles et aux personnes 2ELGBTQQIA autochtones plutôt qu'à les honorer. Bien souvent, lorsque les familles, les militantes et les survivantes ont souligné des interactions précises à l'intérieur de relations, interactions qu'elles considèrent comme particulièrement importantes pour comprendre la violence qu'elles vivent ou qui touche leurs proches, elles ont cité des moments qui, à leurs yeux, augmentaient le risque d'occurrence d'actes violents. Maintes fois, ces moments sont survenus lors de la première rencontre d'une personne vers qui ces femmes ou leurs proches se sont tournées pour demander de l'aide.

Il n'est donc pas surprenant que les familles aient insisté sur ces exemples en particulier puisque, comme nous le verrons tout au long du rapport, ils explicitent ce qui a mené à la violence ou aux autres préjudices que les survivantes et les proches ont subis, comme Barbara H. l'a exprimé en parlant du décès de sa fille de 17 ans, Cherisse H. Dans son témoignage, Barbara a insisté sur une rencontre qu'elle a eue avec l'intervenante en protection de la jeunesse de Cherisse quelques semaines avant la mort de celle-ci :

Elle [Cherisse]... se prostituait et était toxicomane. Et, à un moment donné, elle m'a dit : « Maman, j'ai besoin d'aide. » C'était après la naissance de son fils. Elle consommait encore de la drogue et avait finalement réalisé qu'elle voulait obtenir l'aide dont elle avait besoin pour être une bonne mère.

Donc, elle m'a confié qu'elle avait besoin d'aide et m'a demandé de téléphoner à son intervenante en protection de la jeunesse pour qu'on l'admette dans un établissement dont elle serait incapable de sortir pour aller se droguer. Je crois qu'elle consommait aussi pour oublier le fait qu'on lui ait pris son fils à sa naissance.

Alors, j'ai joint son intervenante, qui m'a demandé de la rappeler. Quand je l'ai fait, elle m'a dit qu'aucun établissement ne pouvait accepter Cherisse. Je crois qu'elle... je crois qu'elle s'est sentie abandonnée, ou... vous comprenez?



Donc, elle est retournée dans la rue et, une semaine plus tard, c'est là que... ils ont trouvé son corps deux ou trois semaines plus tard<sup>13</sup>.

Quelques semaines après la disparition de Cherisse, son cadavre a été découvert par des travailleurs de la construction en juillet 2009. Barbara continue à chercher des réponses pour comprendre ce qui lui est passé.

Selon celle-ci, pour comprendre la violence qui a volé la vie de sa fille, il faut notamment comprendre pourquoi cette dernière n'a pu avoir accès aux services dont elle avait besoin pour traiter ses problèmes de dépendance et d'alcoolisme au moment crucial où elle a demandé de l'aide et voulait se prendre en main. Barbara estime que le destin de sa fille aurait été bien différent si ces services avaient été disponibles : « Je sais qu'elle aurait obtenu l'aide dont elle avait besoin, elle aurait été une très, très bonne mère pour son fils, parce qu'elle aimait tellement ce petit garçon<sup>14</sup>. »

Comme vous le constaterez au cours des prochaines pages, de nombreuses familles ont vécu des expériences similaires à celle qui lie Barbara à l'intervenante de sa fille, où une simple rencontre susceptible de prévenir la violence, ou à tout le moins de réduire la probabilité qu'elle se manifeste, n'a pas eu l'effet escompté, entraînant souvent de graves conséquences.

Dans son témoignage, Carol W., une femme des Premières Nations qui est sourde, parle du tort que lui a causé sa première rencontre avec la police lorsqu'elle a signalé la disparition de sa fille de 20 ans, Karina W. :

Le 20 juillet 2010, je me suis présentée seule, sans interprète, au commissariat. Je voulais de l'aide pour retrouver ma fille. J'avais en main une photo et un message à remettre aux policiers, ce que je fis une fois sur place. Le policier l'a simplement regardée avec désintérêt. Il m'ignorait. J'étais furieuse de voir qu'il ne voulait visiblement pas m'aider. J'ai abattu ma main sur le comptoir, et c'est à ce moment qu'il m'a regardée avant de me remettre un formulaire de déposition.

Je ne savais pas quoi faire avec ce bout de papier vert. Personne ne m'a expliqué ce que je devais y écrire. J'ai regardé le policier pour qu'il m'aide, mais il était retourné à son ordinateur; il agissait comme si je n'étais pas importante ou comme si ce dont j'avais besoin n'était pas important. Une fois de plus, j'ai martelé le comptoir et un grand homme vêtu d'une chemise blanche est venu vers moi pour m'offrir son aide. Une fois le formulaire rempli, je l'ai remis à cet homme à la chemise blanche et je suis partie.

J'ai quitté le poste de police vraiment furieuse et contrariée. Le lendemain, j'y suis retournée avec un interprète pour terminer ma déposition. Sans ce dernier, il était difficile de communiquer<sup>15</sup>.



En omettant de fournir un interprète à Carol, en l'ignorant délibérément alors qu'elle demande de l'aide et en lui remettant un formulaire indéchiffrable sans lui expliquer quoi faire, le policier a établi par cette première rencontre une relation dans laquelle Carol, comme elle l'affirme, « n'était pas importante ou ce dont elle avait besoin n'était pas important ».

Plutôt que de reconnaître l'importance de la situation, chercher à reconforter cette mère voulant désespérément retrouver sa fille, et instaurer une relation favorisant la tenue d'une enquête efficace. Le policier a plutôt affirmé sa position d'autorité et de force, comme pour faire comprendre à Carol que les femmes autochtones ne comptent pas et qu'elles ne méritent pas que la police leur consacre temps et efforts. Comme l'a affirmé Carol : « J'ai senti qu'on m'avait ignorée et rejetée simplement parce qu'ils avaient choisi de ne pas m'écouter [ou] de ne pas m'aider à retrouver ma fille<sup>16</sup>. »

Bon nombre des récits entendus dans le cadre de l'Enquête nationale font état de ces premiers instants d'une relation, dans laquelle les femmes, les filles et les personnes 2ELGBTQQIA autochtones, les membres de famille, les survivantes et d'autres personnes subissent dérision, racisme et rejet en étant pris pour cible par ceux-là mêmes qui ont le devoir de les aider. Dans bien des cas, ces rencontres ont lieu à des moments où les personnes autochtones sont les plus vulnérables, comme dans le cas de Cherisse. Presque toujours, elles incarnent les moyens utilisés pour tirer avantage de cette vulnérabilité et arriver à ses fins ou réaffirmer les concepts d'un système qui dévalue le sort des femmes, des filles et des personnes 2ELGBTQQIA autochtones. Ces rencontres se produisent lorsque des femmes autochtones, comme Barbara ou Carol, interagissent avec une personne en position d'autorité, comme un policier ou un travailleur social. Elles se produisent aussi dans des situations où, comme dans le cas de Cherisse, la victime est ciblée par un agresseur. Enfin, elles se produisent également de façon implicite, lorsque des femmes autochtones se heurtent pour la première fois à une politique, à une règle ou à une croyance ancrée dans une institution avec laquelle elles doivent traiter, qui sévit contre ces dernières au lieu de les aider.

« JE N'ÉTAIS PAS IMPORTANTE OU CE DONT J'AVAIS BESOIN N'ÉTAIT PAS IMPORTANT. [...] J'AI SENTI QU'ON M'AVAIS IGNORÉE ET REJETÉE SIMPLEMENT PARCE QU'ILS AVAIENT CHOISI DE NE PAS M'ÉCOUTER [OU] DE NE PAS M'AIDER À RETROUVER MA FILLE. »

Carole W.

Encore une fois, dans toutes ces situations, les conséquences des gestes posés par les personnes en cause servent pratiquement toujours de catalyseur à l'augmentation des préjudices et de la violence.

Dans les chapitres subséquents, nous continuons de nous baser sur les témoignages des familles et de souligner les importants enseignements qu'ils contiennent. Nous utilisons souvent le mot « rencontre » pour décrire les moments particuliers qui marquent un tournant et pour signaler leur importance. En effet, les membres de famille ou les survivantes ont relaté que la



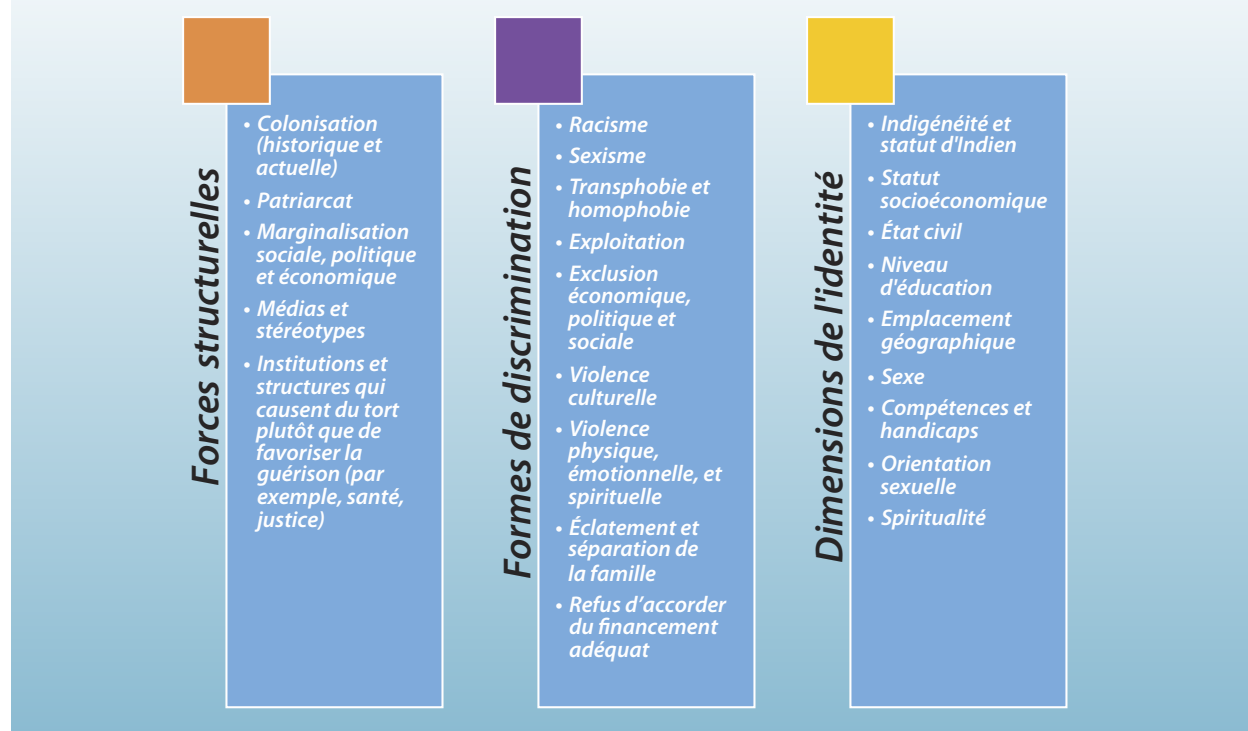


conversation, l'interaction ou l'événement précis qui établit et définit une relation et, par conséquent, entraîne d'importantes conséquences quant au maintien de la violence dans leur vie ou dans celle de leurs proches, se produit au cours de ces rencontres. Pendant son témoignage, Robyn Bourgeois, professeure crie à l'Université Brock et survivante de la violence sexuelle et de la traite des personnes, a reformulé cette même question en des termes encore plus clairs : « D'où vient l'idée voulant qu'il soit acceptable de tuer des femmes et des filles autochtones<sup>17</sup>? »

## Une approche intersectionnelle en matière de rencontres

Toutes ces histoires de rencontre ont eu lieu dans le contexte de relations qui ont créé une situation ou un environnement particuliers. En conséquence, ces relations doivent être considérées dans leur ensemble afin d'aller au-delà de la dimension interpersonnelle et d'inclure les différents systèmes, institutions, lois et politiques qui structurent ces interactions. Pour comprendre comment ces situations varient d'une personne à l'autre et pour trouver des solutions possibles aux problèmes qu'elles ont causé, nous insistons sur l'importance d'utiliser une approche intersectionnelle.

### INTERSECTIONNALITÉ : APERÇU DES TYPES D'OPPRESSION ET DES MARQUEURS D'IDENTITÉ QUI INTERAGISSENT ENTRE EUX





Nous fondons notre analyse sur l'expérience vécue par les personnes qui ont partagé leur vérité propre avec l'Enquête nationale. Comme le soutiennent les chercheurs Olena Hankivsky, Renée Cormier et Diego de Merich, « la centralisation des histoires s'inscrit dans la logique de l'approche intersectionnelle, qui donne la priorité à l'expérience vécue comme fondation théorique nécessaire à la poursuite de la justice sociale<sup>18</sup> ».

Défenseure des droits civils aux États-Unis et spécialiste réputée en matière de discrimination (Critical Race Theory) Kimberlé Crenshaw a présenté pour la première fois le concept d'intersectionnalité à la fin des années 1980 et, depuis, la notion a acquis beaucoup d'importance. Crenshaw soutenait que la comparaison entre les expériences vécues par les femmes noires aux États-Unis et celles vécues par les hommes noirs ou par les femmes blanches minimisait l'ampleur de la discrimination subie par les femmes noires. Ne pas comprendre comment de multiples systèmes, visibles et invisibles, oppriment les femmes noires témoignait de l'échec de la lutte contre les mauvais traitements infligés de façon continue aux femmes noires. Elle a donc recommandé une approche intégrée, qu'elle a nommée « intersectionnalité », pour exposer la réalité du sexisme et du racisme dont sont imprégnées les rencontres entre des femmes noires et des individus, des systèmes ou des institutions qui ont été soi-disant mis en place pour les aider<sup>19</sup>.

Les définitions du terme « intersectionnalité » varient et ont évolué pour refléter les apprentissages et expériences uniques des peuples autochtones. Dans un contexte plus large, cependant, l'intersectionnalité examine plus d'un marqueur identitaire et intègre une compréhension élargie d'interactions simultanées entre différents aspects de l'environnement social d'une personne. Par exemple, plutôt que de faire une analyse à volet unique de l'orientation sexuelle, du genre, de la race ou de la classe, l'intersectionnalité demande aux responsables de l'élaboration des politiques et aux concepteurs de programmes de plutôt se pencher sur les interactions entre la race, l'ethnicité, l'indigénité, le genre, la classe, la sexualité, la géographie, l'âge et la capacité, puis d'étudier comment ces interactions favorisent la mise en place de systèmes d'oppression qui, en fin de compte, ciblent les femmes, les filles et les personnes 2ELGBTQQIA autochtones<sup>20</sup>. Les compréhensions intersectionnelles reflètent la reconnaissance du fait que l'oppression sur les plans personnel et structurel crée une hiérarchie sociale et que cette situation requiert également des politiques adaptées aux besoins de ceux qui subissent la discrimination<sup>21</sup>.

Autrement dit, les chercheurs qui mènent une analyse intersectorielle s'intéressent aux renseignements fournis par les systèmes intercroisés en ce qui concerne le pouvoir : qui en sont les détenteurs, quelle utilisation en font-ils et quelle est son incidence sur divers groupes<sup>22</sup>. La combinaison des différents systèmes d'oppression à l'endroit des femmes et des filles autochtones – et notamment les problèmes particuliers auxquels sont confrontées les personnes 2ELGBTQQIA dans certaines communautés autochtones – peut illustrer la façon dont les systèmes, les institutions et les actions individuelles servent à cibler davantage les autres groupes, notamment les sans-abris et les pauvres, et à établir des circonstances qui accroissent les dangers potentiels.



Une approche intersectionnelle peut également expliquer la création d'identités et l'oppression dans l'histoire. Comme le mentionnent les chercheuses Marika Morris et Benita Bunjun : « Afin de comprendre comment une personne s'est retrouvée dans sa situation actuelle, nous devons comprendre le passé (histoire/colonisation)<sup>23</sup>. » Au Canada, il est particulièrement important de procéder ainsi, pour les peuples non autochtones et autochtones lorsqu'on examine la colonisation et l'incidence des années de politiques gouvernementales oppressives sur la vie des Autochtones. Ces politiques ont, systématiquement dépouillé les femmes et les enfants autochtones de leur identité par l'imposition, entre autres, de la *Loi sur les Indiens*, des pensionnats indiens, de la rafle des années 1960, et des systèmes modernes de protection de l'enfance. Le racisme systémique qu'ont subi et que subissent encore les Autochtones au Canada a eu des conséquences majeures, comme la pauvreté, la toxicomanie, la violence et les troubles de santé mentale<sup>24</sup>.

Dans leurs témoignages, les femmes, les filles et les personnes 2ELGBTQQIA autochtones ont affirmé que l'oppression à leur égard découle principalement du colonialisme, du racisme et du genre, mais que d'autres facteurs entrent également en ligne de compte. Les familles, s'exprimant au nom de leurs proches, ont relaté de nombreuses rencontres avec des fournisseurs de services au lendemain de la mort ou de la disparition de leur proche, qui ont révélé l'existence, à leur égard, de préjugés fondés sur des facteurs comme l'éducation, le revenu, les compétences et l'indigénéité.

Les témoignages ont également révélé que la discrimination était fondée sur différents éléments, en fonction de l'expérience de la Nation ou du groupe autochtone concerné. Autrement dit, les femmes inuites, métisses ou des Premières Nations ne subissent pas toujours le même genre de discrimination ou de menace, même si elles sont toutes Autochtones. En outre, la violence individuelle, institutionnelle et systémique peut prendre différentes formes pour les personnes d'identité non binaire, y compris les personnes 2ELGBTQQIA.





## Deidre M.

### « Une belle personne, à l'intérieur comme à l'extérieur »

Becky et Charlotte, respectivement la fille et la mère de Deidre, sont toutes deux venues parler de cette dernière dans le cadre du processus de consignation de la vérité de l'Enquête nationale. Voici comment elles ont décrit cette jeune Inuite qui n'avait que 21 ans lorsqu'elle est décédée.

« Deidre avait un incroyable sens de l'humour, un sourire magnifique. Elle était fougueuse, pleine d'énergie. Elle avait de beaux cheveux longs qu'elle agitaient légèrement. [...] C'était une excellente cuisinière, surtout pour la pâtisserie. Elle faisait les meilleurs choux à la crème et les meilleurs beignes, et elle préparait de très bonnes rondelles d'oignons. Nous avons probablement tous gardé le poids qu'on a pris à manger les choses qu'elle préparait. Elle faisait toujours des expériences et essayait de nouvelles choses.

Elle laissait ses enfants l'aider à faire du pain et des biscuits. Et quand elle était plus jeune, sa chambre était toujours bien tenue. Tout était en ordre. Mais après avoir eu des enfants, la chose la plus importante pour elle était leur bonheur et sa maison était souvent désordonnée. Et elle était vraiment trop occupée à vivre... pour s'inquiéter de ce à quoi sa maison ressemblait.

Deidre faisait aussi de l'artisanat. Elle apprenait à tresser de l'herbe, un art traditionnel de Rigolet, et nous sommes bien connus pour nos articles en herbes tressées... Et elle adorait jouer au ballon-balai, et elle pratiquait d'autres sports. Elle aimait la terre, la pêche, la cueillette de petits fruits, la cueillette des œufs, les corvées de bois et j'en passe. Elle adorait cela. Elle avait un mode de vie complètement inuit. »

– Charlotte W., mère de Deidre M. Témoignage tiré de l'audience communautaire de l'Enquête nationale à Happy Valley-Goose Bay, le 7 mars 2018.

« Ma mère était une belle personne, à l'intérieur comme à l'extérieur. Elle était une mère, une fille, une amie, un membre de la famille pour beaucoup d'entre nous. Je sais qu'elle était aimée. J'entends des gens parler d'elle avec beaucoup d'affection. Elle était facile à vivre et aimait la nature. Je me souviens d'être allée au chalet avec elle quand j'étais enfant et mon souvenir le plus cher est tout simplement celui d'avoir été aimée.

Ses amis m'ont tous dit qu'elle avait un sens de l'humour formidable et que son sourire illuminait la pièce. Je sais qu'elle aimait beaucoup les gens dans son entourage.

J'ai toujours dit que ma mère est plus que ce qui lui est arrivé. C'était une belle personne. C'était une personne magnifique que nous avons eu la chance d'avoir pour mère, même pour une courte période. Elle me manque tous les jours. »

– Becky M., fille de Deidre M. Témoignage tiré de l'audience communautaire de l'Enquête nationale à Membertou, le 31 octobre 2017.

I Charlotte W. (Inuite, Rigolet), Partie 1, Volume public 52, Happy Valley-Goose Bay, T.N.L., pp. 3-4.

II Becky M. (Inuite, Rigolet), Partie 1, Volume public 18, Membertou, N.-É., pp. 97 et 103-104.



Examinons par exemple l'histoire de Deidre M., une Inuite née en 1971. Deidre et ses sœurs ont grandi à Rigolet (Nunatsiavut). Son beau-père l'a agressée sexuellement lorsqu'elle était jeune. Plus tard, Deidre a été victime d'actes de violence physique et émotionnelle de la part de son partenaire, le père de ses enfants. En 1993, ce dernier l'a abattue, puis s'est suicidé, pendant que leurs quatre enfants étaient cachés dans la chambre.

Après la mort de Deidre, sa mère, Charlotte, a milité pour mettre en lumière la précarité et l'inadéquation des services offerts dans le Nord. Dans leur petit village comptant quelque 300 habitants, il n'y avait aucun refuge, aucun service de counseling, ni aucun service aux femmes pour aider sa fille à quitter son mari en toute sécurité. Les services de police aussi posent problème. En effet, Deidre a appelé les policiers à plusieurs reprises la journée de sa mort, mais ceux-ci lui ont répondu qu'ils ne pouvaient intervenir à moins que son partenaire pose un geste. Or, ces derniers n'étaient pas à Rigolet, la division la plus près se trouvant à Happy Valley-Goose Bay; il aurait donc fallu d'une à trois heures d'avion, ou six heures de motoneige, pour qu'on lui venir en aide.

Après un long combat mené par la communauté, Rigolet compte maintenant un détachement de la Gendarmerie royale du Canada (GRC) et un refuge pour femmes. Toutefois, de nombreuses autres femmes et personnes 2ELGBTQQA inuites continuent d'être victimes de violence sous des formes différentes en raison de l'isolement, de la marginalisation économique et des relations houleuses avec la GRC dans leur région. En outre, les mauvais traitements qu'a subis Deidre pendant son enfance, qui constituent une forme de traumatisme intergénérationnel et sont enracinés dans la colonisation des Inuits par le gouvernement de Terre-Neuve-et-Labrador, montrent clairement que la vie de celle-ci a fait l'objet d'oppression intersectionnelle, telle qu'elle est vécue pendant ces rencontres et ces expériences.

« J'AI TOUJOURS DIT QUE MA MÈRE EST PLUS QUE CE QUI LUI EST ARRIVÉ. C'ÉTAIT UNE BELLE PERSONNE. C'ÉTAIT UNE PERSONNE MAGNIFIQUE QUE NOUS AVONS EU LA CHANCE D'AVOIR POUR MÈRE, MÊME POUR UNE COURTE PÉRIODE. ELLE ME MANQUE TOUS LES JOURS. »

Becky M.





# Le vide laissé par deux sœurs – Jennifer H. et Julia H.

Cindy H. s'est présentée à l'Enquête nationale pour parler de ses deux sœurs, Jennifer et Julia. Bien qu'elle ait raconté les détails odieux de leur décès, elle a aussi révélé ce qui faisait de ses sœurs des personnes spéciales et aimées.

Cindy était proche de ses deux sœurs. Elle se souvient de Jennifer quand elle a eu 18 ans et qu'elle a commencé à passer plus de temps avec elle et leur mère, assises dans leur cour arrière.

« On a passé d'excellents moments, vous savez? Elle nous faisait toujours rire, tout le temps. [...] Elle avait l'habitude de friser ses cheveux comme ma mère, dans le temps. Ils avaient ces fers à friser pour faire des grosses boucles, des boucles grosses comme ça, et on voyait presque juste ses cheveux, vous savez. Elle était toujours belle avec ses cheveux. C'est comme ça que je me souviens d'elle, juste d'avoir du bon temps avec elle tout le temps, et j'avais l'habitude de toujours prendre sa défense et elle, la mienne! »

Julia, l'autre sœur de Cindy décédée il y a six ans, essayait de quitter un conjoint violent et est restée un certain temps dans une unité de logement pour femmes victimes de violence. Malgré ses propres problèmes, elle a accueilli Cindy chez elle lorsque cette dernière en a eu le plus besoin.

« Quand j'ai été expulsée de mon logement avec deux de mes enfants, elle m'a accueillie dans cet... cet immeuble où était l'appartement que le refuge lui avait donné. Son plancher nous a servi de lit pendant quelques mois et après j'ai trouvé un logement pour mes enfants et moi. C'était une femme bonne. Elle aurait fait une bonne grand-mère. J'aimerais qu'elle soit encore en vie! »

Et surtout, Cindy a indiqué aux commissaires à quel point ses sœurs lui manquaient, et à quel point les choses doivent changer.

« Elles étaient bonnes. Elles étaient des femmes bonnes avec un grand cœur quand elles étaient en vie. [...] Julia m'écoutait toujours et Jennifer se tenait toujours avec moi tout le temps. [...] Je voulais être ici pour mes deux sœurs, et pour moi-même, et pour les enfants de mes sœurs, vous savez? Je suis contente d'être venue, et ma fille est ici. J'espère seulement que les gens écouteront mon histoire et que peut-être, peut-être, ils feront des changements! »

– Cindy H., sœur de Jennifer H. et de Julia H.  
Déclaration recueillie à Winnipeg,  
le 20 octobre 2017

- I Cindy H. (Métisse), Partie 1, Déclaration publique 53, Winnipeg, Man., p. 12.
- II Cindy H. (Métisse), Partie 1, Déclaration publique 53, Winnipeg, Man., p. 21.
- III Cindy H. (Métisse), Partie 1, Déclaration publique 53, Winnipeg, Man., p. 21 et 22.





Dans un deuxième exemple, Cindy H., une témoin métisse, a raconté comment la pauvreté et la marginalisation persistantes ont fait de ses sœurs Julia et Jennifer des cibles.

À l'aube de ses 21 ans, Julia H. a été trouvée nue et inanimée sur la rue Maryland, à Winnipeg, au Manitoba. La nuit précédente, quelqu'un avait mis dans son verre des comprimés pour traiter le diabète; elle était en état de mort cérébrale au moment où Cindy et leur mère sont arrivées à l'hôpital, le lendemain.

Douze ans plus tard, c'est l'autre sœur de Cindy, Julia, qui a été trouvée sur la rue Maryland au milieu de l'hiver. Elle se trouvait à l'extérieur du logement de son conjoint violent, morte de froid. Elle avait été traînée à l'extérieur pendant la nuit, et son corps était couvert d'ecchymoses. Dans les deux situations, la police a indiqué qu'il n'y avait pas grand-chose qu'elle pouvait faire. Aucune accusation n'a été portée dans les deux cas.

Comme nous en discuterons ultérieurement, les gouvernements fédéral et provinciaux ont toujours refusé la responsabilité des Métis. De nombreuses familles métisses ont, par conséquent, été condamnées à la pauvreté. Nombre de femmes et de filles métisses se sont retrouvées malgré elles dans certains des quartiers les plus dangereux des villes, pratiquement sans ressource de soutien et, dans ce cas-ci, sans que justice soit rendue pour les familles endeuillées.



*Ces mocassins ont été fabriqués par feu Irene Richard, qui a été enlevée à sa famille trop tôt. Lorraine se souvient du temps qu'elle a passé à acquérir la maîtrise de cet art auprès de sa mère et de sa grand-mère : « J'ai noué un lien avec ces deux femmes fortes grâce à des récits et à l'utilisation de notre langue... J'associe amour et calme à cette époque. »*



# Michelle S. :

## « Celle que j’admirais »

Lorsque Michelle a disparu, les journaux n’ont même pas mentionné son nom. Sa famille a participé à l’Enquête nationale pour dire à quel point Michelle était une personne forte, déterminée et affectueuse.

« Ma fille, Michelle, elle avait 24 ans lorsqu’elle a disparu et c’était une belle enfant. Depuis qu’elle était bébé, elle souriait tout le temps. Et puis, quand elle est devenue habituée à être une grande sœur, elle a juste... elle aimait Dani à la folie et la même chose avec Tony. Elle était comme la deuxième mère quand je n’étais pas là, vous savez... »

Elle méritait mieux, vous savez. Et vous ne pouvez pas remettre en question le destin. Je le sais bien. Je suppose que je suis juste... je suis ici aussi pour vous rappeler que ma fille n’était pas seulement une prostituée... Elle était aimée, vous savez. Il y a encore beaucoup de gens qui pleurent pour elle, vous savez! »

– Mona S., mère de Michelle S. (Nation Wuikinuxv).  
Témoignage tiré de l’audience communautaire de l’Enquête nationale dans la région métropolitaine de Vancouver, le 6 avril 2018.

« Ma sœur aînée, Michelle, c’est difficile de trouver les mots pour dire ce qu’elle était et ce qu’elle représentait pour ma famille et moi. Elle était intelligente, attentionnée, persévérante, résiliente, belle, gentille et extrêmement sensible. Elle était aussi beaucoup plus que ça.

C’était ma deuxième mère. C’est elle qui me coupait les cheveux, elle qui me faisait à manger quand j’avais faim, elle que j’admirais, elle qui faisait [en sorte que] que mon anniversaire était spécial, elle qui m’aimait et qui s’occupait de moi quand personne d’autre n’était là. Elle adorait les papillons et la Petite Sirène. Elle voulait être coiffeuse. Elle voulait être quelqu’un.

Vers ma fête de 10 ans, ma mère est retombée encore une fois dans la toxicomanie. Elle n’était pas très présente à cette époque et c’était à Michelle de prendre soin de moi. Elle a fait de son mieux. Elle a fait un travail fantastique [...] Michelle [S.] était ma sœur. Elle me manque tous les jours! »

– Anthony S., frère de Michelle S.  
Témoignage tiré de l’audience communautaire de l’Enquête nationale dans la région métropolitaine de Vancouver, le 6 avril 2018.

I Mona S. (Nation Wuikinuxv), Partie 1, Volume public 98, Vancouver, C.-B., pp. 7-8.

II Anthony S. (Nation Wuikinuxv), Partie 1, Volume public 98, Vancouver, C.-B., pp. 38 et 40.



Dans un troisième cas, Michelle S., une femme des Premières Nations habitant Burnaby, en Colombie-Britannique, a dû surmonter plusieurs obstacles pour obtenir les services dont elle avait besoin. Par exemple, lorsque sa mère a divorcé de son père violent, celui-ci avait l'obligation légale de verser une pension alimentaire pour les enfants. Toutefois, l'intervenant responsable du dossier de sa famille a refusé de les aider à obtenir ces fonds. Survivante des pensionnats indiens, sa mère a développé de graves problèmes de dépendance, forçant Michelle, âgée de 18 ans, à tenter de subvenir aux besoins de la famille. Les services de protection de l'enfance sont intervenus, et les plus jeunes ont été placés dans des foyers différents. Étant malheureusement trop vieille pour bénéficier du système de protection de l'enfance, Michelle n'a reçu aucune aide.

Obtenir l'appui de sa bande, la Nation Wuikinuxv, pour participer à un programme d'esthétique a été l'un des grands défis qu'elle a dû relever. En effet, celle-ci finançait l'éducation de ses frères et sœurs, mais rejetait ses propres demandes, désavouant son choix de carrière. Devant le peu d'options s'offrant à elle, Michelle a fini par se prostituer, comme sa mère. En 2007, on l'a retrouvée morte. L'auteur du meurtre n'a jamais été traduit en justice.

Contrairement au cas de Deidre, il y avait bel et bien des services censés aider et protéger la famille de Michelle, tant à l'échelle de la province qu'au sein de sa propre bande. Toutefois, bien des entraves ont empêché Michelle de se prévaloir de ces services, ce qui l'a mise dans une position vulnérable et lui a valu d'être ciblée par la violence.

Ainsi, l'examen des vérités exprimées par les survivantes et les membres de famille, d'un point de vue intersectionnel, nous permet de tenir compte de la façon dont leur identité interagit avec différents systèmes. Ce faisant, nous sommes davantage en mesure d'examiner la façon dont ces systèmes doivent être transformés, de sorte que les gouvernements et les institutions parviennent à moduler des rencontres dangereuses pour en faire des rencontres sécuritaires.

Le recours à une approche intersectionnelle met en contexte l'expérience vécue par une personne et révèle les causes systémiques ou sous-jacentes de la discrimination. La survivante Alaya M. reconnaît ces intersections, ce qui la motive à s'exprimer au nom des autres personnes vivant la même situation :

Cette histoire va encourager [...] j'espère qu'elle encouragera celles qui sont victimisées partout au Canada à... à voir la lumière et à comprendre [...] que ce sont des victimes, mais [aussi], qu'elle les aidera à cerner leurs rôles et leurs responsabilités en délaissant cette victimisation pour adopter un rôle de survivantes, un rôle de guerrières<sup>25</sup>.

Comme l'a expliqué Beverly Jacobs, ancienne présidente de l'Association des femmes autochtones du Canada : « On n'a qu'à s'intéresser à ce que vivent les femmes et les communautés autochtones et à s'en préoccuper. En examinant les intersections entre le racisme et le sexisme, on peut espérer modifier les obstacles systémiques qui se dressent devant l'égalité au sein de notre pays<sup>26</sup> ». Comme M<sup>me</sup> Jacobs l'a montré, la majorité des témoignages que nous avons entendus à propos des systèmes et des institutions soulignait l'importance de comprendre





les expériences vécues par les peuples autochtones, et plus particulièrement les expériences fondées sur le genre vécues par les femmes, les filles et les personnes 2ELGBTQQIA autochtones.

Voir la façon dont différents systèmes font en sorte d’opprimer les femmes, les filles et les personnes 2ELGBTQQIA autochtones s’inscrit dans une approche intersectionnelle d’étude des rencontres. Comme le suggère la chercheuse Nicole Clark, cela signifie dégager « une théorie et une compréhension de la vie quotidienne des jeunes femmes autochtones en contexte<sup>27</sup> ».

Une approche intersectionnelle recadre l’expérience vécue par une personne afin de révéler les causes systémiques ou sous-jacentes de discrimination. Il est essentiel de comprendre les liens entre les systèmes, les institutions et les individus, et la façon dont ceux-ci peuvent contribuer à accentuer les préjugés ou à assurer la sécurité des personnes pour trouver une avenue concrète permettant d’enrayer la violence.

## Les quatre facteurs qui maintiennent la violence coloniale

Comme nous l’examinons en profondeur au chapitre 4, la violence coloniale n’est pas simple. Psychiatre, philosophe et théoricien anticolonial, Frantz Fanon a observé que la violence en contexte de colonisation dépasse les politiques ou les structures administratives orientées vers le contrôle physique. Elle englobe également les tentatives visant à supprimer ou à éliminer les peuples autochtones, de même que les restrictions d’ordre économique<sup>28</sup>. La structure de la violence coloniale, qui a pour objet la destruction et l’assimilation des peuples autochtones, comprend également des structures de ce que le sociologue Pierre Bourdieu appelle la « violence symbolique<sup>29</sup> », y compris les pratiques d’exclusion et l’idée selon laquelle les cultures et les peuples autochtones sont inférieurs, comme l’ont promu les systèmes éducatifs et religieux et, dans un sens plus moderne, les médias.

Dans leurs descriptions des rencontres, les familles et les survivantes qui ont pris la parole dans le cadre de l’Enquête nationale ont toutes rattaché leurs expériences au colonialisme – sous sa forme historique et moderne – par l’une ou l’autre de quatre grands facteurs. Ceux-ci continuent de recréer les manifestations historiques et contemporaines du colonialisme d’une façon qui mène à une violence accrue. Les voici :

- traumatisme historique, multigénérationnel et intergénérationnel;
- marginalisation sociale et économique;
- maintien du statu quo et absence de volonté de la part des institutions;
- refus de reconnaître la capacité d’agir et l’expertise des femmes, des filles et des personnes 2ELGBTQQIA autochtones.

Comme nous le verrons de plus près dans les prochains chapitres, la violence est plus susceptible de se produire lorsque ces quatre facteurs de violence coloniale sont présentes dans la vie des femmes, des filles et des personnes 2ELGBTQQIA autochtones.



## **Le traumatisme historique, multigénérationnel et intergénérationnel**

Tout au long des audiences, les membres de familles et les survivantes ont souvent utilisé le mot « traumatisme » pour décrire la profonde douleur émotionnelle, spirituelle et psychologique, ou les « blessures de l'âme<sup>30</sup> », qu'ils ont ou que leurs proches ont dû supporter après avoir perdu un être cher ou survécu à la violence. De nombreuses personnes autochtones sont touchées par un traumatisme collectif découlant de ces pertes et de bien d'autres, infligées par diverses formes de violence coloniale. Les membres de famille et les survivantes ont affirmé que ce contexte jouait un grand rôle dans la compréhension des causes sous-jacentes de la violence à l'endroit des femmes, des filles et des personnes 2ELGBTQQA autochtones.

La notion de « traumatisme » se caractérise souvent par des conceptions médicales et psychologiques qui mènent à un diagnostic et individualisent la douleur, la souffrance ou toute autre manière dont une personne réagit à une expérience traumatique. Cependant, ces perspectives ne correspondent pas nécessairement aux façons dont les Autochtones conçoivent le préjudice, la guérison, le deuil et le bien-être. Elles ne tiennent pas non plus suffisamment compte de la source de la souffrance des personnes au sein des systèmes qui en sont responsables. Comme nous le verrons dans les prochains chapitres, nombre des témoins des rencontres décrivent des moments où leur proche disparue ou assassinée a été tenue responsable de la violence qu'elle a subie, ou des choix qu'elle a dû faire par la suite pour tenir le coup.

Les praticiens et les chercheurs autochtones ont adapté le concept de « traumatisme » pour reconnaître l'expérience du colonialisme à titre de source. Par exemple, dans son témoignage comme experte lors de l'audience sur le bien-être de l'enfant et de la famille. Amy Bombay a souligné l'importance du concept de « traumatisme historique » mis au point par la travailleuse sociale lakota Maria Yellow Horse Brave Heart pour parler de la « blessure affective et psychologique répétée au cours de la vie et transmise d'une génération à l'autre à la suite d'un traumatisme collectif majeur<sup>31</sup> ».

Brave Heart a également présenté le concept de « réponse au traumatisme historique ». Cette idée recadre les problèmes comme la toxicomanie, les dépendances ou les pensées suicidaires, souvent vus comme des échecs personnels, pour en faire des stratégies de survie face au traumatisme de la violence coloniale<sup>32</sup>. D'autres théoriciens spécialistes de la question parlent de traumatisme « multigénérationnel » et « intergénérationnel » pour insister sur le fait que la violence coloniale crée des expériences traumatiques qui sont transmises d'une génération à l'autre au sein d'une famille, d'une communauté ou d'un peuple<sup>33</sup>.

Comme l'a expliqué D<sup>re</sup> Amy Bombay, ces concepts servent à « mettre en relief les effets cumulatifs de ce traumatisme qui ont été transmis au fil des générations de même que leur interaction avec les facteurs de stress du monde contemporain et les différents aspects de la colonisation comme le racisme<sup>34</sup> ». Selon elle, une bonne compréhension de ces concepts permettra d'apporter un soutien efficace aux victimes et de changer véritablement les choses, « car s'ils ne comprennent pas bien ces concepts, les gens ont tendance à tenir les peuples autochtones responsables des inégalités sociales et en matière de santé dont ils sont victimes et à s'opposer aux politiques qui s'attaquent à ces inégalités<sup>35</sup> ».



Lorsqu'ils ont décrit les rencontres ayant mené à la violence, la quasi-totalité des témoins ont décrit un contexte marqué par le traumatisme multigénérationnel et intergénérationnel de la violence coloniale. Ce traumatisme a été infligé par la perte de territoire, les réinstallations forcées, les pensionnats indiens et la rafle des années 1960. En fin de compte, il a ouvert la voie à une violence accrue, y compris à la crise actuelle marquée par la surreprésentation des femmes autochtones dans le système carcéral et la prise en charge des enfants, en plus de la pauvreté systémique et d'autres facteurs importants.

Dans son témoignage, Carol B. s'est exprimée ainsi quant à l'incidence du traumatisme intergénérationnel sur sa relation avec elle-même et avec les autres : « Le traumatisme intergénérationnel causé par les pensionnats indiens a vraiment eu un impact négatif sur nos familles. Comment pouvez-vous apprendre à vous aimer et à croire en vous quand on vous dit tout le temps... quotidiennement que vous ne valez rien? Et qu'on doit sortir l'Indien de vous. Comment feriez-vous pour vous aimer et croire que vous valez quelque chose<sup>36</sup>? »

Comme le souligne Amy Bombay :

Après que des générations d'enfants [...] ont vécu [...] dans ces pensionnats, ces derniers sont retournés dans leur communauté sans compétences traditionnelles ni accès aux ressources du groupe dominant. Les victimes et les agresseurs ont été renvoyés dans les mêmes communautés, et les effets des traumatismes de même que la modification des normes sociales ont également contribué à perpétuer les cycles d'abus qui ont notamment marqué la période des pensionnats<sup>37</sup>.

Il est devenu évident, au fil des témoignages des fils, filles, nièces, neveux, sœurs, frères, parents et grands-parents d'une proche disparue que la tragédie des femmes, des filles et des personnes 2ELGBTQQIA autochtones disparues ou assassinées perpétue le traumatisme historique et collectif des peuples autochtones. Dans son témoignage, Eva P. décrit le traumatisme qu'elle porte à la suite de la disparition de sa sœur aînée :

Vous savez, je participe à un programme de counseling depuis deux ans. J'ai consulté deux thérapeutes différents. Je vis des hauts et des bas. Je me suis isolée pendant six mois après la disparition de Misty. J'ai failli... j'ai failli mourir. C'est difficile. Et je ne peux même pas imaginer, comme, c'est un problème... à l'échelle du pays, du Canada, et ça touche encore plus de gens. Il y a beaucoup de gens qui sont dans la même situation que moi.<sup>38</sup>

« LE TRAUMATISME INTERGÉNÉRATIONNEL CAUSÉ PAR LES PENSIONNATS INDIENS A VRAIMENT EU UN IMPACT NÉGATIF SUR NOS FAMILLES. COMMENT POUVEZ-VOUS APPRENDRE À VOUS AIMER ET À CROIRE EN VOUS QUAND ON VOUS DIT TOUT LE TEMPS... QUOTIDIENNEMENT QUE VOUS NE VALEZ RIEN? COMMENT FERIEZ-VOUS POUR VOUS AIMER ET CROIRE QUE VOUS VALEZ QUELQUE CHOSE? »

Carol B.





## La marginalisation sociale et économique

Les conditions sociales et économiques dans lesquelles elles vivent constituent une autre cause profonde de la disparition et du décès des femmes, des filles et des personnes 2ELGBTQQIA autochtones. En outre, le peu de pouvoir politique qui leur est accordé par les systèmes et les institutions, et qui les empêche de dénoncer les problèmes, aggrave la situation. Ces conditions sont un résultat direct des démarches actives des gouvernements, des institutions, des politiques et des systèmes coloniaux visant à assurer leur marginalisation sociale, économique et politique. Comme l'ont affirmé de nombreux témoins et comme nous l'aborderons dans les chapitres subséquents, ces conditions trouvent leur origine dans la dépossession historique des terres et dans les politiques actuelles.

La pauvreté, l'itinérance, l'insécurité alimentaire, le chômage et les obstacles à l'éducation et à l'emploi atteignent des taux beaucoup plus élevés chez les Autochtones que chez les non-Autochtones. Chez les femmes, les filles et les personnes 2ELGBTQQIA autochtones, la marginalisation sociale et économique est encore plus répandue. Encore une fois, il est crucial de reconnaître que le taux élevé de pauvreté et ces autres facteurs sont une conséquence des systèmes coloniaux au sein desquels les peuples autochtones tentent de survivre.

De nombreux rapports ont montré que les personnes devant composer avec la pauvreté, le manque de logement, l'insécurité alimentaire, le chômage et d'autres conditions qui rendent difficile la satisfaction des besoins de base présentent un risque beaucoup plus grand d'être la cible d'actes violents. Les témoins qui ont raconté leur histoire dans le cadre de l'Enquête nationale ont fait écho à ces réalités bien connues.

Dans son témoignage, Marlene J. a fait le lien entre son incapacité à trouver un logement sécuritaire et ses multiples expériences de violences sexuelles : « Je dirais que j'étais violée trois parfois quatre fois par semaine. [...] Je ne sais pas. Il faudrait poser la question aux hommes qui m'ont violée. J'essayais simplement de survivre. [...] Parce que j'étais sans abri, ils ont décidé qu'ils allaient profiter de la situation<sup>39</sup>. »

À d'autres occasions, des femmes ont tenté d'être admises dans un refuge, d'obtenir des services de counseling ou d'éducation ou encore d'autres types d'aide dans leur communauté. Elles ont raconté comment la marginalisation sociale et économique au sein d'une communauté augmente le risque d'être victime de nouveaux épisodes de violence. La travailleuse de première ligne Connie Greyeyes, par exemple, a décrit les obstacles particuliers que doivent surmonter les femmes autochtones qui vivent dans des communautés du Nord où les villages sont devenus des rouages au service d'une économie de développement des ressources. Elle a expliqué qu'en raison de l'absence de refuges et de maisons de transition et à cause du coût de la vie élevé dans le Nord, « il est presque impossible qu'une femme puisse quitter une relation sans ensuite vivre dans une pauvreté extrême<sup>40</sup> ». Elle a poursuivi en décrivant la façon dont cette vulnérabilité économique diminue la sécurité physique des femmes qui vivent de la violence conjugale : « Pour plusieurs femmes, une dispute avec leur conjoint peut les envoyer à la rue à tout moment<sup>41</sup>. »



Les témoignages qui ont exposé le contexte entourant la disparition ou la mort d'une proche ont clairement démontré que les relations étaient utilisées pour priver les femmes, les filles et les personnes 2ELGBTQQIA autochtones de leurs besoins fondamentaux et que c'est ce refus d'assurer leur sécurité sociale et économique qui les a exposées à la violence.

### **Le maintien du statu quo et l'absence de volonté de la part des institutions**

Dans leur description des facteurs et des contextes ayant mené à la violence dans leur propre vie ou dans celle de leurs proches, les survivantes et les membres de famille ont expressément cité le rôle des institutions et des systèmes dans la création des conditions qui favorisent l'émergence de la violence.

Dans le récit de leurs interactions avec les systèmes de protection de l'enfance, de justice ou de santé, ainsi qu'avec les services de police, les écoles et les universités, et même avec certains organismes de défense des droits et de lutte contre la violence, les témoins ont généralement relaté avoir fait l'expérience d'une culture institutionnelle qui traitait leurs difficultés dans une perspective strictement individuelle au lieu de reconnaître qu'elles étaient le reflet des façons dont l'organisation elle-même contribuait à perpétuer les stéréotypes à l'égard des Autochtones. Comme l'a expliqué Delores S. :

Les systèmes concernés ont tous jeté le blâme sur Nadine. Les représentants l'ont fait savoir par leur langage corporel, les mots qu'ils employaient et leur attitude lorsqu'ils parlaient aux familles. Leur insensibilité devant la famille et leur manque de compassion devant les importantes blessures de Nadine sont des exemples de leurs attitudes et de leurs préjugés qui sont fermement ancrés<sup>42</sup>.

Lorsque les institutions abordent les obstacles que doivent surmonter les peuples autochtones comme des problèmes ou des échecs personnels, elles échouent à protéger les personnes mêmes qu'elles doivent servir. Encore une fois, à la suite de mauvaises expériences avec la police, de nombreux témoins ont affirmé ne plus se sentir à l'aise de faire appel à cette dernière lorsqu'ils sont en danger, par crainte que les policiers contribuent à la violence déjà subie. Ces histoires marquées par la violence – et la prédation en toute impunité – expliquent en grande partie la réticence des femmes, des filles et des personnes 2ELGBTQQIA autochtones à avoir confiance envers les institutions.



*La commissaire Lucki, de la Gendarmerie royale du Canada, témoigne à Regina, en Saskatchewan.*

Dans leurs rencontres avec les différentes institutions, les femmes, les filles et les personnes 2ELGBTQQIA autochtones sont souvent victimes de racisme, de sexisme et d'autres formes de discrimination. Elles vivent également de la discrimination dans le reste de leur vie, dans leurs interactions quotidiennes avec différentes personnes et par les façons dont on les représente dans les médias. Dans le cadre du processus de l'Enquête nationale, nombre de familles et de survivantes ont décrit des situations où les institutions et leurs employés elles étaient la source d'autres actes de violence physique, sexuelle et psychologique. Ces abus découlent selon elles de stéréotypes à propos des peuples autochtones.

De nombreux témoins ont souligné l'absence flagrante de volonté morale et politique d'apporter de vrais changements aux institutions qui perpétuent encore aujourd'hui la violence sous toutes ces formes. À leurs yeux, l'échec des gouvernements et des institutions à donner suite aux nombreuses recommandations connues et formulées depuis longtemps par les militants, les organismes communautaires et différentes commissions gouvernementales est la preuve de cette absence de préoccupation véritable à l'égard de la violence subie par les femmes, les filles et les personnes 2ELGBTQQIA autochtones, y compris l'utilisation incohérente d'une analyse sexospécifique et culturellement pertinente dans les programmes et les politiques du gouvernement<sup>43</sup>. Cette indifférence empêche l'établissement de relations positives et rend plus difficile l'évolution de relations préjudiciables en relations plus saines.

### **Le refus de reconnaître la capacité d'agir et l'expertise des femmes, des filles et des personnes 2ELGBTQQIA autochtones**

Pour expliquer le contexte entourant la violence qu'elles ont subie et les raisons pour lesquelles cette violence s'est poursuivie si longtemps, plusieurs témoins ont décrit l'expérience de rencontres au cours desquelles le savoir, l'expertise et la capacité d'agir des femmes, des filles et des personnes 2ELGBTQQIA autochtones ont été ignorés. Ce refus d'accorder de l'importance aux connaissances et aux capacités des femmes, des filles et des personnes 2ELGBTQQIA autochtones est une autre preuve de la nécessité de rebâtir les relations.





Les femmes, les filles et les personnes 2ELGBTQQIA autochtones ont fait don à l'Enquête nationale d'innombrables vérités. Ces dernières démontrent clairement qu'elles sont toutes – y compris celles dont la vie a été façonnée par la violence – des leaders, des enseignantes, des guérisseuses, des pourvoyeuses et des protectrices puissantes, bienveillantes et pleines de ressources, et plus encore. Elles ont prouvé qu'elles comprenaient les facteurs pouvant renforcer la sécurité et démontré à quel point elles étaient engagées, actives et capables d'agir pour contribuer à réduire la violence. En outre, elles nous ont rappelé maintes et maintes fois que l'Enquête nationale est elle-même le résultat du travail acharné et créatif de femmes, de filles et de personnes 2ELGBTQQIA autochtones qui luttent depuis des années pour faire entendre leur voix et leurs histoires et pour que soient mises en place leurs propres solutions à la tragédie de la violence qu'elles affrontent au quotidien.

Les femmes, les filles et les personnes 2ELGBTQQIA autochtones ont des solutions pour mettre un terme à la violence dans leur vie, à la fois sur le plan individuel et, dans bien des cas, à l'échelle de la communauté. Malheureusement, leurs histoires témoignent d'une multitude de rencontres où des personnes et des institutions (des gouvernements, des institutions, des agences dont l'approche relève du colonialisme), les ont sciemment empêchées de présenter des solutions et d'apporter leur contribution à un véritable changement.

Comme nous en faisons état dans le présent rapport, ce refus de valoriser la sagesse, le savoir et l'expertise des femmes, des filles et des personnes 2ELGBTQQIA autochtones prend de nombreuses formes. Il peut s'agir de la façon dont les médias décrivent une survivante en s'attardant sur son « mode de vie dangereux » plutôt qu'à ses nombreuses réalisations. Ou encore de politiques bureaucratiques qui refusent de financer des organismes communautaires de femmes autochtones. Enfin, cette attitude peut se manifester par une croyance généralisée selon laquelle, par exemple, les femmes autochtones vivant dans la pauvreté ne peuvent apporter une contribution essentielle au sein d'un comité ou d'une initiative œuvrant pour le changement. Dans tous ces cas de figure, ont souligné les témoins, le fait de rejeter, ne serait-ce qu'un instant, la force, la sagesse et la capacité d'agir des femmes, des filles et des personnes 2ELGBTQQIA autochtones engendre une forme de violence à leur égard.



*À Calgary, en Alberta, l'Union of British Columbia Indian Chiefs présente ses observations finales en tant que partie ayant qualité pour agir.*

## Les femmes, les filles et les personnes 2ELGBTQQIA autochtones en tant que titulaires de droits

Il est clair que nous devons insister pour que les solutions visant à mettre un terme à la violence contre les femmes, les filles et les personnes 2ELGBTQQIA autochtones soient axées sur l'élimination des causes systémiques sous-jacentes de la violence comme celles dont nous venons de discuter. Cependant, des recommandations portant précisément sur des causes profondes ont déjà été formulées à maintes reprises, et peu de choses ont changé.

Exaspérées que tant de recommandations formulées antérieurement soient demeurées lettre morte, et en raison de l'absence de mesures concrètes visant à s'attaquer aux conditions sous-jacentes qui perpétuent la violence, de nombreuses voix, dont celles de femmes, de filles, de personnes 2ELGBTQQIA et d'organisations autochtones ont réclamé que l'Enquête nationale adopte une approche fondée sur le genre et qu'elle considère la disparition et la mort des femmes, des filles et des personnes 2ELGBTQQIA autochtones comme une forme de violation de leurs droits en tant qu'Autochtones et de leurs droits de la personne. Tel que mentionné dans notre rapport provisoire :

La colonisation a eu un effet dévastateur sur tous les peuples autochtones, mais les situations vécues par les femmes et les filles inuites, métisses, et des Premières Nations, ainsi que par les Autochtones qui ne s'identifient pas uniquement comme homme ou comme femme, sont différentes, à certains égards, de celles vécues par les hommes et les garçons. En nous appuyant sur ces rapports et en mettant l'accent sur la vision des femmes, nous pouvons recadrer la façon dont nous percevons les femmes et les filles autochtones. Elles ne sont pas que des « victimes » ou des survivantes de la violence coloniale : elles ont des droits inhérents, des droits constitutionnels, des droits issus de traités et des droits de la personne qui sont encore bafoués<sup>44</sup>.



Ce message s'inscrit dans nos démarches d'analyse des rencontres et des relations où se vivent les situations de violence : non seulement les rencontres nous offrent-elles des enseignements à propos des causes de la violence, mais elles nous montrent également la façon dont les droits autochtones et les droits de la personne des femmes, des filles et des personnes 2ELGBTQQIA autochtones sont protégés ou, au contraire, bafoués.

Tout au long du rapport final, nous axerons notre discussion sur ces rencontres et leurs causes profondes en relation avec les droits des Autochtones et les droits de la personne et nous examinerons les principales violations historiques et contemporaines de ces droits dans quatre domaines : le droit à la culture, le droit à la santé, le droit à la sécurité et le droit à la justice. Ces thèmes jouent non seulement un rôle important dans la discussion sur les droits de la personne et les droits autochtones, ils établissent également les fondements de la lutte contre cette violence dont l'ampleur en fait une véritable tragédie. Ils ne sont pas présentés par ordre de priorité ni d'importance; en fait, les témoignages montrent l'interrelation entre ces idées et priorités ainsi que la nécessité de les voir comme des droits interdépendants et indivisibles.

Pour chacun de ces quatre domaines de violation des droits, nous examinons, sous l'angle du droit humanitaire international et celui du savoir autochtone, les droits des femmes, des filles et des personnes 2ELGBTQQIA autochtones. Ces droits comprennent l'éventail complet des droits socioéconomiques et politiques qu'il importe de considérer pour qu'un changement majeur s'opère. Autrement dit, lorsque nous parlons de culture, nous parlons aussi de l'ensemble des outils, mesures d'aide et ressources nécessaires pour permettre la réalisation complète de ces droits, y compris les droits sociaux, économiques et politiques. Ceux-ci sont inévitablement vastes, en raison de la grande diversité des peuples autochtones qui ont exprimé, par leur vérité, l'importance d'assurer le respect des droits fondamentaux, en plus de mettre en œuvre des mesures spécifiques dans des domaines clés comme l'éducation, le logement, le droit à un niveau de vie suffisant et les services de santé. Les peuples autochtones ont leur propre compréhension des droits, fondée sur leurs lois, leurs systèmes de savoirs traditionnels et leurs visions du monde, qui sont souvent exprimés dans des histoires. Ceux-ci ne sont pas déterminés par des accords internationaux, les lois du Canada ou les jugements de la Cour suprême. Ils sont l'expression du pouvoir et de la place des femmes, des filles et des personnes 2ELGBTQQIA autochtones.

Parallèlement, il existe un éventail d'instruments relatifs aux droits de la personne se rapportant à ces thèmes et qui peuvent offrir un outil de responsabilisation et de décolonisation, pour autant qu'on inscrive ces solutions dans le contexte des quatre causes profondes de la violence, soit le traumatisme intergénérationnel découlant de la colonisation, la marginalisation, l'absence de volonté institutionnelle et le fait de ne pas reconnaître l'expertise et la capacité d'agir des femmes.





Dans les chapitres qui suivent, nous examinerons en profondeur ce que révèlent les témoignages des membres de famille et des survivantes à propos de chacun de ces droits. Voici néanmoins un aperçu de l'utilité d'aborder les rencontres et les relations qui en découlent sous l'angle des droits de la personne, des droits des Autochtones, des lois autochtones et des modes de connaissance autochtones tels qu'ils s'expriment à travers les récits. Cette approche fait émerger une nouvelle façon, très efficace, de s'attaquer aux causes profondes, historiques et contemporaines de la violence contre les femmes, les filles et les personnes 2ELGBTQQIA autochtones aujourd'hui.

## Le droit à la culture

Les droits culturels sont inséparables des droits de la personne, comme le reconnaît la *Déclaration universelle sur la diversité culturelle* de l'UNESCO de 2001, ainsi que des droits autochtones, comme le précisent divers instruments dont, tout récemment, la *Déclaration des Nations Unies sur les droits des peuples autochtones* (DNUDPA). Ils sont également indissociables des droits sociaux et politiques nécessaires à leur pleine jouissance.



À Winnipeg, au Manitoba, une petite fille ouvre les procédures en interprétant une danse de la robe à franges.

De façon générale, le droit à la culture et à l'identité se définit comme le fait d'avoir accès à sa culture, d'y participer et d'en profiter, ce qui comprend le droit des personnes et des communautés de connaître, de comprendre, de visiter, d'utiliser, de conserver, d'échanger et de développer leur héritage culturel et leurs expressions culturelles ainsi que de profiter de l'héritage et des expressions culturelles des autres. Cela comprend par ailleurs le droit de participer à

la détermination, à l'interprétation et au développement de l'héritage culturel de même qu'à la conception et à la mise en œuvre des politiques et de programmes qui protègent cette culture et cette identité. D'autres droits de la personne, comme le droit à la liberté d'expression, le droit à l'information et le droit à l'éducation, sont également essentiels à la pleine réalisation des droits culturels. Comme l'ont montré les témoignages, la séparation des familles, les réalités historiques et contemporaines des politiques coloniales axées sur l'assimilation et le génocide ainsi que



l'absence de services adaptés sur le plan culturel, entre autres dans les domaines de la guérison et de la justice, qui continuent de mettre en danger les femmes, les filles et les personnes 2ELGBTQQIA autochtones, rattachent directement le droit à la culture et à l'identité à la tragédie qui afflige celles-ci. Le racisme, tout comme la tentative de perturber la culture, favorise l'émergence de la violence contre les femmes, les filles et les personnes 2ELGBTQQIA autochtones.

Comme nous le verrons plus en détail au prochain chapitre, la majorité des sociétés autochtones placent le savoir lié à la culture au cœur de leurs visions du monde. Selon notre approche, le droit des femmes, des filles et des personnes 2ELGBTQQIA autochtones à la culture et à l'identité étroitement lié à leurs rôles et responsabilités comme leaders et enseignantes au sein des communautés. Les récits traditionnels des Nations de partout au pays témoignent du rôle de leaders et d'enseignantes des femmes et des personnes 2ELGBTQQIA. Celles-ci veillent à la transmission de la culture et de l'identité au sein de leur peuple. Elles contribuent à renforcer et à maintenir l'identité collective. Dans plusieurs cas, ce rôle est compromis, comme en font état de nombreux témoignages. Certains d'entre eux ont par exemple illustré de quelle façon les pratiques contemporaines des services de protection de l'enfance font directement obstacle à cette transmission et comment une meilleure compréhension culturelle peut renforcer la sécurité.

Les femmes, les filles et les personnes 2ELGBTQQIA autochtones possèdent le droit inhérent à leur propre culture et à leur propre identité, et le droit de transmettre cette culture et cette identité au sein de leurs familles et de leurs communautés en assurant la pleine mise en œuvre des droits économiques, sociaux et politiques pouvant contribuer à la préservation des pratiques et du savoir culturels.

## **Le droit à la santé**

Lorsque les droits à la culture et à l'identité sont compromis, le droit à la santé s'en trouve également menacé. En concordance avec les visions du monde autochtones, nous définissons la santé comme un état holistique de bien-être, sur les plans mental, émotionnel, physique et spirituel. Ainsi, la santé ne constitue pas seulement l'absence d'une maladie ou d'une invalidité.

Le droit à la santé est lié à d'autres droits fondamentaux, comme l'accès à l'eau potable et à des infrastructures adéquates dans les communautés. De façon plus générale, le droit à la santé vise plutôt la prévention des préjudices envers les autres, la protection de la santé des enfants et des famille ainsi que la santé mentale. Nous reconnaissons que l'absence de services adaptés sur le plan culturel, l'absence de services dans la communauté et d'autres facteurs liés à la santé placent les femmes, les filles et les personnes 2ELGBTQQIA autochtones dans des situations de vulnérabilité où elles deviennent la cible d'actes violents.

Pour de nombreux groupes, les perspectives autochtones en matière de droit à la santé des femmes, des filles et des personnes 2ELGBTQQIA autochtones sont fondées sur le rôle, les responsabilités et les droits connexes qu'elles détiennent en tant que guérisseuses. Différents récits montrent que les femmes et les personnes de diverses identités de genre jouent un rôle essentiel à la création d'un milieu communautaire sain. En tant que guérisseuses, elles disposent



de compétences particulières leur permettant de répondre à divers besoins physiques, psychologiques, émotionnels et spirituels, y compris leurs propres besoins en tant que femmes, filles et personnes 2ELGBTQQIA. Ce faisant, elles apportent une contribution essentielle à la santé et à la cohésion de la communauté dans son ensemble.

Les femmes, les filles et les personnes 2ELGBTQQIA autochtones possèdent le droit inhérent à leur propre santé et à leur propre bien-être ainsi que le droit d'utiliser leur expertise et leurs propres outils afin de veiller à la santé et au bien-être de leur famille et de leur communauté. Elles doivent aussi bénéficier de l'ensemble des droits de la personne en matière de soins de santé.

### **Le droit à la sécurité**

De nombreuses rencontres relatées portaient sur le droit fondamental à la sécurité. Par droit à la sécurité, nous entendons un droit physique ainsi qu'un droit social.

D'un point de vue physique, le droit à la sécurité comprend le droit à la vie, à la liberté et à la sécurité personnelle, y compris la prise en charge de sa propre santé physique et mentale ainsi que la protection de son intégrité psychologique. Au Canada, la *Charte canadienne des droits et libertés* protège les individus contre les préjudices psychologiques graves perpétrés par l'État. En matière de sécurité sociale à l'échelle internationale, le droit à la sécurité signifie que l'État doit offrir des services de protection ou une assistance de service social, et garantir la protection de l'ensemble de la population au moyen de services essentiels comme la santé, le logement et l'accès à l'eau, à la nourriture, à l'emploi, à des moyens de subsistance et à l'éducation. Cet aspect redistributif fait que le droit à la sécurité sociale représente un facteur important de la santé et de l'harmonie d'une communauté et de la réduction de la pauvreté.

Le droit à la sécurité des femmes, des filles et des personnes 2ELGBTQQIA autochtones est étroitement lié à leurs rôles, leurs responsabilités et leurs droits en tant que pourvoyeuses et protectrices. Les récits traditionnels montrent que les femmes, les filles et les personnes de diverses identités de genre autochtones détiennent d'importantes responsabilités permettant d'assurer la sécurité des communautés. Elles sont notamment responsables de subvenir à leurs propres besoins et à ceux de leur communauté, de protéger les personnes vulnérables, de gérer et de redistribuer les ressources au besoin, et de se faire les gardiennes et défenseuses de l'eau, de la terre, de la flore et de la faune dont nous dépendons.

Les femmes, les filles et les personnes 2ELGBTQQIA autochtones ont le droit inhérent à la sécurité dans leur propre vie, ainsi que le droit de participer directement au maintien de cette sécurité pour elles-mêmes et pour les autres, en fonction de leur propre compréhension et dans le respect de l'ensemble des droits économiques, sociaux et politiques pouvant contribuer à accroître la sécurité.

### **Le droit à la justice**

Comme l'ont illustré de nombreux témoignages, les interactions des femmes, des filles et des personnes 2ELGBTQQIA autochtones avec le système de justice sont source d'importantes difficultés. Les obstacles à la justice prennent plusieurs formes, notamment l'isolement des





victimes en raison de services inadéquats à leur égard, les mesures inadéquates ou inexistantes pour surmonter les barrières linguistiques et la façon dont les victimes autochtones sont présentées ou ignorées par les médias. Les femmes, les filles et les personnes 2ELGBTQQIA autochtones font également l'objet d'interventions policières excessives et sont trop souvent incarcérées à titre de délinquantes potentielles, alors qu'elles sont sous-protégées en tant que victimes de crime.

Ces obstacles révèlent autant de domaines où s'opère une véritable « déconnexion » entre les peuples autochtones et le système de justice du Canada, entre les promesses d'une justice impartiale que le système est censé garantir et le fonctionnement réel de ce système. Dans les chapitres subséquents, nous présenterons de nombreuses rencontres transformatrices entre les Autochtones et le système de justice de même que les problèmes persistants en matière d'accès et les contraintes institutionnelles qui constituent des obstacles à la justice pour les peuples autochtones et qui menacent la légitimité de ce système.

Le droit à la justice des femmes, des filles et des personnes de diverses identités de genre autochtones est aussi lié à leurs rôles en matière de protection des communautés. Les différents récits nous montrent qu'elles ont lutté pour se protéger et protéger les autres contre la violence. Parmi les histoires entendues, de nombreuses femmes, filles et personnes de diverses identités de genre sont des survivantes et de véritables héroïnes – des personnes qui mettent leur vie en danger pour protéger celle des autres.

Les femmes, les filles et les personnes 2ELGBTQQIA autochtones ont le droit inhérent de vivre à l'abri de la violence et des injustices. Si ce n'est pas le cas, elles ont le droit d'exiger que cette violence cesse et soit dénoncée. Si elles le souhaitent, elles ont aussi le droit d'être soutenues dans leurs démarches visant à lutter contre cette violence. Ces droits existent à la fois d'une manière propre aux peuples autochtones et dans le cadre des droits fondamentaux de la personne, dont l'existence même vise à éradiquer la violence contre les femmes en général et les femmes, les filles et les personnes 2ELGBTQQIA autochtones en particulier.

## La promotion et le maintien de rencontres saines

Ces thèmes – tout comme les rencontres vécues par les femmes, les filles et les personnes 2ELGBTQQIA autochtones dans les domaines de la culture, de la santé, de la sécurité et de la justice – montrent comment des solutions imposées, créées par des gouvernements ou des organismes qui n'accordent pas la priorité au savoir des peuples autochtones, sont condamnées à l'échec. Les droits à la culture, à la santé, à la sécurité et à la justice s'appuient sur un autre droit fondamental : le droit à l'autodétermination. Nous interprétons le droit à l'autodétermination dans un contexte autochtone, un contexte propre aux Nations, aux communautés et, surtout, aux femmes.

Pour cette raison, ce rapport montrera comment, au cœur de ces histoires de rencontres si importantes aux yeux des familles et des survivantes, se trouvent des paroles fortes et des actes courageux – des rencontres et des relations qui mènent à la guérison. En partageant le récit de ces rencontres ainsi que le contexte relationnel plus large qui façonne leur identité, les témoins ont



rappelé aux commissaires et leur ont enseigné en quelque sorte la force, la résistance, la créativité et le pouvoir des femmes, des filles et des personnes 2ELGBTQQIA autochtones qui parviennent à s'exprimer dans un système de relations qui met tout en œuvre pour les en empêcher.

Pour illustrer cette résistance, revenons à la description que Carol a faite de sa première rencontre avec la police : devant l'indifférence du policier, Carol n'a pas tout bonnement quitté les lieux, comme l'aurait peut-être souhaité l'agent. Elle a fait tout autrement : « J'ai abattu ma main sur le comptoir » afin que l'agent lui prête attention. Mais il a continué de l'ignorer : « Une fois de plus, j'ai martelé le comptoir. » Le lendemain, elle est retournée au poste de police avec un interprète et a passé les cinq années suivantes à militer avec détermination en faveur des familles des femmes et des filles autochtones disparues et assassinées.

La résistance et la force dont elle a fait preuve ne diminuent en rien la douleur qu'elle ressent suite à la perte de sa fille, décédée en raison de la violence, ni la colère qu'elle exprime face au refus d'agir du policier pendant cette première rencontre cruciale. Toutefois, l'histoire qu'elle a racontée devant l'Enquête nationale envoie un puissant message à ceux et à celles qui choisissent d'agir de la même façon méprisante : les relations dans lesquelles les personnes en position d'autorité ou de pouvoir abusent de ce pouvoir pour réduire au silence les femmes autochtones et les empêcher de se protéger et de protéger leurs proches contre la violence ne seront plus tolérées. La tâche de transformer ces relations n'incombera plus à ceux qui, pendant trop longtemps, n'ont absolument rien fait dans cette optique.

Fay Blaney, Gardienne du savoir Xwémalhkwa (Homalco), explique : « Je crois fermement au pouvoir des femmes autochtones qui travaillent ensemble pour trouver des solutions.<sup>45</sup> »

Elle poursuit :

Chaque fois... qu'on parle des questions touchant les femmes, on me dit : « Eh bien, qu'en est-il de l'équilibre? » Je pense que nous devons vraiment tenir compte du fait qu'il n'y a pas d'équilibre dans nos communautés. Il faut que quelqu'un prenne la parole pour le dire, il n'y a pas d'équilibre en ce moment.

Ce sont les hommes qui contrôlent la sphère privée et la sphère publique, et la sphère privée est l'unité familiale où, vous savez, nous avons notre statut d'Indien grâce aux hommes dans nos vies. J'ai le statut Indienne grâce à mon mari, et avant cela, j'avais le statut d'Indienne grâce à mon père. Et donc, dans notre monde, les hommes ont toutes les cartes en main et nous n'en avons aucune.

Je crois qu'il faut réfléchir sérieusement à ce dont nous parlons quand nous évoquons la notion d'équilibre et quand nous affirmons vouloir rétablir cet équilibre. Décolonisons plutôt en rétablissant nos traditions matriarcales<sup>46</sup>.

Comme le révèle le témoignage de M<sup>me</sup> Blaney, pour comprendre le droit à l'autodétermination, il faut notamment comprendre de quelle façon les institutions patriarcales, durant la colonisation jusqu'à aujourd'hui, ont empêché les femmes et les personnes 2ELGBTQQIA de prendre part au processus décisionnel.



Le droit à l'autodétermination peut prendre plusieurs formes, notamment le pouvoir de conserver sa culture devant la menace de l'assimilation et le droit des enfants à être élevés dans leur propre langue et selon leur propre culture. Il comprend également la capacité à faire des choix dans l'intérêt de son groupe et au sein de celui-ci, ce qui englobe les droits socioéconomiques et politiques. Pour les femmes, l'autodétermination signifie également qu'elles doivent activement travailler à mettre au point des solutions qui répondent à leurs besoins et qui reposent sur leur propre expérience. Cela ne veut pas dire pour autant que les hommes soient exclus de cette conversation – bien au contraire –, mais, comme l'a mentionné Fay Blaney, les solutions doivent avant tout provenir des femmes.

À l'intérieur de notre approche visant à améliorer les rencontres, l'autodétermination implique également que nous révisions fondamentalement notre façon d'envisager les relations afin qu'elles permettent la pleine jouissance des droits qui doivent s'appliquer à tous les aspects de la vie personnelle et communautaire. Cette vision va bien au-delà de la conception proposée par les structures gouvernementales et par l'approche simpliste « nous-eux ». De nombreuses personnes ont témoigné des efforts qu'il reste à déployer dans les communautés, ainsi qu'au sein des gouvernements autochtones et des gouvernements colonisateurs.

Afin de trouver des solutions autodéterminées pour lutter contre la tragédie des femmes, des filles et des personnes 2ELGBTQQIA autochtones disparues et assassinées, il faut donc conceptualiser les droits comme tirant leur source des relations, plutôt que des contrats, et comprendre qu'il faut s'intéresser, d'abord et avant tout, aux relations que nous entretenons les uns avec les autres.

Le fait de voir la tragédie des femmes, des filles autochtones et des personnes 2ELGBTQQIA comme une tragédie fondée sur les relations significatives offre un nouveau point de vue sur la façon dont les systèmes, les structures, les politiques et les personnes ciblent les femmes, les filles et les personnes 2ELGBTQQIA autochtones. Cette approche fondée sur les rencontres et les relations met également l'accent sur les possibilités de changement à tous les niveaux, et non seulement à l'échelle de l'État ou du gouvernement. De même, son optique très nette – un appel à la justice – permet d'imaginer un avenir nouveau et prometteur, dans lequel on assure la sécurité, la santé et la guérison des femmes, des filles et des personnes 2ELGBTQQIA autochtones et des familles qui ont perdu un être cher.

Les rencontres et les relations, dans le cadre du droit à l'autodétermination, présentent un potentiel de changement à tous les niveaux. Bien que les droits de la personne soutenus par l'État puissent aider à responsabiliser les gouvernements, il est important de bien comprendre les concepts de droits des Autochtones et de droits de la personne pour comprendre également comment les solutions doivent être fondées sur de nouvelles relations, réciproques et renouvelées, qui reconnaissent les liens qui nous unissent les uns aux autres. C'est ici que nous trouvons le pouvoir. Que nous trouvons notre place.





« JE CROIS DONC FERMENT AU POUVOIR DES FEMMES AUTOCHTONES QUI TRAVAILLENT ENSEMBLE POUR TROUVER DES SOLUTIONS. »

Fay Blaney

## Conclusion : unifier le tout

Dans ce chapitre, nous avons exposé le cadre et l'approche mis de l'avant par l'Enquête nationale afin de bien comprendre les vérités exprimées au cours de nos travaux. Entre autres, il a fallu comprendre que les femmes, les filles et les personnes 2ELGBTQQIA autochtones possèdent des droits, en tant qu'être humain et comme personne autochtone, dans des domaines clés liés et à la justice. Ces droits sont aussi liés aux modes autochtones de connaissance, de compréhension et d'établissement de relations. Ce cadre propose quatre causes profondes de la violence, soit le traumatisme intergénérationnel, la marginalisation sociale et économique, l'absence de volonté institutionnelle et politique, et le refus de reconnaître l'expertise et la capacité des femmes autochtones à déterminer elles-mêmes les solutions.

Cependant, relier l'interprétation de l'ensemble de ces causes à un seul secteur gouvernemental ou domaine de la prestation de services ne suffit pas à saisir pleinement pourquoi les femmes, les filles et les personnes 2ELGBTQQIA autochtones sont ciblées. De tous les fils qui tissent la trame des vérités entendues par l'Enquête nationale, c'est l'importance des relations qui demeure la clé permettant de comprendre réellement chaque histoire.

Les relations comptent, car elles peuvent mener à la santé ou aux préjudices, à la vie ou à la mort. Et lorsqu'elles se forment – dans les moments de rencontre que tant de personnes ont définis comme préjudiciables ou dommageables –, des perspectives plus florissantes et de meilleurs résultats pour les femmes, les filles et les personnes 2ELGBTQQIA autochtones deviennent possibles.

Les femmes, les filles et les personnes 2ELGBTQQIA autochtones sont la cible de la violence coloniale qui se trouve au cœur des institutions, des structures et des systèmes. Elles subissent également de la violence interpersonnelle, là où ces rencontres se produisent. Bien souvent, cette violence a été imposée de façon inattendue. Dans d'autres cas, la violence contre les femmes, les filles et les personnes 2ELGBTQQIA autochtones résulte de systèmes et de gestes d'oppression qui, ensemble, ont créé les conditions favorables à faire d'elles une cible. Le Dr Barry Lavalley,



médecin de famille spécialisé en santé autochtone et en pratique nordique et chef de file dans la formation aux futurs médecins, explique :

Les femmes autochtones ne sont pas vulnérables, les femmes autochtones sont des cibles de la violence au sein d'une société laïque. En médecine, être vulnérable veut dire que, si j'irradie votre corps et que vous n'avez plus de cellules, vous êtes vulnérable à une infection. Mais être vulnérable au meurtre en raison de sa couleur, de la place qu'on occupe et du fait qu'on est Autochtone, c'est être ciblé. C'est une forme active d'oppression des femmes autochtones<sup>47</sup>.

Comme en ont fait la preuve les témoins et comme nous le montrerons tout au long de ce rapport, être véritablement attentif à ce qui se produit dans une relation permet d'obtenir de l'information importante sur les contextes, les institutions, les croyances, les valeurs et les personnes qui se réunissent d'une manière ou d'une autre pour nouer des relations qui engendrent la violence contre les femmes, les filles et les personnes 2ELGBTQQIA autochtones. En mettant l'accent sur les relations et les rencontres, le présent rapport met en lumière des moments précis où surviennent la violence et la violation des droits des Autochtones et des droits de la personne qui s'ensuit, ainsi que des moments où d'autres avenues sont possibles. En consignnant ces rencontres, ce rapport souligne l'importance d'une reddition de compte de la part des gouvernements, et ce, à tous les niveaux, et d'une évaluation réaliste de la violence qui continue d'être présente dans la vie des femmes, des filles et des personnes 2ELGBTQQIA autochtones.

Pour changer les choses, il faut d'abord reconnaître l'importance de ces interactions. En comprenant cela, on comprend également que l'avenir passe par la transformation de ces rencontres dans nos propres relations, à tous les niveaux de la société.

Les moments de rencontre sont autant d'enseignements à propos des relations. En mettant l'accent sur ces enseignements, le présent rapport vise à dépasser le simple fait de documenter l'ampleur et la nature de la tragédie des femmes et des filles autochtones disparues et assassinées. Nous cherchons plutôt à sortir des cadres et des discours enracinés dans les structures coloniales et bureaucratiques. Nous voulons refléter la force et la résilience que l'on peut trouver dans les valeurs, les cultures et l'identité des femmes, des filles et des personnes 2ELGBTQQIA autochtones elles-mêmes, et dans les relations qui s'amorcent chaque jour.

« LES FEMMES AUTOCHTONES NE SONT PAS VULNÉRABLES, LES FEMMES AUTOCHTONES SONT DES CIBLES DE LA VIOLENCE AU SEIN D'UNE SOCIÉTÉ LAÏQUE. »

D<sup>r</sup> Barry Lavallée



## 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, » le 15 octobre 2017, 1. Consulté le 8 septembre 2018. <https://www.leaf.ca/wp-content/uploads/2017/11/Cardinal-Inquiry-IAAW-and-LEAF-Final-Submission-Oct-15.pdf>.
- 2 Les sociétés des Premières nations, métisses et Inuites ont leurs propres conceptions de la diversité des identités de genre qui diffèrent de celles des pays occidentaux. En raison du large éventail de conceptions existant au sein des peuples autochtones, l'Enquête nationale utilise le terme générique « personnes de sexes différents » pour désigner des exemples de diversité de genre à travers différentes périodes, des contextes et des peuples. Le terme « personne bispirituelle » provient d'une conférence gaie et lesbienne autochtone en 1990 et a été choisi pour être un terme générique culturellement approprié pour les Premières nations, qui pourrait remplacer le terme plus péjoratif de « berdache ». L'Enquête nationale utilise l'acronyme de 2ELGBTQQA (bispirituel, lesbienne, gay, bisexuel, transgenre, queer, questionnement, intersexuel et asexuel) pour désigner une communauté moderne composée de personnes de divers sexes, y compris des Inuits très diversifiés, reconnaissant toutefois les limites de tout acronyme.
- 3 Mavis Windsor (Nation Heiltsuk), Partie 1, Volume public 90, Vancouver, C.-B., p. 21. Dans ce chapitre, comme dans tous nos chapitres, la citation est tirée de la transcription officielle de la langue dans laquelle la personne a témoigné, même si la citation a été traduite.
- 4 Sandra Montour (Clan de la tortue, Mohawk), Partie 2, Volume public 4, Calgary, Alb., p. 211.
- 5 Marilyn W. (Crie), Partie 1, Volume public 30, Saskatoon, Sask., p. 18.
- 6 Wilson, *Research Is Ceremony*.
- 7 Percy P. (Nation Sioux Alexis Nakota), Partie 1, Volume public 31, Saskatoon, Sask., pp. 15-16.
- 8 Ermine, « Ethical Space, » p. 195.
- 9 Cheryl M. (Mi'kmaq), Partie 1, Volume public 18, Membertou, N.-É., p. 17.
- 10 Jamie L. H. (Autochtone/Irlandaise), Partie 1, Volume public 78, Vancouver, C.-B., pp. 12-13.
- 11 Anni P. (Crie), Partie 1, Volume public 80, Vancouver, C.-B., pp. 16-17.
- 12 Darlene G. (Première Nation Annapolis Valley), Partie 1, Volume public 18, Partie 1, Membertou, N.-É., pp. 54-55.
- 13 Barbara H. (Première Nation Ebb and Flow), Partie 1, Volume public 10, Winnipeg, Man., p. 114.
- 14 Barbara H. (Première Nation Ebb and Flow), Partie 1, Volume public 10, Winnipeg, Man., p. 114.
- 15 Carol W. (Nation Crie Muskeg Lake), Partie 1, Volume public 31, Saskatoon, Sask., pp. 55-56.
- 16 Carol W. (Nation Crie Muskeg Lake), Partie 1, Volume public 31, Saskatoon, Sask., p. 56.
- 17 Robyn Bourgeois (Crie), Partie 3, Volume public no 17, St. John's (T.-N.), p. 40. Pendant son témoignage, Mme Bourgeois a expliqué que cette question était adaptée d'un article de Sharene Razack intitulé « Race, Space, and Prostitution : The Making of the Bourgeois Subject » dans lequel Razack demande : « D'où viennent les idées qui font que c'est acceptable d'agresser des gens qui pratiquent le commerce du sexe? » [traduction] (p. 36-37).
- 18 Hankivsky, Cormier et de Merich, « Intersectionality, » 3.
- 19 Crenshaw, « Demarginalizing the intersection. »
- 20 Hankivsky, Cormier et de Merich, « Intersectionality, » 3.
- 21 Hancock, « When Multiplication, » cité dans Hankivsky, Cormier, et de Merich, « Intersectionality, » 3.
- 22 Dhamoon, « Considerations, » cité dans Hankivsky, Cormier, et de Merich, « Intersectionality, » 6.
- 23 Morris et Bunjun, « Using Intersectional Feminist Frameworks, » 1.
- 24 Voir, par exemple, Browne et Fiske, « First Nations Women's Encounters » et Smye and Browne, « Cultural Safety. »
- 25 Alaya M. (Ojibway, Première Nation Sandy Bay), Partie 1, Volume public 13, Winnipeg, Man., pp. 8-9.
- 26 Beverly Jacobs, citée dans 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, *Language and Symbolic Power*, 239–43.
- 30 Duran, *Transforming the Soul Wound*.
- 31 D<sup>re</sup> Amy Bombay (Ojibway, Premières Nations Rainy River), Parties II et III mixtes, Volume public 10, Winnipeg, Man., p. 148.
- 32 Linklater, *Decolonizing Trauma Work*, 34.
- 33 Le traumatisme « multigénérationnel » « renvoie aux multiples types de traumatismes compris comme des expériences actuelles, ancestrales, historiques, individuelles ou collectives » (Ibid., 23). Les traumatismes « intergénérationnels » sont liés à la manière dont ils sont « transmis d’une génération à l’autre, par le comportement, par l’observation et par la mémoire » (Ibid., P. 23).
- 34 D<sup>re</sup> Amy Bombay (Ojibway, Premières Nations Rainy River), Parties II et III mixtes, Volume public 10, Winnipeg, Man., p. 148.
- 35 D<sup>re</sup> Amy Bombay (Ojibway, Premières Nations Rainy River), Parties II et III mixtes, Volume public 10, Winnipeg, Man., p. 142.
- 36 Carol B. (Nation Crie Ermineskin), Partie 1, Volume public 20, Edmonton, Alb., p. 75.
- 37 D<sup>re</sup> Amy Bombay (Ojibway, Premières Nations Rainy River), Parties II et III mixtes, Volume public 10, Winnipeg, Man., p. 159.
- 38 Eva P. (Nation Sioux Alexis Nakota), Partie 1, Volume public 31, Saskatoon, Sask., p. 27.
- 39 Marlene J., Partie 1, Volume public 6, Smithers, C.-B., pp. 42, 43.
- 40 Connie Greyeyes (Nation Crie Bigstone), Parties II et III mixtes, Volume public 6, Québec, Qc, p. 50.
- 41 Connie Greyeyes (Nation Crie Bigstone), Parties II et III mixtes, Volume public 6, Québec, Qc, p. 50.
- 42 Delores S. (Saulteaux, Première Nation Yellow Quill), Partie 1, Volume public 26, Saskatoon, Sask., p. 28.
- 43 Pour une liste thématique de toutes recommandations faites auparavant par rapport à cette tragédie, consultez [http://www.nmiwgffada.ca/wp-content/uploads/2018/06/Interim\\_Report\\_Master\\_List\\_of\\_Previous\\_Recommendations\\_Organized\\_By\\_Theme-FINAL.pdf](http://www.nmiwgffada.ca/wp-content/uploads/2018/06/Interim_Report_Master_List_of_Previous_Recommendations_Organized_By_Theme-FINAL.pdf). Pour un aperçu de l’analyse comparative pertinente au plan culturel entre les genres, voir Association des femmes autochtones du Canada, « Culturally Relevant. »
- 44 ENFFADA, *Rapport provisoire*, p.13.
- 45 Fay Blaney (Xwémalkwu des Coast Salish), Partie 3, Volume public 4, Québec, Qc, p. 110.
- 46 Fay Blaney (Xwémalkwu des Coast Salish), Partie 3, Volume public 4, Québec, Qc, p. 135.
- 47 D<sup>r</sup> Barry Lavalée (Première Nation et Métis), Partie 3, Volume public 9, Toronto, Ont., pp. 62-63.



## La reconnaissance du pouvoir et de la place des femmes, des filles et des personnes 2ELGBTQQIA autochtones

### Introduction : les femmes au cœur de leur communauté

*Au commencement, il n'y avait que de l'eau, rien qu'un vaste océan. Les seuls êtres dans le monde étaient les animaux qui vivaient sur l'eau et dans l'eau.*

*Puis, une femme, une personne divine tomba du monde du ciel. Deux huardes qui survolaient la mer aperçurent sa chute. Rapidement, ils se placèrent sous elle et joignirent leurs corps pour former un coussin sur lequel elle se posa. Ainsi, ils la sauvèrent de la noyade.*

*Alors qu'ils la soutenaient, leurs fortes voix appelèrent les autres animaux à leur aide. Les autres créatures se rassemblèrent rapidement. C'est ainsi que l'on peut maintenant entendre le cri du huard sur de grandes distances au-dessus de l'eau.*

*Dès que la Grande Tortue apprit la raison de l'appel, elle prit la parole au milieu de l'assemblée.*

*« Donnez-la-moi, » dit-elle aux huardes, « mettez-la sur mon dos. Mon dos est large<sup>1</sup>. »*

Les femmes sont le cœur de leurs Nations et de leurs communautés.

Grâce aux innombrables témoignages livrés au cours de l'Enquête nationale, nous avons pris conscience de l'effet continu et profond qu'a sur les communautés l'absence des femmes, des filles et des personnes 2ELGBTQQIA. Nous avons également constaté que leurs dons, mis en valeur dans le cadre de leurs rôles et responsabilités distincts, sont essentiels au bien-être des communautés afin de les aider à s'épanouir. Dans l'ensemble, ces rôles et ces responsabilités sont liés aux divers systèmes de lois et de droits autochtones qui en découlent.



*Une femme des Premières Nations lors de la cérémonie annuelle de la Danse du Soleil en 1953, dans la réserve de la Première Nation Káinawa, près de Cardston, en Alberta. Source : Bibliothèque et Archives Canada/Fonds de l'Office national du film du Canada/e010949128*

Ces lois autochtones ainsi que les rôles, les responsabilités et les droits qu'elles enseignent sont distinctes du concept des droits autochtones tels qu'ils ont été définis par les tribunaux, particulièrement depuis 1982. Comme Tuma Young, professeur d'études mi'kmaq au Collège Unama'ki, l'a expliqué dans son témoignage devant l'Enquête, « la loi autochtone enseignée à l'école de droit est plutôt une loi canadienne appliquée aux Autochtones. Ce n'est pas une loi autochtone<sup>2</sup> ». Par conséquent, dans la présente section, nous examinons d'abord comment les témoignages offerts à l'Enquête nationale servent d'indicateurs des différentes visions des rôles et responsabilités ainsi que comment les droits qui en découlent, peuvent éclairer nos priorités et nous guider dans la voie à suivre.

Les familles, les survivantes et les autres témoins nous ont offert leur histoire et leur vérité tout au long du processus de consignation de la vérité. Elles ont répété maintes et maintes fois ce que les Grands-mères de l'Enquête nationale avaient dit au tout début, c'est-à-dire de demeurer ancré dans la culture parce qu'elle représente la force des femmes autochtones et de leur communauté, quelle qu'en soit la définition. Lors de l'audience de l'Enquête nationale à Iqaluit, la D<sup>re</sup> Janet Smylie, médecin et Gardienne du savoir crie-métisse, a discuté des approches axées sur la force. Elle a cité l'ancien chef national Phil Fontaine : « Nous avons les réponses. Les réponses se trouvent dans nos communautés. » Elle a par la suite expliqué, dans ses propres mots : « [Les réponses se trouvent] dans nos communautés, dans nos histoires, dans nos milieux de vie et dans la mémoire de notre sang. Ainsi, nous savons tous, en tant que membres des Premières Nations, Inuits, Métis et Autochtones vivant en milieu urbain, ce dont nous avons besoin. C'est toujours vivant en nous<sup>3</sup>. »

Les peuples autochtones ont toujours eu leurs propres concepts de rôles et responsabilités, liés aux droits dont jouissent les femmes, les filles et les personnes 2ELGBTQQIA au sein de leur communauté ou de leur Nation. En parlant de tous les membres de la communauté, Dawnis Kennedy, dont le nom traditionnel est Minnawaanigogizhigok, a expliqué ce qui suit :





Vous savez, chaque étape de la vie nous apporte un cadeau, comporte un but, nous donne un rôle à jouer. Les bébés apportent de la joie au monde. Les petits enfants ont la curiosité. Ils nous sensibilisent à la sécurité. Chaque étape de la vie nous offre un cadeau... Si nous acceptons tous les cadeaux, les responsabilités et les rôles qui nous sont offerts à chacune de ces étapes, alors tous les enfants auront le genre de vie qui leur permet de partager la joie qui leur a été donnée et de la préserver, parce qu'elle est nécessaire pour le monde<sup>4</sup>.



*Une mère inuite donne un kuni (un baiser) à son enfant. © Gouvernement du Canada. Reproduite avec l'autorisation de Bibliothèque et Archives Canada (2019). Source : Bibliothèque et Archives Canada/Fonds du ministère des Affaires indiennes et du Nord canadien/e006609837*

Étant relationnelles et réciproques, ces responsabilités nous enseignent ce que les gens devraient pouvoir attendre des autres. Elles sont également enracinées dans certaines valeurs ou certains principes sous-jacents des lois et des systèmes de valeurs autochtones qui sont partagés par les communautés autochtones, comme le respect, la réciprocité et l'interdépendance. Il est particulièrement important de comprendre comment ces valeurs forment les rôles et les responsabilités des femmes et des personnes 2ELGBTQQIA autochtones, car nous pouvons aujourd'hui les utiliser pour créer des rencontres de guérison. Il importe en outre de saisir ce qui distingue les Nations et les communautés dans certains domaines clés pour comprendre qu'il n'y a pas de solution unique à la mise en œuvre de mesures pour promouvoir la sécurité et la justice.

Chaque témoignage que nous avons entendu a apporté un point de vue unique sur les rôles et les responsabilités au sein des diverses Nations et communautés et, ce faisant, a fait état des droits dont jouissent les femmes, les filles et les personnes 2ELGBTQQIA dans le cadre de diverses lois autochtones en ce qui concerne la culture, la santé, la sécurité et la justice. Ces droits sont issus du savoir et de la sagesse de Nations et de peuples distincts. Les traditions autochtones étant essentiellement orales, cette sagesse est le plus souvent transmise par des histoires comme celle se trouvant au début du présent chapitre.



Tout comme les huards soutiennent la Femme du Ciel dans sa chute, les enseignements offerts dans les récits traditionnels appuient également notre travail visant à transformer les relations qui nuisent aux femmes et aux filles autochtones en relations qui reconnaissent leur pouvoir et leur place. En tant que titulaire de la Chaire de recherche sur la justice et la gouvernance autochtones à l'Université de Victoria, Val Napoleon a expliqué devant l'Enquête :

Nous savons que partout au Canada, il existe divers ordres juridiques et que les personnes sont flexibles. ... Nos ancêtres et nos parents ont fait preuve de pragmatisme en veillant à ce que leurs enfants puissent survivre dans le monde. Et comme Hadley Friedland l'a déjà dit, toutes les lois ont un sens; elles sont désordonnées et elles doivent être mises en pratique, en plus d'exister en théorie<sup>5</sup>.

Dans le présent chapitre, nous visons d'abord à exposer comment les lois autochtones peuvent servir de fondement à une stratégie de décolonisation axée sur les façons autochtones de connaître et de comprendre les relations et l'ordre social. Nous exposerons ensuite comment les valeurs de respect, de réciprocité et d'interdépendance peuvent aider à établir des liens entre les principes au sein d'une diversité de communautés autochtones, comme le montrent de nombreux récits toujours utilisés dans l'enseignement aujourd'hui. Comprenant l'importance contemporaine de ces principes, nous examinerons ensuite les rôles, les responsabilités et les droits historiques des femmes et des personnes d'identité non binaire dans le cadre de leurs propres idées et mots, tels qu'établis avant la colonisation, afin de plaider en faveur d'un nouveau fondement pour comprendre les droits des femmes, des filles et des personnes 2ELGBTQQIA comme enracinés en nos interrelations.

« [LES RÉPONSES SONT] DANS NOS COMMUNAUTÉS, DANS NOS HISTOIRES, DANS NOS ENVIRONNEMENTS VÉCUS ET DANS NOTRE MÉMOIRE DE SANG. NOUS SAVONS DONC TOUS, EN TANT QUE MEMBRES DES PREMIÈRES NATIONS, INUITS, MÉTIS ET AUTOCHTONES VIVANT EN MILIEU URBAIN, CE DONT NOUS AVONS BESOIN. NOUS L'AVONS ENCORE. »

Janet Smylie

## L'approche à double perspective : les divers ordres juridiques et les lois autochtones inhérentes

Lors de son témoignage devant l'Enquête, Tuma Young a expliqué que, dans sa vision du monde L'nu (mi'kmaq), l'approche à double perspective est très importante : « Un problème doit être examiné sous deux angles différents, la perspective occidentale et la perspective autochtone, afin d'offrir un portrait global à quiconque essaie de comprendre le problème particulier<sup>6</sup>. »

Dans le contexte de notre travail à l'Enquête nationale, cela signifie que notre analyse doit être fondée sur les modes de connaissance et de compréhension autochtones qui ont été communiquées aux commissaires ainsi qu'aux Canadiennes et aux Canadiens.



Une dimension importante de ce travail consiste à comprendre qu'il existe d'autres ordres juridiques au Canada, au-delà de ceux que la plupart des gens connaissent. Les lois autochtones comportent des principes issus des modes autochtones de comprendre le monde. Elles sont façonnées par les relations et la compréhension de la manière dont les sociétés peuvent fonctionner, qui incluent les droits et les responsabilités entre les gens eux-mêmes ainsi qu'entre les gens et le monde qui nous entoure.

Les relations sont la fondation des lois autochtones. Comme l'a expliqué Val Napoleon : « Elles sont des outils servant à maintenir l'ordre social. Elles permettent de résoudre les problèmes, et nous les utilisons pour régler et gérer les conflits. Lorsque nos régimes de droit ont échoué ou que nous ne les avons pas bien appliqués, nous pouvons examiner nos histoires orales et voir ce qui s'est passé dans nos sociétés, à ces époques<sup>7</sup>. » Autrement dit, comme l'expliquent les juristes Emily Snyder, Val Napoleon et John Borrows, le droit autochtone et les sociétés autochtones sont liés, comme un « ensemble spécifique d'idées et de pratiques visant à créer les conditions pour renforcer la paix et l'ordre<sup>8</sup> ».

En ce qui concerne l'expression des droits, les lois autochtones et les idées sur lesquelles elles reposent sont également liées à la notion de droits inhérents. Ils sont inhérents parce qu'ils ne sont pas d'inspiration occidentale ni centrés sur l'État. Cela signifie qu'ils ne peuvent pas être supprimés par les provinces et les territoires, par le gouvernement du Canada ou par les Nations Unies<sup>9</sup>.

La loi autochtone inhérente appartient à toutes les Nations et communautés autochtones. Comme le fait remarquer Dawnis Kennedy, à la base de la loi autochtone se trouve le principe selon lequel « tous les peuples ont reçu une langue, tous les peuples ont reçu une loi et tous les peuples ont reçu des chants. Tous les peuples ont reçu des dons pour vivre dans le monde et ces dons de l'esprit sont nécessaires dans le monde et indispensables pour créer de bonnes relations entre nous<sup>10</sup> ». Sur le plan individuel également, « un des principes fondamentaux de notre loi est que chaque personne a sa place. Nous ne le savons peut-être pas, mais chaque personne y a droit. Chaque personne est ici pour une raison. Chaque personne compte autant qu'une autre; c'est une loi fondamentale<sup>11</sup> ».

« IL FAUT ANALYSER UN PROBLÈME SOUS DEUX ANGLES DIFFÉRENTS, LA PERSPECTIVE OCCIDENTALE ET LA PERSPECTIVE AUTOCHTONE, POUR FOURNIR UN PORTRAIT GLOBAL À QUICONQUE ESSAIE DE COMPRENDRE CE PROBLÈME EN PARTICULIER. »

TUMA YOUNG





# Les droits des Autochtones : inhérents et inaliénables

Le concept des droits inhérents et inaliénables de la personne remonte à très loin dans la pensée politique occidentale. Les philosophes européens du siècle des Lumières comme John Locke<sup>1</sup> et Jean-Jacques Rousseau<sup>2</sup> soutenaient que les humains possédaient des droits naturels. Ces droits ne pouvaient être accordés ni retirés par les gouvernements puisqu'ils étaient intrinsèques.

On retrouve également des références aux droits inhérents et inaliénables dans les manifestes politiques importants du 18<sup>e</sup> et du 19<sup>e</sup> siècle. Le texte de la *Déclaration de l'indépendance* des États-Unis (1776), par exemple, affirme ceci : « Nous tenons ces vérités pour évidentes en elles-mêmes : que tous les hommes sont créés égaux; que leur Créateur les a dotés de certains droits inaliénables, parmi lesquels la vie, la liberté et la recherche du bonheur; [...] ». La *Déclaration des droits de l'homme et du citoyen* (1789), publiée pendant la Révolution française, reconnaît également que les citoyens possèdent des « droits naturels, inaliénables et sacrés » que tous les gouvernements doivent respecter.

Aujourd'hui, le discours juridique sur les droits de la personne est la plus importante expression des droits inhérents et inaliénables. La *Déclaration universelle des droits de l'homme* de l'Organisation des Nations Unies, publiée en 1948, est aujourd'hui l'une des plus importantes conventions relatives aux droits de la personne au monde. Dans son préambule, il est écrit que « [...] la reconnaissance de la dignité inhérente à tous les membres de la famille humaine et de leurs droits égaux et inaliénables constitue le fondement de la liberté, de la justice et de la paix dans le monde [...] »<sup>3</sup>.

Cependant, en dépit de la rhétorique limpide de ces proclamations, de nombreuses personnes se sont

vues refuser les droits dont il est question. Jusqu'à une époque relativement récente, la plupart des membres de la société occidentale n'avaient pas droit aux libertés civiles de base, particulièrement les femmes et les personnes racisées.

La reconnaissance des droits particuliers des Autochtones remonte également à très longtemps. La *Proclamation royale de 1763*, par exemple, reconnaissait le droit des Autochtones à leurs terres et à leurs ressources sur le territoire qui est aujourd'hui le Canada. Toutefois, les gouvernements ont fréquemment échoué à traiter les droits des Autochtones comme étant inhérents et inaliénables.

L'arrêt historique rendu par le Comité judiciaire du Conseil privé dans l'affaire *St. Catharine's Milling and Lumber Co v The Queen* (1888), par exemple, clamait que les droits territoriaux des Autochtones n'étaient pas inhérents, mais plutôt « dépendants de la bonne volonté » de la Couronne. Cette notion du droit éventuel des Autochtones a fait jurisprudence au Canada jusqu'à ce que le précédent soit annulé par l'arrêt de la Cour suprême dans la décision *Calder v British Columbia* (1973). Dans l'affaire *Calder*, la Cour a décrété que les droits territoriaux ancestraux des Autochtones existent indépendamment de leur reconnaissance par le droit canadien. En d'autres mots, la Cour a reconnu que ces droits sont inhérents<sup>4</sup>.





En dépit de cette décision, des débats se poursuivent encore pour déterminer si tous les droits des Autochtones devraient être considérés comme inhérents. La *Loi constitutionnelle de 1982* reconnaît officiellement les droits des Autochtones. Cependant, la Constitution n'a pas défini ces droits, laissant les premiers ministres et les dirigeants autochtones en débattre dans une série de rencontres. Ces rencontres se sont soldées par une impasse, comme les Autochtones et les dirigeants canadiens ne sont pas parvenus à s'entendre sur plusieurs enjeux importants. L'un des points les plus litigieux consistait à déterminer si les Autochtones possèdent un droit inhérent à l'autonomie gouvernementale<sup>5</sup>.

En outre, le Canada n'a pas su reconnaître que les droits des Autochtones sont *inaliénables*. Depuis la toute première reconnaissance des droits des Autochtones au 16<sup>e</sup> siècle, les gouvernements britannique et canadien ont cherché à aliéner (ou à abolir) les droits inhérents des Autochtones par des traités et des lois. La plupart des traités historiques négociés en Ontario et dans l'ouest du Canada prétendent que les signataires autochtones ont accepté de « céder » ou « d'abandonner » leurs droits (bien que la légitimité de ces clauses soit hautement discutable). Les traités modernes (aussi appelés

ententes sur les revendications territoriales globales) négociés entre 1975 et 1993 contiennent aussi une variante de la clause « d'abandon ». Les ententes sur les revendications territoriales plus récentes ne comprennent pas de mentions explicites de l'abandon des droits. Ces ententes disposent plutôt d'une clause relative aux « certitudes » dans laquelle il est établi que le traité énumère « de façon exhaustive » les droits des Autochtones signataires<sup>6</sup>. Bon nombre d'Autochtones ont soutenu que cette clause de « certitudes » a la même portée juridique que l'ancienne clause « d'abandon », puisqu'elle abolit tous les droits qui ne sont pas mentionnés dans l'entente<sup>7</sup>.

Certains dirigeants autochtones ont indiqué qu'il pourrait être utile d'envisager les droits des Autochtones dans la perspective des droits de la personne pour résoudre ce problème<sup>8</sup>. Puisqu'il est largement admis que les droits de la personne sont inaliénables, considérer les droits des Autochtones comme un sous-ensemble des droits de la personne pourrait impliquer qu'il est légalement impossible d'abolir ces droits. La mise en œuvre complète de la *Déclaration des Nations Unies sur les droits des peuples autochtones* (2007), laquelle adopte une approche fondée sur les droits de la personne, serait un pas important dans cette direction.

- I Locke, *Second Treatise of Government*.
- II Rousseau, *On the Social Contract*.
- III Nations Unies, *Déclaration universelle des droits de l'homme*.
- IV Asch et Macklem, « Aboriginal Rights and Canadian Sovereignty. »
- V Ibid.
- VI Kulchyski, « Trail to Tears. »
- VII Manuel et Derrickson, *Unsettling Canada*.
- VIII Nunavut Tunngavik Incorporated, « A Submission to the Royal Commission on Aboriginal Peoples. »



Ces lois et ces principes concernant les rôles, les responsabilités et les droits proviennent de diverses sources, y compris la langue. Comme l'a expliqué Tuma Young, la langue L'nu est axée sur le verbe; c'est une langue d'action dans laquelle les pronoms sont optionnels. Pour M. Young, le but de cette langue est d'établir et de maintenir des relations entre les gens eux-mêmes ainsi qu'entre les gens et le monde. Il ajoute : « Selon le point de vue des Mi'kmaw, nos principes viennent de nos récits, de nos cérémonies, de nos chants, de nos langues et de nos danses. La plupart de nos principes juridiques en découlent<sup>12</sup>. »

D'autres langues autochtones intègrent également des enseignements sur les rôles, les responsabilités et les principes de droits qui sont difficiles à traduire en raison de l'absence de concepts de référence dans les langues non autochtones ainsi que des différences dans la façon dont les idées sont construites. Par exemple, l'anishinaabemowin ne contient pas de pronoms féminins ou masculins; les choses sont plutôt caractérisées comme animées ou inanimées ainsi que par l'emploi de verbes ou de mots d'action. Les enseignements cris présentent des problèmes de traduction tout aussi complexes.



*La robe The Grandmother Earth est une robe à clochettes traditionnelle créée par l'Ontario Native Women's Association (ONWA), qui s'est inspirée du projet REDress de Jaime Black. La robe honore et reconnaît les femmes, les filles et les personnes 2ELBGTQQIA autochtones disparues et assassinées. Il s'agit également d'un objet qui favorise la guérison des familles. Selon l'ONWA, la robe a été conçue pour que les familles s'imaginent leurs êtres chers portant cette magnifique tenue cérémonielle. Consultez le blogue au <http://mmiwontario.ca/index.php/blog/earth-dress>.*

Un aspect important des rôles et des responsabilités exprimé au cours de nos témoignages, aussi bien durant les audiences communautaires que durant celles de Gardiens du savoir et d'experts, est que les principes essentiels concernant les rôles des femmes, traditionnellement et dans un sens moderne, sont fondés sur les principes du respect, de la réciprocité et de l'interdépendance.

Le **respect** signifie d'estimer et de respecter les autres êtres vivants. Le respect s'étend au-delà des humains, vers les animaux et les autres éléments vivants dans le monde, et désigne la reconnaissance de l'apport de chaque être vivant pour soutenir la vie et pour contribuer à une bonne vie, tant individuellement que collectivement.

La **réciprocité** consiste à donner et à prendre. Lorsqu'une relation est réciproque, les deux côtés participent activement à donner ce qui est nécessaire et à prendre ce qui est nécessaire. Dans de nombreuses visions autochtones du monde, le principe de réciprocité n'est pas défini de façon chronologique, mais plutôt de façon circulaire où tout est lié et connecté. Cela signifie que dans





tout, il y a un échange d'idées et qu'une idée ou un don mène à un autre. La réciprocité sociale, c'est avoir des obligations à l'égard des autres membres du groupe. Elle est liée à la réciprocité avec l'environnement et la terre et elle crée des droits et des obligations pour les gens à l'égard des autres.

L'*interdépendance* est l'idée que les droits des individus et des groupes sont reliés aux droits de la terre, de l'eau, des animaux, des esprits et de tous les êtres vivants, y compris les autres communautés ou Nations. L'interdépendance reconnaît que toute chose et toute personne a une raison d'être, est digne de respect et a une place dans le cercle de la vie. Ces rôles et ces responsabilités, ainsi que les principes de droit qu'ils contiennent, peuvent s'exprimer dans la langue, l'utilisation de la terre, les cérémonies et les relations.

## Comprendre comment les lois sont vécues en communauté

Le professeur Jean Leclair, de la Faculté de droit de l'Université de Montréal, a souligné lors de son témoignage à Québec : « Pendant des milliers d'années, les peuples autochtones ont eu des ordres juridiques qui fonctionnaient très bien, merci. Alors comment se fait-il qu'au cours des 150 dernières années ils n'étaient plus capables de le faire<sup>13</sup>? » Pour comprendre les lois autochtones, il est nécessaire de comprendre leur importance pratique dans la vie des membres de la communauté.

Se référant à la loi *Onaakonigewin*, ou loi Anishinaabe, Dawnis Kennedy a noté ce qui suit :

Notre loi est dans nos cœurs et les décisions que nous prenons guident la vie que nous menons. C'est la façon dont nous vivons notre loi. Notre loi n'a pas été écrite par des humains. Je suis contente que cette responsabilité ne nous ait pas été confiée. Notre loi est une loi de la vie qui englobe également comment celle-ci s'écoule. Il nous revient à nous, en tant qu'êtres humains, de tenter de connaître cette loi, de la comprendre, de nous y connecter et de la vivre dans toutes les relations que nous avons<sup>14</sup>.

On peut trouver des exemples de comment vivre ces lois à plusieurs endroits différents, y compris dans le monde naturel. Certains membres de la famille et des survivants ont expliqué à l'Enquête nationale qu'ils devaient tirer des principes juridiques du monde animal, de la pluie, du mouvement de l'eau des rivières et des cycles de la lune. Dans son exposé devant l'Enquête nationale, Val Napoléon a déclaré: « La loi naturelle est aussi une source de droit et John Borrows donne des exemples de sa mère observant les papillons et l'asclépi. Elle observait qu'il y avait moins de papillons si... on ne s'en occupait pas. Alors, elle en tirait des leçons<sup>15</sup>. »

Tirant des leçons du monde naturel ainsi que des règles nécessaires à l'ordre social et à l'organisation, les lois autochtones ont servi à promouvoir la sécurité et la justice. Comme l'a exprimé Val Napoleon dans son témoignage :



La loi autochtone doit être accessible, compréhensible et applicable. Il ne suffit pas que d'en parler. Elle doit faire partie de la façon dont nous nous comportons les uns envers les autres... Les différents genres d'histoires orales forment une mémoire publique. Elles forment un précédent jurisprudentiel dans lequel nous pouvons puiser pour résoudre les problèmes d'aujourd'hui<sup>16</sup>.

Dans de nombreux cas, obéir aux lois autochtones était une question de vie ou de mort. Ces lois n'étaient pas seulement importantes sur le plan du savoir culturel, mais également sur le plan de la survie. Ceci est particulièrement évident dans les histoires communiquées par les Inuits, pour qui l'environnement dicte fortement l'importance des lois. Comme l'a expliqué Sandra Omik, conseillère juridique à Nunavut Tunngavik Inc. :

Les gens, la communauté, les couples, les enfants et les grands-parents, les frères et sœurs, les Aînés, les grands-pères et les grands-mères, tous devaient s'entraider pour survivre. C'est encore ainsi aujourd'hui. Chaque jour, les gens s'entraident. Cela fait partie de la vie sociale dans le Nord. Pour survivre chaque jour, il faut travailler ensemble. Les gens vivent en harmonie [...] . Si quelque chose arrive, s'il se passe quelque chose de terrible ou s'il y a un problème, les gens s'unissent pour trouver une solution, tout simplement pour survivre, qu'ils soient avares ou qu'ils n'aient pas assez à manger. Il en va de même avec leur esprit. Ils ont l'esprit paisible et très coopératif<sup>17</sup>.

Selon Sandra Omik, la collaboration, la planification pour l'avenir et la préparation ne constituaient pas nécessairement une loi, mais des principes qui étaient toujours suivis, car « si on ne suivait pas le plan, une famine pouvait s'ensuivre. Nous pouvions mourir de froid. Nous pouvions ne pas avoir de phoque pour nos lampes et, par conséquent, nous pouvions geler<sup>18</sup> ».

Les lois étaient également importantes pour contrôler les comportements qui n'étaient pas acceptés par la communauté, y compris la violence. Les histoires, aussi bien orales que traditionnelles, propres aux communautés et aux Nations présentent des épisodes majeurs de violence, comme le montrera la prochaine section de ce chapitre, dans lesquels des membres ont été bannis, punis ou tenus de rendre des comptes pour la violence qu'ils ont fait subir à d'autres membres de la communauté.

Snyder, Napoleon et Borrows soutiennent qu'il est dangereux de ne pas reconnaître que la violence et le sexisme existaient au sein des communautés autochtones dans le passé. Cette dénégation prive l'habileté des sociétés autochtones de pouvoir régler les problèmes en prétendant que ces derniers sont tous nouveaux et qu'ils découlent de la colonisation. Alors qu'une grande partie de la violence est liée à la colonisation, la tendance à aseptiser le passé rend les ressources existantes dans le domaine des lois autochtones invisibles et non pertinentes. Comme l'expliquent Snyder, Napoleon et Borrows : « Il est possible d'accepter la notion que le colonialisme a eu une influence négative sur les normes liées au genre et a provoqué la violence fondée sur le sexe, sans néanmoins affirmer du même coup que les relations entre les sexes étaient parfaites avant le contact<sup>19</sup>. »



Les lois autochtones reconnaissent que la société est dynamique et que chaque personne est un individu dont le rôle est également de contribuer à la communauté. Comme l'Aînée Kunuk Muckpalook l'a expliqué : « Tous n'étaient pas parfaits, mais dans le temps, nous avions... des proverbes qui nous guidaient, qui étaient des croyances. Nous avions des coutumes à suivre. On nous demandait d'aider notre peuple. Ceux qui étaient dans le besoin, c'était notre responsabilité de les aider<sup>20</sup>. » Bien que les circonstances de la vie aient changé dans le Nord, comme le précise Sandra Omik, ces principes sont toujours importants aujourd'hui<sup>21</sup>. Hadley Friedland explique : « La reconstitution des lois autochtones implique le rétablissement et le renforcement des conditions de la paix, de la sécurité, de la dignité et de la justice<sup>22</sup> ».



*Carolyn Kaye, dénée, porte son fils Selwyn dans une ceinture de perles porte-bébé, en 1947. © Gouvernement du Canada. Reproduite avec l'autorisation de Bibliothèque et Archives Canada (2019). Source : Bibliothèque et Archives Canada/Fonds du ministère des Affaires indiennes et du Nord canadien/a185627*

C'est pourquoi, en partie, les conditions pour la paix, la sécurité, la dignité et la justice résident dans la compréhension de certains de ces principes. Comme le souligne Dawnis Kennedy :

Nous devons nous connaître nous-mêmes et savoir qui nous sommes en tant qu'Anishinaabe afin de montrer *mino-bimaadiziwin* à tous nos proches au sein de la Création et [à ceux des] autres couleurs sacrées de l'humanité que la vie, c'est la vie. Et honorer une vie, c'est honorer toutes les vies. Protéger une vie, c'est protéger toutes les vies<sup>23</sup>.

Les lois autochtones, et les droits qui y sont énoncés, peuvent également indiquer aux communautés et aux Nations des voies concrètes à suivre. Val Napoleon explique : « Le problème des femmes et des filles autochtones disparues et assassinées n'est pas qu'un enjeu juridique du droit canadien. Il s'agit d'un enjeu qui concerne nos différents ordres juridiques autochtones. La loi autochtone doit notamment reconstruire notre citoyenneté et notre légalité<sup>24</sup>. » Par conséquent, il nous faut comprendre comment les lois autochtones peuvent servir à promouvoir la sécurité et la justice ou, autrement dit, « des façons de faire qui ne seraient pas oppressives, mais plutôt inclusives et anticolonialistes<sup>25</sup> ».





Les lois autochtones, ainsi que les rôles, les responsabilités et les droits qui les animent, sont basés sur ces principes de respect, de réciprocité et d'interdépendance, incarnés dans les relations. Comme l'explique Jean Leclair : « La loi autochtone offre une perspective relationnelle qui exclut le tout ou le rien, qui reconnaît que les choses se transforment au fur du temps, qui admet que la loi n'est pas une fin en soi, mais un jalon sur un chemin, que l'on le veuille ou non. On n'est jamais seul<sup>26</sup>. »

Dans son évaluation de la loi autochtone, Dawnis Kenney a déclaré :

L'argent n'est pas nécessaire à la vie. Les diplômes ne sont pas nécessaires à la vie. Le pouvoir n'est pas nécessaire à la vie. L'eau est nécessaire à la vie. Nos parents sont nécessaires à la vie. L'esprit est nécessaire à la vie. L'amour est nécessaire à la vie. Le respect est nécessaire à la vie. L'honnêteté est nécessaire à la vie. L'humilité est nécessaire à la vie [...] . Le courage est nécessaire à la vie [...] . La sagesse est nécessaire à la vie<sup>27</sup>.

## Les récits en tant que sources de droits et de remèdes

Découvrir la sagesse et les enseignements qui émanent des lois autochtones est une tâche qui dépasse le cadre du présent rapport et pour laquelle des travaux sont déjà en cours<sup>28</sup>. En même temps, nous croyons qu'il est important de comprendre comment les principes autochtones, tirés d'un petit échantillon d'histoires issues de diverses communautés et Nations, peuvent ouvrir la voie à des recherches futures sur la manière de promouvoir la sécurité selon une approche de décolonisation. Comme certains témoins l'ont souligné, la perte de ces histoires et de ces enseignements contribue à la perte de respect que les femmes, les filles et les personnes 2ELGBTQQIA subissent au sein de leur communauté ainsi que dans le monde non autochtone.

Cet examen ne consiste pas à souligner les rôles traditionnels fondés sur le genre, mais à discerner les qualités qui sont absentes de la vie des familles et des communautés lorsque des femmes, des filles et des personnes 2ELGBTQQIA autochtones sont portées disparues. Quels sont les principes importants que ces histoires illustrent et comment, d'une perspective sexospécifique, la compréhension des protagonistes peut-elle aider à diluer les obstacles auxquels sont confrontées les femmes, les filles et les personnes 2ELGBTQQIA autochtones, particulièrement en ce qui concerne leur accès aux services qui pourraient contribuer à accroître leur sécurité?

Comme de nombreux témoignages l'ont montré, l'accès à des logements convenables, à une alimentation et à des emplois adéquats ainsi qu'à diverses possibilités tant dans les communautés qu'en milieu urbain peut être compliqué par les préjugés concernant les peuples autochtones en général et les femmes en particulier. Les histoires peuvent aider à solidifier cette perception que les droits autochtones sont une interprétation historique et contemporaine des relations dont dépendent les responsabilités et les rôles traditionnels et contemporains des femmes. Elles contribuent à ancrer les témoignages que nous avons analysés dans un contexte pertinent pour les témoins et peuvent nous aider à comprendre à quel point nous nous sommes égarés, en tant que



société, dans notre compréhension des femmes et des filles.

Pour Dawnis Kennedy, les histoires, quelle que soit leur origine, peuvent également donner vie à une compréhension du pouvoir et de la place. Comme elle l'explique : « Nos histoires... notre histoire orale nous dit qu'il y a eu d'autres périodes où nous avons presque perdu tout ce que nous étions, et c'était en partie notre faute. Mais l'Esprit nous aime tellement qu'il trouvera toujours un moyen de répondre à notre demande de retrouver le chemin de la vie<sup>29</sup>. »

Dans la section qui suit, nous examinerons des histoires importantes rapportées par une variété de membres des Premières Nations, d'Inuits et de Métis pour démontrer certains principes généraux, exprimés dans nos témoignages ainsi que dans certains récits, qui peuvent aider à promouvoir la sécurité et la justice en contexte autochtone. Pour les sociétés autochtones, la question n'est pas de savoir si les événements narrés dans une histoire se sont réellement produits. Les sociétés métisses, inuites et des Premières Nations utilisent les histoires pour illustrer les leçons, les valeurs et les lois d'une façon que tout le monde peut comprendre. Les récits autochtones enseignent l'histoire locale et la science axée sur la terre<sup>30</sup>, offrent des exemples pour vivre en accord avec les valeurs traditionnelles dans la vraie vie<sup>31</sup> et servent d'études de cas pour la loi<sup>32</sup>. Comme l'explique Val Napoleon, « nous devons nous assurer que nos lois sont accessibles afin que tous nos membres – femmes, enfants, personnes dont les orientations sexuelles sont différentes, transgenres, etc. – puissent voir notre importance au sein de cet ordre juridique<sup>33</sup> ».

Les histoires sont le fruit d'un travail acharné et d'une réflexion approfondie – tant de la part du conteur que de la personne qui écoute. Elles peuvent comporter une leçon, mais elles ne viennent pas avec un livre de règlements. Val Napoleon et Hadley Friedland utilisent des histoires pour explorer la loi autochtone et soulignent que celles-ci ne sont pas « transmises passivement par des Aînés infallibles dans une forme immaculée. Les histoires font plutôt partie d'un sérieux dialogue public, intellectuel et interactif auquel participent les auditeurs, les apprenants, les Aînés et d'autres conteurs – comme est le cas depuis des générations<sup>34</sup> ».

« LA RECONSTITUTION DES LOIS AUTOCHTONES CONCERNE LE RÉTABLISSEMENT ET LE RENFORCEMENT DES CONDITIONS DE LA PAIX, DE LA SÉCURITÉ, DE LA DIGNITÉ ET DE LA JUSTICE. »

Hadley Friedland



# « Yamozha et sa Femme Castor » du point de vue d'une femme dénée

Au départ, Cindy A. s'est présentée à l'Enquête nationale pour parler de sa grand-mère, Mary Adele D., une femme dénée forte qui a été tuée lors d'une violente agression. Cependant, Cindy voulait également parler de l'importance de raviver les lois dénées pour aider à résoudre la crise des femmes et des filles disparues et assassinées. « Nous avons nos lois autochtones et nous devons les faire revivre, en parler, les enseigner à nos enfants et à nos familles. Nous avons perdu beaucoup de ces enseignements du fait de la colonisation. Les gens ne comprennent pas ce qu'elles veulent dire, nos lois dénées. Et je pense que cela doit se faire! »

Cindy est une Weledeh des Dénés Yellowknives [Tlicho] originaire de Yellowknife, dans les Territoires du Nord-Ouest. Elle est également avocate titulaire d'un diplôme en droit autochtone de l'Université de la Colombie-Britannique. Elle fait valoir que, dans le cadre de la revitalisation des lois dénées, nous devons accorder une attention particulière aux histoires des femmes autochtones. Elle offre, à titre d'exemple, le point de vue d'une femme dénée sur l'histoire bien connue de « Yamozha et sa Femme Castor ».

Yamozha (aussi connu sous le nom de Yamoria, le législateur) est l'un des personnages les plus importants des mythes dénés anciens. Il a beaucoup voyagé lorsque le monde était nouveau, tuant des monstres géants, rendant la terre sûre et enseignant aux Dénés leurs lois sacrées.

À une époque, tout le monde connaissait ces lois qui dictaient le partage, l'entraide et l'amour de l'autre. Aujourd'hui, surtout à cause des politiques d'assimilation comme celle des pensionnats indiens, de nombreux Dénés n'ont plus ces outils essentiels. « Certains Dénés pratiquent nos lois autochtones, nos lois dénées, uniquement de manière implicite », souligne-t-elle.

Ils partagent, ils prennent soin des autres, ils aident et ils sont respectueux. Mais comme nous le savons, cette enquête a lieu pour raconter

l'histoire des femmes et des filles autochtones. Il y a une rupture dans les lois. Il y a une rupture dans les traditions. Il y a des déséquilibres, parce que si les gens suivaient les lois de Yamozha, nous n'aurions pas besoin d'être ici pour en parler, car nous serions tous autour du feu de camp. Nous serions dans le cercle. Vous auriez des hommes et des femmes ensemble, debout ensemble! ».

Dans le récit que raconte Cindy, Yamozha demande à une femme d'être son épouse. Elle accepte, à la condition qu'il ne lui laisse jamais se mouiller les pieds. Il acquiesce à sa demande et pendant de nombreuses années, ils vivent heureux ensemble.

Puis, un jour, il rompt sa promesse. Elle le quitte et redevient Castor. Yamozha est tellement furieux qu'il la pourchasse dans tout le territoire, tue et mange leur Enfant Castor, et la transforme en île quand elle finit par s'enfuir dans l'océan.

Cindy souligne que cette histoire, et la plupart des autres histoires consignées par des anthropologues et publiées dans les Territoires du Nord-Ouest, sont des « histoires d'hommes » qui mettent l'accent sur le point de vue de l'homme. Elle insiste sur la nécessité d'« étendre notre regard! » et de découvrir d'autres histoires montrant le point de vue des femmes autochtones :





Parce que si vous regardez cela d'un œil critique, du point de vue d'une femme autochtone, d'une femme dénée, vous verrez que les histoires cautionnent la violence, la mort, le meurtre... J'aimerais vraiment que les histoires de nos femmes autochtones et que nos lois en tant que femmes autochtones soient mises de l'avant et nous soient enseignées. Et ces enseignements, ces enseignements nous aideront à vivre dans l'avenir<sup>IV</sup>. »

Cindy offre ensuite son interprétation de « Yamozha et sa Femme Castor » :

« Si vous y posez un regard critique, Yamoria avait un contrat de mariage, une promesse de mariage faite à sa Femme Castor. Il l'a rompu. Il n'a pas déposé les branches pour elle. De ce que je comprends, l'un des rôles de l'homme déné est d'ouvrir la voie. Et de prendre soin de sa femme et de la protéger. Ce n'est pas ce qu'il a fait. Il a rompu son contrat de mariage avec elle. Elle avait donc le droit de partir. Mais quand elle s'est levée et a dit : "Non, tu as brisé la promesse que tu m'avais faite", il est devenu violent. Il l'a traquée, l'a pourchassée dans tout le pays, dans tout le Denendeh [la terre des Dénés]...

Ce qui manque, ce sont les enseignements autochtones et dénés qui vont de pair avec ça, qui permettraient de mettre l'histoire en contexte et d'éclairer les enseignements qui... et l'importance des lois dénées. Mon point de vue sur cette histoire est que Yamozha, à part le fait d'être notre législateur à nous, le peuple déné, était aussi un homme, un homme avec des défauts<sup>V</sup>. »

Cindy soutient que le fait d'examiner ces histoires d'un œil critique ne signifie pas qu'on ne peut pas recourir à la loi dénée pour lutter contre la violence faite aux femmes et aux filles autochtones. Elle utilise l'exemple des cercles de discussion avec les Aînés pour aborder

la violence familiale. Elle explique ainsi : « Les parties recevaient des enseignements traditionnels pour rétablir l'harmonie et l'équilibre. C'est peut-être en parlant à un Aîné, à des Grands-Mères et à des Grands-Pères qu'on apprend les enseignements qu'on est censé connaître, puis qu'on se rend compte de l'erreur de ses façons de faire et qu'on emprunte la bonne voie<sup>VI</sup> ». Le fait d'examiner des récits, des enseignements traditionnels et d'autres sources de droit autochtone tout en gardant un œil critique sur la question du genre peut, effectivement, aider les femmes et les personnes 2ELGBTQQIA qui sont confrontées à la violence aujourd'hui.

L'exemple de Cindy nous montre à quoi peut ressembler, pour différents peuples autochtones, le travail continu de l'élaboration des lois. Ce travail est en cours dans de nombreuses communautés, mais les gouvernements fédéral, provinciaux et territoriaux reconnaissent rarement que les peuples autochtones ont des systèmes juridiques distincts. Cindy souligne :

Nous devrions adopter nos lois autochtones, car nous sommes des Nations et nous avons nos propres lois en tant que peuples autochtones. Nous étions ici les premiers. C'est notre pays, c'est mon territoire et nous devrions être reconnus. À mesure que nous nous dirigerons vers l'autonomie gouvernementale dans le cadre [du règlement] des revendications territoriales, les gouvernements autochtones auront le droit d'adopter leurs propres lois. Je souhaite que ces lois s'inspirent des enseignements autochtones, de nos lois dénées. Parce que cela nous aidera à nous orienter de façon positive dans l'avenir<sup>VII</sup>. »

Cindy a conclu son témoignage sur ce sujet en revenant sur son appel à découvrir, à faire revivre et à diffuser largement les histoires des femmes autochtones : « J'encourage fortement les femmes et les filles à commencer à raconter leurs histoires », a-t-elle souligné.





Je suis très reconnaissante d'être ici, et du fait que l'Enquête nationale a entamé ce processus. Nous racontons nos histoires de traumatismes, mais nous devons aller au-delà de celles-ci et nous tourner vers des histoires qui nous guident et nous donnent de l'espoir pour l'avenir. Et c'est

en incluant non seulement les hommes dans le cercle, mais aussi les femmes et les filles, que ce sera possible. Si vous incluez tout le monde autour du feu, vous aurez alors la communauté derrière vous. Je vous encourage à le faire<sup>VIII</sup>. »

- I Cindy A. (Denée), Partie 1, Volume public 43, Yellowknife, T.N.-O., p. 54.
- II Cindy A. (Denée), Partie 1, Volume public 43, Yellowknife, T.N.-O., p. 58.
- III Cindy A. (Denée), Partie 1, Volume public 43, Yellowknife, T.N.-O., p. 64.
- IV Cindy A. (Denée), Partie 1, Volume public 43, Yellowknife, T.N.-O., pp.56, 66..
- V Cindy A. (Denée), Partie 1, Volume public 43, Yellowknife, T.N.-O., pp. 65, 66.
- VI Cindy A. (Denée), Partie 1, Volume public 43, Yellowknife, T.N.-O., pp. 70-71.
- VII Cindy A. (Denée), Partie 1, Volume public 43, Yellowknife, T.N.-O., p. 71.
- VIII Cindy A. (Denée), Partie 1, Volume public 43, Yellowknife, T.N.-O., p. 67.



Cette idée centrale – la notion de faire appel au passé dans le contexte de la violence constante exercée contre les femmes et les filles autochtones – est essentielle, tout comme l’est le besoin de mesures et d’enseignements qui affirment les droits plutôt que les nier. Emma LaRocque, chercheuse en études autochtones, affirme :

La culture n’est pas immuable, et il ne faut pas s’attendre à ce que la tradition ait toujours une valeur ou une pertinence même à notre époque. En tant que femmes autochtones, nous sommes confrontées à des choix très difficiles et douloureux, néanmoins, nous sommes mises au défi de changer, de créer et d’adopter des « traditions » conformes aux normes internationales et contemporaines de droits de la personne<sup>35</sup>.

Dans certains cas, on fait encore appel à ce qui est « traditionnel » pour remettre en question les demandes des femmes visant à prendre une place qui leur revient dans les discussions modernes concernant leur propre vie. Comme l’affirme la titulaire de la Chaire de recherche du Canada sur les relations avec les Autochtones, Kim Anderson, tout appel au concept de tradition doit reconnaître que les traditions sont adaptées à un endroit et à un moment particuliers et n’existent pas en vase clos : « Alors que nous commençons à nous réapproprier nos façons de faire, nous devons remettre en cause la façon dont ces traditions sont établies et nous demander si elles nous donnent des moyens d’agir<sup>36</sup>. »

C’est pourquoi, dans notre sélection d’histoires, nous incluons celles qui font état de rencontres nuisibles et celles qui témoignent de rencontres réparatrices, mettant à profit la force et la résilience des femmes autochtones.

Quelques commentaires sont de mise sur notre interprétation des histoires. Nous ne prétendons pas que ces histoires contiennent des enseignements traditionnels qui sont communs à toutes les sociétés autochtones, et nous ne concevons pas la tradition comme étant statique ou immuable. Notre interprétation n’est pas axée sur la constatation des leçons ou des morales souhaitées par les conteurs; nous utilisons plutôt les histoires comme des métaphores pour illustrer, de façon dynamique, les rôles, les responsabilités et les droits des femmes, des filles et des personnes 2ELGBTQQIA autochtones dans leur communauté. Dans le cadre de cet exercice, nous avons intégré quelques histoires présentant de la violence, en comprenant qu’elles peuvent nous révéler comment les peuples autochtones résistent à la violence et trouvent des solutions efficaces aux problèmes au sein de leur propre communauté et Nation<sup>37</sup>.

Comme les langues et les peuples qu’elles représentent, ces histoires offrent des rencontres dynamiques entre les conteurs et les personnes qui écoutent, et elles favorisent une importante prise de conscience du respect qui est dû aux droits sacrés des femmes, des filles et des personnes 2ELGBTQQIA autochtones.





## Les expressions autochtones du droit à la culture, à la santé, à la sécurité et à la justice

Comme indiqué dans le chapitre précédent, l'Enquête nationale a recueilli des témoignages liés à quatre grandes catégories de droits ainsi qu'aux femmes, aux filles et aux personnes 2ELGBTQQIA en tant que détentrices de droits. Dans notre analyse des histoires autochtones recueillies d'un bout à l'autre du Canada, nous avons relevé plusieurs rôles principaux dans lesquels les droits sont manifestes pour les femmes et les personnes 2ELGBTQQIA autochtones : comme enseignantes, leaders, guérisseuses, pourvoyeuses et protectrices. Ces étiquettes ne visent pas à enfermer les gens dans des conceptions statiques à propos de la culture; ce ne sont pas des étiquettes du tout. Nous reconnaissons plutôt, comme l'ont précisé Snyder, Napoleon et Borrows, que « les femmes autochtones ont droit à la sécurité et à l'intégrité physique du simple fait qu'elles sont des êtres humains<sup>38</sup> ». Nous n'offrons pas ces histoires pour imposer un fardeau supplémentaire aux femmes, aux filles et aux personnes 2ELGBTQQIA non plus; nous cherchons à souligner la façon dont leurs propres forces sont mises de l'avant dans ces histoires, et dans l'éventail des lois autochtones, comme des moyens d'imaginer la décolonisation à venir.

De plus, nous croyons que le fait de comprendre certaines de ces idées peut nous aider à aller au-delà de la perception des femmes et des filles autochtones disparues et assassinées comme de simples « victimes » et au-delà des autres étiquettes que beaucoup ont rejetées. Comme l'a partagé Eva P. à propos d'un être cher : « Et je n'aime pas la façon dont ils parlent toujours de la toxicomanie. Elle était bien plus que ça. Misty était une personne extraordinaire. Elle était l'organisatrice de notre famille, mais elle était également une leader chez nous en Alberta. Elle a fait beaucoup de choses extraordinaires<sup>39</sup>. »

Au contraire, ces rôles – enseignantes, leaders, guérisseuses, pourvoyeuses, protectrices et tant d'autres – sont présentés comme sites de pouvoir et de guérison qui ont été communiqués lors de l'Enquête et qui s'appliquent à divers groupes autochtones, y compris les Premières Nations, les Métis et les Inuits. Toni C., une survivante et membre d'une famille, nous a révélé ce qui l'avait vraiment aidée : « J'ai commencé à comprendre qui je suis vraiment – en tant que femme, en tant que femme des Premières Nations – que je suis un cadeau. Et j'ai des cadeaux à offrir<sup>40</sup>. » C'est pour ces raisons que nous reconnaissons l'importance des histoires dans la définition des droits autochtones et la signification qu'elles peuvent avoir dans le contexte de la lutte contre la violence faite aux femmes, aux filles et aux personnes 2ELGBTQQIA autochtones. Dans ce cas, les histoires offrent à la fois un enseignement et un remède, et elles nous aident à voir quels sont les droits inhérents des femmes autochtones et comment nous pourrions ultimement obtenir justice pour les familles et assurer leur sécurité.

Plusieurs des éléments partagés par les personnes qui ont témoigné en lien avec leurs proches sont présentés de façon nuancée. Comme Ann M.R. a partagé :

Notre peuple, notre communauté veulent guérir, ils veulent apprendre leur culture. Ils veulent aller sur le territoire. C'est là qu'ils veulent être. C'est là qu'ils veulent guérir... La culture doit être vécue. Il n'y a rien qui nous rende plus heureux que de voir nos



enfants danser. Il n'y a rien qui nous rende plus heureux que de voir nos enfants chanter. Il n'y a rien qui nous rende plus heureux que de voir nos enfants parler et de les écouter parler notre langue. Nos parents sont tellement fiers. Ça nous rend vivants. Et c'est de ça qu'on a besoin dans la vie, et la culture fait ça. Culture, culture, culture. Je ne saurais trop insister sur la culture<sup>41</sup>.

Comme l'a expliqué Fay Blaney : « Nos droits et nos responsabilités nous sont vraiment importants en tant que peuples autochtones. Il ne s'agit pas seulement des droits individuels. Il s'agit de notre responsabilité envers la communauté<sup>42</sup>. » Ces histoires illustrent les droits qui se concrétisent dans les rôles et les responsabilités, envers soi-même et envers la communauté, qui se rejoignent pour créer de la sécurité ou qui peuvent offrir des solutions pour l'améliorer.

La place des femmes, des filles et des personnes 2ELGBTQQIA dans la culture est liée aux histoires concernant les femmes et les personnes bispirituelles en tant qu'enseignantes et leaders. Ann M. R. a partagé l'histoire suivante :

Ma mère vivait sur le territoire et à Simpson Creek. Elle séchait du poisson. Chaque été, quand on sortait de ce camp de prisonniers [pensionnat indien], elle faisait sécher du poisson et de la viande, et elle tannait de la peau d'orignal. Je m'assoiais dans la petite tente moustiquaire et je lisais *True Confessions* (Vraies confessions), et ma mère travaillait très fort à me nourrir. Les gens passaient sur la route et elle nous montrait à être généreux. Elle donnait. Elle donnait du poisson. Elle donnait de la viande séchée. Elle donnait de la viande. Ils s'arrêtaient pour boire un café, un thé. Elle les nourrissait, elle leur préparait de la bannique. C'est ce que nous sommes en tant que peuple déné. Tu n'enseignes pas ces choses-là, tu vis ces choses-là<sup>43</sup>.

Au sein des familles et des communautés, les femmes et les personnes 2ELGBTQQIA autochtones ont joué le rôle de mères, de grands-mères et de dispensatrices de soins, qui travaillent à éduquer les générations futures et à préserver le savoir et les traditions, aux côtés mais de façon distincte des hommes. Dans de nombreuses sociétés, les rôles de gouvernance des femmes à titre de chefs, d'Aînées, de mères de clan et de conseillères ont contribué à renforcer et à maintenir l'identité collective.

Pour plusieurs de nos témoins, ce lien à l'identité permet aussi d'offrir une protection et de la force. Certains rôles que jouent les femmes, les filles et les personnes 2ELGBTQQIA à l'égard de la sécurité, dans les histoires et dans la vie, sont aussi reliés à leurs rôles de pourvoyeuses et de protectrices. Les femmes, les filles et les personnes 2ELGBTQQIA contribuent à assurer la sécurité des communautés à de nombreux égards, y compris en subvenant aux besoins essentiels, en protégeant les personnes qui sont dans le besoin grâce à la gestion des ressources ou à leur redistribution et comme défenseuses de l'eau, de la terre, des plantes et des animaux.

Audrey Siegl, de l'Enquête nationale, a partagé, à propos de son travail dans le Downtown Eastside de Vancouver : « Quand on marche dans le Downtown Eastside seulement avec la



sauge, seulement avec le cèdre, avec un tambour [...]. On voit qu'ils en meurent d'envie, ils ont soif de ça, ils ne savent pas où le trouver. Il y a quelques personnes qui viennent et qui l'apportent, mais ce n'est pas assez. Nos liens avec nos croyances, nos enseignements, nos médicaments... nous revoyons sans cesse... ces liens sauvent des vies.<sup>44</sup> »



*Audrey Siegl, membre du Cercle des Grands-mères de l'Enquête nationale et gardienne de la médecine traditionnelle, s'adresse à l'auditoire à Ottawa, en Ontario.*

Beaucoup de témoignages nous ont indiqué que le droit des femmes, des filles et des personnes 2ELGBTQQIA à la justice est lié au thème principal de la protection. Les histoires nous montrent comment les femmes, les filles et les personnes 2ELGBTQQIA luttent pour se protéger et protéger les autres de la violence au sens littéral, physique, ou d'autres sortes de violence. Dans les histoires, de nombreuses femmes, filles et personnes 2ELGBTQQIA sont également des survivantes qui, en surmontant les traumatismes qu'elles ont subis, peuvent dénoncer la violence qu'elles ont vécu et donner de la force aux autres qui en ont besoin. Dans d'autres histoires, elles jouent le rôle d'héroïnes – elles se mettent en danger pour aider les autres. De plus, les divers rôles que jouent les femmes dans les systèmes de justice traditionnelle au sein de leur communauté, y compris dans le travail de justice réparatrice, constituent un thème important lié à la justice en tant que droit fondamental de la personne.

« NOS GENS, NOS COMMUNAUTÉS VEULENT GUÉRIR, ILS VEULENT APPRENDRE LEUR CULTURE. ILS VEULENT ALLER SUR LE TERRITOIRE. C'EST LÀ OÙ ILS VEULENT ÊTRE. C'EST LÀ OÙ ILS VEULENT GUÉRIR ... LA CULTURE DOIT ÊTRE VÉCUE. IL N'Y A RIEN QUI [NE] NOUS RENDE PLUS HEUREUX QUE DE VOIR NOS ENFANTS DANSER. RIEN NE NOUS REND PLUS HEUREUX QUE DE VOIR NOS ENFANTS CHANTER. RIEN NE NOUS REND PLUS HEUREUX QUE DE VOIR NOS ENFANTS PARLER ET DE LES ENTENDRE PARLER NOTRE LANGUE. NOS PARENTS SONT SI FIER. CELA NOUS ENCOURAGE À VIVRE. ET CE DONT NOUS AVONS BESOIN, C'EST QUE LA VIE ET LA CULTURE FASSENT CELA. LA CULTURE, LA CULTURE, LA CULTURE. JE NE SAURAI TROP INSISTER SUR LE FAIT QUE LA CULTURE EST SUFFISANTE. »

Anna M. R.





L'importance qu'accordent les femmes, les filles et les personnes 2ELGBTQQIA au respect de la justice ressort dans beaucoup de nos témoignages. Comme guérissante Audrey Siegl l'a mentionné à propos de son rôle dans l'Enquête nationale, il est important de prendre la parole et d'expliquer pourquoi cette crise est importante :

« Présentez-la à La Haye, présentez-la devant les tribunaux internationaux. Présentez-la partout. Ne vous arrêtez pas au Canada. Levez-vous et parlez au nom de toutes les femmes qui sont encore marginalisées, battues, violées, assassinées. Pour toutes les petites filles qui grandissent témoins de la violence. Pour les filles, la violence est normalisée de la même manière que nous. Vous savez... ce qui est normal pour moi ne devrait jamais être normal pour un autre être humain<sup>45</sup>. »



*Penelope Guay, Grand-mère de l'Enquête nationale, s'adresse à l'assistance à Québec, au Québec.*

Comme la Grand-mère de l'Enquête nationale, Penelope Guay l'a expliqué : « Il est très important que les femmes autochtones prennent la parole. Je me dis que plus ils parlent, plus ils reprennent des forces. Plus nous sommes de femmes qui parlons, c'est la force. Cela montre aussi notre place<sup>46</sup>. »

Ces rôles d'enseignantes, de leaders, de guérisseuses, de pourvoyeuses et de protectrices ne sont pas mutuellement exclusifs. Ils sont fluides, interdépendants et interreliés. Les femmes et les personnes 2ELGBTQQIA peuvent être des leaders *et* des guérisseuses, des pourvoyeuses *et* des protectrices. Elles peuvent assumer différents rôles et responsabilités à différentes étapes de la vie et finir par tous les assumer.



Cependant, le plus important, c'est que, comme les droits de la personne auxquels ils sont liés, ces rôles sont indivisibles : on ne peut défendre le droit des femmes autochtones à la santé sans tenir compte de leur culture et de leur identité. L'accès à la justice pourrait être compromis en l'absence de services adaptés à la culture, par l'absence des services importants aux victimes pour soutenir la santé mentale et par le manque de pouvoir déposer une plainte en toute sécurité.

À titre d'Enquête nationale, notre vision a toujours été d'aider à établir une base pour permettre aux femmes, aux filles et aux personnes 2ELGBTQQIA autochtones de revendiquer leurs droits en tant qu'Autochtones – de reprendre possession de leur « pouvoir » et de leur « place ». Cette revendication s'inscrit dans un principe commun qui nous tient à cœur : « nos femmes et nos filles sont sacrées ». Ce n'est pas un domaine au-delà de la compréhension humaine, mais un reflet de ce que signifiait chacune des vies dont nous avons entendu parler pour les personnes qui ont témoigné. Ces histoires sont un outil pour rassembler certaines de ces idées, notamment pourquoi, pour ces familles qui ont fait part de leurs vérités, ces vies sont-elles sacrées et le vide causé par l'absence d'êtres chers est-il si grand?

Ces histoires et les principes qui y sont illustrés nous enseignent comment, dans de nombreuses communautés, les principes sous-jacents des lois autochtones – respect, réciprocité et interdépendance – forgent les rôles, les responsabilités et les droits manifestes des femmes, des filles et des personnes 2ELGBTQQIA en tant qu'êtres humains et que peuples autochtones. Ceci est important parce que nous pouvons utiliser ces valeurs pour créer des rencontres de guérison, dès aujourd'hui.

Les Aînées et les Grands-mères inuites, métisses et des Premières Nations enseignent ces vérités depuis des générations, mais le bruit assourdissant de la colonisation les rend de plus en plus difficile à entendre. Au lieu, des histoires beaucoup plus douloureuses de femmes, de filles et de personnes 2ELGBTQQIA y sont insérées. Ces histoires dévaluent les femmes et les filles et les réduisent à des stéréotypes qui contribuent directement à la violence à laquelle elles sont soumises.

Il est important de comprendre pourquoi les femmes et les filles sont sacrées à travers les diverses perspectives autochtones afin de voir les femmes, les filles et les personnes 2ELGBTQQIA autochtones en tant que détentrices de droits. C'est aussi un point de départ pour pouvoir commencer à s'attaquer à certaines relations historiques et contemporaines négatives qui incitent à la violence ou créent des espaces néfastes pour ces femmes qui sont de toute importance. Quels rôles et quelles responsabilités les femmes, les filles et les personnes 2ELGBTQQIA ont-elles? Qu'arrive-t-il à leurs communautés lorsqu'elles leur sont enlevées? Et comment le fait de comprendre pourquoi les femmes et les filles sont sacrées peut-il nous aider à comprendre comment créer de nouvelles rencontres de guérison fondées sur les histoires transmises de génération en génération?

Les femmes et les filles sont sacrées; elles sont le vaisseau de leur peuple et de leur communauté. Sans elles, l'intégralité de la communauté en souffre.



## Les premières enseignantes

Comme nous en avons discuté, les histoires montrent que les droits des femmes autochtones à la culture et à l'identité sont ancrés non seulement dans les droits fondamentaux de la personne, mais également dans la manière dont ils indiquent à leur peuple la voie à suivre. Rhonda M. explique :

Lorsque je pense à toutes les grands-mères qui sont venues avant moi et à ces grands-mères derrière moi et dans toutes les directions, je pense qu'elles sont des leaders et que, en tant que leaders, en tant que transporteuses de l'eau, en tant que femmes qui donnent naissance aux prochaines générations, elles ont toutes des qualités de leaders en elles<sup>47</sup>.



*Une femme de la Nation crie sur l'île Charlton de la baie James, aux Territoires du Nord-Ouest, en 1926.  
Source : Bibliothèque et Archives Canada/Collection nationale Photographie/a096660*

Dans certains témoignages, de nombreux membres de famille ont parlé des leçons qu'ils ont apprises des femmes et des filles de leur famille ou du vide produit quand elles en ont été enlevées. Grace T. nous a parlé ainsi de sa mère : « Elle était si fière. Elle... elle m'a créée, et si je suis la personne que je suis, c'est grâce à elle... éloquente, belle, intelligente, instruite, sans peur... c'est grâce à elle<sup>48</sup>. »

Les histoires des Premières Nations et des Inuits qui relatent la naissance du monde ou l'origine des gens montrent souvent des mères et des grands-mères dans des rôles de leadership<sup>49</sup>. Ce sont des histoires puissantes qui montrent le rôle déterminant des femmes dans la définition des actions, des croyances et des valeurs qui caractérisent la culture de leur peuple, y compris ses toutes premières relations avec l'eau ou avec la terre.

L'un des récits autochtones les plus connus au sujet de la Création est celui de la Femme du Ciel, ou Awe(n)ha'i' (« floraison mature »). C'est l'histoire haudenosaunee (iroquoise) de la femme enceinte qui est tombée du ciel<sup>50</sup>. Dans cette histoire, de nombreux animaux du monde amortissent sa chute et la Grande Tortue lui offre une place sur la terre en l'accueillant sur son dos. Après avoir changé un peu de boue en une vaste terre sur le dos de la Tortue, la Femme du Ciel prend des graines dans sa chevelure et, grâce à sa danse, à son chant et à son tambour, elle crée les premières plantes et les premiers remèdes. Elle fait cela dans un élan de réciprocité, pour remercier les animaux qui l'ont traitée avec bienveillance et respect.





Le fait que la Femme du Ciel est enceinte peut symboliser le rôle essentiel que les donneuses de vie continuent de jouer dans la formation des Nations. Mais comme l'explique Kim Anderson, la Femme du Ciel enclenche également « un processus créatif qui aboutit au parachèvement de notre première mère, la Terre<sup>51</sup> », ce qui crée un lien mère-enfant entre le peuple et la terre. La fille de la Femme du Ciel, « Celle qui dirige toujours », donne ensuite aux Haudenosaunee leurs trois aliments de base : le maïs, le haricot et la courge<sup>52</sup>. Ce sont des rencontres déterminantes qui lient fermement l'identité culturelle des Haudenosaunee au leadership exercé par leurs femmes, au-delà de la simple biologie de « donneuses de vie », mais dans le contexte plus large de pourvoyeuses du monde auquel le peuple est confronté.

Un autre récit des origines, qui provient cette fois du monde inuit, est celui de Nuliajuq, la Mère des mammifères marins. Elle est aussi connue sous les noms de Sedna, Uinigumissuitung et Avilayoq.<sup>53</sup> Cette histoire a lieu alors que le monde était très récent et que les gens tiraient leur subsistance des pierres et de la terre parce qu'il n'y avait pas d'animaux à manger.

Dans une version de l'histoire, il s'agit d'une jeune femme prisonnière d'une union malheureuse avec un oiseau. Alors que son père tente de la sauver et de la ramener à la maison, son mari-oiseau produit de grosses vagues qui menacent de faire chavirer leur bateau. Craignant pour sa propre vie, le père jette sa fille à la mer. Celle-ci tente de remonter dans le bateau, mais son père, craignant toujours pour sa vie, lui coupe les doigts.

Dans une autre version, il s'agit d'une orpheline qui est poussée dans la mer. Ses membres sont transformés en mammifères marins et elle devient leur gardienne :

Cette méchanceté l'a transformée en un grand esprit, le plus grand des esprits. Elle est devenue Nuliajuq et elle a créé les animaux que nous chassons. Maintenant, tout vient d'elle – tout ce que les gens aiment ou craignent – la nourriture et les vêtements, la faim et les mauvaises chasses, l'abondance ou le manque de caribous, de phoques, de viande et de graisse. À cause d'elle, les gens doivent toujours penser à tous les tabous [interdictions] qui rendent la vie difficile. Les gens ne peuvent plus survivre en manger des pierres et de la terre. Maintenant, nous dépendons des animaux craintifs et rusés<sup>54</sup>.

Dans les différentes versions, Nuliajuq devient par la suite la mère des animaux marins qui constituent la base de l'alimentation des Inuits. Elle vit au fond de la mer et quand elle est en colère, elle prive les Inuits de gibier, provoquant la famine. Par conséquent, les Inuits se donnent beaucoup de mal pour honorer Nuliajuq et les animaux qui lui appartiennent et leur témoigner du respect, sous peine de mourir de faim<sup>55</sup>.



*Naulaq Ledrew interprète la danse du tambour traditionnelle à Toronto, en Ontario.*

L'histoire de Nuliajuq est motivante, car Nuliajuq survit à de nombreuses formes de violence ou de négligence avant de trouver sa sphère de leadership. De la même façon, ses dons aux Inuits sont ambivalents : les mammifères marins fournissent la nourriture, les vêtements et les outils, mais avec ces cadeaux viennent des responsabilités – des règles que les Inuits suivent traditionnellement pour témoigner leur respect à Nuliajuq.

Ainsi, on peut voir cette histoire comme une puissante métaphore de la situation dans laquelle se trouvent de nombreuses femmes autochtones aujourd'hui : des survivantes de la violence, mais qui sont en voie de se rétablir à titre de leaders respectées qui ont leurs propres solutions à apporter, avec les nombreux droits et les nombreuses responsabilités que cela comporte.

## **Les femmes en position de leadership**

Comme l'a exprimé Dawnis Kennedy :

L'une des premières choses que je dirais, c'est que les femmes sont des donneuses de vie et qu'il en découle tellement de choses. Ce sont les femmes qui portent la vie, ce sont les femmes qui donnent la vie. Les femmes sont... toute vie dépend d'elles. Du point de vue des Anishinaabe Onaakonigewin, cela a de nombreuses conséquences. Comme ce sont les femmes qui donnent la vie, dans notre nation, ce sont aussi les femmes qui transportent l'eau. C'est notre grand-mère, la lune, qui gouverne l'eau, mais ce sont les femmes qui transportent l'eau, qui travaillent avec l'eau et qui travaillent pour obtenir de l'eau. Toute décision susceptible d'avoir une incidence sur l'eau ou sur la vie est une décision qui nécessite des femmes. C'est une lourde conséquence et une lourde responsabilité, car cela signifie que les femmes doivent être consultées pour toute décision qui aura une incidence sur la vie<sup>56</sup>.



Dans bon nombre d'histoires, les femmes sont également les porteuses ou les gardiennes des cérémonies sacrées<sup>57</sup>. Les cérémonies visent à renforcer la relation des gens avec le Créateur, des uns avec les autres et avec le monde naturel qui les entoure. Elles aident en outre à guider les gens dans les importants processus de transition qui surviennent dans leur vie et elles offrent aux communautés un moyen de reconnaître les accomplissements de chacun. Dans ces histoires, comme celle de la Femme bison-blanc, qui apporte la Pipe sacrée et la Danse de la pluie, les femmes en tant que leaders et enseignantes sont essentielles à l'identité des peuples autochtones<sup>58</sup>.

Les récits nous montrent également le rôle important des femmes dans la négociation des droits pour leur communauté à travers des mariages interculturels entre être humain et être non humain (comme un animal, une plante, une étoile ou un autre être du monde naturel). De nombreuses femmes dans les histoires des Premières Nations, des Inuits et des Métis deviennent des diplomates ou des ambassadrices de leur communauté en épousant l'un de ces êtres non humains. Dans ces rôles, soit elles apportent le savoir de leur peuple à d'autres cultures, soit elles rapportent de nouvelles compétences dans leur communauté – parfois avec beaucoup de difficulté.

L'histoire métisse du violon met l'accent sur le pouvoir durable des compétences et du savoir des mères autochtones tout en reconnaissant les nouveaux dons que les échanges culturels peuvent apporter. Dans cette histoire, un jeune homme de la colonie de la Rivière-Rouge (également connue sous le nom d'établissement Selkirk) entreprend un périple pour trouver une vache aux cornes lumineuses (c.-à-d., du bétail). En chemin, il rencontre trois grands-mères dans des tipis traditionnels. La première grand-mère lui offre un petit dé à coudre contenant un grain de maïs et une pincée de pemmican, et il pense tout d'abord que ça ne pourra jamais le rassasier :

Sa grand-mère lui donna le dé à coudre et dit : « Mon petit-fils, mange. Mange jusqu'à ce que ton ventre soit plein. » Il prit le dé à coudre, le vida dans sa bouche et mâcha. Le dé continua à se remplir chaque fois. Lorsqu'il fut rassasié, il dit : « Ah, grand-maman, je n'ai plus faim ». « Tu n'a plus faim? », dit-elle « Oui, je suis rassasié. » Il donna le dé à coudre à sa grand-mère, qui le prit et le vida dans sa bouche. « Il est vide, vide. » Il ne se remplit plus<sup>59</sup>.

Le matin suivant, la première grand-mère lui donna une pierre à feu pour l'aider dans son voyage. La deuxième grand-mère lui donna une corde et la troisième, un violon. Avec ces trois objets et la sagesse des grands-mères, le héros réussit sa quête.

Dans cette histoire, le grain de maïs et la pincée de pemmican qui sont offerts représentent « la substance sans fin et toujours rassasiante de la culture autochtone<sup>60</sup> ». C'est cette nourriture ainsi que le savoir des grands-mères qui lui sauvent finalement la vie. Cependant, cette histoire comprend aussi le violon, un objet d'origine européenne, mais qui est maintenant devenu proprement métis. Les dons qui proviennent de ces liens, ancrés dans le lignage matrilineaire autochtone, sont au cœur de l'identité métisse.





*Mme Oman, une cuisinière métisse de la Compagnie de la Baie d'Hudson, dans les Territoires du Nord-Ouest, en 1926. Source : Bibliothèque et Archives Canada/Fonds du ministère des Affaires indiennes et du Nord canadien/a099520*

Comme le montrent ces courts exemples, et comme le soulignent les témoignages, ces histoires et de nombreuses autres mettent l'accent sur les droits et les rôles des femmes autochtones à titre de responsables de la transmission de la culture de leurs communautés ainsi que de parties centrales de leurs familles. Cela constitue la fondation du leadership individuel et de groupe dans de nombreuses cultures autochtones. Comme la leader inuite Okalik Eegeesiak l'explique : « Il y a des leaders inuites tout autour de nous. Leur leadership commence à la maison, avec les mères et les grands-mères, et bien sûr, de nombreuses Inuites, femmes et filles, donnent bénévolement de leur temps dans leur communauté.<sup>61</sup> »

Les Métisses Audreen Hourie et Anne Carrière-Acco revendiquent des rôles de leadership semblables : « Les Métisses, avec leurs époux, ont toujours tenu compte du bien-être de toute la communauté... Une communauté métisse forte et saine comptera toujours des femmes dans les rôles de décision.<sup>62</sup> »

L'inclusion des femmes dans le leadership direct ou indirect de leur peuple est essentielle à la protection ainsi qu'à la promotion de la sécurité et de la justice pour les femmes et les filles autochtones.

« IL Y A DES LEADERS INUIT TOUT AUTOUR DE NOUS. LEUR LEADERSHIP COMMENCE À LA MAISON, AVEC LES MÈRES ET LES GRANDS-MÈRES, ET BIEN-SÛR, DE NOMBREUSES INUIT, DES FEMMES ET DES FILLES, DONNENT BÉNÉVOLEMENT DE LEUR TEMPS DANS LEUR COMMUNAUTÉ. »

Okalik Eegeesiak



## Les femmes comme guérisseuses

Dans de nombreux témoignages que nous avons entendus, l'incapacité d'accéder à des services de santé adéquats ou appropriés sur le plan culturel a été une cause importante de la violence faite aux femmes, aux filles et aux personnes 2ELGBTQQIA autochtones, particulièrement dans les communautés plus éloignées où les femmes devaient, pour recevoir des traitements, être transportées dans des endroits qu'elles ne connaissaient pas et qui les mettaient donc en danger.

Dans de nombreuses interprétations des récits autochtones, cependant, les femmes des Premières Nations, métisses et inuites sont elles-mêmes les guérisseuses; sans elles, la guérison est compromise dans les familles, les communautés et les Nations. Comme Trudy S. nous l'a dit :

Ma mère était une très belle dame... Elle s'est battue contre le système pour ramener tous les enfants des Premières Nations qui avaient été adoptés. Elle a réuni beaucoup de familles, elle a ramené beaucoup d'enfants à leur famille biologique. Nous étions 12 enfants chez nous, mais elle en a emmené beaucoup d'autres qui n'avaient pas de famille à la maison. Donc, il y avait toujours des enfants différents que nous appelions nos frères et nos sœurs, car elle ne voulait pas qu'ils soient placés dans des foyers d'accueil, vous voyez? Ma défunte mère était une femme formidable<sup>63</sup>.

La guérison et la médecine ont toujours fait partie des rôles importants que les femmes et les personnes de diverses identités de genre autochtones ont remplis dans les sociétés autochtones. Elles soutiennent leurs communautés en tant que « médecins indiens », sages-femmes, guérisseuses, conseillères et shamans. Dans ces rôles, les guérisseuses traitent généralement tous les aspects de la santé d'une personne : physique, mental, spirituel et émotionnel. Les maux physiques sont souvent vus comme les symptômes externes d'un problème touchant l'un de ces quatre aspects de la personne. Cela signifie que le rôle des guérisseuses ne se limite pas à traiter les maux et les douleurs, mais consiste aussi à prodiguer des enseignements et fournir du soutien pour traiter ce qu'elles considéraient comme la racine de la maladie même<sup>64</sup>.

Comme nous l'a dit leader Heiltsuk Joann Green :

La collecte de plantes médicinales est une partie tellement importante de ce que nous sommes... Nous ouvrons la porte du jardin et voilà notre pharmacie. C'est là que nous obtenons tous nos remèdes. Vous pouvez aller dans les bois et vous pouvez choisir... des feuilles de baies de salal, ce sont des plantes médicinales. Vous pouvez aller dans la forêt ramasser de l'écorce de cèdre. Vous pouvez y aller et chercher des branches de pruche... Nous sommes très riches. Nous sommes très riches.<sup>65</sup>

Des histoires comme le récit sénéca intitulé « Comment le vrai peuple a obtenu la médecine » montrent que les femmes autochtones ont longtemps été considérées comme des expertes dans ce domaine<sup>66</sup>. Dans cette histoire, Ha-wen-nee-yoh (le Grand Esprit) prend en pitié l'Ongweh-onh-weh (Vrai Peuple), qui ne savait pas comment guérir la maladie. Il envoie un de ses messagers



sous la forme d'un vieillard malade. Ce dernier passe de porte en porte à la recherche de quelqu'un qui pourrait l'accueillir, mais tout le monde refuse sauf une vieille femme du clan de l'Ours, qui était « gentille avec tout le monde et avait toujours aidé toute personne cherchant secours auprès d'elle<sup>67</sup> ». Quand elle l'accueille, il commence à lui enseigner le genre de racines et d'écorces à ramasser :

La femme fit ce qu'il lui demandait et elle se rappela bien de ce qu'il lui avait dit de ramasser pour lui. Quand elle revint chez elle, le vieil homme lui expliqua comment préparer les choses qu'elle avait rapportées, ce qu'elle fit. Il lui dit : « C'est On-noh-qua-se (un remède) » et lui enseigna quelle maladie celui-ci permettait de guérir.

La femme lui offrit de demeurer avec elle jusqu'à ce qu'il se sente suffisamment bien pour continuer son voyage et il accepta. Le vieil homme resta avec la femme pendant de nombreuses lunes et au cours de cette période, il retomba souvent malade. À chaque fois, la maladie était différente, et à chaque fois, le vieil homme lui enseigna quoi se procurer pour le guérir et comment le préparer. La femme se rappela de toutes ces choses<sup>68</sup>.

À la fin de l'histoire, le vieil homme déclare que les membres du clan de l'Ours deviendront les guérisseurs du peuple pour l'honneur de la vieille femme parce qu'elle avait été la seule personne à lui venir en aide.

Cette histoire est un exemple de l'attachement historique et contemporain des femmes autochtones à la terre. Dans la plupart des sociétés des Premières Nations et des sociétés métisses, les femmes avaient une connaissance intime des plantes, des petits fruits et des racines. Par exemple, les hommes naskapis avaient une certaine connaissance des plantes, cependant ils reconnaissaient que « ce savoir appartenait aux femmes et qu'il leur appartenait de le dispenser et de l'appliquer<sup>69</sup> ».

Dans un contexte moderne, les femmes continuent de travailler avec les plantes médicinales et ont des enseignements importants à transmettre sur la façon de les reconnaître, de les cueillir et de les utiliser – un savoir qui est transmis de génération en génération par l'intermédiaire des Aînées. De cette même façon, la vieille femme apprit à guérir chaque maladie une à la fois, en écoutant attentivement son professeur. La réponse à la question « De quoi cette personne a-t-elle besoin pour être bien? » n'est pas toujours simple et le remède est parfois le fruit d'un rigoureux processus de résolution de problème par essais et erreurs.

« LES MÉTISSÉS, AVEC LEURS ÉPOUX, ONT TOUJOURS TENU COMPTE DU BIEN-ÊTRE DE TOUTE LA COMMUNAUTÉ... UNE COMMUNAUTÉ MÉTISSE FORTE ET SAINE COMPTERA TOUJOURS DES FEMMES DANS LES RÔLES DE DÉCISION. »

Audreen Hourie and Ann Carrière-Acco





Dans les sociétés où la diversité des genres était reconnue ou acceptée, certaines personnes bispirituelles jouaient le rôle de guérisseuses ou de shamans, ou jouaient des rôles particuliers durant les cérémonies. Par exemple, Jeffrey McNeil-Seymour, un homme Stk'emlupsemc bispirituel qui a témoigné dans le cadre de notre audience sur la violence coloniale à Iqaluit, nous a indiqué qu'une matriarche lui a dit, à la fin d'une cérémonie qu'il avait organisée, que c'était des « personnes comme lui » qui devaient prendre en charge les cérémonies quand les femmes en étaient empêchées ou si quelqu'un d'autre ne pouvait pas s'acquitter d'une fonction. Il nous a dit :

C'était la première fois que j'entendais quelqu'un me suggérer que nous avons une formation spécifique ou des responsabilités spécifiques dans nos communautés et en particulier chez les Tk'emlupsemc. Donc, nous avons des bases de connaissances particulières, et je pense que c'est quelque chose qu'il est important de documenter et de conserver précieusement, ainsi que [...] de rétablir parce que tant de nos gens meurent trop jeunes ou s'enlèvent la vie<sup>70</sup>.

Comme les gens l'ont souligné dans le cadre de notre processus de consignation de la vérité, l'un des plus grands défis aujourd'hui pour les personnes 2ELGBTQQIA autochtones est de trouver un endroit accueillant pour prendre soin de leur santé spirituelle collectivement avec d'autres, puisque de nombreux événements excluent la participation des personnes de diverses identités de genre dans celui qu'elles ont choisi. Toutefois, le témoin expert Albert McLeod a souligné qu'il existe des représentations historiques de cérémonies bispirituelles, dont le tableau de George Catlin intitulé *Dance to the Berdash*, datant des années 1830. M. McLeod explique : « Les guerriers reconnaissaient la femme trans qui faisait partie de la communauté et lui rendaient hommage pour sa contribution à la société guerrière dans les domaines de la chasse et du combat<sup>71</sup> ». À l'époque, explique-t-il, le peintre Catlin avait déclaré qu'il espérait que la danse au berdache serait bientôt éliminée de la société autochtone.

Dans la société inuite, l'*angakkuq* était un personnage important qui illustrait une conception holistique de la santé physique et des autres formes de santé. Les *angakkuq*, un terme souvent traduit par « shamans » en français, étaient responsables de la guérison et de la médiation de la relation entre les Inuits, les animaux et le climat. Si quelqu'un tombait malade, il se pouvait aussi bien que la cause soit la détérioration de sa relation avec la terre et les esprits qui l'entourent ou une maladie physique, et il était nécessaire de réparer cette relation afin qu'il retrouve la santé<sup>72</sup>.

Même s'il n'était pas courant que des femmes inuites soient *angakkuq*, ce n'était pas impossible<sup>74</sup>. William Ukumaaluk, d'Amitturmiuk, parle de l'*angakkuq* Arnatsiaq, qui a découvert son pouvoir après avoir refusé de retourner avec son ex-mari :

Il a alors pris son couteau à neige et il a frappé violemment sur les fourrures du lit pour lui faire peur. Mais grâce à son pouvoir d'[*angakkuq*], Arnatsiaq a repoussé le coup en sa direction et il est sorti. Dans la matinée, quelqu'un est venu lui dire : « Celui qui a essayé de te faire peur avec son couteau s'est frappé et il est mort. » C'était elle qui, avec son pouvoir magique, l'avait amené à se frapper [...]. Arnatsiaq a reçu de nombreux dons, car elle a guéri beaucoup de personnes malades. Elle était une puissante [*angakkuq*]<sup>74</sup>.



Les témoignages recueillis dans le cadre de l'Enquête nationale révèlent que l'une des clés de la guérison est la nécessité de respecter le besoin des femmes, des filles et des personnes 2ELGBTQQIA autochtones de trouver leur propre voie vers la santé personnelle et collective. Ceci peut, en retour, influencer sur l'ensemble de la communauté. Comme l'Aîné mi'kmaw Miigam'agan l'a indiqué :

On sait tous que quand une mère, quand une grand-mère, quand une tante, quand une sœur est dans un environnement sain et sûr, qu'elle n'est pas stressée, qu'elle n'est pas en crise, on voit immédiatement l'influence et le changement chez les enfants dans la maison. Et toute la maisonnée s'en ressent. Alors quand elle se sent valorisée, et ce sentiment ne peut naître que si vous avez des fondements culturels solides et une identité, une image positive de vous-mêmes. Ce n'est qu'alors que surgit un sentiment d'identité, un sentiment de fierté<sup>75</sup>.

## Les femmes en tant que pourvoyeuses

Les familles et les survivantes nous ont parlé encore et encore du profond manque de sécurité dans leur vie. Cela va de la pauvreté à l'insécurité alimentaire et au manque de sécurité personnelle. Lorsqu'elles ont défendu leur cause, celle de leur famille ou celle de leur communauté, bon nombre d'autorités gouvernementales et d'agents des Indiens, et parfois leur propre conseil de bande ou leur propre communauté, ont ignoré leurs besoins. En fait, les femmes, les filles et les personnes 2ELGBTQQIA autochtones détiennent depuis longtemps des responsabilités et des droits essentiels liés à la création de communautés sûres. Pour ce faire, elles contribuent à fournir et à distribuer les ressources et à former des filets de sécurité sociale grâce à leurs liens spéciaux avec l'eau et la terre.



*Des femmes des Premières Nations raclent et étirent une peau de cervidé dans les Territoires du Nord-Ouest, n.d. Source : Bibliothèque et Archives Canada/Fonds du ministère de l'Intérieur/a047987*

Dans de nombreuses communautés, l'une des plus importantes responsabilités liées aux femmes est la production alimentaire. Le fait de disposer de grandes réserves de nourriture met les communautés à l'abri de la misère, qui survient sous plusieurs formes : maladie, catastrophe



naturelle, famine. De nombreux peuples autochtones ont bien compris les liens étroits qui unissaient les femmes et la sécurité socioéconomique de leur communauté. Ceci ressort fortement des histoires dans lesquelles la ressource naturelle la plus importante de la société autochtone est assimilée à la féminité.

Pour les Tsimshian, la source de subsistance la plus sacrée, aussi bien nutritionnelle que spirituelle, est l'huile d'eulakane. Celle-ci vient du poisson qui constitue la première source importante de nourriture à se présenter au printemps, mettant fin aux longs mois maigres de l'hiver – parfois mettant fin à une famine. Cette huile sacrée est représentée par une femme dans les récits épiques tsimshian :

Le Géant [Corbeau] campait à un certain endroit. Il ne savait pas comment cuire son eulakane. Une femme vint à l'endroit où il campait et le Géant lui parla gentiment, comme un frère parle à sa sœur. Elle s'appelait Tsowatz. Elle était la Femme de l'Huile et elle avait la peau foncée. Le Géant lui demanda : « Dis-moi, comment dois-je faire cuire mon eulakane? »

La Femme de l'Huile lui donna des instructions détaillées, y compris le protocole approprié pour respecter l'eulakane.

La Femme de l'Huile parla ainsi au Géant et celui-ci fut heureux de recevoir les instructions de la Femme de l'Huile. Il fut heureux de la prendre comme sœur<sup>76</sup>.

Le Corbeau traite la Femme de l'Huile avec honneur et respect, lui demande d'être sa sœur en reconnaissance de la grande valeur qu'elle apporte au monde.

La récolte et la préparation de la nourriture créent de la richesse pour la communauté tout entière, qui peut alors être redistribuée au besoin pour assurer la survie de chaque personne. Plusieurs histoires montrent que les femmes ont souvent étendu ce filet de sécurité sociale à des personnes que d'autres avaient abandonnées<sup>77</sup>.

Dans les histoires, ces personnes ont généralement toujours enfreint les règles ou omis de contribuer à la communauté. Le groupe migre vers son prochain foyer saisonnier et abandonne la personne qui n'apporte pas sa contribution. Cependant, une grand-mère ou une autre femme prend la décision de laisser à cette personne un petit peu des ressources qui restent, lui offrant ainsi un moyen de réintégrer le groupe si elle le décidait. Grâce à ces ressources, les personnes abandonnées peuvent survivre et tirer les leçons nécessaires pour devenir meilleures. Elles utilisent alors souvent leurs nouvelles compétences pour apporter de la prospérité et de la nourriture à leur communauté. Cela montre que les femmes qui ont partagé leurs ressources ont pris la bonne décision. Non seulement cela sauve-t-il des vies, mais il en ressort plus de sécurité pour la communauté.

Les femmes et les filles ont également des rôles distincts à jouer pour assurer la sécurité de la communauté dans ses relations avec les éléments naturels. Certaines Premières Nations ont





conceptualisé cette responsabilité dans la représentation des femmes comme « gardiennes de l'eau » et « défenseures de la terre ». L'histoire métisse/anishinaabe des quatre esprits de l'eau illustre ce lien intime avec la source de toute vie :

On m'a raconté qu'il y a très longtemps, lorsque l'eau fut introduite pour la première fois... quatre êtres sont venus – on m'a dit que c'était des femmes – et qu'elles ont indiqué qu'elles veilleraient sur les différents types d'eau. L'une d'elles a dit qu'elle veillerait sur l'eau salée, une autre sur l'eau douce, une autre sur la brume et une autre sur l'eau dans laquelle croissent nos bébés. Voilà ce en quoi je crois vraiment; je crois aussi que nous devons reconnaître ces êtres, nous assurer de les honorer et les remercier de veiller sur les quatre types d'eau<sup>78</sup>.

Ces rôles de gardienne de l'eau peuvent être formels ou non, mais ils sont essentiels. Certaines femmes sont responsables des cérémonies sur l'eau et utilisant de l'eau<sup>79</sup>. D'autres prennent la parole aux Nations Unies à propos des droits de l'eau et de l'esprit vivant de l'eau que nous devons protéger<sup>80</sup>. L'eau est la vie – rien ne peut exister sans elle.

Bien que ces histoires de femmes gardiennes de l'eau et défenseures de la terre ne soient pas universelles chez toutes les sociétés autochtones, des femmes de toutes les communautés autochtones ont assumé ces rôles. Par exemple, de nombreuses femmes inuites ont lutté sans répit pour la terre et l'eau dans l'Inuit Nunangat. Parmi les exemples marquants, il y a les travaux de Sheila Watt-Cloutier sur les polluants organiques persistants et les changements climatiques, les protestations de la leader Mary Simon contre la militarisation de l'Inuit Nunangat, la mobilisation communautaire de l'organisatrice Joan Scottie contre l'extraction de l'uranium au Nunavut et la résistance de la protectrice de la terre Beatrice Hunter au projet hydroélectrique de Muskrat Falls.

À la base, les rôles, les responsabilités et les droits connexes des femmes en tant que pourvoyeuses s'appuient sur le principe de la réciprocité. Les femmes autochtones qui chassent, qui trappent, qui pêchent et qui préparent la nourriture pour leur famille le font dans un esprit de relation étroite avec ces animaux qui se sont donnés pour nourrir les gens. En retour, les femmes traitent leurs os, leur peau et leurs autres restes avec le plus grand respect. À tour de rôle, au sein de la communauté, les femmes contribuent à régir la redistribution des ressources pour s'assurer que chacun en a suffisamment. On ne peut savoir quand notre famille ou nous-mêmes serons dans le besoin. La protection de la terre et de l'eau fait partie intégrante de la relation respectueuse que nous entretenons avec elles, tout en reconnaissant que nos destins sont liés, et les femmes autochtones en particulier peuvent souffrir lorsque ces relations se dégradent.



## Les femmes comme protectrices

Le dernier ensemble de rôles est lié aux responsabilités des femmes et des personnes de diverses identités de genre autochtones en tant que protectrices. Dans les histoires concernant ces rôles, les femmes survivent elles-mêmes à des expériences de violence très difficiles et elles luttent pour leur famille et leur communauté, en dépit de risques importants pour leur sécurité personnelle.

Les histoires montrent que même les personnes perçues comme étant les « plus faibles », ou celles qui font face à la plus grande adversité, peuvent triompher.

Dans l'histoire du « Wapiti » des Nlaka'pamux (Salish de l'Intérieur), le Wapiti kidnappe une femme alors qu'elle se baigne dans la rivière afin d'en faire son épouse. Mais elle est trop intelligente pour lui, l'amenant habilement à lui fournir les vêtements et les mocassins dont elle a besoin pour fuir :

Après un certain temps, la fille eut froid et se dit : « Je vais mourir de froid. » Le Wapiti connaissait ses pensées et dit : « Voici des vêtements, mets-les. » Bientôt, elle se dit : « J'ai froid aux pieds », et le Wapiti lui donna des mocassins. Après avoir couru rapidement un jour et une nuit, le Wapiti commença à ralentir l'allure.

La femme se dit alors : « Je vais le quitter. » Alors qu'ils longeaient les arbres, elle se mit à couper des branches de sapin et les plaça sur la tête du Wapiti, entre ses bois. Après avoir ainsi disposé un nombre suffisant de branches, elle s'accrocha à une grosse branche d'arbre sous laquelle ils passaient et elle se souleva. Le Wapiti poursuivit son chemin, pensant que la fille se trouvait toujours sur son dos parce qu'il sentait le poids des branches de sapin entre ses bois<sup>81</sup>.

Elle se sert de son intelligence pour échapper plusieurs fois encore à son poursuivant avant de réussir à rentrer chez elle.

D'autres histoires montrent des femmes et des personnes de diverses identités de genre déployer de grands efforts pour protéger les autres. Dans l'histoire haïda « Celle qu'ils donnent », une jeune femme est kidnappée par le chef épaulard qui l'emmène dans son repaire au fond de l'océan. De nombreux membres de sa famille vont à sa rescousse. Avant de partir, ses deux frères, dont l'un est un garçon prépubère, épousent deux êtres surnaturels féminins pour qu'elles les aident. Il s'agit de la Femme Souris et d'une femme qui est vraisemblablement la mythique Xaalajaat, ou Femme du Cuivre<sup>82</sup>.

Plusieurs attributs sexospécifiques de la Femme du Cuivre permettent de la percevoir comme une femme bispirituelle ou d'identité de genre différent : elle a les cheveux courts et porte une armure de cuivre, une tenue traditionnellement masculine. Elle est également décrite comme quelqu'un qui aime faire les choses « à l'envers ». Et, des deux frères, elle choisit de s'allier avec celui qui est encore trop jeune pour être véritablement marié.



Alors que la Femme Souris prend les choses en main au début et conduit la famille de la fille au repaire du chef au moyen d'une aiguille surnaturelle, c'est la Femme du Cuivre qui inverse la marée au moment opportun.

Lorsque les membres de la famille confrontent la famille du chef au fond de la mer, ils commencent à prendre peur et à perdre confiance :

Wooooooooooooooooo!  
La maison a frémi, dirent-ils,  
et la Terre trembla.  
Ensemble, ils reculèrent tous.  
Personne ne leva les yeux.

Mais la femme du plus jeune fils leva la tête  
alors que les autres reculaient.  
Elle examina l'arrière de la maison,  
et elle examina la porte.

Levez-vous!  
N'avez-vous donc aucune force?  
Ce furent ses mots.

La maison frémit de nouveau,  
Et la Terre trembla.

Wooooooooooooooooo!  
Et encore, ceux dans la maison baissèrent la tête.

Comme elle levait le menton,  
Quelque chose de puissant vint en elle,  
Et leurs têtes se soulevèrent comme la marée.  
« Quelle femme puissante vous êtes<sup>83</sup>. »

Le plus grand cadeau que leur fit la Femme du Cuivre, ce n'était pas une arme, ni un objet, ni même un savoir secret. Le cadeau qu'elle leur fit fut de leur rappeler le pouvoir qu'ils portaient en eux. Comme l'inévitable retour de la marée, le courage leur est revenu et ils ont été capables de négocier avec succès le retour de leur fille.

De nombreuses femmes autochtones continuent aujourd'hui d'endosser le rôle de protectrices. L'action de la chercheuse gitksan Cindy Blackstock en faveur des droits des enfants autochtones, le travail de la militante et leader inuite Rosemary Kuptana pour mettre fin aux abus sexuels dont sont victimes les enfants inuits et le militantisme de l'universitaire métisse Emma Larocque pour combattre la violence faite aux femmes autochtones sont tous des exemples du travail de femmes autochtones comme protectrices.





*Cindy Blackstock témoigne aux audiences de l'Enquête nationale sur la protection de l'enfance à Winnipeg, au Manitoba.*

## Les systèmes de relations existants, la gouvernance et l'identité

Les disparitions ou les meurtres violentes de femmes, de filles et de personnes 2ELGBTQQIA autochtones ont des répercussions qui déséquilibrent des communautés entières et les mettent davantage en danger. Elles emportent également certaines des personnes qui luttent le plus fort pour le changement. Pour rétablir l'équilibre dans ces situations, il faut faire valoir le droit à la justice des femmes, des filles, des personnes 2ELGBTQQIA autochtones et de leurs êtres chers comme un droit fondamental.

Les exemples communiqués sont des histoires liées à la violence à laquelle sont confrontées les femmes, les filles et les personnes 2ELGBTQQIA aujourd'hui dans le cadre du processus de colonisation. Ils sont également liés à la force des femmes, des filles et des personnes 2ELGBTQQIA. Comme l'a mentionné Michele G. :

Je suis devant une tribu puissante – une autre tribu puissante, et une culture dynamique avec des institutions traditionnelles encore intactes, et ça vient me chercher. Je sens des larmes couler et je dis, c'est bon, Créateur, j'ai compris. Je sais ce que c'est qu'être une Indienne parce que tu as juste – ces Nations sont si belles et incroyables<sup>84</sup>.

Ces histoires sont enracinées dans l'expérience : avant la colonisation, les enseignements, les droits, les rôles et les responsabilités associés à la culture, à la santé, à la sécurité et à la justice étaient également vécus de façon concrète. Comme Val Napoleon nous a expliqué dans son



témoignage : « Je suis d’avis que le discrédit fondamental des traditions juridiques autochtones est lié au discrédit de l’humanité des peuples autochtones, qui constitue le fondement de tous les génocides<sup>85</sup>. »

Alors que tous les peuples autochtones avaient des traditions uniques et dynamiques qui ont évolué dans le temps, au sein de nombreux groupes, les femmes ont conservé le droit de vivre à l’abri de la violence ou pouvaient recourir à la justice. Leur pouvoir et leur place étaient considérés, dans le leadership de leur communauté, comme des articulations de leurs droits en tant que femmes autochtones et qu’êtres humains vivant en communauté.

Comme l’intellectuelle Paula Gunn Allen l’a souligné : « Bien que nos traditions soient aussi variées que les tribus qui les suivent et les respectent, elles sont toutes axées sur la terre et le milieu sauvage; elles sont toutes [...] liées au pouvoir sacré ou non politique<sup>86</sup> ». Dans la présente section, nous explorons les principes qui positionnent les femmes et les personnes 2ELGBTQQIA en tant que personnes de valeur et de pouvoir qui occupent une place particulière au sein de leur famille et de leur communauté. Nous accomplissons ce travail pour montrer les principes dans le contexte des droits autochtones et des droits de la personne qui prévalaient avant le début des processus coloniaux dévastateurs. Comme l’affirme Kim Anderson :

Il faut savoir que chaque société autochtone avait une idée du pouvoir et de la place de la femme dans la communauté [...]. Il est aussi important de savoir que la vie n’était inévitablement pas toujours bonne pour toutes les femmes autochtones. Malgré tout, nous avions un sens commun du pouvoir, un pouvoir que les Européennes ne connaissaient pas<sup>87</sup> ».

Les principes généraux énoncés dans la section qui suit ne visent pas à idéaliser les Premières Nations, les Inuits et les Métis ni à les figer dans le temps et dans l’espace. Ils reflètent toutefois la nécessité de mettre l’accent sur les leçons du passé – sur la façon dont les communautés étaient organisées et dont les femmes qui y vivaient, exerçaient le pouvoir et se protégeaient. De concert avec les récits traditionnels, ces histoires nous invitent à examiner comment ces principes pourraient être liés à la sécurité des femmes, des filles et des personnes 2ELGBTQQIA autochtones aujourd’hui, dans le contexte des droits.

## **L’influence des femmes sur les terres et les économies**

Comme Kim Anderson l’a souligné dans son travail, les Premières Nations, depuis des temps immémoriaux, étaient des peuples attachés à la terre, dont les relations avec les autres peuples et avec la terre structuraient les valeurs communes qui formaient les principes de vie importants. Sur les terres revendiquées par Jacques Cartier pour la France, de nombreuses Premières Nations distinctes vivaient déjà en société. Les récits de leurs origines relatent leur existence sur leurs terres depuis la nuit des temps, une histoire qui fut rapidement ignorée par les explorateurs qui sont venus. Les Européens ont colonisé les Premières Nations en interférant dans les systèmes déjà en place pour l’utilisation et l’intendance des terres et en s’efforçant de rompre les liens des Premières Nations à la terre.



Comme expliqué dans la section précédente, certains récits de la création soulignent que le premier être humain placé sur la terre était soit une femme ou une personne non genrée. Toutefois, de nombreuses manifestations concrètes de ce concept de premier être humain – vivant sur la terre depuis des temps immémoriaux – existaient également au sein de plusieurs Premières Nations. Pour cette raison, il est important de comprendre les principes de la relation entre les diverses Premières Nations et la terre sur laquelle elles vivaient pour comprendre le fondement des droits enracinés à la fois dans la communauté et dans l’individualité. En d’autres mots, les femmes vivant sur les terres où leurs ancêtres avaient vécu avaient des droits découlant de la relation de leur peuple avec la terre de même que de leur relation individuelle avec la terre, en tant que femmes et de personnes d’identités diverses.

Comme l’a souligné l’Enquête sur la justice autochtone au Manitoba : « Lorsque les Européens sont arrivés dans les Amériques, ils étaient considérés comme des étrangers [...] . Les Aînés nous ont dit qu’aux yeux du Créateur, les Européens, en tant qu’étrangers, ne pouvaient pas jouir des mêmes droits que les premiers habitants du territoire<sup>88</sup>. » Pour de nombreuses Premières Nations, la terre représentait une figure maternelle. Comme l’a indiqué Aimée Craft dans son étude sur le Traité n° 1, l’idée de la Terre en tant que mère faisait également partie de la structure de gouvernance traditionnelle de nombreuses communautés, une structure qui faisait place aux femmes. Dans son étude, elle souligne la conception anishinaabe de la « Terre Mère », de la Terre comme mère<sup>89</sup> ». Dans une entrevue qu’elle a accordée sur la question des traités et de la gouvernance traditionnelle, M<sup>me</sup> Craft indique que cela amène « à comprendre la capacité que nous avons de partager la richesse de la Terre, mais non de prendre des décisions pour la Terre ni de vendre la Terre – et plutôt de vivre en relation avec elle<sup>90</sup> ». La responsabilité du soin et de la gérance de la Terre incombait aux Nations qui y vivaient déjà, avec des implications importantes pour les rôles des femmes.

Concrètement, le temps que les femmes investissent à cueillir des petits fruits, à pêcher des coquillages, à poser des pièges et à ramasser des plantes médicinales leur donne une connaissance de la terre différente de celle des hommes. Elles étaient et elles demeurent profondément liées à la terre : la pollution et les produits chimiques nuisent aux taux d’allaitement et aux capacités de reproduction des femmes. Étant donné qu’elles sont également les plus étroitement liées à la fourniture de soins aux populations les plus vulnérables (les enfants et les aînés), elles sont le système de détection précoce lorsque quelque chose cloche avec la terre et l’eau<sup>91</sup>.

De plus, même si les hommes et les femmes avaient chacun leur propre champ d’activités, cela ne les empêchait pas de travailler dans le domaine des uns et des autres. De nombreuses femmes des Premières Nations chassaient, trappaient et récoltaient, en plus de s’occuper de transformer ces matières brutes en objets qui étaient nécessaires à la vie communautaire, tout comme le faisaient les Inuites et les Métisses<sup>92</sup>. La connaissance des rôles de l’autre, pour chacun des sexes, avait des implications importantes. Comme a déjà été souligné : « Cette connaissance permettait à chacun d’avoir du respect pour le travail généralement accompli par l’autre sexe<sup>93</sup>. »





*Dans la première rangée, de gauche à droite : Assaajuq, Aasivak, Malaija, Akutuq et Sulugaalik découpent de la graisse de baleine en 1936 à Pangnirtung, aux Territoires du Nord-Ouest. Qattuug se trouve tout à gauche. Source : Bibliothèque et Archives Canada/Fonds du ministère des Affaires indiennes et du Nord canadien/a101931*

La participation des femmes à l'activité économique et aux travaux liés à la terre avait une incidence importante sur leur influence dans la vie communautaire. Dans de nombreuses sociétés de Premières Nations, les femmes étaient agricultrices – plus particulièrement chez les Hurons et les Haudenosaunee – et elles étaient responsables de la distribution de la nourriture. Comme nous

l'explique l'écrivaine sto:lo Lee Maracle : « Les biens qui entraient dans le village appartenaient aux femmes. On déterminait ce qui était nécessaire à la survie de la nation, puis l'excédent était remis aux hommes, pour en faire le commerce<sup>94</sup>. » Dans les sociétés des Plaines, étant donné que les femmes fabriquaient les tipis, le domicile physique et ce qu'il contenait leur appartenait. Lorsque survenait une séparation ou un divorce dans la famille, l'ancien époux reconnaissait ce fait en n'emportant avec lui que ses instruments de chasse<sup>95</sup>.

Dans certains cas, la cueillette et l'agriculture (souvent considérées comme le travail des femmes) étaient plus importantes que la chasse en termes de sécurité alimentaire. Une part beaucoup plus importante de l'alimentation des peuples autochtones des régions méridionales était assurée par les femmes. Dans le Grand Nord, la couture (aussi considéré comme le travail des femmes) était tout aussi importante pour la survie que l'approvisionnement en nourriture. De plus, de nombreuses femmes autochtones étaient hautement qualifiées pour accomplir les tâches dévolues aux hommes. D'hier à aujourd'hui, dans certaines communautés inuites, les femmes comptent parmi les chasseurs les plus habiles et les plus productifs. L'Aînée, organisatrice communautaire et auteure inuite Joan Scottie explique qu'elle a été élevée pour être une chasseuse : « Mon père m'a appris à chasser pour survivre. J'étais un garçon manqué et je n'aimais pas faire des tâches de femme, comme coudre ou rester dans l'illu (la maison); j'étais plus intéressée à sortir dans la nature<sup>97</sup>. » Aujourd'hui, certains des chasseurs les plus expérimentés dans certaines communautés sont des femmes comme Joan<sup>96</sup>.

De nombreuses femmes s'occupaient aussi activement de commerce. La vannerie, les mocassins et les vêtements magnifiquement ornés de perles étaient tous de précieux articles d'échange qu'elles vendaient directement pour accroître le revenu familial. Les femmes métisses et dénées



faisaient le commerce des fourrures des animaux qu'elles piégeaient dans leurs propres territoires de trappe<sup>97</sup>. Lorsque les hommes haïdas échangeaient des marchandises, ils devaient obtenir l'approbation de leur femme<sup>98</sup>. Les femmes mi'kmaq (et parfois leur mari et leurs fils) fabriquaient des paniers pour les vendre et les échanger<sup>99</sup>. Dans les années 1950, un groupe d'Inuites de Salluit, au Nunavik, dans la province du Québec, ont formé un collectif pour vendre leurs propres sculptures en pierre à savon, principalement inspirées des thèmes de la mère et de ses enfants ainsi que du travail des femmes inuites. Elles ont pris cette initiative dans un effort de survie après que leurs familles eurent été chassées de leurs territoires traditionnels<sup>100</sup>.

La colonisation a lourdement perturbé ces structures. Par suite des processus de « découverte » et de prise de possession du territoire au nom des puissances européennes, les rôles des femmes en relation avec la terre ont été amoindris et, dans bien des cas, supprimés. La colonisation a cherché à détruire la relation des femmes avec la terre et la propriété, au sens où on l'entendait dans les communautés des Premières Nations, et à remplacer cette structure par une nouvelle structure déshabilitante, qui rendait les hommes fermement en charge des ressources qui, à diverses époques, avaient permis de maintenir les femmes dans leur pouvoir et à leur place, et à l'abri du danger.

### **L'influence des femmes sur les structures de gouvernance**

Comme nous l'avons vu à la section précédente, de nombreuses histoires autochtones présentent les mères et les soignantes comme les premières dirigeantes, celles qui forgent l'identité du peuple à la naissance de la Nation. De nombreuses sociétés autochtones reproduisent ces principes de parenté dans leurs structures de gouvernance – tout comme la maternité est un rôle de leadership, les leaders peuvent assumer des rôles de maternage<sup>101</sup>. L'interférence de la colonisation dans la gouvernance a dégradé la qualité des rencontres que facilitent les leaders avec et entre les gens, transformant en autorité coercitive (comme dans une hiérarchie plus formelle et structurée) les relations fondées sur le respect, l'exemple et la persuasion (comme dans une relation familiale autochtone).

À titre d'exemple, les Premières Nations dans l'Ouest du Canada avaient structuré les rencontres entourant la négociation d'un traité comme une relation parentale avec la reine Victoria. Ils considéraient ainsi les colons européens comme leurs frères et leurs sœurs – les « enfants rouges » et les « enfants blancs » devant être traités également par la Mère toute puissante de l'autre côté de la Mer salée<sup>102</sup>. On trouve un autre exemple dans la langue haïda. En haïda, la racine du mot « chef » ou « dirigeant » se traduit littéralement par « mère de la ville<sup>103</sup> ». Dans la structure de gouvernance inuite fortement décentralisée, les liens à la famille, à la famille élargie et à la communauté étaient et demeurent très importants pour les identités collectives<sup>104</sup>. Les liens de parenté (biologique et non biologique, par l'entremise des traditions d'adoption coutumière et d'attribution des noms) étaient et sont encore importants pour créer une grande identité au sein d'une région particulière.

Dans un grand nombre de communautés, le rôle des femmes dans la prise de décisions n'était pas seulement lié à leur place en tant que mères ou parentes. Comme l'explique Anderson : « Les



femmes autochtones n'étaient pas traditionnellement exclues de la prise de décision, comme ce fut le cas des femmes dans la politique occidentale<sup>105</sup> ». Alors que cette inclusion s'inscrivait en partie dans un esprit de respect à l'égard de tous les membres de la communauté et était liée aux principes de parenté, les rôles des femmes en lien avec la terre et la propriété – au bien-être de la communauté en général – les prédisposaient au leadership et à la prise de décisions dans l'intérêt de tous. De nombreux témoins ont fait part de leurs propres histoires de leadership de femmes dans leur communauté.

Tel que nous a révélé Joann Green lors de son témoignage dans le cadre du groupe de réflexion sur les perspectives de la communauté Heiltsuk :

Les femmes sont reconnues comme étant l'épine dorsale de la communauté et elles jouent un rôle important dans le leadership des Heiltsuk [...] . Les *omux* sont une société de femmes de haut rang dans la communauté qui conseillent nos Humas, nos chefs. Leurs conseils sont centrés sur le maintien de l'unité et du bien-être de la communauté, notamment sur la justice, la famille et les pratiques culturelles<sup>106</sup>.

Joseph Tanner, un homme blanc adopté par une famille anishinaabe dans les années 1800, a dit que sa mère adoptive, Net-no-kwa, était une « chef principale » des Ottawa :

Tout appartenait à Net-no-kwa, et elle avait son mot à dire dans toutes les affaires à tout moment [...] . Je n'ai jamais rencontré d'Indien, homme ou femme, qui avait autant d'autorité que Net-no-kwa. Elle pouvait faire tout ce qu'elle voulait, que ce soit avec les négociants ou les Indiens; probablement, dans une certaine mesure, parce qu'elle n'avait jamais tenté de faire quoi que ce soit qui n'était pas juste et bon<sup>107</sup>.

Certaines communautés avaient également des chefs masculins et féminins, dont certains étaient héréditaires. Dans les entretiens de Kim Anderson avec 12 femmes chefs de l'ère moderne, la moitié d'entre elles ont explicitement lié leur expérience de mère à leur expérience de chef. La chef Veronica Waboose de la Première Nation n° 58 de Long Lac, a dit : « C'est comme t'occuper de tes enfants; tu veux qu'ils soient meilleurs et c'est comme ça je pense que beaucoup de femmes chefs se sentent en ce qui concerne les membres de leur communauté. Même si ce ne sont pas leurs enfants, ils se tournent vers elles parce qu'ils veulent un bon leadership, pour les mener dans la bonne direction<sup>108</sup>. »

Même dans les communautés où les femmes n'exerçaient pas d'autorité directe ou officielle, ces dernières pouvaient influencer la prise de décisions grâce à leurs relations et à leur influence relative. Dans un camp inuit, par exemple, il y avait habituellement un *isumataq*. Ce « chef de camp » était généralement un homme d'âge moyen qui décidait quand et où aller chasser, se déplacer et déménager le campement. En même temps, les femmes avaient autorité sur plusieurs aspects de la vie du camp, et les Aînés de tous les sexes étaient des conseillers importants qui étaient consultés avant la prise de décisions majeures<sup>109</sup>.





Bien sûr, les Premières Nations d'antan n'étaient pas exemptes de violence communautaire et sexospécifique – comme toutes les sociétés. Aucune discussion à propos des principes de respect et de relations ne peut ignorer l'idée que, partout et à toutes les époques, des membres de la société sont pris pour cible, individuellement ou collectivement. Mais la violence, comme l'expliquent de nombreux auteurs, faisait l'objet de puissants tabous. Par exemple, selon certains récits historiques, des femmes du Plateau punissaient les violeurs de diverses façons. Dans un cas, un homme avait été livré à un groupe de femmes qui l'ont molesté physiquement et humilié avant de l'expulser de la communauté<sup>110</sup>. Dans certaines communautés des Plaines, y compris les Nations cries, une femme pouvait quitter son partenaire s'il l'avait battue, et l'homme ne pouvait plus jamais se marier parce que son agression commise contre une femme était une agression contre toutes les femmes. Cette personne pouvait aussi être bannie ou expulsée<sup>111</sup>. Si les traditions varient, elles ont en commun le fait que le niveau élevé de contrôle social exercé par les femmes au moyen de la gouvernance au sein de leur communauté signifiait qu'il était possible de demander réparation et d'obtenir justice.

Comme l'a montré ce bref examen, le principe sur lequel s'appuie l'inclusion des femmes dans le leadership et la prise de décision est, fondamentalement, le respect pour leur discernement, leurs rôles et leurs connaissances. Même si les communautés n'avaient pas toutes des fonctions réservées aux femmes, ces dernières contribuaient à la gouvernance d'autres manières. La colonisation a cherché à éloigner les femmes de ces rôles et, avec le temps, a servi à faire taire leur leadership par la transformation des structures communautaires, des attitudes et des mécanismes de prise de décision, principalement au moyen de la *Loi sur les Indiens*, dont l'historique est décrit plus en détail au chapitre 4. Comme ce chapitre le montrera, la réduction au silence des femmes au moyen de diverses mesures coloniales a contribué à leur manque de sécurité et de justice aujourd'hui.

## **La centralité des femmes dans la culture**

Comme le soutient Kim Anderson : « De manière générale, la culture occidentale n'encourageait pas, ne consignait pas et n'explorait pas la culture des femmes<sup>112</sup> ». En revanche, les cultures des Premières Nations contextualisaient le plus souvent l'existence des femmes de manière importante et fondamentale. Ces pratiques culturelles sont manifestes dans les langues, dans les cérémonies et dans la représentation des femmes en tant qu'êtres de pouvoir et d'espace, qui sont l'artère nourricière, au sens littéral et figuratif, de leur communauté et de leur famille. Ces pratiques, ces croyances et ces manières d'être ont été fondamentalement mal comprises ou délibérément ignorées dans le contexte de la colonisation, qui cherchait à effacer et à éradiquer le pouvoir des femmes et personnes 2ELGBTQQIA autochtones.

Dans un grand nombre de Premières Nations, la création était souvent comprise dans le contexte de l'accouchement. Les traditions liées à l'accouchement variaient d'une nation à l'autre. Dans certaines d'entre elles, par exemple, on enterrait le placenta afin de maintenir le lien entre l'esprit de l'enfant et la Terre Mère. Comme l'Aînée ininiw Sarah Garrioch l'a expliqué, les jeunes devraient avoir « un grand respect pour ce cadeau de la procréation. Je réalise que c'est notre



*Des femmes des Premières Nations posent avec un enfant dans un porte-bébé à Flying Post, en Ontario, en 1906.  
Source : Bibliothèque et Archives Canada/Collection nationale de photographie/a059608*

responsabilité comme grands-mères d'enseigner ces choses à nos jeunes femmes. C'est ce que ma grand-mère m'a enseigné. C'est ce qu'on m'a enseigné. Et aujourd'hui, c'est à notre tour d'enseigner ces choses-là à nos jeunes femmes<sup>113</sup> ».

Avant l'interférence des missionnaires et, plus tard, de l'État, de nombreuses femmes autochtones – tant dans les Premières Nations que chez les Inuits – remplissaient la fonction de sage-femme. Les rencontres déterminantes associées à la naissance, entre la mère et l'enfant, et entre la mère, l'enfant et la sage-femme qui a servi de guide, jouaient un rôle essentiel afin de tracer un chemin de vie sûr, bienveillant et harmonieux à l'enfant. Ce rôle était axé sur plusieurs aspects de la santé holistique dont les femmes étaient responsables, comme l'a expliqué la D<sup>re</sup> Janet Smylie, citant Cheryllee Bourgeois :

Le rôle des sages-femmes autochtones ne se limite pas à fournir des soins prénataux et à assister aux accouchements. Dans le passé et encore aujourd'hui, il consiste à fournir des remèdes pour soigner les enfants malades, à conseiller les gens, y compris les couples qui se disputaient. Dans les communautés métisses, les sages-femmes étaient des intervenantes importantes lorsqu'il y avait de la violence familiale. Et elles enseignaient la culture grâce aux contes et aux récits. Et, en réalité, non seulement elles assistaient à la naissance, mais elles assistaient également à la mort et préparaient les corps après la mort<sup>114</sup>.



Comme le rapporte Pauktuutit, une organisation nationale représentant les femmes inuites : « Les pratiques d'accouchement traditionnelles étaient inhérentes au mode de vie inuit et essentielles au maintien du tissu social des communautés inuites<sup>115</sup>. » La participation des Inuites, et des autres membres de la famille, y compris les grands-parents, a contribué à cimenter le noyau familial, et on ne saurait trop insister sur l'importance de la sage-femme, particulièrement dans les communautés éloignées. De plus, le respect dû à la personne qui avait apporté son aide à la naissance s'incarnait plus tard dans certaines pratiques, par exemple le don à la sage-femme de la première pièce cousue ou du premier animal chassé par l'enfant. La centralisation de la colonisation, discutée plus en détail au chapitre 4, a expressément menacé ces pratiques importantes en exposant les sages-femmes à des actions en justice si elles continuaient à pratiquer.

Le lien des femmes à la vie et à la terre se manifestait aussi sous d'autres formes. Plus précisément, les femmes des Premières Nations et plus tard les Métisses intervenaient souvent dans le protocole et la cérémonie destinés à témoigner du respect aux animaux chassés, tant avant qu'après la chasse. Pour les Premières Nations et les Métis, ces connaissances étaient fondées sur les traditions de leurs mères et grands-mères des Premières Nations et, dans le cas des Métisses, sur la façon dont ces traditions se manifestaient au sein de communautés et de régions géographiques particulières. On croyait que sans ce protocole, les animaux refuseraient de s'offrir pour nourrir les gens. Les Inuites entretenaient également un lien spécial avec les animaux – par exemple, les femmes inūpiat en Alaska organisaient certaines cérémonies pour montrer le respect des baleines avant et après la chasse afin de pouvoir les chasser<sup>116</sup>.

De nombreuses communautés métisses devaient leur existence aux solides réseaux de parenté féminine, qui encourageaient les gens à vivre près de leurs relations maternelles. C'était des liens dont les Métis, y compris des leaders comme Charles Nolin et Louis Riel, étaient très conscients. Les divisions apparentes au sein de la communauté – protestants contre catholiques, Français contre Anglais – étaient en fait surpassées par les liens de sang qui unissaient la communauté autour des femmes et de leurs pratiques autochtones. Les Métis ont toujours expliqué leur place dans le monde par leurs liens familiaux – ce qui est appelé *wahkohtowin*. Au cœur de ces écheveaux de relations se trouvaient les femmes et les filles qui avaient contribué à établir des communautés solides et dynamiques, ancrées dans leur savoir et leurs traditions autochtones<sup>117</sup>.

Dans les sociétés inuites, les femmes étaient également impliquées dans des pratiques culturelles fondamentales et importantes. L'allumage de la *qulliq* (lampe à huile) est un exemple de cérémonie importante pour les Inuites. Bien qu'il serve aussi le but pratique de chauffer l'*igluviq* (maison de neige), de sécher les vêtements et de cuire les aliments, comme l'Aînée inuite Sarah Anala l'a expliqué à notre audience des Gardiens du savoir à Moncton : « [L'allumage de la *qulliq*] est davantage une quête d'illumination spirituelle, de paix, d'harmonie et d'équilibre parmi nous tous<sup>118</sup>. » Par ailleurs, le chant guttural – l'exercice de vocalisation humaine le plus complexe sur Terre – est un jeu ou une compétition entre deux femmes inuites. Comme l'exprime Becky Kilabuk, qui a présenté un chant guttural lors de l'Enquête nationale à Iqaluit : « On se lance un défi. Ça vous tient alerte. Ça aide à rester vive<sup>119</sup>. » C'est également une occasion d'apprentissage différente : puisque la pratique du chant guttural était presque perdue, de plus en plus de jeunes l'apprennent désormais et le montrent ensuite à leurs parents et aux Aînés.





*Annie Bowkett entretient le qulliq à Winnipeg, au Manitoba.*

Les liens entre les enseignements culturels, l'identité et la résilience se sont fissurés au cours du processus de colonisation – mais ils n'ont pas été rompus. Le fait que les cérémonies, les enseignements et les langues survivent aujourd'hui rend témoignage à ces femmes – ces gardiennes de la culture – qui, avec les Aînés masculins, féminins et de diverses identités de genre, continuent de porter les ancêtres en tant que voie potentielle vers la guérison et la sécurité.

## **Boucler la boucle : les autres conceptions du genre et de la sexualité**

Certaines Premières Nations ont rejeté les normes européennes définissant les genres comme binaires, ou exclusivement masculin et féminin, ou définissant la sexualité comme hétérosexuelle, ou entre un homme et une femme. Dans certains cas, il y avait une fluidité et une souplesse importante entre les normes. Comme l'explique le témoin expert Albert McLeod :

Avant le contact avec les Européens, dans les cultures autochtones, la diversité concernant le genre et le sexe était généralement acceptée et non rejetée. Ça reste le cas aujourd'hui malgré l'impact de la colonisation. Des hommes bispirituels et des femmes transgenres s'alignent sur leurs grands-mères ancestrales en ce sens qu'elles ont des identités, des compétences et des intérêts féminins, qu'elles désirent les hommes et qu'elles sont attirées par eux [...] Certaines femmes bispirituelles s'alignent sur leurs grands-pères ancestraux et, par conséquent, exercent des activités et jouent des rôles masculins. Dans la plupart des cas, les personnes bispirituelles ont des identités de genre fusionnées qui cadrent avec la vision du monde autochtone<sup>120</sup>.

Comme l'explique Kim Anderson, avant la colonisation, on comprenait les genres dans le contexte de la fluidité; dans certaines communautés, on considérait qu'il existait en fait quatre genres, plutôt que deux : les hommes, les femmes, les hommes bispirituels efféminés et les femmes bispirituelles viriles<sup>121</sup>.



En outre, M. McLeod – qui se fait souvent appeler « tante » – a expliqué que le principe anishinaabe de non-interférence a donné aux personnes de diverses identités de genre l'espace nécessaire pour concrétiser leur propre vision et suivre la voie que le Créateur leur avait tracée. Par exemple, Ozawwendib était une femme anishinaabe de sexe masculin à la naissance, qui a commencé très tôt à porter des vêtements de femmes et à assumer des rôles féminins dans sa communauté. Elle était également une guerrière respectée. Elle a eu plusieurs maris, et ces mariages n'étaient pas traités différemment des autres unions<sup>122</sup>. Dans un autre exemple, dans la société matrilineaire kwa'kwala, un homme pouvait épouser un autre homme lorsqu'il n'y avait pas de fille dans la famille pour perpétuer le nom et les responsabilités de la famille, mais il n'est pas clair qu'ils aient fondé un foyer ensemble<sup>123</sup>. Le témoin Jeffrey McNeil-Seymour a rappelé les explications de Lee Maracle : « Il n'y a pas d'homosexualité, il n'y a pas d'hétérosexualité. Avant le contact, il n'y avait que la sexualité humaine<sup>124</sup> ».

Pour certaines Premières Nations, la fluidité de genre était fondée sur leur rôle dans la communauté – un rôle qui serait défini avec le temps et l'expérience. Selon l'écrivaine Jeannette Armstrong des Okanagan des Salish de l'Intérieur :

Chez les Okanagan, comme dans de nombreuses tribus autochtones, le cycle d'apprentissage de la vie se présentait comme suit : vous naissez sans sexe et dans l'enfance, grâce à l'apprentissage, vous acquérez graduellement la capacité de devenir un homme ou une femme. Ce n'est que lorsque vous êtes adéquatement préparé pour le rôle que vous devenez un homme ou une femme. La progression naturelle vers la parentalité procure le partage d'immenses enseignements, d'amour, de compassion et de coopération nécessaires pour assurer le maintien de la famille et de la communauté. Finalement, en tant qu'aîné, vous devenez homme et femme, un être humain complet doté de compétences et de capacités complètes<sup>125</sup>.

De la même manière, en ce qui concerne les sociétés algonquines, Kim Anderson écrit qu'après la ménopause, les Algonquines âgées étaient considérées comme appartenant aux deux sexes et pouvaient pénétrer dans les espaces réservés aux hommes<sup>126</sup>.

Dans certaines Premières Nations, le brouillage des genres des genres était un moyen d'assurer la survie du clan en corrigeant en partie les déséquilibres démographiques entre les hommes et les femmes, particulièrement dans les petites communautés. Par exemple, s'il n'y avait pas assez de chasseurs, une femme ou une fille pouvait accomplir ce travail, ou vice versa, des hommes pouvaient exécuter le travail traditionnellement dévolu aux femmes.

Dans les sociétés inuites, la division entre les genres était brouillée par le rôle des noms ainsi que par le rôle joué par une personne. Quand un Inuit vient au monde, on lui donne généralement l'*atiq* (nom) d'un membre décédé de la communauté. L'*atiq*, cependant, est plus qu'un simple nom. Le concept revêt certaines similarités avec le concept occidental de l'« âme ». Par l'intermédiaire de l'*atiq*, l'enfant hérite des goûts, de personnalité et des relations sociales de la personne décédée. Les gens parlent généralement à l'enfant en utilisant les termes de parenté qu'ils utilisaient pour le défunt. L'attribution des noms dans la culture inuite est par conséquent



une forme de réincarnation, par laquelle les membres défunts de la communauté « reviennent » dans l'enfant auquel leur nom est donné<sup>127</sup>.

Cette relation entre les noms et l'identité pourrait avoir des implications concernant le genre. Les garçons qui recevaient le nom d'une femme décédée étaient élevés au départ comme des filles, alors que les filles qui se voyaient attribuer le nom d'un homme étaient d'abord traitées comme des garçons. Cette fluidité de genre supposait de porter les vêtements et d'acquérir les compétences associées au genre correspondant à leur nom plutôt qu'à leur sexe biologique. Au début de la puberté, leurs vêtements et leurs occupations étaient réalignés pour correspondre à leur sexe biologique<sup>128</sup>.

Quelle que soit la façon dont les peuples autochtones comprenaient leur genre et leur sexualité, les ancêtres et les contemporains de diverses identités de genre ont des points de vue incroyablement précieux à offrir. Comme l'a signalé Jeffrey McNeil-Seymour : « Comme on le sait, la culture n'est pas statique et elle est constamment en mouvement, alors on doit aussi évoluer avec elle [...] J'ai l'impression que nous, les bispirituels, on est ici pour rétablir l'équilibre et pour être les intermédiaires dans tous ces rôles traditionnels et toutes ces identités que nous possédons<sup>129</sup>. » Albert McLeod affirme la même chose : « Et donc, en tant que personnes bispirituelles, nous nous inscrivons dans ce cercle avec notre compréhension de ces enseignements et notre contribution. Et donc quand on est présent, cela signifie que tout le cercle est complet<sup>130</sup> ». Pour certains témoins, l'importance de fermer le cercle signifie que les personnes 2ELGBTQIA doivent être de nouveau accueillies dans les cérémonies pour tenter de transmettre davantage ces enseignements aux communautés ou aux membres de communauté qui ont appris à rejeter la fluidité de genre dans le cadre de la colonisation et de la christianisation. Ce cercle inclut les personnes transgenres, pour attirer l'attention sur les cas de violence qui peuvent être ignorés lorsqu'elles sont exclues.

« PLUTÔT QUE DE NOUS DEMANDER "QUELS SONT LES RÔLES TRADITIONNELS DES GENRES ?", COMME S'IL NE FALLAIT JAMAIS QU'ILS CHANGENT ET COMME S'ILS N'AVAIENT JAMAIS CHANGÉ PAR LE PASSÉ, IL FAUT VOIR DE QUELLE FAÇON NOTRE COMPRÉHENSION DU GENRE ET DE LA SEXUALITÉ, AUJOURD'HUI, ORIENTE LA FAÇON DONT NOUS TRAVAILLONS AVEC LES LOIS ET NOTRE INTERPRÉTATION DES LOIS. »

Val Napoleon

Dans l'ensemble, le processus de colonisation a fondamentalement tenté d'altérer les identités et les rôles des femmes dans leur communauté. L'identité, soutenue par la langue, les récits, les cérémonies et les liens, a subi des assauts de toutes parts au fil des différents processus de colonisation, y compris les réinstallations, les pensionnats indiens et l'adoption, ainsi que des processus généraux d'isolation des peuples autochtones et de restriction de l'accès aux territoires traditionnels, explorés au chapitre 4. Le pouvoir et la place accordés aux femmes du simple fait qu'elles étaient des femmes – une reconnaissance de l'« être », pour emprunter le titre du livre de





Kim Anderson – ont été remis en cause par les rencontres avec les colonisateurs qui n’ont montré aucun intérêt à accorder des privilèges ou de la protection aux femmes, aux filles et aux personnes 2ELGBTQQIA autochtones.

## Conclusion : trouver des solutions grâce à de nouvelles relations

Le présent chapitre a donné un aperçu des concepts de respect, de réciprocité et d’interdépendance qui sont à la base de nombreux systèmes juridiques autochtones et qui constituent un moyen efficace de comprendre les divers droits dans un contexte autochtone. Ces rôles, ces responsabilités et les droits connexes ne visent pas à enfermer les femmes, les filles ou les personnes 2ELGBTQQIA dans une forme d’identité déterminée. Comme l’a confié Val Napoleon dans son témoignage devant l’Enquête nationale : « Plutôt que de nous demander “Quels sont les rôles traditionnels des genres?” , comme s’il ne fallait jamais qu’ils changent et comme s’ils n’avaient jamais changé par le passé, il faut voir de quelle façon notre compréhension du genre et de la sexualité, aujourd’hui, oriente la façon dont nous travaillons avec les lois et notre interprétation des lois<sup>131</sup>. » Et, comme Dawnis Kennedy a dit : « Vous savez, je crois que si les femmes assumaient leur rôle, nous n’aurions pas à nous inquiéter de protéger les femmes. Nous n’aurions qu’à observer les femmes faire leur travail pour protéger la vie<sup>132</sup> ».



*Une jeune femme inuite porte un enfant dans son amauti, vers 1947-1948.  
Source : Bibliothèque et Archives Canada/Fonds Richard Harrington/a147049  
Crédit : Richard Harrington*

Plus précisément, nous espérons mettre en lumière une combinaison de récits et d’histoires qui démontrent le pouvoir et la place des femmes, des filles et des personnes 2ELGBTQQIA autochtones, tels qu’ils sont représentés dans les témoignages recueillis au cours de l’Enquête nationale et tels qu’ils se manifestent dans les divers modes de connaissance autochtones. Comme l’affirme Val Napoleon :

La loi autochtone n’a pas évolué au Canada. Mais elle existe dans les façons dont les gens essaient de travailler dans les communautés. Cependant, elle a été affaiblie et ce qu’il nous reste à faire, c’est une œuvre de reconstruction. Il y a des façons structurées et essentielles de procéder et nous devons y mettre le temps, de même que le travail mental



et le travail émotionnel et spirituel qu'il faudra pour y arriver. Ainsi, nous n'idéaliserons pas la loi autochtone et nous lui permettrons de s'adapter aux réalités que vivent nos communautés. Certaines de ces communautés sont très dangereuses pour les femmes et les filles<sup>133</sup>.

Comme nous l'avons illustré, un élément fondamental de la sécurité réside dans la compréhension des rôles, des responsabilités et des droits inhérents conférés par les femmes et pour les femmes, comme elles les entendent. Les lois autochtones et les droits de la personne qui contribuent à la sécurité des femmes, des filles et des personnes 2ELGBTQQIA varient d'un groupe à l'autre, mais sont représentés dans le territoire, les récits, les cérémonies et les conceptions du monde qui soulignent l'importance des relations entre les gens eux-mêmes et entre les gens et leur environnement. Ces rôles, ces responsabilités et ces droits étaient à la fois collectifs et individuels. Comme l'explique la professeure Brenda Gunn : « Lorsque je pense à la gouvernance collective dans de nombreuses communautés autochtones, ce que je comprends c'est que l'identité, l'existence ou les droits individuels, n'étaient jamais sacrifiés pour la collectivité [...] Mais c'était la façon dont le collectif était responsable de la protection des individus et la façon dont l'individu contribuait et faisait partie du collectif<sup>134</sup> ».

Dans cette Enquête nationale, nous nous sommes laissé guider par le principe que nos femmes et nos filles sont sacrées et que, en leur absence, ce sont non seulement les membres de leurs familles, mais les communautés et les Nations en entier qui s'exposent à un risque accru et qui perdent des parties irremplaçables d'elles-mêmes. Cette dimension sacrée n'est pas éthérée ni sans fondement. Au contraire, comme le montrent nos témoignages, les femmes en tant qu'enseignantes, leaders, guérisseuses, pourvoyeuses et protectrices étaient et demeurent des éléments indispensables de l'équation en vue de produire des solutions à la crise des femmes et des filles autochtones disparues et assassinées. Audrey Siegl, membre de l'équipe de l'Enquête nationale, a déclaré :

Pour les femmes [...] pour nos jeunes femmes, pour nos grands-mères, pour les femmes qui voyagent avec nous, qui nous guident, qui nous aiment, qui partagent la force pour accomplir ce travail bouleversant [...] nous sommes sacrées parce que nous existons. Nous sommes sacrées parce que nous avons survécu. Nous avons survécu pendant que d'autre ne l'on pas. Nous voyons nos femmes mourir chaque jour ici au Canada. Je ne sais pas quand nous aurons la sécurité, la paix et la justice, mais sachez que nous vous aimons et que nous faisons de notre mieux pour que vous n'ayez pas à faire ce que nous faisons.

Et, là où nous nous interrompons, d'autres viendront inmanquablement et prendront le relais. J'espère que ce sera plus facile pour elles J'espère que ce sera moins lourd pour elles.

Respect, réciprocité et interdépendance – ces principes peuvent être la clé pour comprendre ce qui a été menacé par les contacts avec la colonisation, et détenir le pouvoir de transformer les



préjudices ou la santé de chaque personne, processus et institution concernés par la crise des femmes et des filles autochtones disparues et assassinées.

En expliquant pourquoi elle a choisi de témoigner devant la Commission, Dawnis Kennedy souligne l'importance contemporaine de la loi autochtone :

Ce sont ceux qui se considèrent les plus puissants dans la société moderne qui ont aussi besoin de notre loi, de notre Onaakonigewin, de notre connaissance de la vie et de la façon de vivre une bonne vie en harmonie les uns avec les autres et avec toutes nos relations, pas seulement avec l'humanité, avec tous nos parents : les plantes, les animaux, les étoiles, les oiseaux, les poissons, les vents, l'esprit; notre mère, la terre; notre grand-mère, la lune; notre grand-père, le soleil; tous nos parents dans l'univers. C'est ce que notre loi nous enseigne, comment vivre en relation et comment assurer la continuité de la vie pour les sept prochaines générations<sup>136</sup>.

Dans le récit historique cri intitulé « Le cadeau des vieilles femmes », les femmes âgées d'une communauté doivent rester derrière et mourir aux mains de leurs ennemis pour permettre au reste du groupe de demeurer en sécurité. Avant d'accepter ce don de soi, le chef dit : « Mais qui va enseigner à nos enfants et aux enfants de nos enfants? [...] Sans votre sagesse, comment nos jeunes apprendront-ils les coutumes cries<sup>137</sup>? »

Les récits sont des remèdes<sup>138</sup>. Comme l'expliquent les auteures et chercheuses Leanne Simpson et Kiera Ladner, les grands-mères et les tantes nous racontent des histoires et nous gardent en vie : « Chaleur dans nos cœurs et chaleur dans nos ventres<sup>139</sup>. » Les femmes, les filles et les personnes 2ELGBTQQIA autochtones possèdent des histoires incroyables de force et de résilience. Elles continuent de transmettre ces enseignements, par l'exemple ou par des récits. Elles représentent une composante irremplaçable de l'appartenance aux communautés et aux Nations, et de leur édification. Les histoires peuvent aussi nous aider, en tant que société, à trouver le chemin du retour à la « maison<sup>140</sup> » – et ce faisant, à créer des espaces et des places plus sûrs pour les femmes, les filles et les personnes 2ELGBTQQIA autochtones.

« POUR LES FEMMES, POUR NOS JEUNES FEMMES, POUR NOS GRANDS-MÈRES, POUR NOS FEMMES QUI VOYAGENT AVEC NOUS, QUI NOUS GUIDENT, QUI NOUS AIMENT, QUI PARTAGENT LA FORCE POUR ACCOMPLIR CE TRAVAIL BOULEVERSANT [...] NOUS SOMMES SACRÉES PARCE QUE NOUS EXISTONS. NOUS SOMMES SACRÉES PARCE QUE NOUS AVONS SURVÉCU. NOUS AVONS SURVÉCU PENDANT QUE D'AUTRES NE L'ONT PAS. JE NE SAIS PAS QUAND NOUS AURONS LA SÉCURITÉ, LA PAIX ET LA JUSTICE, MAIS SACHEZ QUE NOUS VOUS AIMONS ET QUE NOUS FAISONS DE NOTRE MIEUX POUR QUE VOUS N'AYEZ PAS À FAIRE CE QUE NOUS FAISONS. »

Audrey Siegl





## Notes

- 1 Cité dans Monture, « Women's Words », 46; apparaissant dans Grant, *Our Bit of Truth*, 15.
- 2 Tuma Young (L'nu, Première Nation Malagawatch), Partie 3, Volume public 1, Winnipeg, Man., p. 201. Dans ce chapitre, comme dans tous nos chapitres, la citation est tirée de la transcription officielle de la langue dans laquelle la personne a témoigné, même si la citation a été traduite.
- 3 D<sup>re</sup> Janet Smylie (Crie/Métisse), Parties II et III mixtes, Volume public 2, Iqaluit, Nun., p. 117.
- 4 Dawnis Kennedy (Minnawaanigogizhigok) (Anishinaabe), Partie 3, Volume public 2, Winnipeg, Man., p. 191.
- 5 Val Napoleon (Gitxsan, Première Nation Sauleau), Partie 3, Volume public 1, Winnipeg, Man., p. 87.
- 6 Tuma Young (L'nu, Première Nation Malagawatch), Partie 3, Volume public 1, Winnipeg, Man., p. 148.
- 7 Val Napoleon (Gitxsan, Première Nation Sauleau), Partie 3, Volume public 1, Winnipeg, Man., p. 87.
- 8 Snyder, Napoleon, et Borrows, « Gender et Violence », 596.
- 9 Kulchyski, *Aboriginal Rights*.
- 10 Dawnis Kennedy (Minnawaanigogizhigok) (Anishinaabe), Partie 3, Volume public 2, Winnipeg, Man., p. 200.
- 11 Dawnis Kennedy (Minnawaanigogizhigok) (Anishinaabe), Partie 3, Volume public 2, Winnipeg, Man., p. 204.
- 12 Tuma Young (L'nu, Première Nation Malagawatch), Partie 3, Volume public 1, Winnipeg, Man., p. 157.
- 13 Jean Leclair, Partie 3, Volume public 6, Québec, Qc, p. 175.
- 14 Dawnis Kennedy (Minnawaanigogizhigok) (Anishinaabe), Partie 3, Volume public 2, Winnipeg, Man., pp. 190-191.
- 15 Val Napoleon (Gitxsan, Première Nation Sauleau), partie 3, Volume public 1, Winnipeg, Man., p. 95. Voir aussi Borrows, *Canada's Indigenous Constitution*.
- 16 Val Napoleon (Gitxsan, Première Nation Sauleau), Partie 3, Volume public 1, Winnipeg, Man., p. 80.
- 17 Sandra Omik (Inuite, Pond Inlet), Partie 3, Volume public 3, Winnipeg, Man., p. 116.
- 18 Sandra Omik (Inuite, Pond Inlet), Partie 3, Volume public 3, Winnipeg, Man., p. 118.
- 19 Snyder, Napoleon, et Borrows, « Gender et Violence », 596-97, et 610.
- 20 Aîné Kunuk Muckpalook (Inuit), Partie 3, Volume public 2, Winnipeg, Man., p. 120.
- 21 Sandra Omik (Inuite, Pond Inlet), Partie 3, Volume public 3, Winnipeg, Man.
- 22 Hadley Friedland, Partie 3, Volume public 2, Winnipeg, Man., p. 79.
- 23 Dawnis Kennedy (Minnawaanigogizhigok) (Anishinaabe), Partie 3, Volume public 2, Winnipeg, Man., p. 174.
- 24 Val Napoleon (Gitxsan, Première Nation Sauleau), Partie 3, Volume public 1, Winnipeg, Man., pp. 69-70.
- 25 Val Napoleon (Gitxsan, Première Nation Sauleau), Partie 3, Volume public 1, Winnipeg, Man., p. 112.
- 26 Jean Leclair, Partie 3, Volume public 6, Québec, Qc, p. 218.
- 27 Dawnis Kennedy (Minnawaanigogizhigok) (Anishinaabe), Partie 3, Volume public 2, Winnipeg, Man., p. 170.
- 28 Par exemples, voir Law Society of Canada, ed., *Indigenous Legal Traditions*; Napoleon, « Thinking About Indigenous Legal Orders »; et Borrows, « Eliminating Pre et Post-Contact Distinctions. »
- 29 Dawnis Kennedy (Minnawaanigogizhigok) (Anishinaabe), Partie 3, Volume public 2, Winnipeg, Man., p. 184.
- 30 Cruikshank, *Life Lived Like a Story*.
- 31 Whiteduck, « But It's Our Story ».
- 32 Napoleon et Friedland, « An Inside Job ».
- 33 Val Napoleon (Gitxsan, Première Nation Sauleau), Partie 3, Volume public 1, Winnipeg, Man., p. 81.
- 34 Napoleon et Friedland, « An Inside Job », 738.
- 35 LaRocque, cité dans Anderson, *A Recognition of Being*, 36-37.



- 36 Anderson, *A Recognition of Being*, 37.
- 37 De nombreuses histoires ont été transmises oralement depuis des générations, tandis que d'autres ont été enregistrées. L'enregistrement de ces récits, en particulier historiquement, a souvent été réalisé par des ethnographes européens coloniaux, souvent masculins, qui ont résumé des récits ou proposé des interprétations conformes à leurs propres conceptions du monde. Même la simple lecture d'histoires en anglais perd la nuance encodée dans les langues originales dans lesquelles elles sont racontées, et de nombreuses histoires et enseignements sont soit fracturés, soit perdus. Pour cette raison, nous avons hiérarchisé les histoires racontées par les femmes autochtones et les personnes de la diversité des sexes elles-mêmes, dans une traduction aussi proche que possible. De plus, il n'était pas possible d'examiner le rôle et les responsabilités des femmes autochtones, nation par nation, nous avons donc choisi de tirer des conclusions plus larges et de présenter des exemples tirés d'exemples de différentes sociétés autochtones. Ces récits ne sont pas destinés à représenter un ensemble de croyances pan-autochtones, mais à donner un aperçu de certains des principes importants qu'ils véhiculent, qui peuvent varier d'une nation à l'autre et d'une communauté à l'autre.
- 38 Snyder, Napoleon et Borrows, « Gender and Violence », 612.
- 39 Eva P. (Première Nation Sioux Alexis Nakota), Partie 1, Volume public 31, Saskatoon, Sask., p. 23.
- 40 Toni C. (Crie), Part 1, Déclaration publique 425, Onion Lake, Sask., p. 7.
- 41 Ann M. R. (Kaska Dena), Partie 1, Volume public 3, Whitehorse, Yn., p. 39.
- 42 Fay Blaney (Xwémalhkwa de Coast Salish), Partie 3, Volume public 5, Québec, Qc, pp. 334-335.
- 43 Ann M. R. (Kaska Dena), Partie 1, Volume public 3, Whitehorse, Yn., p. 38.
- 44 Entrevue avec Bernie Williams et Audrey Siegl, le 30 septembre 2018, par Kelsey Hutton, p. 66-67.
- 45 Entrevue avec Bernie Williams et Audrey Siegl, le 30 septembre 2018, par Kelsey Hutton, p. 46.
- 46 Entrevue avec Pénélope Guay, le 30 septembre 2018, par Annie Bergeron, p. 22.
- 47 Rhonda M. (Anishinaabe), Partie 1, Volume public 7, Smithers, C.-B., p. 26.
- 48 Grace T. (Eagle clan, Tsimshian), Partie 1, Volume public 118, Vancouver, C.-B., p. 18.
- 49 Les Métis d'origine Anishinaabe ou Crie peuvent également adopter certains systèmes de croyance, bien que de nombreux Métis soient également fortement affiliés aux églises catholiques ou protestantes. Voir Chantal Fiola, *Rekindling the Sacred Fire*. Beaucoup d'Inuits auraient également une vision en grande Partie chrétienne de la création en raison de l'histoire de leur transition au christianisme à la fin du 19<sup>e</sup> siècle, mais des ethnographies plus récentes soutiennent que les Inuits ont incorporé les idées du christianisme dans un cadre cosmologique plus large des Inuits. Voir Brody, *The Other Side of Eden* et Oosten, Laugrand, et Remie, « Perceptions of Decline ».
- 50 Horn-Miller, « Distortion et Healing ».
- 51 Anderson, « New Life Stirring », p. 13.
- 52 Horn-Miller, « Distortion et Healing ».
- 53 Christopher, Flaherty, et McDermott, *Unikkaaqtuat*.
- 54 Ibid., 42-43.
- 55 Laugret et Oosten, *The Sea Woman*. Voir aussi Bennett et Rowley, *Uqalurait*.
- 56 Dawnis Kennedy (Minnawaanigogizhigok) (Anishinaabe), Partie 3, Volume public 2, Winnipeg, Man., pp. 188-189.
- 57 Il y a aussi les récits algonquiens de la femme qui a construit le premier pavillon de sudation et de la Grandmère de Sacred Pipes; l'histoire haïda de Cumulus Cloud Woman, qui répand des graines de tabac sur Haida Gwaii et la femme médecin qui appelle Sœur Cedar et fabrique en cèdre chaque soeur de femme; et les Tsimshian racontent l'histoire de la femme qui a offert aux hommes du Devil's Club, une herbe cérémonielle très importante.
- 58 Dooling, *The Sons of the Wind*; Hazen-Hammond, *Spider Woman's Web*.
- 59 Barkwell, Dorion, et Hourie, *Metis Legacy II*, 35.
- 60 Ibid., 38.
- 61 Donna Adams et al., *Inuit Leadership and Governance*, 43.
- 62 Barkwell, Dorion, et Hourie, *Metis Legacy II*, 58-59.
- 63 Trudy S. (Première Nation Mowachaht/Muchalaht), Partie 1, Volume public 95, Vancouver, C.-B., p. 23.
- 64 Lee, « Defining Traditional Healing ».



- 65 Joann Green (Heiltsuk), Partie 1, Volume public 90, Vancouver, C.-B., pp. 66-67.
- 66 Ha-yen-doh-nees, *Seneca Indian Stories*.
- 67 Ibid., 58.
- 68 Ibid., 58-59.
- 69 Lévesque, Geoffroy, et Polèse, « Naskapi Women », 79.
- 70 Jeffrey McNeil-Seymour (Tk'emlups te Secwepemc/Anglais), Parties II et III mixtes, Volume public 3, Iqaluit, Nun., p. 225.
- 71 Albert McLeod (Nation Crie Nisichawayasihk /communauté Métis de Norway House), Partie 3, Volume public 8, Toronto, Ont., p. 51.
- 72 Bennett et Rowley, *Uqalurait*. Voir aussi Aupilaarjuk et al, *Cosmology et Shamanism*.
- 73 Koperqualuk, « Puvirmiturmiut Religious et Political Dynamics ».
- 74 Bennett et Rowley, *Uqalurait*, 180.
- 75 Aïné Miigam'agan (Mi'kmaq), Part 1, Volume public 44(a), Moncton, N.-B., p. 126.
- 76 Boas et Tate, *Tsimshian Mythology*, 66.
- 77 Pour un exemple, voir « 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), Partie 1, Volume public 84, Vancouver, C.-B., p. 79.
- 85 Val Napoleon (Gitksan, Première Nation Saulneau), Partie 3, Volume public 2, Winnipeg, Man., 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 Interviewée par Wiebe, « The Role of Indigenous Women ». Voir aussi Aimée Craft, *Breathing Life into the Stone Fort Treaty*.
- 90 Ibid.
- 91 Szack, « Keepers of the Water ».
- 92 Kermoal et Altamirano-Jiménez, *Living on the Land*; Anderson, *Life Stages et Native Women*; Bennett et Rowley, *Uqalurait*.
- 93 Anderson, *A Recognition of Being*, 59.
- 94 Ibid., 61.
- 95 Brafford et Thom, *Dancing Colors*; Anderson, *Life Stages et Native Women*.
- 96 Joan Scottie, dans *Arnait Nipingit*, 119.
- 97 Anderson, *Life Stages and Native Women*; Cruikshank, *Life Lived Like a Story*.
- 98 Blackman et Davidson, *During My Time*.
- 99 Turnbaugh et Turnbaugh, *Basket Tales*.
- 100 Wight, « Women et Art in Salluit »; Graburn, *Eskimos Without Igloos*; Roberts, *The Inuit Artists of Sugluk*.
- 101 Anderson, « Leading by Action ».
- 102 Carter, « Your Great Mother »; Miller, « Victoria's 'Red Children ».
- 103 Bringhurst, *A Story as Sharp*.
- 104 Amy Hudson (Inuite, NunatuKavut), Partie 3, Volume public 9, Toronto, Ont., p. 151.
- 105 Anderson, *A Recognition of Being*, 65.
- 106 Joann Green (Heiltsuk), Part 1, Volume public 90, Vancouver, C.-B., p. 18.
- 107 Cited in Morris, « Gifted Woman », 76.
- 108 Anderson, « Leading by Action », 113.
- 109 Bennett et Rowley, *Uqalurait*.
- 110 Anderson, *A Recognition of Being*, 95.
- 111 Pour en savoir d'avantage au sujet des traditions Cries de mariage, voir Carter, *The Importance of Being Monogamous*.
- 112 Anderson, *A Recognition of Being*, 30.
- 113 Pratt, Bone, et les Aïnés de Traité et Dakota du Manitoba, avec contributions par le AMC Council of Elders, *Untuwe Pi Kin He*, 104.
- 114 D<sup>re</sup> Janet Smylie (Crie/Métis), Parties II et III mixtes, Volume public 2, Iqaluit, Nun., p. 160.





- 115 Pauktuutit, « Midwifery ».
- 116 Bodenhorn, « I'm Not the Great Hunter ».
- 117 Macdougall, *One of the Family*. Voir aussi Macdougall, "The Myth of Metis Cultural Ambivalence."
- 118 Elder Sarah Anala (Inuite, Labrador), Partie 1, Volume public 44(a), Moncton, N.-B., p. 2.
- 119 Becky Kilabuk (Inuite, Pangnirtung ), Parties II et III mixtes, Volume public 4, Iqaluit, Nun., p. 240.
- 120 Albert McLeod (Nation Crie Nisichawayasihk /communauté Métisse de Norway House), Partie 3, Volume public 8, Toronto, Ont., p. 57.
- 121 Anderson, *A Recognition of Being*, 89.
- 122 Morris, « Gifted Woman ».
- 123 Boas, *The Social Organization*.
- 124 Jeffrey McNeil-Seymour (Tk'emlups te Secwepemc/Anglais), Partie mixtes 2 & 3, Volume 4, Iqaluit, Nun., p. 170.
- 125 Armstrong et Cardinal, *The Native Creative Process*, 102.
- 126 Anderson, *Life Stages et Native Women*.
- 127 Brody, *The Other Side of Eden*.
- 128 Trott, « The Gender of the Bear ».
- 129 Jeffrey McNeil-Seymour (Tk'emlups te Secwepemc/Anglais), Parties II et III mixtes, Volume public 4, Iqaluit, Nun., p. 188.
- 130 Albert McLeod (Nation Crie Nisichawayasihk /communauté Métisse de Norway House), Partie 3, Volume public 8, Toronto, Ont., p. 89.
- 131 Val Napoleon (Première Nation Sauleau et Gitxsan), Partie 3, Volume public 1, Winnipeg, Man., p. 110.
- 132 Dawnis Kennedy (Minnawaanigogizhigok) (Anishinaabe), Partie 3, Volume public 2, Winnipeg, Man., p. 189.
- 133 Val Napoleon (Gitxsan, Première Nation Sauleau), Partie 3, Volume public 2, Winnipeg, Man., p. 25.
- 134 Brenda Gunn (Métis), Partie 3, Volume public 6, Québec, Qc, p. 71.
- 135 Entrevue avec Bernie Williams et Audrey Siegl, le 30 septembre 2018, par Kelsey Hutton, p. 81.
- 136 Dawnis Kennedy (Minnawaanigogizhigok) (Anishinaabe), Partie 3, Volume public 2, Winnipeg, Man., pp. 169-170.
- 137 Walsh, *Beginnings*, 26.
- 138 Anderson, *Life Stages of Native Women*.
- 139 Simpson et Ladner, *This Is an Honour Song*, 8.
- 140 Whiteduck, « But It's Our Story ».



## Favoriser la responsabilisation grâce aux instruments des droits de la personne

### Introduction : Pourquoi les droits de la personne?

Les récits et les histoires autochtones des Premières Nations, des Métis et des Inuits mettent de l'avant les valeurs de respect, de réciprocité et d'interdépendance. Ces valeurs viennent appuyer le recours aux principes du droit autochtone, tels qu'énoncés par divers groupes, comme outils de décolonisation des notions occidentales du droit. Sous l'impulsion de cette entreprise de décolonisation s'amorce une lente déconstruction des structures physiques et idéologiques qui ont mené à la promotion de la violence envers les peuples autochtones – et plus particulièrement envers les femmes, les filles et les personnes 2ELGBTQQIA autochtones.

Nous avons par ailleurs entendu que les droits fondamentaux des femmes, des filles et des personnes 2ELGBTQQIA autochtones, dans le contexte de ces interrelations, sont souvent bafoués. Le manque de services ou la piètre qualité des services reçus et le manque de protection offerte aux femmes, aux filles et aux personnes 2ELGBTQQIA autochtones en sont des illustrations. Les participants ont également souligné le besoin criant de mécanismes qui permettront de responsabiliser les gouvernements et de les empêcher de faire perdurer cette crise au détriment des générations futures.

Le Canada est signataire de divers instruments relatifs aux droits autochtones et aux droits de la personne qui édictent les normes qu'il s'est engagé à respecter. Comme l'a expliqué le témoin expert Timothy Argetsinger, conseiller politique à Inuit Tapiriit Kanatami (ITK) :



L'approche fondée sur le cadre des droits de la personne est importante car elle relie les engagements et les obligations formels du Canada à divers instruments relatifs aux droits de la personne, dont un certain nombre d'obligations liées à certains des besoins fondamentaux [...] comme le logement, le droit à l'alimentation et la sécurité. Ces obligations touchent également le problème plus général de la violence faite aux femmes et aux filles car les lacunes ou les manquements à ces obligations provoquent une situation de vulnérabilité<sup>1</sup>.

Brenda Gunn, métisse et professeure de droit à l'Université du Manitoba, abonde dans le même sens. À son avis, le recours à une approche axée sur les droits internationaux de la personne pourrait aider à cerner les lois qui n'ont pas réussi à protéger les femmes, les filles et les personnes 2ELGBTQQIA autochtones et qui ont, dans certains cas, amplifié la violence qu'elles ont subie<sup>2</sup>. Comme elle le mentionne : « Cette approche peut aider à lutter contre les pratiques discriminatoires et les formes de distribution inéquitables du pouvoir ainsi qu'à lever le voile sur les actions du Canada qui minent les droits de la personne<sup>3</sup>. »

Pour mettre fin à la tragédie des femmes et des filles autochtones disparues et assassinées, il importe de comprendre en quoi les instruments relatifs aux droits de la personne peuvent contribuer à promouvoir les droits des femmes, des filles et des personnes 2ELGBTQQIA autochtones. Comme Brenda Gunn le mentionne dans son témoignage, « Si nous voulons corriger, rectifier ou œuvrer à la « réconciliation » – le terme que nous utilisons au Canada – nous devons d'abord réaliser pleinement les droits des peuples autochtones. Et cela signifie [...] qu'il faut que ce processus de mise en œuvre soit mis de l'avant dans un esprit de partenariat et de respect mutuel<sup>4</sup>. »

Les droits des peuples autochtones constituent également, dans une large mesure, des droits de la personne. D'abord parce qu'ils s'appliquent dans leur essence à tous les êtres humains mais aussi, comme le font remarquer John-Andrew McNeish et Robyn Eversole, parce que « différentes collectivités nationales et communautés culturelles s'approprient réellement le concept de droits de la personne et s'en servent dans l'évaluation de leur propre situation et dans la formulation de leurs revendications<sup>5</sup> ».

Les principes des droits de la personne se retrouvent déjà dans les revendications des droits autochtones, indiquant que les deux concepts sont complémentaires, fortement liés et ancrés dans l'expérience des victimes d'injustices. Dans ses travaux portant sur la place des femmes dans le discours des droits de la personne, Brenda Gunn fait valoir qu'une approche axée sur les droits de la personne

permet de mettre l'accent sur les besoins des femmes et des filles autochtones, notamment en reconnaissant qu'elles détiennent des droits. Cette approche renforce leur capacité d'agir et leur autonomie et permet que soient prises en compte et les différentes formes de discrimination dont elles sont victimes et les différents contextes dans lesquels elles surviennent<sup>6</sup>.





Nous prétendons par ailleurs qu'il faut distinguer les droits de la personne des droits autochtones, de façon à dépasser le cadre des droits qui devraient être protégés par l'État et cheminer vers les droits qui se réalisent par l'entremise de nouvelles relations et en combattant le racisme, la discrimination et les stéréotypes qui se retrouvent au cœur de toutes les rencontres et les relations dont ont fait état les personnes ayant témoigné pendant l'Enquête nationale. Comme l'a mentionné Gladys R. :

Nous voulons être en bons termes avec le reste de la société. C'est notre territoire. Nous voulons avoir une bonne relation entre partenaires. Nous avons accueilli tout le monde. Et qu'est-ce qu'ils nous font? Nos jeunes mères disparaissent. Nos jeunes mères sont assassinées à un rythme effarant, plus que toute autre race au pays<sup>7</sup>.

Selon Andrea Smith, spécialiste de la non-violence, on peut appliquer les droits de la personne dans le contexte de la décolonisation. Elle explique : « Bien que l'objectif ultime de la libération des Autochtones soit la décolonisation plutôt que la protection des droits de la personne, le cadre des droits de la personne peut éventuellement être utilisé dans l'élaboration d'une stratégie visant la décolonisation<sup>8</sup>. » Pourvu qu'on les aborde sous l'angle des valeurs fondamentales de respect, de réciprocité et d'interdépendance présentées au chapitre précédent, le recours aux instruments relatifs aux droits de la personne pour faire avancer la décolonisation peut contribuer à accroître la sécurité des femmes, des filles et des personnes 2ELGBTQQIA autochtones.

Dans ce chapitre, nous illustrerons tout d'abord les avantages de l'approche axée sur les droits de la personne, puis nous examinerons brièvement plusieurs des principaux instruments internationaux susceptibles de contribuer à promouvoir la justice pour les femmes, les filles et les personnes 2ELGBTQQIA autochtones et leur sécurité. Nous nous attarderons ensuite aux instruments du droit du Canada et aux principes établis par les tribunaux avant d'examiner des cas où les approches relatives aux droits de la personne et aux droits autochtones sont contradictoires. Enfin, nous ferons valoir que, pour réconcilier la nécessité de respecter les droits individuels et collectifs, ainsi que les besoins particuliers des femmes, des filles et des personnes 2ELGBTQQIA autochtones dans divers contextes autochtones distincts, il faut répondre au besoin urgent de solutions conçues, orientées et comprises par les personnes qui sont les premières concernées.

« NOUS VOULONS ÊTRE EN BONS TERMES AVEC LE RESTE DE LA SOCIÉTÉ. C'EST NOTRE TERRITOIRE. NOUS VOULONS AVOIR UNE BONNE RELATION ENTRE PARTENAIRES. NOUS AVONS ACCUEILLI TOUT LE MONDE. ET QU'EST-CE QU'ILS NOUS FONT? NOS JEUNES MÈRES DISPARAISSENT. NOS JEUNES MÈRES SONT ASSASSINÉES À UN RYTHME EFFARANT, PLUS QUE TOUTE AUTRE RACE AU PAYS. »

Gladys R.



## Le contexte international des droits de la personne

Il existe au Canada un cadre robuste des droits internationaux de la personne dont les droits visent l'ensemble des citoyens, y compris les peuples autochtones<sup>9</sup>. La présente section porte sur les instruments internationaux relatifs aux droits de la personne à l'égard desquels le Canada s'est publiquement engagé quant à la protection des droits. Nous discuterons notamment des droits de la personne et des droits autochtones qui, ensemble, favorisent la responsabilisation en ce qui concerne l'amélioration des résultats pour les Premières Nations, les Métis et les Inuits dans le contexte des femmes, des filles et des personnes 2ELGBTQQIA autochtones disparues et assassinées.

Tout au long des travaux de l'Enquête nationale, des témoins ont soutenu que les instruments contemporains relatifs aux droits de la personne et aux droits autochtones doivent faire partie de la discussion sur les droits garantis dans les domaines de la culture, de la santé, de la sécurité et de la justice (domaines sur lesquels se fonde le présent rapport) parce qu'ils favorisent l'émergence de nouvelles politiques et de nouveaux principes tout en invitant tous les ordres de gouvernement à se pencher sérieusement sur le problème de la violence et des violations des droits fondamentaux de la personne, autant en gestes autant qu'en paroles. Ces instruments sont par ailleurs des engagements publics, soit des normes qui peuvent être utiles pour évaluer l'action, ou l'inaction, de l'État dans des secteurs liés à la promotion de la sécurité.

### **Droit contraignant et droit non contraignant : évaluer la portée des protections prévues par les instruments internationaux relatifs aux droits de la personne**

Les instruments internationaux relatifs aux droits de la personne sont des traités et d'autres documents internationaux propres au droit international en matière de droits de la personne et à la protection des droits de la personne en général. On peut les classer en deux catégories : les déclarations, adoptées par des organes comme l'Assemblée générale des Nations Unies, qui n'ont pas expressément force exécutoire (droit non contraignant) et les conventions, pactes ou traités internationaux, qui sont des instruments ayant force exécutoire conclus en vertu du droit international (droit contraignant).

Nombre de ces instruments contiennent ce que l'on considère comme étant des libertés doubles : ils fournissent une liberté par rapport à l'État, lorsque ce dernier ne respecte pas les droits de la personne, et une liberté grâce à l'aide de l'État, découlant de la capacité de ce dernier de protéger ou de promouvoir ces droits. Par exemple, le droit à un logement adéquat couvre à la fois le droit d'être protégé d'expulsions par la force menées par des agents de l'État (liberté par rapport à l'État) et le droit de recevoir une assistance pour accéder à un logement convenable dans certaines situations (liberté grâce à l'aide de l'État). Bien qu'elles soient d'importants éléments du cadre des droits de la personne, les déclarations n'ont pas le pouvoir contraignant d'obliger les États à respecter les principes qu'elles contiennent.



Pour s'assurer que les États respectent leurs obligations, il existe divers mécanismes permettant d'évaluer les pays. Le Haut-Commissariat des Nations Unies aux droits de l'homme (HCDH) administre une grande variété de mécanismes de surveillance des droits de la personne dans le système des Nations Unies, notamment les organes de la Charte de l'ONU et d'autres organes créés en vertu de traités internationaux sur les droits de la personne et composés d'experts indépendants dont le travail consiste à surveiller la mesure dans laquelle les pays respectent leurs obligations prévues aux divers pactes et traités.

Parmi les organes de la Charte qui font partie du système des Nations Unies, il y a le Conseil des droits de l'homme. Celui-ci se réunit chaque année et compte quarante-sept États élus et membres de l'ONU. Il est chargé de prévenir les violations des droits de la personne ainsi que les inégalités et les discriminations, et de s'efforcer à dénoncer les auteurs des violations. De plus, les comités de Procédures spéciales relèvent des organes de la Charte de l'ONU et sont souvent axés sur un thème précis ou sur des problèmes liés aux droits de la personne dans un pays particulier. Elles sont composées d'experts bénévoles et comprennent les rapporteurs spéciaux ou des groupes de travail d'experts qui examinent et surveillent les questions relatives aux droits de la personne, formulent des conseils à ce sujet et en rendent compte publiquement. L'Examen périodique universel est un processus fondé sur la Charte qui comprend un examen du bilan des droits de la personne de tous les États membres de l'ONU au cours duquel chaque État déclare les mesures qu'il a prises pour améliorer la situation des droits de la personne chez lui. Enfin, la procédure de plainte du Conseil des droits de l'homme permet de traiter les communications soumises par des personnes, des groupes ou des organisations non gouvernementales qui se disent victimes de violations des droits de la personne.

En plus de ses organes de la Charte, l'ONU compte sur des organes de traités qui sont chargés de surveiller la mise en œuvre des principaux traités internationaux relatifs aux droits de la personne et qui sont composés d'experts indépendants. La plupart des conventions prévoient des mécanismes pour en surveiller la mise en œuvre et pour permettre aux personnes et aux groupes de faire comparaître un État devant un organe international de traitement des plaintes pour assurer l'application de ces conventions. Dans certains cas, les mécanismes ont relativement peu de force, et les États membres n'en tiennent souvent pas compte; dans d'autres cas, les mécanismes ont un grand pouvoir politique et juridique, et les décisions sont presque toujours appliquées. Ces mécanismes comprennent des organes de défense des droits de la personnes qui surveillent l'application des principaux traités relatifs aux droits de la personne. Parmi ces organes, on compte :

- Commission des droits de l'homme
- Comité des droits économiques, sociaux et culturels
- Comité pour l'élimination de la discrimination raciale
- Comité pour l'élimination de la discrimination à l'égard des femmes
- Comité contre la torture





- Comité des droits de l'enfant
- Comité des travailleurs migrants
- Comité sur les disparitions forcées<sup>10</sup>

Outre ces derniers, d'autres organes des Nations Unies œuvrent dans le domaine de la promotion et de la protection des droits de la personne, dont l'Assemblée générale, la Troisième Commission de l'Assemblée générale, le Conseil économique et social et la Cour internationale de justice<sup>11</sup>. Par ailleurs, des partenaires et organisations des Nations Unies s'occupent de la promotion et de la protection des droits de la personne et collaborent avec d'autres organes chargés des droits de la personne mentionnés dans la présente section. Voici les autres organisations et partenaires :

- Haut-Commissariat des Nations Unies pour les réfugiés
- Bureau de la coordination des affaires humanitaires
- Division interinstitutions des déplacements internes
- Organisation internationale du travail
- Organisation mondiale de la santé
- Organisation des Nations Unies pour l'éducation, la science et la culture
- Programme commun des Nations Unies sur le VIH/SIDA
- Comité permanent interinstitutionnel sur les affaires humanitaires
- Département des affaires économiques et sociales
- Commission sur le statut de la femme (CSW)
- Conseiller spécial sur les questions de genre et la condition de la femme (OSAGI)
- Division pour l'avancement de la femme (DAW)
- Fonds des Nations Unies pour la population (FNUAP)
- Fonds des Nations Unies pour l'enfance (UNICEF)
- Entité des Nations Unies pour l'égalité des sexes et l'autonomisation des femmes (ONU femmes)
- Programme des Nations Unies pour le développement (PNUD)
- Organisation des Nations Unies pour l'alimentation et l'agriculture (FAO)
- Programme des Nations Unies pour les établissements humains (HABITAT)
- Action anti-mines des Nations Unies



## Les pactes internationaux

Le Canada a ratifié sept grands instruments internationaux relatifs aux droits de la personne considérés comme exécutoires, soit des pactes ou des conventions. Ceux-ci sont pertinents dans le cadre de la tragédie des femmes, des filles et des personnes 2ELGBTQQA autochtones disparues et assassinées. Pour chaque traité, il y a un comité d'experts chargé de surveiller la mise en œuvre des dispositions par les États parties; le Canada ainsi que les autres États signataires doivent rendre compte périodiquement du respect de leurs obligations prévues à chaque instrument.

La *Convention internationale sur l'élimination de toutes les formes de discrimination raciale* (CIEDR) de 1966 est l'un des premiers traités de droits de la personne adoptés par les Nations Unies. Il est entré en vigueur en 1969. Selon cette Convention, il y a discrimination raciale lorsqu'une personne ou un groupe est traité différemment à cause de sa race, de sa couleur, de son ascendance, de son origine nationale ou de son origine ethnique et que ce traitement compromet, ou vise à compromettre, les droits de la personne et les libertés fondamentales. Par exemple, il y a discrimination fondée sur la race lorsqu'une personne se voit refuser un service ou un emploi en raison de sa race ou de son origine ethnique, ou lorsqu'une loi ou une politique a des répercussions injustes sur un groupe racial ou ethnique en particulier. La Convention permet les distinctions entre citoyens et non-citoyens, mais pas entre différents groupes de non-citoyens. On y affirme que les droits de la personne dans les domaines politique, économique, social et culturel et dans tout autre domaine de la vie publique doivent être garantis à tous, sans discrimination raciale.

Selon la Convention, il y a un type d'acte, appelé une mesure spéciale, qui n'est pas considéré comme étant discriminatoire même s'il implique de traiter différemment des peuples ethniques, raciaux ou nationaux particuliers ou des individus appartenant à ces peuples. Les mesures spéciales sont des programmes qui visent à assurer comme il convient le progrès de certains groupes raciaux qui ont besoin de soutien pour pouvoir exercer leurs droits de la personne et libertés fondamentales dans des conditions d'égalité. Les mesures spéciales ne sont pas seulement permises par la Convention, elles sont exigées au besoin pour garantir à tous les groupes le plein exercice de leurs droits.

Le *Pacte international relatif aux droits civils et politiques* (PIDCP) est un autre des tout premiers instruments ayant force exécutoire. Adopté par les Nations Unies en 1966, il est entré en vigueur le 23 mars 1976 et est l'un des deux traités qui confèrent une valeur juridique à la *Déclaration universelle des droits de l'homme* (DUDH). Les droits visés par le PIDCP sont essentiels pour permettre aux gens de jouir d'un large éventail de droits de la personne. Conjointement avec le *Pacte international relatif aux droits économiques, sociaux et culturels* (PIDESC) et la *Déclaration universelle des droits de l'homme*, le PIDCP et ses deux protocoles facultatifs sont connus sous le nom de *Charte internationale des droits de l'homme*.



Essentiellement, le PIDCP reconnaît la dignité inhérente de chacun et entreprend de promouvoir les conditions au sein des États qui permettent d’y jouir des droits civils et politiques. Les valeurs et thèmes unificateurs du PIDCP sont présentés aux articles 2 et 3 et sont fondés sur la notion de non-discrimination et sur le fait que toutes les personnes au sein d’un l’État devraient pouvoir jouir de tous les droits civils et politiques, quelle que soit leur origine. De plus, l’article 3 assure le droit égal des hommes et des femmes de jouir de tous les droits civils et politiques énoncés dans le PIDCP.

Les droits protégés en vertu de cet instrument sont très généraux. En ce qui concerne la sécurité des femmes, des filles et des personnes 2ELGBTQQIA autochtones, les droits protégés par le PIDCP comprennent le droit de ne pas être soumis à la torture ni à des peines ou traitements cruels, inhumains ou dégradants; le droit d’être traité équitablement dans le cadre d’un processus judiciaire; le droit d’avoir une vie privée, un domicile et une famille; le droit de se marier et de fonder une famille; le droit de participer à la vie politique; et le droit à l’égalité et à la non-discrimination.

Les luttes pour défendre ces droits sont réelles et fréquentes pour les femmes, les filles et les personnes 2ELGBTQQIA autochtones. Comme Delores S. l’a mentionné :

Les familles se battent pour avoir de réelles enquêtes et un accès véritable à la justice et ont dû défendre leurs intérêts à temps plein. Ça a un coût terrible, y compris leur bien-être. Quand j’ai pris en main l’affaire de Nadine, je ne savais pas ce qu’il m’en coûterait. Investir mon temps, investir mes émotions, tout investir face à un système qui ne prend pas notre proche au sérieux<sup>12</sup>.

Les témoins qui sont intervenus pendant l’Enquête nationale ont illustré plusieurs des formes que prenaient les violations de ces droits : l’absence d’intervention de la part des autorités, le fait de ne pas avoir été pris au sérieux ou crus lorsqu’ils ont fait état de préoccupations ou de plaintes, et le traitement inégal qu’ils ont subi dans le cadre du processus judiciaire.

Le *Pacte international relatif aux droits économiques, sociaux et culturels* (PIDESC) impose une obligation supplémentaire aux États en ce qui concerne la protection des droits en vertu de la DUDH. Il a été adopté en 1966 et est entré en vigueur en 1976, en même temps que le PIDCP. Le Pacte définit ces droits comme « les droits fondamentaux qui concernent le lieu de travail, la sécurité sociale, la vie familiale, la participation à la vie culturelle et l’accès au logement, à l’alimentation, à l’eau, aux soins de santé et à l’éducation<sup>13</sup> ».

En vertu des protections qui y sont prévues, les États doivent s’engager à agir dans la mesure de la capacité du Pacte à garantir l’exercice des droits qui y sont protégés, y compris l’adoption de toutes les mesures raisonnables, dont des lois, pour assurer les droits cités. Il prévoit la nécessité pour les États d’admettre que la protection des droits économiques, sociaux et culturels est directement liée aux principes de droits fondamentaux, comme la culture, la santé, la sécurité et la justice.





Comme l'ont démontré les témoignages, la dénégation des droits économiques, sociaux et culturels peut mener à la violation d'autres droits de la personne et au fait de cibler des personnes qui ne jouissent pas de ces droits.

C'est ce qu'a expliqué Virginia C. à propos d'un être cher :

On pourrait en dire tellement plus sur l'histoire de maman. Elle n'aurait pas dû avoir à subir cette fin tragique. Elle avait tant souffert déjà. Pendant une période de 12 ans dans sa première union de fait, elle a vécu des incidents de violence conjugale extrêmement graves. Elle a connu la pauvreté extrême de la vie dans une communauté métisse isolée du Nord de la Saskatchewan. Elle a vécu principalement de la terre et n'a reçu qu'occasionnellement des bons de subsistances du ministère des Ressources naturelles<sup>14</sup>.

Pour les femmes, les filles et les personnes 2ELGBTQQIA autochtones, la dénégation du droit au logement, ou à des soins de santé adéquats, peut contribuer à les placer dans des situations de vulnérabilité accrue, faisant d'elles des cibles pour les prédateurs. Qui plus est, le fait de ne pas protéger le droit d'une femme ou d'un enfant à un logement adéquat, par exemple, peut les forcer à rester dans des situations de violence pour éviter de se retrouver sans abri.

La *Convention sur l'élimination de toutes les formes de discrimination à l'égard des femmes* (CEDAW), adoptée par l'Assemblée générale des Nations Unies en 1979 et entrée en vigueur le 3 septembre 1981, vise à protéger les femmes contre toutes les formes de discrimination. Cette convention est le fruit de plus de trente ans de travail par la Commission de la condition de la femme des Nations Unies, un organisme établi en 1946 pour surveiller la situation des femmes et promouvoir les droits des femmes. Dans l'introduction, l'Organisation des Nations Unies exprime l'importance et l'esprit du document, expliquant que « l'esprit de la Convention est ancré dans les objectifs des Nations Unies : réaffirmer la foi dans les droits fondamentaux de l'homme, dans la dignité et la valeur de la personne humaine et dans l'égalité des droits de l'homme et de la femme<sup>15</sup> ». La Convention est censée présenter non seulement la signification d'égalité, mais aussi un plan d'action par les États en vue de garantir les droits qu'elle contient.

« AU CANADA, LES PERSONNES AUTOCHTONES, ET EN PARTICULIER LES FEMMES, DOIVENT LUTTER CONTRE DES FAUSSES IDÉES SOCIALES, LA STIGMATISATION, DES STÉRÉOTYPES, LA VIOLENCE, JUSTE PARCE QU'ELLES SONT DES FEMMES AUTOCHTONES. LES FEMMES AUTOCHTONES... SONT CELLES QUI PORTENT LA VIE ET LES ENSEIGNEMENTS CENSÉS ÊTRE TRANSMIS À LA GÉNÉRATION SUIVANTE, ET CE RÔLE CRUCIAL A PRESQUE ÉTÉ DÉTRUIT PAR LES MESURES COLONIALISTES DU CANADA [...] ET PAR LE DÉSENGAGEMENT ACTIF CONTINU DE CE PAYS À PLUSIEURS ÉGARDS. »

CRYSTAL F.

Dans le préambule de la Convention, on reconnaît explicitement que « les femmes continuent de faire l'objet d'importantes discriminations » et on insiste sur le fait qu'une telle discrimination « viole les principes de l'égalité des droits et du respect de la dignité humaine ». Dans la Convention, on définit la discrimination à l'égard des femmes comme suit :



toute discrimination, exclusion ou restriction fondée sur le sexe qui a pour effet ou pour but de compromettre ou de détruire la reconnaissance, la jouissance ou l'exercice par les femmes, quel que soit leur état matrimonial, sur la base de l'égalité de l'homme et de la femme, des droits de l'homme et des libertés fondamentales dans les domaines politique, économique, social, culturel et civil ou dans tout autre domaine.

Autrement dit, elle soutient le concept selon lequel les femmes sont titulaires individuelles de droits et mandataires. Elle demande aux États parties de prendre les mesures nécessaires, y compris mettre en œuvre des lois et des protections légales pour les femmes afin de leur permettre de jouir de tous leurs droits.

De façon générale, la Convention porte sur les droits civils et le statut légal de la femme, ainsi que les droits liés à la procréation. Elle cherche à affirmer les droits des femmes comme distincts des droits des hommes, compte tenu de la façon dont, au cours de l'histoire, les droits des femmes ont souvent été liés à ceux de leur mari ou partenaire. De plus, on y insiste sur le fait que le rôle de la femme dans la procréation ne doit pas être une cause de discrimination ou d'exclusion. Enfin, la Convention aborde la façon dont certaines interprétations de la culture traditionnelle peuvent servir à limiter les droits des femmes, et en quoi les hommes ont un rôle important à jouer en ce qui concerne l'égalité.

Cette convention a d'importantes répercussions sur les expériences intersectionnelles de discrimination et d'oppression vécues par les femmes, les filles et les personnes 2ELGBTQQIA autochtones. Comme l'a mentionné Crystal F. :

Au Canada, les personnes autochtones, et en particulier les femmes, doivent lutter contre des fausses idées sociales, la stigmatisation, des stéréotypes, la violence, juste parce qu'elles sont des femmes autochtones. Les femmes et les filles autochtones... sont celles qui portent la vie et les enseignements censés être transmis à la génération suivante, et ce rôle crucial a presque été détruit par les mesures colonialistes du Canada [...] et par le désengagement actif continu de ce pays à plusieurs égards<sup>16</sup>.

La *Convention relative aux droits de l'enfant* (CNUDE) est entrée en vigueur le 2 septembre 1990. Les parties à la Convention se sont engagées à respecter les droits civils, politiques, économiques, sociaux et culturels des enfants, peu importe leur origine, race, religion ou capacité. Dans une certaine mesure, la CNUDE est une combinaison du PIDESC et du PIDCP, ainsi que de la DUDH, axée sur la protection des enfants. La CNUDE met en valeur la famille à titre d'unité importante pour garantir le respect et la protection des droits des enfants et pour favoriser des communautés et des sociétés saines. Par ses 54 articles, la Convention oblige les gouvernements à répondre aux besoins fondamentaux des enfants et à les aider à atteindre leur plein potentiel.



Dans le cadre de cette Convention, les droits fondamentaux des enfants comprennent le droit à la vie, la garantie de leur survie et de leur développement, le droit à la protection contre la violence, le droit à l'éducation de manière à les aider à atteindre leur plein potentiel, le droit d'être élevés par leurs parents biologiques et d'avoir une relation avec eux, et le droit d'être entendus lorsqu'ils expriment leurs opinions. En 2000, deux protocoles facultatifs ont été ajoutés à la CNUDE. Dans le premier, on demande aux gouvernements de veiller à ce que les enfants de moins de 18 ans ne soient pas enrôlés de force dans leur force armée; quant au deuxième, on demande aux gouvernements de mettre un terme à la prostitution des enfants, à la pornographie infantile et à la vente d'enfants comme esclaves. Un troisième protocole facultatif a été ajouté en 2011 et permet aux enfants dont les droits ont été violés de se plaindre directement au Comité des droits de l'enfant des Nations Unies.

Dans les témoignages que nous avons entendus, de nombreuses familles ont parlé du fait que leurs enfants étaient la cible d'un manque du respect le plus élémentaire de leurs droits, particulièrement dans le contexte de la protection de l'enfance. De plus, les épidémies de suicide ne sont qu'un exemple lié à la séparation des familles et souligné par les témoins. Comme l'a expliquée Lorraine S. :

Ce que je constate, c'est que nos enfants se suicident maintenant, ou maintenant ils s'entretuent parce qu'ils n'ont pas un lien, ils n'ont pas de lien affectif avec quelqu'un. Ils n'ont plus de lien affectif avec les grands-parents, avec les parents, c'est tout déréglé<sup>17</sup>.

Le Canada a ratifié la *Convention contre la torture et autres peines ou traitements cruels, inhumains ou dégradants* (CCT) en 1987. Cette convention exige des États qu'ils prennent toutes les mesures nécessaires pour empêcher que soient commis des actes de torture et des traitements cruels et pour en punir les auteurs. Elle interdit la torture, peu importe les circonstances, et le renvoi de personnes dans un pays où il y a lieu de penser qu'elles seront torturées. La Convention fournit par ailleurs une définition détaillée du terme « torture » et décrit comment il faudrait la prévenir et punir les auteurs d'un acte de torture. Selon les défenseurs des Autochtones, une partie de la Convention devrait s'appliquer à la violence à l'égard des femmes et des filles autochtones au Canada.

Ainsi, Brenda Gunn a affirmé ce qui suit :

On reconnaît de plus en plus que la violence fondée sur le sexe que les femmes subissent dans certaines circonstances peut être considérée comme de la torture. [...] Le comité qui supervise cette convention a constaté que les femmes autochtones au Canada subissent des niveaux disproportionnellement élevés de violence qui met leur vie en danger, d'homicides entre conjoints et de disparitions forcées. Il juge également que le Canada n'a pas réussi à enquêter, à poursuivre et à punir rapidement et efficacement les agresseurs ou à offrir une protection adéquate aux survivantes<sup>18</sup>.





Dans son témoignage devant l'Enquête nationale, Dalee Sambo Dorough, présidente du Conseil circumpolaire inuit et ancienne présidente de l'Instance permanente sur les questions autochtones des Nations Unies, a ajouté par ailleurs que :

les effets de la violence faite aux femmes sont semblables à ceux que ressentent les personnes qui ont été torturées et qui ont subi un traitement cruel, inhumain ou dégradant. L'impuissance, le trouble de stress post-traumatique, la difformité physique ne sont que quelques-unes des conséquences sur ces deux groupes<sup>19</sup>.

Le Canada a également ratifié la Convention pour la prévention et la répression du crime de génocide (CPRCG), adoptée par l'Assemblée générale des Nations Unies le 9 décembre 1948. Tout au long de la section 2, nous examinons plus en détail les implications de la CPRGC, notamment en ce qui a trait aux droits dans quatre grandes sphères auxquelles ont fait référence les membres de famille et les survivantes. En dernière analyse, tous les exemples de violation des droits entendus dans le cadre de l'Enquête avaient un lien avec ce que les témoins estiment être une guerre génocidaire ciblée contre les peuples autochtones.

Pour reprendre les mots de Dalee Sambo Dorough, l'ensemble des conventions et des déclarations, de leur statut au sein du droit international coutumier et de la législation nationale concrète signifie que ces outils peuvent être très utiles pour accroître la sécurité des femmes, des filles et des personnes 2ELGBTQQIA autochtones. À son avis :

toutes les normes en matière de droits de la personne énoncées dans la Déclaration des Nations Unies [sur les droits des peuples autochtones], et la façon dont elles recourent d'autres traités internationaux sur les droits de la personne, ouvrent en fait la voie vers la justice pour les peuples autochtones, une façon de garantir notre accès à la justice dans tous les contextes possibles, qu'il s'agisse des droits fonciers, de l'autonomie gouvernementale et de l'autodétermination, du droit à la santé, du droit à l'éducation, de l'égalité entre les sexes et de la non-discrimination, pour ne nommer que ceux-là<sup>20</sup>.

## **Les déclarations internationales et le droit coutumier**

Nombre de déclarations relatives aux droits de la personne adoptées par les Nations Unies sont pertinentes aux droits des femmes et des personnes 2ELGBTQQIA autochtones au Canada. Le Canada a convenu d'appuyer les déclarations ci-dessous, même si ces déclarations n'ont pas, en soi, de pouvoirs contraignants l'obligeant à se conformer aux principes qu'elles contiennent.

Cependant, comme certains de nos témoins l'ont mentionné, même les déclarations autrement considérées comme « non contraignantes » peuvent, avec le temps, acquérir le statut de droit international coutumier. Le droit international coutumier s'applique directement au Canada à titre de loi, à moins qu'un texte législatif précis soutienne qu'il ne s'applique pas, dans certains domaines, et les déclarations sont directement exécutoires. Mais, comme l'a souligné Brenda Gunn, « nous voyons que, dans de nombreux cas et de différentes façons, la Cour suprême du Canada s'efforce toujours d'interpréter le droit canadien conformément aux obligations internationales du Canada en matière de droits de la personne<sup>21</sup> ».



Pour qu'un traité international sur les droits de la personne, y compris les pactes, s'applique au Canada, le traité devrait techniquement être transformé en un instrument de loi nationale (une loi du Canada); cependant, les tribunaux, y compris la Cour suprême, n'ont pas toujours interprété cette règle ainsi. Comme l'explique Brenda Gunn :

Bien que nous ayons ces deux catégories, je pense qu'il est particulièrement important de le souligner dans le cas des droits de la personne, surtout au Canada où l'on met moins l'accent sur les types d'instruments; comment décider s'il s'agit de droit strict ou souple ? Mais nous constatons que les tribunaux canadiens sont beaucoup plus préoccupés par la valeur normative des divers instruments<sup>22</sup>.

La Cour suprême a par ailleurs indiqué que les traités n'ayant pas été mis en œuvre, c'est-à-dire ceux qui n'ont pas encore été adoptés dans le cadre d'une loi nationale, peuvent en fait avoir un effet juridique au Canada<sup>23</sup>.

La *Déclaration universelle des droits de l'homme* (DUDH) a été adoptée par l'Assemblée générale des Nations Unies le 10 décembre 1948. La création de l'Organisation des Nations Unies marque un changement important dans la dynamique mondiale, la communauté internationale jurant de ne jamais permettre que des atrocités comme celles de la Deuxième Guerre mondiale se produisent de nouveau.

La *Déclaration universelle des droits de l'homme* établit les principes sur lesquels se fondent tous les droits de la personne. Cela comprend les droits fondamentaux comme le « droit à la vie, à la liberté et à la sûreté de sa personne<sup>24</sup> » (article 3), ainsi que des droits relatifs à différents domaines comme la représentation légale, l'identité, la famille, la propriété, la religion, la liberté d'opinion, le droit de se réunir, la sécurité, l'éducation, et bien d'autres. Deux pactes internationaux donnent une valeur juridique aux droits décrits dans la DUDH, soit le *Pacte international relatif aux droits civils et politiques* (PIDCP) et le *Pacte international relatif aux droits économiques, sociaux et culturels* (PIDESC).

« TOUTES LES NORMES EN MATIÈRE DE DROITS DE LA PERSONNE ÉNONCÉES DANS LA DÉCLARATION DES NATIONS UNIES [SUR LES DROITS DES PEUPLES AUTOCHTONES], ET LA FAÇON DONT ELLES RECOUVRENT D'AUTRES TRAITÉS INTERNATIONAUX SUR LES DROITS DE LA PERSONNE, OUVRONT EN FAIT LA VOIE VERS LA JUSTICE POUR LES PEUPLES AUTOCHTONES, UNE FAÇON DE GARANTIR NOTRE ACCÈS À LA JUSTICE DANS TOUS LES CONTEXTES POSSIBLES, QU'IL S'AGISSE DES DROITS FONCIERS, DE L'AUTONOMIE GOUVERNEMENTALE ET DE L'AUTODÉTERMINATION, DU DROIT À LA SANTÉ, DU DROIT À L'ÉDUCATION, DE L'ÉGALITÉ ENTRE LES SEXES ET DE LA NON-DISCRIMINATION, POUR NE NOMMER QUE CEUX-LÀ. »

Dalee Sambo Dorough

Puisque le PIDCP et le PIDESC sont des pactes, ils font l'objet d'une surveillance. Le PIDCP est surveillé par le Comité des droits de l'homme des Nations Unies, et le PIDESC, par le Comité sur les droits économiques, sociaux et culturels des Nations Unies. Ces comités sont composés



d'experts qui reçoivent les rapports des États parties sur leur façon de mettre en œuvre les droits. De plus, il y a des protocoles facultatifs associés au PIDCP et au PIDESC qui fournissent aux individus un mécanisme de traitement des plaintes s'ils estiment que leurs droits protégés par les pactes ont été violés.

La *Déclaration sur l'élimination de la violence à l'égard des femmes* a été adoptée par l'Assemblée générale des Nations Unies en 1993. Elle contient une définition communément acceptée de la violence à l'égard des femmes : « Tous actes de violence dirigés contre le sexe féminin, et causant ou pouvant causer aux femmes un préjudice ou des souffrances physiques, sexuelles ou psychologiques, y compris la menace de tels actes, la contrainte ou la privation arbitraire de liberté, que ce soit dans la vie publique ou dans la vie privée<sup>25</sup>. » La Déclaration établit trois catégories de formes de violence à l'égard des femmes : la violence exercée par l'État ou le gouvernement, la violence qui survient dans la société en général (y compris la traite de personne) et la violence au sein de l'unité familiale. La Déclaration a une vision à long terme; on y explique que la violence à l'égard des femmes prend racine dans les rapports de force historiquement inégaux entre les hommes et les femmes. La violence y est aussi définie comme étant un mécanisme social servant à placer et à garder les femmes dans une position de subordination par rapport aux hommes, ce qui, par conséquent, contribue aux inégalités actuelles.

La Déclaration incite les États membres des Nations Unies à utiliser les pouvoirs à leur disposition pour lutter contre la violence par l'entremise de la législation, ainsi qu'à s'efforcer d'améliorer les services offerts aux femmes victimes de violence et de prévenir la violence pour l'avenir. De plus, la Déclaration demande expressément aux États de :

favoriser la recherche, rassembler des données et compiler des statistiques se rapportant à l'incidence des différentes formes de violence à l'égard des femmes [...] et encourager la recherche sur les causes, la nature, la gravité et les conséquences de la violence à l'égard des femmes, ainsi que sur l'efficacité des mesures prises pour prévenir et réparer la violence à l'égard des femmes (article 4[k])<sup>26</sup>.

La *Déclaration des Nations Unies sur les droits des peuples autochtones* (DNUDPA) a été adoptée par l'Assemblée générale des Nations Unies en 2007, mais comptait plusieurs opposants importants, dont le Canada. En 1982, le Conseil économique et social (ECOSOC) a formé le Groupe de travail sur les populations autochtones, lequel avait pour mandat de mettre au point une série de normes pour protéger les peuples autochtones. Alors que les détails de la DNUDPA telle qu'elle a été façonnée dans les débats au Canada et dans le contexte des discussions entourant les femmes et les filles autochtones disparues et assassinées seront examinés en profondeur dans le présent chapitre, il s'agit d'une déclaration généralement importante. Elle présente un corpus historique de droits collectifs et de droits de la personne des peuples autochtones et des individus qui désignent particulièrement les séquelles de la colonisation et de la dépossession comme des questions relatives aux droits de la personne. On peut lire dans le tout premier article : « Les peuples autochtones ont le droit, à titre collectif ou individuel, de jouir pleinement de l'ensemble des droits de l'homme et des libertés fonda-





mentales reconnus par la Charte des Nations Unies, la Déclaration universelle des droits de l'homme et le droit international relatif aux droits de l'homme<sup>27</sup>. »

La Déclaration traite principalement des droits des peuples autochtones en ce qui concerne la culture, la religion et la langue, et mentionne par ailleurs le développement économique, social et politique, et le territoire. Essentiellement, elle fait la promotion des principes d'autodétermination sans nécessairement faire mention de l'assise ou de la légitimité des pays colonisateurs qui, selon elle, doivent assurer leur propre conformité à ces droits.

La *Déclaration et le Programme d'action de Vienne* constituent une déclaration sur les droits de la personne adoptée par consensus à la Conférence mondiale sur les droits de l'homme, le 25 juin 1993 à Vienne, en Autriche. Elle a donné lieu à la création du poste de Haut-Commissaire des Nations Unies aux droits de l'homme et réaffirmé la *Déclaration universelle des droits de l'homme* et la Charte des Nations Unies. Dans le préambule, on peut lire :

La Conférence mondiale sur les droits de l'homme, considérant que la promotion et la protection des droits de l'homme est une question prioritaire pour la communauté internationale et que sa tenue offre une occasion unique de procéder à une analyse globale du système international des droits de l'homme et des mécanismes de protection de ces droits, afin d'inciter à les respecter intégralement et donc d'en promouvoir le plein exercice, de manière équitable et équilibrée<sup>28</sup>.

La Déclaration et le Programme d'action de Vienne réaffirment les droits de la personne comme étant une norme universelle et pertinente « pour tous les peuples et toutes les nations<sup>29</sup>. » Ils citent le PIDCP et le PIDESC à titre d'instruments particulièrement pertinents à l'atteinte de cette norme et demandent un investissement de fonds accru en éducation relativement aux principes des droits de la personne. Ils mentionnent que tous les droits de la personne ont la même importance et désignent expressément des facteurs qui pourraient représenter des obstacles à la jouissance des droits de la personne, comme la pauvreté, le sous-développement et le racisme. De plus, la Déclaration et le Programme de Vienne accordent une attention spéciale à la nécessité de se pencher sur la violence fondée sur le sexe et la discrimination actuelle « grâce à une action nationale et à la coopération internationale dans divers domaines comme le développement économique et social, l'éducation, la protection de la maternité, les soins de santé et l'aide sociale<sup>30</sup> ».

La *Déclaration et le Programme d'action de Beijing* (DPAB) ont été adoptés à l'issue de la quatrième Conférence mondiale sur les femmes de 1995, et réaffirment l'assertion faite dans la Déclaration et le Programme d'action de Vienne selon laquelle « les droits fondamentaux des femmes et des fillettes font inaliénablement, intégralement et indissociablement partie des droits universels de la personne ». Le *Programme d'action de Beijing* met l'accent sur les expériences que les femmes ont en commun, incitant les États à s'employer à favoriser l'égalité partout dans le monde. On le décrit comme des « lignes à suivre pour donner plus de pouvoir aux femmes<sup>31</sup> » qui avancent la nécessité d'un partenariat pour le développement à long terme des peuples dans



le monde. Les nombreuses recommandations générales portent sur des grands sujets comme la pauvreté, l'éducation, la santé, l'environnement, et les femmes dans un poste de direction et la prise de décisions.

## **La définition et la situation des « droits autochtones » dans la législation sur les droits de la personne**

Même si de nombreuses conventions et déclarations sont liées aux droits des femmes, des filles et des personnes 2ELGBTQQIA autochtones, elles ne portent pas nécessairement expressément sur le contexte particulier du colonialisme, sur ses séquelles contemporaines et sur la forme qu'il prend aujourd'hui. La nécessité d'aborder ce type de séquelles est précisément ce qui a inspiré la rédaction de la Déclaration des Nations Unies sur les droits des peuples autochtones. Bien que la Déclaration ait fait l'objet de nombreuses critiques, certains la voient comme un instrument très prometteur et ancré dans les perceptions qu'ont les Autochtones des droits. Comme l'a fait observer Brenda Gunn :

La Déclaration des Nations Unies enracine les droits de la personne inhérents aux peuples autochtones dans leurs propres coutumes, lois et traditions. Cet instrument indique clairement que, dans le cas des droits de la personne internationaux et des droits des peuples autochtones, nous devons expressément faire référence aux lois des peuples autochtones<sup>32</sup>.

Pendant des dizaines d'années, alliés et militants ont œuvré à la création d'un instrument voué aux droits des Autochtones. Même s'il s'agit d'une déclaration, et non d'une convention, la Déclaration des Nations Unies sur les droits des peuples autochtones (DNUDPA) représente un important premier pas pour reconnaître et prêter attention aux particularités des droits des peuples autochtones et aux façons de les protéger.

Les travaux visant la rédaction d'un instrument particulier portant sur la protection des droits des peuples autochtones à l'échelle mondiale ont commencé il y a plusieurs décennies.

En 1982, le Rapporteur spécial des Nations Unies de la Sous-Commission de la lutte contre les mesures discriminatoires et de la protection des minorités, José R. Martínez Cobo, a publié une étude sur la discrimination systémique dont étaient victimes les peuples autochtones dans le monde entier. Ses conclusions ont été regroupées dans l'« Étude du problème de la discrimination à l'encontre des populations autochtones ». Le Conseil économique et social des Nations Unies (ECOSOC) a mis sur pied le Groupe de travail sur les populations autochtones (GTPA) composé de cinq experts indépendants et de conseillers autochtones afin de se pencher exclusivement sur les questions autochtones à l'échelle mondiale. Le groupe de travail a commencé à rédiger une déclaration sur les droits des Autochtones en 1985.

Le projet de déclaration a fait l'objet d'une série de révisions pour assurer aux États membres des Nations Unies qu'il demeurerait cohérent avec les droits de la personne établis et qu'il ne les contredirait ou ne les supplanterait pas. La DNUDPA porte sur de nombreux droits autochtones,



un point qui a fait l'objet de nombreux débats au cours des premières discussions. Nombre d'États membres des Nations Unies craignaient qu'accepter la DNUDPA telle qu'elle était rédigée compromette leur propre autonomie politique. Ils se disaient particulièrement préoccupés par les articles soutenant le droit des peuples autochtones à l'autodétermination et leur droit d'accorder ou non leur consentement à des actions pouvant avoir des répercussions sur les terres, les territoires et les ressources naturelles. Pour les pays ayant une économie riche en ressources et exploitant de grands projets de développement, en particulier, la portée de ce droit, et de la protection de celui-ci, était une source d'inquiétude.

Cependant, bien des représentants autochtones ont refusé de modifier le projet de déclaration, affirmant que le document ne faisait qu'étendre aux peuples autochtones des droits déjà garantis aux colonialistes<sup>33</sup>. Comme l'a fait remarquer James Sa'ke'j Youngblood Henderson, avocat spécialisé en droits de la personne, « [Les États membres] s'inquiètent des répercussions des droits autochtones, refusant de reconnaître les privilèges qu'ils se sont appropriés<sup>34</sup> ».

L'ébauche finale du groupe de travail représentait un compromis entre les États membres des Nations Unies et les représentants autochtones. En 2006, le projet de déclaration a été accepté par le Conseil des droits de l'homme des Nations Unies et, le 13 septembre 2007, la *Déclaration sur les droits des peuples autochtones* était adoptée par une majorité d'États : 144 voix pour, quatre voix contre (Australie, Canada, Nouvelle-Zélande et États-Unis) et 11 abstentions<sup>35</sup>. Les quatre pays ayant voté contre l'adoption ont en commun une histoire coloniale très semblable et ont, par conséquent, des préoccupations communes. Chaque pays soutenait que le niveau d'autonomie reconnu aux peuples autochtones minerait leur propre État, particulièrement en ce qui concerne les différends fonciers et les ressources naturelles. Certains gouvernements ont déclaré que la DNUDPA pourrait prévaloir sur les obligations actuelles en matière de droits de la personne, même s'il est explicite dans le document que les droits internationaux de la personne ont préséance.

« LA DÉCLARATION DES NATIONS UNIES ENRACINE LES DROITS DE LA PERSONNE INHÉRENTS AUX PEUPLES AUTOCHTONES DANS LEURS PROPRES COUTUMES, LOIS ET TRADITIONS. CET INSTRUMENT INDIQUE CLAIREMENT QUE, DANS LE CAS DES DROITS INTERNATIONAUX DE LA PERSONNE ET DES DROITS DES PEUPLES AUTOCHTONES, NOUS DEVONS EXPRESSÉMENT FAIRE RÉFÉRENCE AUX LOIS DES PEUPLES AUTOCHTONES ».

Brenda Gunn

Dans son refus, le Canada, représenté par Chuck Strahl, alors ministre des Affaires autochtones, a expliqué le raisonnement du gouvernement : « En signant la Déclaration, vous vous tournez implicitement vers ce document en disant que les seuls droits en jeu ici sont ceux des Premières Nations. Bien entendu, ceci est contradictoire à notre Constitution<sup>36</sup>. » Le ministre Strahl a ajouté que le Canada respectait déjà les droits autochtones, précisés dans la *Charte des droits et libertés* et la Constitution, qui, a-t-il souligné, représente un engagement plus concret que la DNUDPA « aspiratoire ».





Les organisations et militants des droits autochtones et des droits la personne ont continué de faire pression pour que le Canada signe la DNUDPA et, en mars 2010, la gouverneure générale Michaëlle Jean a annoncé que le gouvernement du Canada « prendra[it] des mesures en vue d'appuyer ce document aspiratoire, dans le respect intégral de la Constitution et des lois du Canada<sup>37</sup> ». Même s'il s'agissait d'un progrès, ce n'était pas un changement officiel de position.

En novembre 2010, le Canada a annoncé qu'il appuierait officiellement la DNUDPA. Alors que cette mesure est vue par de nombreux acteurs comme un pas important vers l'avant, l'utilisation continue de réserves dans les discours officiels en laisse de nombreux autres sceptiques quant à l'engagement véritable du Canada. En 2010, le Canada a laissé entendre que son adhésion à la DNUDPA ne changerait pas les lois canadiennes : « Même si la Déclaration n'est pas juridiquement contraignante, ne constitue pas une expression du droit international coutumier et ne modifie pas les lois canadiennes, notre appui à ce document réitère notre volonté de continuer à travailler de concert avec les peuples autochtones pour bâtir un Canada meilleur<sup>38</sup>. »



*Brenda Gunn, professeure métisse de droit à l'Université du Manitoba.*

En mai 2016, toutefois, le Canada a renoncé à son statut d'objecteur et a adopté officiellement des plans pour la mettre en œuvre, de façon conforme à la Constitution canadienne.

Selon le premier des 46 articles de la DNUDPA, « les peuples autochtones ont le droit, à titre collectif ou individuel, de jouir pleinement de l'ensemble des droits de l'homme et des libertés fondamentales reconnus par la Charte des Nations Unies, la Déclaration universelle des droits de l'homme et le droit international relatif aux droits de l'homme<sup>39</sup> ». Il convient de noter que l'article 3 de la Déclaration reconnaît par ailleurs le droit des peuples autochtones à l'autodétermination, ce qui comprend le droit de « déterminer librement leur statut politique et assurer librement leur développement économique, social et culturel<sup>40</sup> ». L'article 4 soutient le droit des peuples autochtones « d'être autonomes et de s'administrer eux-mêmes pour tout ce qui touche à leurs affaires intérieures et locales », et l'article 5 protège leur droit « de maintenir et de renforcer leurs institutions politiques, juridiques, économiques, sociales et culturelles distinctes<sup>41</sup> ». L'article 26 précise que « les peuples autochtones ont le droit aux



terres, territoires et ressources qu'ils possèdent et occupent traditionnellement ou qu'ils ont utilisés ou acquis<sup>42</sup> » et demande aux États d'accorder la reconnaissance juridique à ces terres.

En outre, la Déclaration garantit aux peuples autochtones les droits de vivre et d'exercer leur culture et leurs coutumes, leur religion et leur langue, et de bâtir et de renforcer leurs économies et leurs institutions sociales et politiques. Elle affirme que les peuples autochtones ont le droit de ne faire l'objet d'aucune discrimination et le droit à une nationalité.

En ce qui concerne les conditions difficiles de marginalisation sociale et économique mentionnées par de nombreux témoins, l'article 21 présuppose que des mesures spéciales seront prises pour améliorer la situation économique et sociale et qu'une attention particulière sera accordée aux droits et aux besoins des femmes et des jeunes autochtones. L'article 22 souligne que des mesures doivent être prises pour assurer la protection des femmes et des enfants autochtones contre toutes les formes de violence et de discrimination. La Déclaration ne prévaut pas sur les droits des peuples autochtones contenus dans leurs traités et accords avec les États, et elle exige de ces États qu'ils respectent et appliquent ces accords.

Les femmes sont mentionnées expressément dans la DNUDPA, mais seulement dans une disposition. Cependant, Brenda Gunn l'explique ainsi : « Je pense qu'il est important de souligner que même si le point de vue sexiste n'est pas explicitement inclus dans tous les articles, c'est l'une des approches interprétatives, c'est le cadre que nous devons appliquer quand nous l'examinons<sup>44</sup>. »

Dalee Sambo Dorough ajoute, au sujet de l'inclusion des droits individuels et collectifs dans la Déclaration :

C'était l'argument le plus convaincant, à savoir que la Déclaration des Nations Unies sur les droits des peuples autochtones doit créer un équilibre entre les droits individuels des femmes, des femmes autochtones, et les droits collectifs des peuples autochtones. Et, au bout du compte, c'est l'argument qui l'a emporté, et je pense que c'est important ... C'est un moment important de l'histoire que les femmes autochtones, par toutes les expériences qu'elles avaient eues jusque-là, se soient senties obligées d'élever la voix pour rejeter un argument assez écrasant et assez fort selon lequel nous avons besoin que nos droits collectifs soient protégés<sup>45</sup>.

Malgré ses principes importants, la DNUDPA demeure une déclaration qui n'a aucun mécanisme explicite d'application, autre que les groupes de travail et les rapporteurs qui se consacrent, en fonction des thèmes, à la surveillance des droits autochtones. Pour cette raison, la DNUDPA a souvent été décriée comme un document peu efficace, particulièrement lorsqu'on tient compte des quelque 5 000 communautés autochtones distinctes dans le monde et des 375 millions de personnes (selon les estimations) qui y vivent, chacune ayant ses propres institutions culturelles ou religieuses et formes d'autonomie gouvernementale, au sein de divers contextes nationaux.



Par ailleurs, la DNUDPA présume encore, fondamentalement et de façon problématique, la souveraineté de l'État-nation et, comme le souligne Duane Champagne, ce sont encore les États-nations qui définissent qui sont les peuples autochtones, et la dénégation de droits fondamentaux à l'identité est la première pierre à l'élimination des populations, comme l'a démontré l'expérience du Canada : « La DNUDPA ne traite pas des revendications politiques, culturelles et territoriales autochtones en fonction d'une assise gouvernement à gouvernement ou culture à culture<sup>46</sup>. » Par ailleurs, dans la Déclaration, l'État colonisateur demeure le protecteur et le garant des droits autochtones, une tâche envers laquelle il n'a pas démontré son engagement dans le passé et doit encore le faire aujourd'hui. Comme l'a mentionné Bernie, membre du Conseil des Grands-mères de l'Enquête nationale :

Lorsqu'on a fait ces marches partout au Canada, on s'est assis un jour avec les marcheurs et tout. On a parlé [de la Déclaration des Nations Unies sur les droits des peuples autochtones]. Il nous a fallu une semaine pour passer en revue la question, là, pour notre étude, de petites choses, vous savez, jusqu'à tard le soir et tout. On a compté 17 infractions contre nos femmes et nos enfants [...]. Dix-sept infractions et pourtant, rien n'est fait<sup>47</sup>.

Pour ces raisons, bien que la DNUDPA soit une invitation à participer à des États-nations multi-culturels plus inclusifs et à améliorer l'égalité d'accès aux occasions économiques, elle ne doit pas être considérée comme la panacée en matière de droits autochtones.

Malgré ses limites, la Déclaration laisse entrevoir un potentiel, en particulier si elle devait devenir une règle de droit international coutumier. Même les partisans de la Déclaration admettent que ce n'est pas l'aboutissement des efforts en ce qui a trait à la réalisation des droits autochtones et des droits de la personne. Comme le souligne Jean Leclair au cours des audiences portant sur les droits de la personne: « Je pense qu'il faut rappeler l'importance de cette déclaration et la nécessité de la mettre en œuvre [...] parce que c'est aussi très normatif. Ces symboles sont très puissants et ils peuvent être porteurs de changements<sup>48</sup>. »

« C'ÉTAIT L'ARGUMENT LE PLUS CONVAINCANT, À SAVOIR QUE LA DÉCLARATION DES NATIONS UNIES SUR LES DROITS DES PEUPLES AUTOCHTONES DOIT CRÉER UN ÉQUILIBRE ENTRE LES DROITS INDIVIDUELS DES FEMMES, DES FEMMES AUTOCHTONES, ET LES DROITS COLLECTIFS DES PEUPLES AUTOCHTONES. ET, AU BOUT DU COMPTE, C'EST L'ARGUMENT QUI L'A EMPORTÉ, ET JE PENSE QUE C'EST IMPORTANT ... C'EST UN MOMENT IMPORTANT DE L'HISTOIRE QUE LES FEMMES AUTOCHTONES, PAR TOUTES LES EXPÉRIENCES QU'ELLES AVAIENT EUES JUSQUE-LÀ, SE SOIENT SENTIES OBLIGÉES D'ÉLEVER LA VOIX POUR REJETER UN ARGUMENT ASSEZ ÉCRASANT ET ASSEZ FORT SELON LEQUEL NOUS AVONS BESOIN QUE NOS DROITS COLLECTIFS SOIENT PROTÉGÉS. »

Dalee Sambo Dorough





*D<sup>re</sup> Dalee Sambo Dorough a témoigné devant l'Enquête nationale dans la ville de Québec, au Québec, à propos des droits de la personne et des droits des Autochtones. Mention de source : Marc Lester, Anchorage Daily News.*

## Assurer la responsabilisation par l'application des instruments internationaux relatifs aux droits de la personne

D'un point de vue pratique, ces conventions exécutoires, et même les déclarations non contraignantes, peuvent aider les femmes autochtones à responsabiliser les gouvernements en ciblant les mesures précises que l'État doit prendre ainsi que ses obligations générales relativement à la sûreté et à la sécurité des femmes, filles et personnes 2ELGBTQQIA autochtones. Il s'agit ici d'obligations que l'État a accepté de respecter. Comme l'a mentionné Dalee Sambo Dorough :

Tous ces instruments sont aux mains des gouvernements, dont ils sont le produit. Les gouvernements ont établi et défini leurs propres attentes. Je pense que c'est une autre chose importante à retenir, soit que [...] les gouvernements ont rédigé ces instruments, et qu'ils ont défini leurs attentes par voie de consensus, par des décisions<sup>49</sup>.

Les instruments peuvent donc être utiles dans nos efforts pour combattre la violence contre les femmes, les filles et les personnes 2ELGBTQQIA autochtones. Ils offrent, notamment, un cadre pour la réalisation des droits fondamentaux sur lesquels le présent rapport est fondé, droits dont l'essence est incarnée dans les récits fondamentaux sur les droits, rôles et responsabilités des femmes autochtones et des personnes de diverses identités de genre, selon leurs conditions.



Comme l'a soulevé Dalee Sambo Dorough pour l'Enquête nationale, le rapporteur spécial sur les droits des peuples autochtones des Nations Unies a indiqué que même si la Déclaration proprement dite n'était pas juridiquement contraignante comme un traité, elle :

reflétait des engagements juridiques liés à la Charte, ainsi que d'autres engagements issus de traités et liés au droit international coutumier [...] La Déclaration s'appuie sur les obligations générales des États en matière de droits de la personne en vertu de la Charte, ainsi que sur les principes fondamentaux des droits de la personne, comme la non-discrimination, l'autodétermination et l'intégrité culturelle, qui sont intégrés dans les traités sur les droits de la personne qui ont été largement ratifiés [...] C'est donc dire que la Déclaration reflète le droit international coutumier, dans cette mesure<sup>50</sup>.

Ces obligations sont normatives en ce sens qu'elles sont fondées sur des normes généralement acceptées par la collectivité internationale. Parmi les obligations normatives ciblées par des témoins à l'Enquête nationale, on note les concepts de l'universalité et de l'inaliénabilité. Autrement dit, tout le monde peut se prévaloir des droits de la personne, et ces droits ne peuvent être retirés. En outre, les concepts de l'indivisibilité, de l'interdépendance et l'interrelation des droits de la personne renvoient à l'idée que ces droits forment un ensemble pour maintenir la dignité des gens; donc, tous les droits sont interreliés et ne peuvent être considérés séparément, ce qui est important pour la question de violence contre les femmes, les filles et les personnes 2ELGBTQQIA autochtones. Comme l'a indiqué Brenda Gunn :

Nous devons examiner l'ensemble des droits de la personne et des obligations qui en découlent afin de ne pas nous contenter d'examiner les droits civils et politiques, ou les droits économiques, sociaux et culturels. Nous ne pouvons pas dissocier le droit au logement du droit de participer à la vie publique; tous ces éléments vont ensemble<sup>51</sup>.

Elle a ajouté ceci : « Il est rare qu'une action de l'État ne viole qu'un seul article d'une convention. La façon dont les droits de la personne interagissent, ils sont tellement interdépendants et pour vraiment comprendre le souffle et la profondeur de l'obligation, il faut les examiner ensemble<sup>52</sup>. »

Le fait de considérer les droits de la personne comme un ensemble indivisible touche également deux autres principes importants, la non-discrimination et l'égalité réelle. Bien que les droits de la personne soient les mêmes pour tous, ces principes font ressortir que « cela ne veut pas dire que tout le monde est traité de la même façon<sup>53</sup> ». Le droit international, y compris la Déclaration des Nations Unies sur les droits des peuples autochtones (DNUDPA), que Brenda Gunn a cité dans son témoignage, indique clairement que les États pourraient devoir prendre des mesures spéciales pour s'assurer de la réalisation de ces droits pour tous les gens, y compris les Autochtones. Comme l'a indiqué Corey O'Soup, protecteur des enfants du Manitoba, dans son témoignage sur les mesures de soutien en matière de santé et d'éducation : « On est tellement en retard depuis si longtemps que l'on a besoin de mesures spéciales pour arriver au niveau des enfants non



autochtones dans nos provinces, dans notre pays aussi, vous savez<sup>54</sup>. » Le droit international en matière de droits de la personne comprend le besoin des peuples autochtones de participer au processus décisionnel et de les y inclure. Ce droit n'est toutefois pas défini, forcément, ce qui a permis aux États d'essayer de le contourner en affirmant que, pour une question donnée, les droits ou intérêts des peuples autochtones ne sont pas concernés.



*En raison de la pénurie de logements dans de nombreuses communautés des Premières Nations, des cabanes comme celle-ci font office de maisons. Cette photographie montre une structure qui sert de maison à Attawapiskat, en Ontario. Photo de Lyndsay Mollins Koene, reproduite avec l'autorisation du Mennonite Central Committee.*

Selon Brenda Gunn, l'un des aspects les plus importants d'une approche fondée sur les droits de la personne pourrait être qu'elle retire ces enjeux de base, liés à la sécurité, du domaine des « politiques » pour les insérer plutôt dans celui du droit. Comme elle explique à l'aide d'un exemple sur le logement :

Ce n'est pas seulement un enjeu politique auquel on accorde ou non la priorité dans un budget quelconque; chaque personne a droit à un logis adéquat qui l'abrite en toute sécurité sans qu'elle craigne d'en être expulsée, à un logis en bonne condition et qu'elle peut occuper en toute sécurité<sup>55</sup>.

Dans cette approche, les femmes, les filles et les personnes 2ELGBTQQIA autochtones détiennent des droits entraînant des obligations pour le Canada et d'autres gouvernements. Bien que ces droits puissent être réalisés sous forme de services, le fait que ce soient bel et bien des droits rend le gouvernement responsable d'étudier ces questions au-delà du simple cadre de l'élaboration de politiques. Brenda Gunn ajoute que les instruments relatifs aux droits de la personne permettent d'énumérer les obligations que le Canada était tenu de remplir ainsi que les situations où il n'a pas agi, ou a mal agi, en s'acquittant de ces obligations<sup>56</sup>.





« NOUS DEVONS EXAMINER L'ENSEMBLE DES DROITS DE LA PERSONNE ET DES OBLIGATIONS QUI EN DÉCOULENT AFIN DE NE PAS NOUS CONTENTER D'EXAMINER LES DROITS CIVILS ET POLITIQUES, OU LES DROITS ÉCONOMIQUES, SOCIAUX ET CULTURELS. NOUS NE POUVONS PAS DISSOCIER LE DROIT AU LOGEMENT DU DROIT DE PARTICIPER À LA VIE PUBLIQUE; TOUS CES ÉLÉMENTS VONT ENSEMBLE. »

Brenda Gunn

## Les instruments de droit national du Canada

### *La Loi canadienne sur les droits de la personne*

La *Loi canadienne sur les droits de la personne* est l'une des façons utilisées par le Canada pour adopter ces droits au pays. La *Loi* est le produit de la transformation de certains instruments internationaux en instruments de droit national. Après la Seconde Guerre mondiale, l'importance d'avoir des instruments relatifs aux droits de la personne, mise en lumière par les atrocités de l'holocauste, est devenue évidente. Après la création des Nations Unies, en 1945, et l'élaboration de la Déclaration universelle des droits de l'homme, en 1948, des pays ont commencé à étudier le type de loi qui, à l'échelle nationale, pourrait être adopté pour soutenir les principes de la Déclaration.

Le gouvernement fédéral n'a pas pris les rênes, du moins au Canada. C'est l'Ontario qui, en 1944, a adopté la première loi contre la discrimination, puis la Saskatchewan a présenté un projet de loi sur les droits civils en 1947. La *Loi concernant la Saskatchewan* protégeait notamment les libertés civiles comme la liberté d'expression, de réunion, de religion et d'association, ainsi que l'application régulière de la loi, tout en interdisant la discrimination fondée sur la race, la religion et l'origine nationale. Au-delà d'une décennie plus tard, en 1960, les législateurs fédéraux ont promulgué la Déclaration canadienne des droits qui s'appliquait au gouvernement fédéral et protégeait, entre autres, la liberté d'expression, la liberté de religion et les droits à l'égalité. La loi avait toutefois des limites – elle ne s'appliquait pas au secteur privé ni aux gouvernements provinciaux, et n'est jamais devenue un outil important de protection des droits de la personne au Canada<sup>57</sup>.

Pendant cette période, les provinces ont renforcé leurs propres instruments relatifs aux droits de la personne. En 1962, l'Ontario a adopté le Code des droits de la personne, un regroupement de lois, et a créé la Commission ontarienne des droits de la personne qui avait pour mandat de prévenir la violation des droits de la personne et d'éduquer les gens de la province sur ces droits. Comme l'explique la Commission :

Au cours des années suivantes, d'autres juridictions dans le pays mettent en place des lois similaires. Ce développement dans l'ensemble du Canada coïncide avec la prééminence grandissante des mouvements sociaux, qui cherchent à faire progresser des enjeux sociaux comme la justice raciale et les droits des femmes, au pays comme ailleurs dans le monde<sup>58</sup>.



En 1977, dans le contexte de l'acceptation par les États membres des Nations Unies du Pacte international relatif aux droits civils et politiques (PIDCP) et du Pacte international relatif aux droits économiques, sociaux et culturels (PIDESC), le Parlement a adopté la *Loi canadienne sur les droits de la personne* qui ne s'applique qu'aux fonctionnaires fédéraux ou aux personnes recevant des prestations du gouvernement fédéral, aux Premières Nations et aux entreprises privées sous réglementation fédérale.

Comme le démontre l'historique de la question, chaque province ou territoire du Canada possède ses propres lois sur les droits de la personne, lois qui s'appliquent aux services et aux domaines relevant de sa compétence comme les écoles et les hôpitaux. Il peut y avoir une certaine confusion. Bien que les « Indiens et les terres réservées pour les Indiens<sup>59</sup> » relèvent de la compétence fédérale, en vertu du paragraphe 91(24) de la Constitution canadienne, beaucoup des secteurs de service où les peuples autochtones ont affirmé avoir été victime de violence ou de discrimination étaient en fait des secteurs de services fournis par les provinces, mais financés par le gouvernement fédéral.

La *Loi canadienne sur les droits de la personne* interdisait la discrimination fondée sur des normes acceptées comme la race, la religion et l'origine nationale, mais aussi sur de nouvelles normes comme le sexe, l'origine ethnique, l'âge, l'état matrimonial, la capacité physique et l'état de personne graciée. Elle a également servi à la création de deux organismes des droits de la personne, soit la Commission canadienne des droits de la personne et le Comité du Tribunal des droits de la personne qui a été fondé en 1985 puis renommé Tribunal canadien des droits de la personne en 1998.

En 1996, la *Loi* a été modifiée par l'ajout de l'orientation sexuelle comme motif de discrimination illicite. En 2017, l'identité ou l'expression de genre y a également été ajoutée. Jusqu'en 2013, la *Loi* comprenait des dispositions interdisant la propagande haineuse définie comme « le fait d'aborder ou faire aborder des questions susceptibles d'exposer à la haine ou au mépris des personnes appartenant à un groupe identifiable sur la base des critères discriminatoires prohibés<sup>60</sup> ». Ce paragraphe a toutefois été abrogé en 2013 en raison de contestations et de la publicité connexe.

La version actuelle de la *Loi* présente 13 motifs de distinction illicites : « la race, l'origine nationale ou ethnique, la couleur, la religion, l'âge, le sexe, l'orientation sexuelle, l'identité ou l'expression de genre, l'état matrimonial, la situation de famille, les caractéristiques génétiques, l'état de personne graciée ou la déficience<sup>61</sup>. »

Elle aborde la discrimination, le harcèlement et la question des motifs justifiables, c'est-à-dire qu'en vertu de la *Loi*, la résolution des plaintes liées aux droits de la personne ne peut pas causer de contraintes excessives pour l'employeur ou le fournisseur de service. La loi interdit la discrimination sur le lieu de travail, dans les processus de demande d'emploi, dans les offres d'emploi et dans la fourniture de biens et de services. La *Loi* interdit aussi le harcèlement sans toutefois le définir.



En plus de la *Loi*, les provinces et les territoires ont tous leur propre législation sur les droits de la personne, qui offre une protection contre la discrimination ou le harcèlement dans plusieurs des mêmes domaines que la *Loi canadienne sur les droits de la personne*, et dans les domaines suivants de protection :

<b>Alberta</b> Lois sur les droits de la personne de l'Alberta – 1966	<ul style="list-style-type: none"><li>• les déclarations, publications, avis, enseignes, symboles, emblèmes ou autres représentations publiées, établies, affichées devant le public.</li><li>• les services, les biens, l'hébergement ou les installations habituellement à la disposition du public</li><li>• la location</li><li>• les pratiques d'emploi, demandes d'emploi ou annonces</li><li>• l'affiliation à des syndicats, organisations d'employeurs ou associations professionnelles</li></ul>
<b>Colombie-Britannique</b> Code des droits de la personne de la Colombie-Britannique – 1973	<ul style="list-style-type: none"><li>• l'emploi</li><li>• l'affiliation à des syndicats et à des associations ouvrières ou professionnelles</li><li>• les services et installations habituellement à la disposition du public</li><li>• l'achat de propriété</li><li>• la location</li><li>• la propagande haineuse</li></ul>
<b>Manitoba</b> Code des droits de la personne du Manitoba – 1987 (remplace la loi sur les droits de la personne de 1970)	<ul style="list-style-type: none"><li>• l'emploi</li><li>• le logement</li><li>• l'hébergement</li><li>• la fourniture de services ou de contrats, ainsi que de panneaux et avis</li></ul>
<b>Nouveau-Brunswick</b> Loi sur les droits de la personne du Nouveau-Brunswick – 1967	<ul style="list-style-type: none"><li>• l'emploi</li><li>• le logement</li><li>• les secteurs des services publics, qui peuvent inclure : écoles, magasins, motels, hôpitaux, police et la plupart des services gouvernementaux</li><li>• la publicité</li><li>• certaines associations</li></ul>
<b>Terre-Neuve et Labrador</b> Loi sur les droits de la personne de Terre-Neuve-et-Labrador – 1971	<ul style="list-style-type: none"><li>• l'emploi</li><li>• l'affiliation à un syndicat</li><li>• la fourniture de biens et services</li><li>• la location commerciale et résidentielle</li><li>• les publications</li><li>• les contrats</li><li>• l'égalité de salaire pour un travail identique ou similaire</li><li>• l'association avec des personnes identifiées par l'un des motifs de distinction illicite</li></ul>
<b>Territoires du Nord-Ouest</b> Loi sur les droits de la personne des Territoires du Nord-Ouest – 2004	<ul style="list-style-type: none"><li>• l'emploi</li><li>• l'appartenance à une organisation professionnelle, une association de travailleurs ou un syndicat</li><li>• l'accès aux services publics tels que les soins de santé et l'éducation, et aux installations telles que les magasins et les restaurants</li><li>• la location à des fins de logement ou d'exploitation commerciale</li><li>• le matériel publié tel que journaux, magazines, enseignes ou publicités</li></ul>





<b>Nouvelle-Écosse</b> Loi sur les droits de la personne de la Nouvelle-Écosse – 1967	<ul style="list-style-type: none"><li>• l'emploi</li><li>• le logement ou l'hébergement</li><li>• les services et installations</li><li>• l'achat ou la vente de propriété</li><li>• le service public bénévole</li><li>• la publication, diffusion ou publicité</li><li>• l'adhésion à une association professionnelle, commerciale ou professionnelle, ou à une organisation d'employeurs ou de salariés</li></ul>
<b>Nunavut</b> Loi sur les droits de la personne du Nunavut – 2003	<ul style="list-style-type: none"><li>• l'emploi</li><li>• l'affiliation ou le maintien de l'affiliation à une organisation de salariés</li><li>• l'accès aux biens, services, installations ou contrats accessibles au grand public</li><li>• la location ou la volonté de louer un immeuble résidentiel ou commercial</li><li>• la publication ou l'affichage d'informations ou de matériel écrit</li></ul>
<b>Ontario</b> Codes des droits de la personne de l'Ontario – 1962	<ul style="list-style-type: none"><li>• l'hébergement (logement)</li><li>• les contrats</li><li>• l'emploi</li><li>• les biens, services et installations</li><li>• l'affiliation à des syndicats, associations professionnelles ou commerciales</li></ul>
<b>Île-du-Prince-Édouard</b> Loi sur les droits de la personne de l'Île-du-Prince-Édouard – 1968	<ul style="list-style-type: none"><li>• l'emploi et tous ses aspects</li><li>• la location, achat ou vente de propriété</li><li>• l'offre des logements, des services ou des installations au public</li><li>• l'affiliation à des associations professionnelles ou commerciales, à des organisations d'employeurs ou de salariés</li><li>• l'édition, diffusion et publicité</li><li>• le bénévolat</li></ul>
<b>Québec</b> Québec : Charte des droits et des libertés de la personne – 1975	<ul style="list-style-type: none"><li>• l'emploi (comprend l'embauche et la pré-embauche, les conditions de travail, la formation professionnelle, la promotion ou le transfert, le licenciement, la suspension ou le renvoi)</li><li>• le logement (comprend la location d'un appartement, l'occupation de locaux loués)</li><li>• les services publics, transports en commun et lieux publics (entreprises, restaurants et hôtels, parcs, campings, haltes routières, écoles et églises)</li><li>• les actes juridiques (contrats, conventions collectives, testaments, contrats d'assurance ou de pension, régimes d'avantages sociaux, régimes de retraite, de rente ou d'assurances, régimes de retraite ou d'assurances publics)</li></ul>
<b>Saskatchewan</b> Codes des droits de la personne de la Saskatchewan – 1979	<ul style="list-style-type: none"><li>• l'emploi ou la profession</li><li>• l'éducation</li><li>• le logement</li><li>• les publications</li><li>• les services publics (restaurants, magasins, hôtels, services gouvernementaux, etc.)</li><li>• les contrats ou l'achat de propriété</li><li>• les associations professionnelles ou les syndicats</li></ul>
<b>Yukon</b> Loi sur les droits de la personne du Yukon – 1987	<ul style="list-style-type: none"><li>• l'emploi et tous ses aspects</li><li>• l'accès aux biens et services</li><li>• le logement, crédit-bail ou location</li><li>• l'affiliation à ou la représentation par des syndicats ou des associations professionnelles</li><li>• les contrats publics</li></ul>



## **Le recours à la *Loi canadienne sur les droits de la personne* dans la défense des droits des Autochtones**

La *Loi canadienne sur les droits de la personne* a été mise à profit dans de nombreux cas, y compris dans une récente affaire importante concernant les Premières Nations, soit la *Société de soutien à l'enfance et à la famille des Premières Nations du Canada c. Canada*, dont le verdict a été rendu en 2016.

Dans cette affaire, la Société de soutien à l'enfance et à la famille des Premières Nations du Canada a plaidé avec succès que les services à l'enfance et à la famille fournis par le gouvernement canadien aux Premières Nations dans les réserves et au Yukon étaient discriminatoires, puisque le niveau de service offert n'était pas égal à celui accordé ailleurs au Canada. En bref, conformément à ses obligations constitutionnelles, le gouvernement fédéral finance des services qui sont fournis par les Premières Nations et parfois par les provinces et les territoires. Au Yukon, ces services comprennent la prestation dans les réserves de services à l'enfance et à la famille fournis par les Premières Nations. Comme principale condition de financement, les règles fédérales exigent que les organismes de protection de l'enfance des Premières Nations appliquent la législation provinciale ou territoriale sur la protection de l'enfance. L'affaire susmentionnée a démontré un niveau de financement plus bas pour les organismes de protection de l'enfance des Premières Nations; les dossiers montrent que les organismes provinciaux et territoriaux reçoivent un financement de deux à quatre fois supérieur à celui accordé aux organismes autochtones. Cela signifie que les Premières Nations disposent de beaucoup moins de fonds pour aider chaque enfant pris en charge; seulement une fraction de chaque dollar dépensé pour les services provinciaux et territoriaux est allouée aux Premières Nations<sup>62</sup>.

Ce dossier a donné lieu au principe de Jordan, nommé en mémoire de Jordan River Anderson, un garçon cri de la Nation des Cris de Norway House qui a passé sa courte vie à l'hôpital pendant que les gouvernements fédéral et provincial se disputaient à savoir qui allait payer la facture pour les services qu'il a reçus. Le garçon, qui souffrait de multiples handicaps congénitaux, a été hospitalisé de sa naissance en 1999 jusqu'à sa mort en 2005. Le principe de Jordan vise à « s'assurer que les enfants des Premières Nations ont accès à TOUS les services publics normalement offerts aux autres enfants dans les mêmes conditions<sup>63</sup> ». Il peut notamment permettre à des enfants qui sont depuis trop longtemps sur une liste d'attente d'obtenir des services du secteur privé. Le principe de Jordan ne se limite pas aux soins de santé; il couvre l'ensemble des services publics aux membres des Premières Nations dans les réserves et à l'extérieur de celles-ci. En fait, il vise à assurer que les coûts ne soient pas un obstacle à la prestation de services visant à répondre aux besoins d'un enfant dans des domaines comme la santé, les services sociaux et l'éducation.

Bien que la définition du principe de Jordan fasse uniquement mention des enfants des Premières Nations, la Société de soutien à l'enfance et à la famille des Premières nations du Canada presse le gouvernement de respecter la *Loi canadienne sur les droits de la personne*, qui interdit toute discrimination fondée sur la race et sur l'origine ethnique ou nationale et confirme ainsi l'application du principe de Jordan aux enfants inuits et métis.



## Spirit Bear demande :

**QUE LE CANADA** se conforme immédiatement à toutes les décisions du Tribunal canadien des droits de la personne qui lui a ordonné de cesser immédiatement son financement discriminatoire pour les services à l'enfance et à la famille des Premières Nations. Les ordonnances exigent aussi que le Canada mette en œuvre le Principe de Jordan de façon pleine et entière ([www.jordansprincipe.ca](http://www.jordansprincipe.ca)).

**QUE LE PARLEMENT** demande au directeur parlementaire du budget d'exposer publiquement les manques à gagner dans tous les services publics financés par le gouvernement fédéral qui sont destinés aux enfants, aux jeunes et aux familles des Premières Nations (éducation, santé, eau potable, protection de l'enfance, etc.) et qu'il propose des solutions pour y remédier.

**QUE LE GOUVERNEMENT** consulte les Premières Nations afin d'élaborer conjointement un Plan holistique de Spirit Bear pour mettre fin aux iniquités (comportant des échéanciers et des investissements confirmés). Que ce plan soit élaboré dans les plus brefs délais dans le meilleur intérêt des enfants, en respect de leur développement et des besoins distincts de leurs communautés.

**QUE LES MINISTÈRES** qui offrent des services aux enfants et aux familles des Premières Nations fassent l'objet d'évaluations indépendantes et approfondies afin de déceler toutes les idéologies, les politiques et les pratiques discriminatoires, puis de les corriger. Ces évaluations doivent être disponibles publiquement.

**QUE TOUS LES FONCTIONNAIRES** incluant les cadres supérieurs, suivent une formation obligatoire pour reconnaître et lutter contre les idéologies, les politiques et les pratiques qui compromettent la mise en œuvre des appels à l'action de la Commission de vérité et réconciliation<sup>1</sup>.



*Cindy Blackstock et Spirit Bear. Photo utilisée avec l'autorisation de la Société de soutien à l'enfance et à la famille des Premières Nations du Canada.*

<sup>1</sup> <https://fncaringsociety.com/fr/le-plan-de-spirit-bear>. Consulté le 10 janvier 2019.

Néanmoins, l'étroite définition établie par le gouvernement pour l'application de ce principe a eu comme effet de rendre inadmissibles la plupart des enfants, limitant ainsi les obligations fédérales. En 2013, la Cour fédérale a rejeté l'approche proposée par le gouvernement fédéral et en 2016, le Tribunal canadien des droits de la personne a déclaré qu'il s'agissait de discrimination flagrante et a ordonné au gouvernement fédéral de cesser immédiatement ces activités discriminatoires et de rendre compte de ses progrès à ce sujet.

La décision en quatre parties du Tribunal va plus loin. En plus de cesser immédiatement toute discrimination, le gouvernement doit lancer des réformes pour remédier à certains facteurs structurels alimentant les inégalités. En outre, le Tribunal a déclaré que des réformes approfondies et à long terme s'imposaient, de même que la compensation des enfants ayant subi des torts en raison de la conduite du gouvernement<sup>64</sup>.





En 2017, le tribunal a rendu une ordonnance précisant que le principe de Jordan ne se limite pas aux enfants handicapés issus d'une Première Nation, mais qu'il englobe tous les enfants des Premières Nations, et est destiné à assurer l'absence de lacunes dans les services gouvernementaux. En outre, le décret précise que le gouvernement doit payer le service sans délai, lui qui cherchait à éviter d'assumer ces coûts. L'ordonnance mentionne aussi spécifiquement comment le principe de Jordan peut servir à éviter les retards résultant de querelles de compétence entre les paliers de gouvernement, ou entre les ministères lorsqu'il est question de savoir qui réglera la facture.

Selon de nombreux experts, cela a de profondes répercussions dans d'autres secteurs de services, y compris, potentiellement, le secteur de l'éducation. C'est un indicateur de ce que le gouvernement est prêt à faire pour limiter ses obligations. Ainsi, dans le cadre de la violence tragique perpétrée contre les femmes, les filles et les personnes 2ELGBTQQIA autochtones, ce cas illustre que les approches axées sur les droits de la personne peuvent pousser le gouvernement à honorer ses obligations, mais que les personnes les plus touchées doivent aussi être vigilantes et voir à ce que les principes prévus par ces instruments soient appliqués correctement et dans toute leur mesure. Il démontre aussi comment les obligations gouvernementales en matière de droits de la personne pourraient, conformément aux règles établies par ce dernier lui-même, justifier des plaintes liées à de tels droits et déposées parce que le gouvernement n'a pas assuré adéquatement la sécurité des femmes, des filles et des personnes 2ELGBTQQIA autochtones à l'aide de mesures immédiates et durables visant à corriger les inégalités structurelles qui font des ces dernières des cibles.

Bien que ce cas et les futurs cas semblables puissent être très utiles pour demander au gouvernement d'assumer convenablement ses engagements et ses responsabilités envers toutes les personnes au Canada, ils ne sont pas sans restriction. Par exemple, le dépôt d'une plainte en vertu de la *Loi canadienne sur les droits de la personne* est un processus complexe. La Commission doit d'abord évaluer l'ampleur des mesures prises par le plaignant pour tenter de résoudre la situation, et la *Loi* n'autorise pas le dépôt d'une plainte plus de 12 mois après que l'acte de discrimination a été commis, ce qui signifie que, dans bien des cas, la période d'admissibilité pourrait être échu et qu'une plainte officielle ne pourrait pas être déposée, qu'elle soit fondée ou non<sup>65</sup>.

En outre, avant 2008, les personnes définies comme « Autochtones » par la Constitution n'avaient pas le droit de déposer, en vertu de l'article 67, une plainte à l'endroit du gouvernement fédéral relativement à la *Loi sur les Indiens*. Comme l'explique Wendy L., membre de famille :

Avant, si je voulais déposer une plainte à la Commission canadienne des droits de la personne à cause de ce qui m'arrivait à moi, ou à ma mère, ou à d'autres femmes, ou à d'autres personnes [relativement à la *Loi sur les Indiens*], ce n'était pas possible pour moi de le faire [...] Donc, encore, c'est juste ça, des obstacles constants qui sont mis devant nous qui sont... on n'arrête pas de nous bloquer, de nous arrêter, de nous remettre en doute. Et on le voit bien... nous ne bénéficions pas d'emblée des mêmes droits et libertés que les autres Canadiens. C'est très clair<sup>66</sup>.



Cette disposition a été modifiée en 2008, mais a limité l'accès des femmes, des filles et des personnes 2ELGBTQQIA autochtones à un mécanisme de plainte qui aurait pu aider à régler certains problèmes systémiques entraînés par la *Loi* depuis plus de 30 ans. La disposition de 2008 s'appliquait immédiatement aux décisions et aux mesures prises par le gouvernement fédéral, mais son application aux Premières nations, y compris les conseils de bande et les organismes connexes, a été reportée de trois ans dans le cas de décisions (comme le refus d'octroyer un logement ou d'offrir d'autres services) fondées sur l'un ou l'autre des motifs de distinction illicites.

Le processus de dépôt d'une plainte liée aux droits de la personne reste intimidant pour beaucoup d'Autochtones. Comme l'a mentionné Viola Thomas :

Je trouve que pour beaucoup de nos gens, qui sont ostracisés, ne se sentent jamais assez à l'aise ou suffisamment confiants de porter plainte pour violation des droits de la personne parce qu'ils... ils ont peur de ce qui arrivera si la plainte concerne un membre qui est chef et conseiller ou si c'est un membre qui dispose d'un certain pouvoir au bureau du conseil de bande et [...] ils ne veulent pas que leurs avantages en soient touchés. Et donc, un grand nombre de nos concitoyens sont réduits au silence [...] et sont incapables d'agir en raison de ce déséquilibre des pouvoirs au sein de nos communautés et de la façon dont le sexisme s'exprime, dans les faits<sup>67</sup>.

Viola a aussi fait remarquer :

Je pense qu'il existe des défis majeurs propres aux lois en vigueur concernant les droits de la personne, qu'il s'agisse de l'application de ces droits au niveau fédéral ou provincial. Ils individualisent les droits de la personne. Ils n'ont pas un... ils n'appliquent pas une véritable approche systémique pour traiter du problème des violations collectives des droits des peuples autochtones. Et ces violations sont nombreuses. Il peut s'agir de violations en tant qu'enfant, en tant que femme, en tant que personne bispirituelle, mais il ne faut cocher qu'une seule case. Oh, et aujourd'hui, est-ce que je vais porter plainte en tant que femme ou en tant que personne bispirituelle? Je dois choisir l'une ou l'autre. Il me semble donc qu'en soi, les mesures législatives relatives aux droits de la personne polarisent nos enjeux collectifs en la matière en tant que peuples autochtones. Et à cela s'ajoute l'éradication historique de nos rôles distincts en tant que femmes autochtones au sein de nos communautés, quelle que soit notre nation<sup>68</sup>.

La Commission canadienne des droits de la personne montre une certaine sensibilisation au besoin d'adopter une approche particulière pour les enjeux liés aux communautés autochtones. Elle affirme dans ses documents publics :

Lorsqu'il est question des droits de la personne, les décisions qui touchent les Premières Nations doivent tenir compte des droits ancestraux ou issus de traités. Dans le cas des plaintes contre un gouvernement ou un fournisseur de services d'une Première Nation, la



Commission et le Tribunal peuvent tenir compte du droit coutumier de cette Première Nation. Ils doivent concilier les droits collectifs et individuels du point de vue d'une Première Nation, tout en respectant l'égalité des sexes<sup>69</sup>.

La Commission canadienne des droits de la personne a aussi reconnu que traiter tout le monde de la même façon n'est pas nécessairement synonyme d'égalité, ce qui a eu de grandes répercussions pour les peuples autochtones. C'est une question d'égalité réelle. Des mesures correctives doivent être prises en cas d'absence d'égalité réelle ou véritable – ce sont des principes des droits de la personne, des droits autochtones et du droit international coutumier. Comme le souligne la Commission canadienne des droits de la personne : « Les peuples autochtones sont en droit d'être traités de façon équitable. Mais un traitement juste et équitable ne veut pas toujours dire qu'on traite tout le monde de la même façon<sup>70</sup>. »

### **La Constitution canadienne et la *Charte canadienne des droits et libertés***

Au Canada, dans un contexte légal, les peuples autochtones ont utilisé trois grandes sources pour affirmer leurs droits : la Proclamation royale de 1763 (et les traités subséquents), la common law, telle qu'elle est définie par les tribunaux canadiens, et le droit international<sup>71</sup>. Une partie de la façon dont le Canada gère la question des droits ancestraux est ancrée dans la Constitution canadienne, créée en 1867 et rapatriée en 1982.

D'après le paragraphe 91(24) de la Constitution, « les Indiens et les terres réservées pour les Indiens » relèvent exclusivement de l'autorité fédérale. L'article 91 décrit les pouvoirs du gouvernement fédéral, dans son ensemble, tandis que l'article 92 traite des pouvoirs exclusifs des législatures provinciales. Comme il a été mentionné par les tribunaux, ce ne sont pas des « compartiments étanches », surtout lorsqu'il est question des Autochtones au Canada qui reçoivent de la part de fournisseurs provinciaux de nombreux services financés par Ottawa dans des domaines essentiels comme la santé et l'éducation. En partie, ces pouvoirs de la Constitution canadienne, connue en 1867 sous le nom d'*Acte de l'Amérique du Nord britannique*, découlent de la reconnaissance historique des liens entre les peuples autochtones et la Couronne. Cette idée est également représentée dans la Proclamation royale de 1763, qui a précédé l'Acte, et affirmait que la Couronne, ou le gouvernement britannique, était responsable de protéger les terres des Premières Nations et d'assurer le bien-être et la protection de ces gens.

« DANS LES AFFAIRES DE DROITS DE LA PERSONNE, LES DÉCISIONS QUI TOUCHENT LES PREMIÈRES NATIONS DOIVENT TENIR COMPTE DES DROITS ET DES TRAITÉS ANCESTRAUX. DANS LE CAS DES PLAINTES CONTRE UN GOUVERNEMENT OU UN FOURNISSEUR DE SERVICES D'UNE PREMIÈRE NATION, LA COMMISSION ET LE TRIBUNAL PEUVENT TENIR COMPTE DU DROIT COUTUMIER DE CETTE PREMIÈRE NATION. ILS DOIVENT CONCILIER LES DROITS COLLECTIFS ET INDIVIDUELS DU POINT DE VUE D'UNE PREMIÈRE NATION, TOUT EN RESPECTANT L'ÉGALITÉ DES SEXES. »

La Commission canadienne des droits de la personne





Jusqu'en 1982, le paragraphe 91(24) était l'unique articulation de la présence de peuples autochtones dans la Constitution du Canada. Lorsque Pierre Elliott Trudeau a entrepris des démarches pour rapatrier la Constitution au Canada, en 1982, il n'avait aucunement l'intention d'y ajouter quoi que ce soit. Toutefois, l'ajout de la *Charte canadienne des droits et libertés* a mobilisé beaucoup d'organismes autochtones qui ont lutté pour l'inclusion et la protection des droits ancestraux collectifs et des droits issus de traités. Les efforts menés pour inclure les droits ancestraux à la Constitution étaient partiellement motivés par l'idée qu'un transfert de pouvoir de la Grande-Bretagne (encore l'autorité constitutionnelle au Canada) pourrait mettre en péril les droits des Autochtones, du moins, les quelques droits reconnus à l'époque. De plus, comme les droits détenus par les Premières Nations, les Métis et les Inuits étaient sujets à l'extinction par la législation, il y avait peu de mesures de protection des droits somme toute limités alors acquis. Les organismes autochtones étaient d'avis que l'obtention d'une protection constitutionnelle pour leurs droits était la façon la plus logique et la plus sûre de ne pas perdre ce qui avait été gagné jusque-là.

En raison de cette résistance, le gouvernement a accepté et inclus un article qui « reconnaît et confirme » les droits ancestraux et issus de traités des « Indiens », des Inuits et des Métis. À la suite d'une longue campagne menée par des femmes autochtones, il a aussi été convenu à la Conférence constitutionnelle de 1983 de modifier la Constitution et d'y ajouter une disposition voulant que les droits ancestraux et les droits issus de traités fussent « garantis également aux personnes des deux sexes ». Toutefois, mis à part ce nouvel engagement envers l'égalité de genre, il y a eu peu de progrès relativement à la définition des droits ancestraux. Les conférences suivantes, dans les années 1980, se sont aussi terminées sans entente sur la question.



*Sa Majesté la reine Elizabeth II et le premier ministre Pierre Elliott Trudeau signent la proclamation de la Loi constitutionnelle de 1982. © Gouvernement du Canada. Reproduite avec l'autorisation de Bibliothèque et Archives Canada (2019). Source : Bibliothèque et Archives Canada/Fonds national des archives du Canada/a141503*

Une sanction a finalement été reçue, et l'article 25 de la *Loi constitutionnelle* garantit que les droits et libertés de la Charte ne portent pas atteinte aux droits ancestraux ou issus de traités qui découlent de la Proclamation royale de 1763 et des accords sur les revendications territoriales. Quant à l'article 35, il confirme les droits existants (ancestraux ou issus de traités) des « Indiens », des Inuits et des Métis, et précise que les droits issus de traités comprennent les droits existants



issus d'accords sur des revendications territoriales ou les droits susceptibles d'être ainsi acquis. Le paragraphe 35(4) mentionne expressément que ces droits sont garantis également aux personnes des deux sexes.

En 1990, la Cour suprême du Canada (CSC) a décidé dans l'affaire *Sparrow* que les pouvoirs fédéraux en vertu du paragraphe 91(24) devaient être interprétés avec le paragraphe 35(1), obligeant ainsi le gouvernement fédéral « d'agir en qualité de fiduciaire à l'égard des peuples autochtones » dans un cadre « de nature fiduciaire plutôt que contradictoire ». Toutefois, la Constitution reconnaît ces droits sans les définir. Elle prévoit plutôt la tenue d'une conférence constitutionnelle, à laquelle participeraient le premier ministre, les premiers ministres provinciaux et les chefs autochtones, pour définir les droits protégés par la Constitution par l'intermédiaire des tribunaux nationaux.

Au fil de son évolution, la jurisprudence canadienne a articulé d'importantes doctrines surtout en ce qui a trait aux titres ancestraux, mais aussi à d'autres droits des Autochtones. Les doctrines comprennent le concept de droit *sui generis*, l'honneur de la Couronne, et l'obligation fiduciaire. Ces principes du droit, et leur libellé général, sont dominés par l'idée selon laquelle la primauté du droit, voulant que les lois s'appliquent même à la Couronne, doit prévaloir lorsque l'on tente de concilier d'une part, la préexistence des nations autochtones et de leurs systèmes juridiques et culturels existants et, d'autre part, la souveraineté présumée de la société colonisatrice britannique<sup>72</sup>.

### ***Sui generis* – une relation unique**

Le terme latin *sui generis*, signifiant littéralement « unique en son genre », caractérise exclusivement quelque chose. Dans le droit des Autochtones, comme il est défini par la Cour suprême, les juges appliquent ce concept pour souligner les différences entre les droits ancestraux à la propriété et les droits issus de la common law non autochtone. Comme l'explique Bruce Ziff, le concept de nature *sui generis* reconnaît :

les droits à la propriété pré-existants des communautés autochtones. Comme la souveraineté ne s'utilise que pour potentiellement prendre ce qui avait déjà été revendiqué par autrui, les précédents propriétaires fonciers, soit les peuples autochtones de ce qui est aujourd'hui le Canada, conservent leurs propriétés jusqu'à ce qu'on les leur enlève par une intervention gouvernementale légitime. La législation canadienne actuelle reconnaît bel et bien les droits fonciers qui existaient avant l'acquisition coloniale<sup>73</sup>.

Ainsi, les droits ancestraux et les droits issus de traités sont écartés des autres droits pour reconnaître qu'ils sont uniques. Et bien que l'interprétation du droit national soit essentielle ici, le droit international reconnaît également la nature *sui generis* des titres ancestraux et de nombreux droits connexes. Ces droits ne reposent pas sur des principes non autochtones; la Cour suprême a plutôt établi que même si les droits inhérents des Autochtones n'ont jamais été confirmés par la législation britannique ou canadienne, ils demeurent valides sur le plan constitutionnel<sup>74</sup>.



# La Convention de la Baie James et du Nord québécois et la sécurité économique

La Convention de la Baie James et du Nord québécois (CBJNQ) est le premier traité « moderne » au Canada. Elle a été signée en 1975 par le gouvernement du Canada, le gouvernement du Québec ainsi que les Cris et les Inuits du Nord du Québec. Les Inuits comme les Cris ont consenti de grands sacrifices en échange de promesses liées à l'autodétermination et au développement communautaire. Toutefois, comme les gouvernements fédéral et provinciaux n'ont pas mis en œuvre l'entente comme il se doit, il faudra attendre près de trois décennies avant que les Cris du Nord du Québec commencent à profiter d'un développement communautaire substantiel comme ils souhaitaient. Le non-respect des délais découlant des engagements pris dans la CBJNQ a aggravé bon nombre des problèmes qui sous-tendent la crise de la violence faite aux femmes autochtones, notamment la pauvreté, les traumatismes et l'accès aux services gouvernementaux.

Les négociations relatives à la CBJNQ résultent d'un conflit généré par un projet de d'aménagement hydroélectrique. En 1971, le premier ministre du Québec, Robert Bourassa, faisait l'annonce d'un mégaprojet hydroélectrique en plusieurs étapes qui prévoyait la construction de barrages et de réservoirs sur tous les grands réseaux hydrographiques de la baie James. Des groupes cris et inuits ont décidé de s'opposer au projet parce qu'ils n'avaient pas été consultés, qu'ils n'étaient pas en mesure de bénéficier des retombées et que le projet allait avoir d'importants effets négatifs sur leurs communautés. Puisque le gouvernement du Québec ne tenait pas compte de l'opposition autochtone, les Cris et les Inuits ont intenté des poursuites pour freiner le projet. Cependant, ces derniers subissaient d'énormes pressions pour conclure une entente négociée avec le gouvernement. La construction du projet s'est poursuivie durant les procédures judiciaires, compromettant ainsi la capacité des groupes autochtones d'y mettre un terme!

Dans la Convention, les Cris et les Inuits avaient convenu d'un projet hydroélectrique à échelle réduite sur le réseau de La Grande Rivière, un projet qui a provoqué l'inondation de vastes portions du territoire cri et altéré les systèmes hydrographiques des environs. L'entente renfermait la fameuse « clause d'extinction » alléguant l'abolition des droits ancestraux à l'égard des terres dans le Nord du Québec. En contrepartie, les deux groupes ont reçu un paiement unique en espèces ainsi que des engagements du gouvernement envers le développement communautaire, économique et politique dans le Nord du Québec<sup>1</sup>.

Les gouvernements fédéral et provinciaux étaient réticents à respecter les engagements qu'ils avaient pris en vertu de l'entente. Des différends ont surgi immédiatement lorsqu'il a fallu déterminer quel ordre de gouvernement devait financer l'infrastructure communautaire et les services de santé. Pendant que le Canada et le Québec se querellaient,





*La Convention de la baie James et du Nord québécois a été signée à Québec, le 11 novembre 1975 en fin de soirée, par les leaders inuits Charlie Watt et Zebedee Nungak ainsi que le premier ministre du Québec Robert Bourassa et le regretté chef cri Billy Diamond (au bout à droite).*

*Source : Nunatsiaq News*

les communautés cries se sont retrouvées dépourvues de logements adéquats, d'infrastructures en matière d'eaux usées, d'eau potable et de services de santé. L'inaction du gouvernement a donné lieu à de nombreuses poursuites judiciaires. Les Cries ont conclu un règlement extrajudiciaire avec le gouvernement fédéral en 1982. Toutefois, un changement de gouvernement en 1984 s'est traduit par d'importantes réductions du financement des services dans les communautés cries, ce qui a conduit à d'autres litiges<sup>III</sup>.

À la fin des années 1980, le Québec a annoncé son intention d'étendre le projet de la baie James au réseau de la Grande rivière de la Baleine. À cause des répercussions négatives qu'ils avaient déjà subies à la suite de l'aménagement de La Grande Rivière ainsi que de l'incapacité du gouvernement d'honorer la CBJNQ, les Cries ont voulu freiner le projet en intentant

des poursuites judiciaires et en menant une campagne publique. Leur campagne a été couronnée de succès et le gouvernement du Québec a annulé le projet en 1994<sup>IV</sup>.

Les tensions entre les Cries et le gouvernement du Québec se sont maintenues jusqu'à la fin des années 1990. En 2000, les Cries avaient intenté plus de 30 poursuites judiciaires, alléguant que les gouvernements du Québec et du Canada avaient contrevenu à la CBJNQ<sup>V</sup>. À la fin des années 1990, d'importants conflits ont éclaté, portant notamment sur l'exploitation forestière et d'autres projets d'aménagement hydroélectrique<sup>VI</sup>.

Étant donné l'arrêt de l'aménagement hydroélectrique dans le Nord et le nombre de litiges relatifs à la CBJNQ devant les tribunaux, le gouvernement du Québec subissait des pressions considérables pour négocier avec les Cries. En 2002, le Grand Conseil des Cries et le gouvernement du Québec ont signé l'Entente concernant une nouvelle relation entre le gouvernement du Québec et les Cries du Québec, communément appelée « la Paix des Braves ». Ce règlement extrajudiciaire colossal a été salué par les dirigeants cries comme une avancée décisive quant au respect de l'esprit et de l'intention de la CBJNQ. Comme l'a écrit Romeo Saganash, ancien directeur des relations avec le Québec et des affaires internationales du Grand Conseil des Cries (Eeyou Istchee) de la baie James : « Nous croyons que la Paix des Braves [...] est une entente fondée sur la reconnaissance importante du droit des peuples autochtones de véritablement tirer parti, de nation à nation, des ressources naturelles et de la richesse de leurs propres terres traditionnelles<sup>VII</sup>. »

Alors que les récents règlements comme celui de la Paix des Braves ont permis d'améliorer la prestation des services et d'assurer un partage plus équitable des revenus produits par les industries extractives, il a fallu des décennies de litiges et de campagnes





publiques pour que ces engagements soient respectés. Entre-temps, les communautés criées et inuites en ont subi les contrecoups, devant composer avec des niveaux élevés de pauvreté, l'insuffisance des services sociaux et des traumatismes intergénérationnels non réglés. Le fait

que le gouvernement n'a pas respecté les promesses faites aux Cris et aux Inuits dans le cadre du traité a donc exacerbé le problème de la violence faite aux femmes, aux filles et aux personnes 2ELGBTQIA autochtones.

- I Feit, « Hunting and the Quest. »
- II Morantz, « Aboriginal Land Claims. »
- III Grand conseil des Cris, *Eeyouch*, épisode 2.
- IV Feit, « Hunting and the Quest. »
- V Tehan et al., « Sharing Lands and Resources, » dans *Settling with Indigenous People*.
- VI Grand conseil des Cris, *Eeyouch*, épisode 3.
- VII Saganash, « The Paix de Braves, » 205.



## L'honneur de la Couronne

Lié à l'idée de la nature unique des droits des Autochtones, le concept de l'honneur de la Couronne est appliqué aux cas concernant les droits ancestraux et issus de traités qui ont été établis par la décision de l'affaire *Calder*, en 1973. En 1968, le Conseil tribal des Nisga'a a intenté une action devant la Cour suprême de la Colombie-Britannique. Frank Calder et d'autres personnes (y compris le Conseil tribal des Nisga'a, la bande de Gitlakdamix, la bande de Canyon City, la bande de Laxgalts'ap [Greenville] et la bande de Kincolith) ont cherché à faire reconnaître leur titre ancestral, soit un territoire de plus de 2 590 kilomètres carrés (soit 1 000 miles carrés) dans le Nord-Ouest de la Colombie-Britannique. La Cour suprême et la Cour d'appel de la Colombie-Britannique ont rejeté la revendication des Nisga'a. En réponse, les Nisga'a ont porté leur cause devant la Cour suprême du Canada, où elle a finalement été tranchée en 1973.

Bien que techniquement les Nisga'a n'aient pas eu gain de cause devant la Cour suprême, la décision rendue était avant-gardiste. Les trois juges qui ont confirmé les titres ancestraux des Nisga'a ont soutenu que ces titres avaient existé à l'époque de la Proclamation royale de 1763, soit avant que les lois coloniales soient imposées. Les juges Hall, Spence et Laskin ont écrit : « La proposition acceptée par les cours d'instance inférieure qu'après la conquête ou la découverte, les peuples aborigènes n'ont aucun droit à l'exception de ceux qui leur sont par la suite accordés ou reconnus par le conquérant ou le découvreur, est entièrement erronée<sup>75</sup>. »

Dans cet arrêt, la Cour a indiqué que : « L'honneur de la Couronne est en jeu lors des interactions entre le gouvernement (c'est-à-dire "l'État") et les Autochtones<sup>76</sup>. » En outre, la Cour note que « le mandat d'agir avec honneur est né dès l'affirmation de la souveraineté sur les Autochtones<sup>77</sup> ». Autrement dit, en proclamant sa souveraineté sur les peuples autochtones, l'État-nation a aussi créé le devoir d'agir honorablement dans toutes ses interactions avec eux.

La notion juridique d'« honneur de la Couronne » a fait son apparition dans le droit autochtone canadien par l'intermédiaire de l'affaire *Calder*, et a continué d'être appliquée et peaufinée dans les litiges subséquents. Malgré un jugement partagé, l'affaire *Calder* marque un changement important dans les relations entre la Couronne et les Autochtones au Canada, changement qui a mené à des négociations qui se sont conclues, en 1998, par la création du premier traité moderne de la Colombie-Britannique, l'*Accord définitif Nisga'a*<sup>78</sup>.

L'honneur de la Couronne s'applique à l'interprétation de la loi et à l'application des traités.

« LE MANDAT D'AGIR AVEC HONNEUR EST NÉ DÈS L'AFFIRMATION DE LA SOUVERAINETÉ SUR LES AUTOCHTONES. »

La Commission canadienne des droits de la personne





# Revendication des droits des Métis : le « peuple oublié » exige une reconnaissance

Pour de nombreux Métis, les décennies passées en tant que « peuple oublié » ont été marquées par les luttes qu'ils ont menées pour être reconnus en tant qu'Autochtones, en vertu de la Constitution canadienne, ainsi que par des défis particuliers liés aux droits dans le but de permettre l'accès et la prestation de services, longtemps refusés à de nombreuses femmes, filles et personnes 2ELGBTQQIA en raison de leur identité métisse.

En 2003, dans l'affaire *Powley*, la Cour suprême du Canada a été appelée pour la première fois à se prononcer sur la question des droits des Métis. En 1993, Steve et Roddy Powley avaient tué un orignal près de Sault Ste. Marie, en Ontario, sans détenir de permis. Ils soutenaient que leur droit de chasser pour se nourrir était protégé en vertu de l'article 35 de la *Loi constitutionnelle de 1982*. Dans sa décision, la Cour suprême a statué unanimement que les Métis membres d'une communauté métisse pouvaient, en vertu de l'article 35 de la Constitution, chasser à des fins alimentaires. Le plus haut tribunal du pays a statué que « le critère applicable aux Métis doit permettre de déterminer les coutumes, pratiques et traditions qui font partie intégrante du mode de vie distinctif de la communauté métisse et de ses rapports avec le territoire<sup>1</sup> ». Même si le droit était limité aux Métis de Sault Ste. Marie et des régions avoisinantes, la décision rendue dans cette affaire a établi un précédent important pour comprendre les droits des Métis sous le régime de l'article 35. En outre, cette décision a énoncé le « test *Powley* », comme on l'appelle aujourd'hui, qui sert à définir les droits des Métis, de la même façon que le test *Van der Peet* est utilisé afin de définir les droits qui s'appliquent aux Premières Nations :

En résumé, la définition du droit en question doit tenir compte du point de vue des Métis qui revendiquent ce droit; refléter les pratiques de chasse réelles des Métis avant la mise en place

de mesures de contrôle; définir ces pratiques de sorte qu'elles tiennent compte de la forte mobilité des Métis du Nord-Ouest et qui est caractéristique de leur mode de vie; donner force de loi à la relation traditionnelle des Métis avec le territoire qu'ils habitaient, utilisaient et occupaient; et réhabiliter les droits de chasse des Métis du Nord-Ouest de manière à ce qu'ils puissent servir d'assise à un règlement juste et durable de leurs revendications autochtones<sup>1</sup>.

La prochaine contestation d'importance pour les Métis dont sera saisie la Cour suprême est celle qui donnera lieu à l'arrêt *Manitoba Metis Federation Inc. c. Canada* en 2013<sup>III</sup>. Dans cette affaire, il était question du fait qu'après la Confédération, le premier gouvernement du Canada avait tenté de gérer la répartition des terres métisses lors de l'entrée du Manitoba dans la Confédération, en vertu de la *Loi de 1870 sur le Manitoba*. Aux termes de cette loi, le Canada acceptait de concéder 1,4 million d'acres (5 665,6 km<sup>2</sup>) de terre aux enfants des Métis (article 31 de la *Loi de 1870 sur le Manitoba*) et de reconnaître les propriétés foncières existantes (article 32 de la *Loi de 1870 sur le Manitoba*). Le gouvernement canadien a amorcé le processus de mise en œuvre de l'article 31 au début de l'année 1871. Bien que les terres aient été mises de côté, une série d'erreurs et de retards conjugués à une mauvaise gestion du processus ont nui au partage des terres<sup>IV</sup>.





Les Métis, représentés par la Manitoba Metis Federation et par plusieurs personnes intéressées, ont demandé un jugement déclaratoire selon lequel « une disposition de la *Loi sur le Manitoba* – à laquelle la *Loi constitutionnelle de 1871* confère un statut constitutionnel – n’a pas été mise en œuvre conformément au principe de l’honneur de la Couronne<sup>v</sup> ». Dans cette affaire, les Métis ne demandaient ni indemnisation, ni rétablissement du titre. Ils ne demandaient qu’une déclaration indiquant que le gouvernement n’avait pas respecté ses obligations honorablement, aux fins expresses de leur prêter assistance dans les négociations en cours avec le gouvernement du Canada<sup>vi</sup>.

Dans une décision partagée (5 contre 2), la Cour suprême a conclu que « la Couronne fédérale n’a pas mis en œuvre de façon honorable la disposition prévoyant la concession de terres [métisses] énoncée à l’article 31 de la *Loi de 1870 sur le Manitoba*<sup>vii</sup> ».

Les obligations qu’avait le gouvernement envers les Métis et les personnes non inscrites ont également été abordées dans l’arrêt *Daniels* (2016), dont les répercussions ne sont pas encore pleinement connues<sup>viii</sup>. Les appelants dans cette affaire sollicitaient trois jugements déclaratoires, à savoir : (1) que les Métis et les Indiens non inscrits sont des « Indiens » visés au paragraphe 91(24) de la *Loi*

*constitutionnelle de 1867*; (2) que la Couronne fédérale a une obligation de fiduciaire envers les Métis et les Indiens non inscrits; (3) que les Métis et les Indiens non inscrits ont droit à la tenue de consultations et de négociations.

Dans sa décision, la Cour suprême du Canada a accordé le premier jugement déclaratoire, portant que les Métis et les Indiens non inscrits sont des « Indiens » au sens du paragraphe 91(24). Elle s’est toutefois abstenue d’accorder les deuxième et troisième jugements déclaratoires parce qu’il existe déjà une obligation de négocier lorsque des droits ancestraux sont en jeu. Les droits ancestraux des Métis n’entrent pas en jeu du fait que ces derniers sont visés au paragraphe 91(24), mais lorsqu’il est établi ou qu’il paraît vraisemblable qu’un tel droit est protégé par l’article 35. Puisque ce droit est déjà reconnu par la loi, un jugement déclaratoire était dénué d’utilité pratique<sup>ix</sup>.

En vertu de cette décision, le gouvernement fédéral devra travailler à définir ses obligations envers les personnes non inscrites – celles qui sont privées de leur statut par la *Loi sur les Indiens*, dont il sera fait état dans le prochain chapitre – ainsi qu’à examiner la façon dont son honneur et son devoir s’exercent envers les groupes pour lesquels il n’a pas, jusqu’à maintenant, assumé la responsabilité.

I *R. c. Powley*, [2003] 2 R.C.S. 207, 2003 CSC 43.

II Teillet, *Métis Law in Canada*, 2-25.

III *Manitoba Metis Federation Inc. c. Canada (Procureur général)*, 2013 CSC 14, [2013] 1 R.C.S. 623.

IV *Ibid.*, at headnotes.

V *Ibid.*, para 136.

VI *Ibid.*, au para 136–37.

VII *Ibid.*, at headnotes.

VIII *Daniels c. Canada (Affaires indiennes et du Nord canadien)*, 2016 CSC 12, [2016] 1 R.C.S. 99.

IX *Ibid.*, para 56.



## L'obligation fiduciaire

Le principe de l'obligation fiduciaire, provenant de la common law, est aussi important pour comprendre comment les tribunaux ont défini les droits ancestraux constitutionnellement protégés.

Un fiduciaire est une personne à qui sont confiées la gestion et la protection de biens ou d'argent. Cette personne est tenue d'agir dans l'intérêt de l'autre personne. Le fiduciaire doit notamment faire preuve de « loyauté absolue envers [son] bénéficiaire » et agir dans « l'intérêt primordial » de ce dernier<sup>79</sup> ». Cette notion existe, et elle s'applique aux peuples autochtones au Canada, en raison des importants enjeux économiques et de l'histoire sociale entre les peuples autochtones et l'État, ainsi que de « la vulnérabilité particulière du bénéficiaire relativement au fiduciaire<sup>80</sup> ». Le concept d'obligation fiduciaire n'est pas statique; les éléments de la relation évoluent au fur et à mesure que la relation change.

Le droit *sui generis* (unique en son genre), l'honneur de la Couronne et l'obligation fiduciaire sont inséparables. Tous ont fait apparition dans la jurisprudence concernant surtout, du moins au Canada, les titres fonciers et les droits sur les ressources. Le milieu juridique reconnaît de plus en plus que ces concepts pourraient s'appliquer à d'autres domaines, et les avocats du droit des sociétés, par exemple, étudient comment l'obligation fiduciaire pourrait imposer aux entreprises certains devoirs envers les employés. L'examen de la façon dont les principes tels que ceux susmentionnés, ainsi que les pactes internationaux, les déclarations et les instruments nationaux relatifs aux droits de la personne, peuvent engager le gouvernement à l'égard de la protection des droits des femmes, des filles et des personnes 2ELGBTQQIA autochtones, peut constituer une importante nouvelle façon d'explorer des orientations juridiques éventuelles menant à la justice.

## Les droits des Autochtones et les droits de la personne : une relation complexe

Tous les instruments nationaux et internationaux relatifs aux droits de la personne peuvent potentiellement aider à mettre un terme à la violence envers les femmes, les filles et les personnes 2ELGBTQQIA autochtones; cependant, l'Enquête nationale maintient qu'il est important de considérer les droits des Autochtones et les droits de la personne comme représentant deux idées liées, mais distinctes. C'est là une distinction importante, puisque les solutions recherchées ne doivent pas porter atteinte aux femmes autochtones en violant des droits pour en faire respecter d'autres. Par exemple, certains débats des années 1960 montrent comment les droits de la personne ont été invoqués pour justifier la violation des droits des Autochtones. Et ce fut parfois le contraire; dans des cas précis, l'invocation des droits des Autochtones, plus précisément en ce qui a trait au genre, a servi à justifier la violation des droits fondamentaux des femmes autochtones.

Dans la première affaire, en 1969, le gouvernement libéral de Pierre Elliott Trudeau a publié un « livre blanc » proposant le démantèlement des Affaires indiennes. Dans la législature





canadienne, un « livre blanc » désigne un document de politique, mais, pour bon nombre d'Autochtones, ce terme fait ironiquement référence aux politiques raciales et à la majorité non autochtone<sup>81</sup>.

Le livre blanc proposait d'éliminer, au nom de l'« égalité », les droits collectifs des Autochtones. Dans ce document, le gouvernement fédéral décrit son intention d'établir l'égalité entre tous les Canadiens en éliminant le statut juridique distinct d'« Indien » et en désignant les Autochtones simplement comme des citoyens ayant les mêmes droits, avantages et responsabilités que les autres Canadiens. Conformément à la vision d'une « société juste » de Trudeau, le gouvernement a suggéré d'abroger les lois considérées comme discriminatoires ou comme favorisant un groupe plutôt qu'un autre (peu importe les fondements des différents groupes). Pour enlever ces types de distinctions, le livre blanc indiquait : « Être Indien ce doit vouloir dire être libre – libre de faire progresser les cultures indiennes dans un contexte d'égalité juridique, sociale et économique avec les autres Canadiens<sup>82</sup>. »

Pour atteindre les objectifs du livre blanc, il y était proposé d'éliminer le statut d'Indien, de dissoudre (en cinq ans) le ministère des Affaires indiennes, d'abolir la *Loi sur les Indiens*, de convertir les réserves en propriétés privées pouvant être vendues par la bande ou ses membres, de transférer aux gouvernements provinciaux la responsabilité fédérale des Affaires indiennes et d'intégrer les services aux Premières Nations à ceux offerts aux autres Canadiens. En outre, le gouvernement proposait de financer des projets de développement économique et de nommer un commissaire pour s'occuper des revendications territoriales en suspens et progressivement résilier les traités existants<sup>83</sup>.

Bien que le livre blanc reconnaisse les inégalités sociales vécues par les peuples autochtones au Canada et, dans une moindre mesure, les mauvais choix de politiques du gouvernement fédéral, beaucoup de Premières Nations ont vu la nouvelle politique comme le point culminant de l'objectif à long terme du Canada d'assimiler les « Indiens » à l'ensemble de la société canadienne au lieu de reconnaître leurs droits uniques comme premiers habitants de ce territoire.

La philosophie politique de Trudeau était fondée sur l'idée d'un Canada uni et liée à son rejet du nationalisme québécois. En 1969, il a dit :

Nous ne reconnâtons pas les droits ancestraux. Nous pouvons continuer d'ériger les murs de la discrimination autour du ghetto où vivent les Indiens, et du même coup les aider à préserver certains éléments culturels et droits ancestraux, ou nous pouvons dire que vous êtes à une croisée des chemins; il est temps de décider si les Indiens seront une race distincte au Canada ou s'ils seront des Canadiens à part entière [...] Les Indiens devraient devenir des Canadiens comme tous les autres Canadiens. C'est le seul moyen de créer l'égalité dans notre société. Par « droits ancestraux », ce qu'on entend vraiment c'est « nous étions ici en premier. Vous êtes venus et vous nous avez dupés en nous donnant des biens sans valeur contre de vastes terres. Nous voulons réétudier la question. Nous voulons que vous nous rendiez nos droits ancestraux et que vous les protégiez. » La réponse est non. Nous ne pouvons pas reconnaître les droits ancestraux parce qu'aucune société ne peut être bâtie sur ce qu'aurait pu être l'histoire<sup>84</sup>.



La politique et les modifications législatives proposées dans le livre blanc n'ont pas été adoptées.

En réponse à ce document, les Premières Nations du Canada ont proposé une résistance vigoureuse et incessante. Le titre *Unjust Society* d'Harold Cardinal fait référence à la proposition de politique de la « société juste » de Pierre Elliott Trudeau comme étant « un programme à peine voilé d'extermination par le biais de l'assimilation. La vérité revient à ceci : pour survivre, l'Indien doit, se dit le gouvernement, devenir un bon petit-bonhomme-blanc-bronzé<sup>85</sup>. » En 1970, Harold Cardinal et l'Indian Association of Alberta (Association des Indiens de l'Alberta) rejettent le livre blanc et publient le document *Citizens Plus*, connu comme le « Livre rouge », qui tire ses arguments de *La tragédie des Indiens du Canada* d'Harold Cardinal. La même année, l'Union of British Columbia Indian Chiefs (union des chefs indiens de la Colombie-Britannique) publie en 1970 son propre document, *A Declaration of Indian Rights : The B.C. Indian Position Paper*, le « Livre brun », pour rejeter les propositions du Livre blanc de 1969 et affirmer que les peuples autochtones détiennent toujours des titres ancestraux à l'égard des terres<sup>86</sup>.

Le débat entourant le Livre blanc illustre la tension qui peut exister entre les droits de la personne universels et les droits particuliers des Autochtones. Bien que Trudeau ait expliqué qu'il percevait les droits individuels de la personne et l'égalité de base, plutôt que l'égalité réelle, comme la façon d'aller de l'avant, cette approche a fait abstraction de l'importance de la nature collective des droits des Autochtones ainsi que de la façon dont ces droits, de même que les possibilités et la sécurité des peuples autochtones, étaient historiquement liés à la terre et, à de nombreux égards, le sont encore.

Le contraire s'est également produit dans l'histoire canadienne, c'est-à-dire qu'il y a eu appel des droits des Autochtones pour invalider les droits de la personne des femmes autochtones.

Au début des années 1970, les cas de Jeanette Corbiere Lavell et d'Yvonne Bédard ont été entendus devant la Cour suprême du Canada. M<sup>me</sup> Lavell a soutenu que l'alinéa 12(1)b) de la *Loi sur les Indiens* contrevenait à la *Déclaration canadienne des droits* de 1960 pour des motifs de discrimination fondée sur le sexe. Après s'être séparée de son mari, M<sup>me</sup> Bédard avait tenté de retourner vivre dans la réserve avec ses enfants. La bande lui a alors ordonné de vendre sa propriété dans un délai d'un an, puisqu'elle avait perdu son statut en se mariant avec un non-Indien en 1964, et ne pouvait donc plus vivre dans la réserve.

Pour le leadership à prédominance masculine de la Fraternité nationale des Indiens, devenue l'Assemblée des Premières Nations, cette affaire représentait une menace trop grande : elle pouvait invalider la totalité de la *Loi sur les Indiens* et, par le fait même, l'accès aux droits ancestraux et aux droits issus de traités. La Fraternité est intervenue en faveur du gouvernement du Canada au détriment des femmes, entraînant ces dernières dans une : « longue confrontation houleuse sur la nature des droits collectifs des peuples autochtones et des droits des femmes en affirmant que les droits de celles-ci ne devraient pas être obtenus aux dépens des pouvoirs d'autonomie gouvernementale<sup>87</sup> ». Une décision a été rendue par la Cour suprême en 1973, et les femmes n'ont pas obtenu gain de cause. Dans cette décision, l'honorable juge Bora Laskin précisait néanmoins que l'affaire révélait selon elle une situation « d'excommunication légale<sup>88</sup> ».



Dans les débats constitutionnels des années 1980, l'Assemblée des Premières Nations a soutenu que la *Charte des droits et libertés* ne devrait pas s'appliquer aux gouvernements autochtones parce que sa conception individualiste des droits de la personne allait à l'encontre des droits collectifs des peuples autochtones<sup>89</sup>. Cette affirmation a suscité des réactions politiques négatives de la part des femmes autochtones, représentées par l'Association des femmes autochtones du Canada. Cette association a soutenu que la Charte, et les autres mécanismes similaires de protection du droit à l'égalité de genre des femmes autochtones, devaient s'appliquer aux gouvernements autochtones. L'association et les femmes qu'elle représente comptaient s'appuyer sur les droits de la personne pour se prémunir contre la discrimination et la violence dans leur communauté<sup>90</sup>.

En 1981, Sandra Lovelace et d'autres femmes de la Première Nation de Tobique ont porté la cause devant le Comité des droits de l'homme des Nations Unies dans l'affaire *Lovelace c. Canada*. À l'échelle internationale, les Nations Unies ont tranché en faveur de M<sup>me</sup> Lovelace déclarant que le Canada violait le *Pacte international relatif aux droits civils et politiques*<sup>91</sup>.

## Conclusion : Comprendre le besoin de solutions autodéterminées

Comme il est démontré par ces exemples, l'adoption d'une approche unidimensionnelle en matière de droits peut perpétuer la violence. Les droits des femmes autochtones comprennent les droits individuels de la personne et les droits collectifs des Autochtones, deux catégories qui se chevauchent lorsque les droits collectifs sont aussi des droits de la personne et lorsque les droits des Autochtones sont également des droits individuels. Ainsi, les solutions ne se trouvent pas que dans les instruments relatifs aux droits de la personne ou aux droits autochtones, et ne relèvent pas non plus uniquement des gouvernements. Pour lutter contre la violence à l'égard des femmes, des filles et des personnes 2ELGBTQQIA autochtones, il faut trouver de nouvelles solutions qui sont conçues, dirigées et gérées par les personnes touchées. Voilà pourquoi il est important de souligner que la réalisation de ces droits, en contexte autochtone et dans le cadre des droits de la personne, exige des solutions autodéterminées. Comme l'a souligné Brenda Gunn : « Il est vraiment important de réaliser que pour concrétiser pleinement tous les droits et l'autodétermination, ceux-ci doivent s'harmoniser, s'agencer et tendre vers un objectif commun<sup>92</sup>. » Donc, « l'autodétermination est vraiment un point de départ pour la réalisation des droits de la personne<sup>93</sup> ». Dalee Sambo Dorough est du même avis : « [Le droit à l'autodétermination] est donc nécessaire pour que les peuples autochtones, individuellement ou collectivement, puissent exercer le droit à l'autodétermination des leurs<sup>94</sup>. »

Pendant le processus de consignation de la vérité, beaucoup de gens ont témoigné du besoin de tenir compte du contexte et de promouvoir des solutions autodéterminées appropriées pour chaque Nation ou communauté en fonction de ses normes ou besoins. Comme l'a mentionné





Brenda Gunn dans son témoignage, l'application générale d'un processus national, étape par étape, ne serait pas appropriée du tout. Un bon plan doit tenir compte des différences entre les Nations et créer des cadres et des étapes pour voir à ce que son application soit pertinente aux régions et aux enjeux. En parlant des défis de l'administration des bandes selon la *Loi sur les Indiens*, ou des ententes d'autonomie gouvernementale chez d'autres peuples autochtones (examinées au prochain chapitre), certains témoins ont suggéré que les normes des droits de la personne doivent être mises en œuvre au sein des communautés et auprès des gouvernements autochtones, recommandant vivement à ces derniers d'adopter des lois qui reflètent ces instruments. Comme l'explique Brenda Gunn : « Il nous faudra peut-être des moments de réflexion pour nous assurer que nos propres traditions juridiques respectent les normes actuelles du droit international en matière de droits de la personne d'une manière qui convient à nos traditions<sup>95</sup>. »

Jean Leclair explique qu'il considère essentiel que les gouvernements autochtones adoptent des principes des droits de la personne qui sont fondés sur leurs propres lois autochtones et particulièrement en ce qui a trait à la *Déclaration des Nations Unies sur les droits des peuples autochtones*. Il affirme : « Pour beaucoup d'entre eux, le droit fédéral et provincial souffre d'un déficit de légitimité. Mais comme la déclaration est le fruit de leur propre collaboration, ils peuvent certainement s'en inspirer. Ils sont des gouvernements, après tout<sup>96</sup>. »

Par le respect de ces instruments, y compris les droits collectifs et individuels, les femmes, les filles et les personnes 2ELGBTQQIA autochtones peuvent faire en sorte de tenir les gouvernements responsables des mesures qu'ils prennent, ou ne prennent pas, afin de lutter contre cette tragédie marquée par la violence.

Toutefois, comme le confirment les témoignages que nous avons entendus, l'État à lui seul ne peut garantir la protection de toutes les femmes, filles et personnes 2ELGBTQQIA autochtones. Cependant, il peut promulguer et appliquer des lois en ce sens pour mettre l'accent sur l'arrestation des contrevenants, aider à changer la perspective de ceux qui pensent que la vie des femmes, des filles et des personnes 2ELGBTQQIA autochtones est de moindre valeur que celle des non-Autochtones et redéfinir ses propres valeurs ainsi que ses normes de service pour honorer les femmes, les filles et les personnes 2ELGBTQQIA. Comme l'a souligné Halie B. :

Je suis avocate. Je suis éduquée. Je prononce des allocutions lors de grandes conférences au sujet de la protection de l'enfance, de l'affaire *Gladue*, des droits des prisonniers, des délinquants autochtones, du racisme structurel et systémique que notre peuple a subi, des lois, des politiques et des pratiques qui ont eu des répercussions sur notre peuple depuis plusieurs générations [...] Et je n'ai même pas réussi à faire en sorte qu'un agent de la GRC m'écoute avec respect et dignité. Et j'ai encore mieux compris le racisme que ma mère a vécu tout au long de sa vie, des années 1950 jusqu'à aujourd'hui<sup>97</sup>.



« [LE DROIT À L'AUTODÉTERMINATION] EST DONC NÉCESSAIRE POUR QUE LES PEUPLES AUTOCHTONES, INDIVIDUELLEMENT OU COLLECTIVEMENT, PUISSENT EXERCER LE DROIT À L'AUTODÉTERMINATION DES LEURS. »

Dalee Sambo Dorough

Des obstacles aux droits surviennent quotidiennement lorsque les femmes, les filles et les personnes 2ELGBTQQIA autochtones tentent d'obtenir des services ou de l'aide. Pour cette raison, les changements doivent aller au-delà de la législation et vers l'établissement de nouvelles relations. Comme le mentionne Anni P. :

Tout est question de tisser des liens, vous savez? Nos familles ont été fracturées, et donc, je dois apprendre à rétablir la relation avec ma famille. Une relation saine. Et, je dois apprendre à tisser des liens avec des non-Autochtones [...] Tout est question de tisser des liens. Et donc, nous guérissons au sein de nos collectivités autochtones, puis la communauté non autochtone apprend la vérité, et puis là, comment nous rassembler? Comment pouvons-nous nous rassembler d'une manière saine et sécuritaire pour commencer à tisser des liens, pour commencer à guérir à la suite de tous ces mensonges qui ont été répétés de part et d'autre au sujet de tout un chacun? Nous devons guérir de ça<sup>98</sup>.



*La commissaire en chef Buller s'adresse à un groupe à Ottawa, en Ontario.*

Lors des témoignages, il a notamment été suggéré que le fait de changer la façon dont le système de santé traite les peuples autochtones pourrait contribuer à la sécurité en rehaussant la qualité des communications, ce qui, avec la participation des peuples autochtones, aurait une incidence positive sur les résultats tant sur le plan individuel qu'institutionnel. L'amélioration ou la modification des processus employés par les organismes de protection de la jeunesse auprès des familles autochtones permettrait de séparer moins de familles et d'améliorer ainsi la sécurité, du point de vue des peuples autochtones. Il serait en outre utile d'offrir au personnel responsable de l'application de la *loi* qui en a besoin des formations pour l'aider à comprendre les réalités et les perspectives autochtones, ce qui améliorerait l'accès aux services policiers et la confiance en ces



services, afin que les femmes, les filles et les personnes 2ELGBTQQIA en danger puissent sentir qu'elles ont des ressources sur qui compter. En résumé, l'État doit honorer ses obligations, mais les personnes qui agissent dans le cadre de ces paramètres doivent aussi tisser de nouveaux liens, sous un jour nouveau.

« JE SUIS AVOCATE. JE SUIS ÉDUQUÉE. JE PRONONCE DES ALLOCUTIONS LORS DE GRANDES CONFÉRENCES AU SUJET DE LA PROTECTION DE L'ENFANCE, DE L'AFFAIRE GLADUE, DES DROITS DES PRISONNIERS, DES DÉLINQUANTS AUTOCHTONES, DU RACISME STRUCTUREL ET SYSTÉMIQUE QUE NOTRE PEUPLE A SUBI, DES LOIS, DES POLITIQUES ET DES PRATIQUES QUI ONT EU DES RÉPERCUSSIONS SUR NOTRE PEUPLE DEPUIS PLUSIEURS GÉNÉRATIONS [...] ET JE N'AI MÊME PAS RÉUSSI À FAIRE EN SORTE QU'UN AGENT DE LA GRC M'ÉCOUTE AVEC RESPECT ET DIGNITÉ. ET J'AI ENCORE MIEUX COMPRIS LE RACISME QUE MA MÈRE A VÉCU TOUT AU LONG DE SA VIE, DES ANNÉES 1950 JUSQU'À AUJOURD'HUI. »

Halie B.

Les cadres des droits de la personne, interprétés dans l'esprit et le contexte des droits des Autochtones, sont des outils importants pour commencer à faire évoluer la discussion sur les rôles, les responsabilités, les droits et, en fin de compte, l'autodétermination. À cette fin, nous avons tous un rôle à jouer. Nous pouvons restructurer nos propres relations et transformer nos rencontres tout en contribuant à la protection et au rétablissement des pouvoirs et de la place des femmes autochtones et des personnes de diverses identités de genre en respectant les lois et les principes autochtones de même que les droits de la personne et ceux des Autochtones. Lorsque les droits de la personne et les droits autochtones seront pleinement respectés, la sécurité des femmes et des filles autochtones en sera accrue. Nous pouvons transformer les rencontres qui mettent en danger les femmes, les filles et les personnes 2ELGBTQQIA pour en faire des rencontres qui contribuent à les protéger.

Il est important de saisir le contexte des droits des Autochtones et des droits de la personne pour comprendre l'origine de la violence contre les femmes, les filles et les personnes 2ELGBTQQIA, cette tragédie qui n'est pas un phénomène nouveau, contrairement à ce que certains pourraient suggérer, mais qui remonte plutôt à des centaines d'années. Le chapitre suivant racontera une version différente de l'histoire de la colonisation; une version dans laquelle on comprend que tous les peuples autochtones ont subi et subissent les effets de la colonisation, mais dans laquelle l'expérience des femmes, des filles et des personnes de diverses identités de genre est bien distincte et a de grandes répercussions dans le présent.

Pour porter un regard vers l'avenir, il faut d'abord se tourner vers le passé.





## Notes

- 1 Timothy Argetsinger (Inupiaq), Partie 3, Volume public 5, Québec, Qc., p. 173. Dans ce chapitre, comme dans tous nos chapitres, la citation est tirée de la transcription officielle de la langue dans laquelle la personne a témoigné, même si la citation a été traduite.
- 2 Brenda Gunn (Métisse), Partie 3, Volume public 6, Québec, Qc., p. 10.
- 3 Brenda Gunn (Métisse), Partie 3, Volume public 6, Québec, Qc., p. 11.
- 4 Brenda Gunn (Métisse), Partie 3, Volume public 6, Québec, Qc., p. 55.
- 5 Eversole, McNeish, et Cimadamor, cité dans Green, *Indivisible*, 4.
- 6 Brenda Gunn (Métisse), Partie 3, Volume public 6, Québec, Qc., p. 55.
- 7 Gladys R. (Gitksan/Wet'suwet'en), Partie 1, Volume public 4, Smithers, C.-B., p. 154.
- 8 Smith, « Human Rights and Decolonization, » 83.
- 9 Les instruments déclaratoires pertinents auxquels le Canada est partie comprennent la *Déclaration universelle des Nations Unies sur les droits de l'homme*; la *Déclaration et le Programme d'action de Vienne*; la *Déclaration sur l'élimination de la violence à l'égard des femmes*; la *Déclaration et le Programme d'action de Beijing*; et la *Déclaration des Nations Unies sur les droits des peuples autochtones*. Les conventions ratifiées par le Canada incluent la *Convention pour la prévention et la répression du crime de génocide*, signé en 1948, le *Pacte international relatif aux droits civils et politiques* et son protocole facultatif connexe, tous deux ratifiés en 1976; le *Pacte international relatif aux droits économiques, sociaux et culturels*, ratifié en 1976, et son protocole facultatif, ratifié en 1984; la *Convention sur l'élimination de toutes les formes de discrimination à l'égard des femmes*, ratifiée en 1980 et 1981, et son protocole facultatif ratifié en 2002; la *Convention contre la torture et autres peines ou traitements cruels, inhumains ou dégradants*, ratifiée par le Canada en 1985 et en 1987; la *Convention relative aux droits de l'enfant*, ratifiée en 1990 et 1991, et son Protocole facultatif, ratifié en 2000 et 2002; et la *Convention internationale sur l'élimination de toutes les formes de discrimination raciale*, ratifiée en 1966 et en 1971.
- 10 Nations Unies, « United Nations Human Rights System. »
- 11 Haut-Commissariat des droits de l'homme, « Les organes chargés des droits de l'homme. »
- 12 Delores S. (Saulteaux, Première Nation Yellow Quill), Partie 1, Volume public 26, Saskatoon, Sask., p. 27.
- 13 Haut-Commissariat des droits de l'homme, « Les questions fréquentes. »
- 14 Virginia C. (Métisse), Partie 1, Déclaration publique 117, Saskatoon, Sask., pp. 25-26.
- 15 Haut-Commissariat des droits de l'homme, « Convention sur l'élimination de toutes les formes de discrimination à l'égard des femmes. »
- 16 Crystal F. (Yellow Quill Première Nation) Partie 1, Volume public 28, Saskatoon, Sask., p. 43.
- 17 Lorraine S. (Première Nation Thunderchild et Première Nation Mosquito), Partie 1, Déclaration publique 112, Saskatoon, Sask., p. 36.
- 18 Brenda Gunn (Métisse), Partie 3, Volume public 6, Québec, Qc., p. 43.
- 19 Dalee Sambo Dorough (Inuite, Alaska), Partie 3, Volume public 6, Québec, Qc., p. 266.
- 20 Dalee Sambo Dorough (Inuite, Alaska), Partie 3, Volume public 6, Québec, Qc., p. 254.
- 21 Brenda Gunn (Métisse), Partie 3, Volume public 6, Québec, Qc., p. 14.
- 22 Brenda Gunn (Métisse), Partie 3, Volume public 6, Québec, Qc., p. 13.
- 23 Voir *Baker c. Canada (Ministre de la Citoyenneté et de l'Immigration)*, [1999] 2 R.C.S. 817.
- 24 Nations Unies, « La Déclaration universelle des droits de l'homme. »
- 25 Nations Unies, « A/RES/48/104, » Article 1.
- 26 Ibid., Article 4(k).
- 27 Nations Unies, « A/RES/61/295. »
- 28 Haut-Commissariat des droits de l'homme, « Déclaration de Vienne. »
- 29 Ibid.



- 30 Ibid.
- 31 Nations Unies, « Déclaration de Beijing. »
- 32 Brenda Gunn (Métisse), Partie 3, Volume public 6, Québec, Qc., p. 39.
- 33 Henderson, *Indigenous Diplomacy*, 70.
- 34 Ibid. 35
- 35 Les abstentions étaient les suivantes: Azerbaïdjan, Bangladesh, Bhoutan, Burundi, Colombie, Fédération de Russie, Géorgie, Kenya, Nigéria, Samoa et Ukraine.
- 36 Khandaker, « Canada Adopts UN Declaration. »
- 37 Indigenous Foundations, « UN Declaration on the Rights. »
- 38 Canada, « Énoncé du Canada. »
- 39 Nations Unies, « A/RES/61/295. »
- 40 Ibid.
- 41 Ibid.
- 42 Ibid.
- 43 Ibid.
- 44 Brenda Gunn (Métisse), Partie 3, Volume public 6, Québec, Qc., p. 40.
- 45 Dalee Sambo Dorough (Inuite, Alaska), Partie 3, Volume public 6, Québec, Qc., p. 301.
- 46 Champagne, « Human, Civil and Indigenous Rights, » 11.
- 47 Bernie W. (Haida/Nuu-chah-nulth/Coast Salish), Partie 1, Volume public 115, Vancouver, C. -B., p. 32.
- 48 Jean Leclair, Partie 3, Volume public 6, Québec, Qc., p. 222.
- 49 Dalee Sambo Dorough (Inuite, Alaska), Partie 3, Volume public 6, Québec, Qc., p. 272.
- 50 Dalee Sambo Dorough (Inuite, Alaska), Partie 3, Volume public 6, Québec, Qc., p. 257.
- 51 Brenda Gunn (Métisse), Partie 3, Volume public 6, Québec, Qc., p. 16.
- 52 Brenda Gunn (Métisse), Partie 3, Volume public 6, Québec, Qc., p. 49.
- 53 Brenda Gunn (Métisse), Partie 3, Volume public 6, Québec, Qc., p. 16.
- 54 Corey O'Soup (Métis/Première Nation Key), Partie 3, Volume public 6, Québec, Qc., pp. 114-115.
- 55 Brenda Gunn (Métisse), Partie 3, Volume public 6, Québec, Qc., p. 20.
- 56 Brenda Gunn (Métisse), Partie 3, Volume public 6, Québec, Qc.
- 57 McConnell, « Canadian Bill of Rights. »
- 58 Ibid.
- 59 *Loi constitutionnelle*, 1867, 30 & 31 Vict, c 3.
- 60 *Loi canadienne sur les droits de la personne (L.R.C. (1985), ch. H-6)*, version de section 13 de 2002-12-31 to 2014-06-25.
- 61 *Loi canadienne sur les droits de la personne*.
- 62 Société de soutien se tient avec des enfants, des jeunes et des familles des Premières Nations, « Information Sheet – Canadian Human Rights Tribunal Decisions. »
- 63 Ibid.
- 64 2016 TCDP 2, File No.: T1340, 7008, *Société de soutien se tient avec des enfants, des jeunes et des familles des Premières Nations*, 2016 TCDP 2, File No.: T1340, 7008. Pour un calendrier utile du cas et pour les documents reliés, voir Société de soutien se tient avec des enfants, des jeunes et des familles des Premières Nations, « Jordan's Timeline, » <https://fincaringsociety.com/jordans-timeline>.
- 65 La commission peut prolonger le délai en raison de circonstances atténuantes. C'est cependant l'exception plutôt que la règle.
- 66 Wendy L. (Nation Squamish), Partie 1, Déclaration publique 370, Richmond, C. -B., pp.20-21.
- 67 Viola Thomas (Kamloops Tk'emlups te Secwepemc), Partie 1, Volume public 104, Vancouver, C. -B., p. 14.
- 68 Viola Thomas (Kamloops Tk'emlups te Secwepemc), Partie 1, Volume public 104, Vancouver, C. -B., pp. 7-8.
- 69 Commission canadienne des droits de la personne, « Enfin une question de droits. »
- 70 Commission canadienne des droits de la personne, « Guide explicatif – La Loi canadienne sur les droits de la personne et vous, » 1.
- 71 Henderson et Bell, « Rights of Indigenous Peoples. »
- 72 Voir Justice Ian Binnie dans *Première Nation crie Mikisew c. Canada (Ministre du Patrimoine canadien)* [2005] 3 R.C.S. 388, 2005 CSC 69.
- 73 Ziff, *Principles of Property Law*, 73.
- 74 Henderson, « Interpreting Sui Generis. »



- 75 Ibid.
- 76 Voir *R. c. Marshall*, [1999] 3 R.C.S. 456 at paras 49-52.
- 77 *Mitchell c. M.R.N.*, [2001] 1 R.C.S. 911, 2001 CSC 33, 2001 SCR 911 at para 9.
- 78 *Nisga'a Final Agreement Act*, RSBC 1999, c2c 2.
- 79 *Guerin c. La Reine*, [1984] 2 R.C.S. 335, p. 337.
- 80 Ibid., 942, avec référence à Frankel, « Fiduciary Law. »
- 81 Lagace et Sinclair, « The White Paper, 1969. »
- 82 Canada, « La politique indienne du gouvernement du Canada. »
- 83 Ibid.
- 84 L'ancien Premier Ministre Pierre Trudeau, parlant à l'association Libérale de 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/aanc-inac/R32-429-1969-eng.pdf](http://publications.gc.ca/collections/collection_2018/aanc-inac/R32-429-1969-eng.pdf).
- 85 Cardinal, *The Unjust Society*, 1.
- 86 Lagace et Sinclair, « The White Paper, 1969. »
- 87 Shaw, « Creating/Negotiating Interstices, » 176.
- 88 *Procureur général du Canada c. Lavell* [1974] RCS 1349.
- 89 Rafoss, « The Application of the Canadian Charter, » 17-18. Voir aussi Romanow, Leeson and Whyte, Canada – Notwithstanding.
- 90 Pour pour un compte plus détaillé, voir Association des Femmes Autochtones au Canada (AFAC), y inclus leur travail relié au Bill C-31, voir AFAC, « Aboriginal Women's Rights are Human Rights. » (Anglais seulement)
- 91 Conn, « Sandra Lovelace Nicholas. »
- 92 Brenda Gunn (Métisse), Partie 3, Volume public 6, Québec, Qc., p. 52.
- 93 Brenda Gunn (Métisse), Partie 3, Volume public 6, Québec, Qc., p. 57.
- 94 Dalee Sambo Dorrough (Inuite, Alaska), Partie 3, Volume public 6, Québec, Qc., p. 259.
- 95 Brenda Gunn (Métisse), Partie 3, Volume public 6, Québec, Qc., p. 73.
- 96 Jean Leclair, Partie 3, Volume public 6, Québec, Qc., p. 173.
- 97 Halie B. (Namgis/Kwa'kwa'kawakw/Tlingit/écossaise), Partie 1, Volume public 111(a), Vancouver, C. -B., p. 33.
- 98 Anni P. (Crie), Partie 1, Volume public 80, Vancouver, C. -B., pp. 30-31.







encore affronter de nombreux problèmes. Hélas, les changements ne viendront qu'en levant le voile du colonialisme et en reconnaissant les titres et les droits de nos peuples. Nous pourrions alors réaffirmer nos identités et notre mode de vie<sup>1</sup>.

Dans la présente section, nous présentons un aperçu de certains des événements du passé et des contextes historiques qui sont à l'origine de la violence contre les femmes, les filles et personnes 2ELGBTQQIA autochtones. Nous avons cerné plusieurs facteurs qui sont à la base même de la violation continue des droits en matière de culture, de santé, de sécurité et de justice. Par contre, la violation de ces droits a également des racines historiques profondes.

En matière de culture, par exemple, certaines des plus graves violations des droits se manifestent par la logique de la « découverte » initiale et l'affirmation de la souveraineté canadienne, par la réglementation des identités et de la gouvernance autochtones ainsi que par la tentative d'assimilation des peuples autochtones au moyen des pensionnats indiens et, ultérieurement, de la rafle des années 1960 et des systèmes de protection de l'enfance.

En matière de santé, les répercussions de la colonisation sur les communautés du Nord sont particulièrement importantes, puisqu'elles ont entraîné leur relocalisation forcée et leur insécurité alimentaire. La stérilisation forcée, l'accès limité aux services de santé mentale et aux programmes de traitement des toxicomanies, ainsi que l'ingérence générale au sein des systèmes de santé autochtones en sont d'autres exemples.

En matière de sécurité, le manque absolu de possibilités d'éducation et d'emploi, et l'incapacité de fournir un niveau de vie de base découlent, en particulier, des interventions coloniales dans le mode de vie des Autochtones et du fait que ces derniers ont été chassés de leurs terres natales ou ancestrales.

Finalement, en matière de justice, les stéréotypes nocifs, tenaces et issus de la colonisation concernant les femmes et les filles autochtones ainsi que leur renforcement au moyen de mesures législatives et application de la loi ont des conséquences importantes sur le respect des droits (ou son absence) aujourd'hui.

Il est important de considérer ces contextes sous l'angle du genre. En effet, bien que les hommes et les garçons autochtones aient énormément souffert de la colonisation, notamment en raison des aspects liés aux terres et à la gouvernance, elle a eu des répercussions distinctes, bien que liées, sur les femmes, les filles et les personnes 2ELGBTQQIA autochtones. Comme l'explique l'universitaire Kwagiulth (Kwakwaka'wakw) Sarah Hunt :

Le colonialisme repose sur la déshumanisation de l'ensemble des Autochtones – enfants, personnes bispirituelles, hommes et femmes. Par conséquent, nous pouvons considérer que nous subissons tous la violence coloniale, car notre humanité même nous est niée. Pourtant, cette déshumanisation est plus cruellement ressentie chez les filles, les femmes, les personnes bispirituelles et les personnes transgenres puisque la violence physique et sexuelle perpétrée contre nous est toujours considérée comme normale<sup>2</sup>.



De plus, les expériences distinctes et intersectionnelles des femmes et des filles dans les centres urbains et dans les régions éloignées, ou selon les perspectives des Premières Nations, des Inuits et des Métis, jouent un rôle important dans l'examen de l'histoire de la colonisation en fonction des genres. Les structures et les institutions de colonisation, que ce soit les politiques visant l'assimilation des Premières Nations comme la *Loi sur les Indiens* et le régime des pensionnats, ou encore les politiques ciblant les familles métisses en leur refusant les services et les droits essentiels, constituent le fondement de la tragédie des femmes, des filles et des personnes 2ELGBTQQIA autochtones disparues et assassinées que nous connaissons aujourd'hui. Dans le cas des Inuits, la colonisation relativement tardive de l'Inuit Nunangat continue de laisser des séquelles importantes dans les communautés et les familles qui ont souvent été relocalisées de force loin de leurs terres et ciblées par le régime des pensionnats également, et ce, au cours d'une période relativement récente. Les différents systèmes d'oppression ont marqué différemment les groupes de femmes, de filles et de personnes 2ELGBTQQIA en portant atteinte à leurs droits fondamentaux et à leurs droits autochtones inhérents, comme l'ont démontré plusieurs récits de vie que nous avons entendus dans le cadre de l'Enquête nationale, particulièrement de la part de personnes qui, encore aujourd'hui, doivent composer avec les causes profondes du traumatisme intergénérationnel. Ce traumatisme est aggravé par l'absence de droits économiques, sociaux et politiques fondamentaux, par le manque de volonté institutionnelle de changement – dans le passé et encore aujourd'hui – et par le défaut de reconnaître l'expertise et la capacité d'agir des femmes, eu égard à leur propre vie, d'un point de vue historique et contemporain.

En résumé, l'histoire de la colonisation est marquée par des considérations fondées sur le genre. Elle doit être envisagée en lien avec la tragédie des femmes et des filles autochtones disparues et assassinées, comme une succession de rencontres qui ont fait que les femmes, les filles et les personnes 2ELGBTQQIA autochtones sont devenues des cibles. Le présent chapitre ne dresse pas un bilan exhaustif de la colonisation; il sert plutôt à situer les expériences des femmes, des filles et les personnes 2ELGBTQQIA autochtones dans le contexte plus vaste de la colonisation et ainsi à démontrer que les structures et les attitudes mêmes qui ont conduit dans le passé aux violations des droits de la personne et des droits des Autochtones existent toujours. Par conséquent, le caractère endémique de la violence que subissent aujourd'hui les femmes, les filles et les personnes 2ELGBTQQIA autochtones est une tragédie qui s'est préparée en amont sur plusieurs siècles.

## Comprendre la colonisation comme une structure

La colonisation désigne les processus par lesquels les peuples autochtones ont été dépossédés de leurs terres et de leurs ressources, soumis à un contrôle externe et visés par des mesures d'assimilation et, dans certains cas, d'extermination. Comme le décrit l'intellectuel mohawk George Taiaiake Alfred, le colonialisme est un processus menant à la création d'une nouvelle réalité pour les Européens et les Autochtones en Amérique du Nord avec la mise en place, par les autorités européennes ou les gouvernements colonisateurs, d'institutions et de politiques régissant les Autochtones. Il est ici question non seulement des politiques et des lois en tant que





telles, mais aussi des justifications générales d'origine religieuse ou laïque qui les sous-tendent<sup>3</sup>. Cela comprend également les politiques, les pratiques et les institutions qui ont visé les Autochtones, les femmes en particulier, de manière sciemment discriminatoire. Les processus entourant la colonisation – c'est-à-dire sa structure fondamentale, comme nous l'aborderons dans le présent chapitre – se perpétuent dans le présent par différents moyens.

Par exemple, dans le cas des Premières Nations, cela signifiait qu'il fallait déterminer qui était ou n'était pas considéré comme « Indien » – ce qui avait pour effet d'exclure les Métis dans l'application des Traités et la prestation des services (quoique déficients) fournis aux Premières Nations<sup>4</sup>. Dans le cas des Inuits, ce processus se traduisait entre autres par l'attribution à chacun d'un numéro pour faire le suivi des personnes et d'un nouveau nom permettant aux représentants du gouvernement d'effectuer facilement ce suivi; ils étaient ainsi dépouillés des traditions importantes d'attribution des noms<sup>5</sup>. Dans l'ensemble, ces processus coloniaux, étaient axés sur ce que le chercheur Patrick Wolfe a appelé « la grammaire des race<sup>6</sup> ». Autrement dit, les forces coloniales ne pouvaient contrôler les Autochtones qu'en utilisant la loi et d'autres moyens pour les catégoriser et les déposséder. Comme Wolfe le soutient, « dans une colonie de peuplement, les colons viennent ici pour rester : l'invasion est une structure et non pas un événement<sup>7</sup> ».



*À Windy River, dans les Territoires du Nord-Ouest, un représentant du gouvernement recueille des données de recensement auprès de familles inuites. © Gouvernement du Canada. Reproduite avec l'autorisation de Bibliothèque et Archives Canada (2019). Source : Bibliothèque et Archives Canada/Fonds du ministère des Affaires indiennes et du Nord canadien/a102695.*

Il est important de définir les structures du colonialisme, surtout dans la mesure où elles se rapportent à la question de la violence contre les femmes, les filles et

les personnes 2ELGBTQQIA autochtones. D'une part, elles supposent de catégoriser les personnes, comme on l'explique ci-dessus, et comprennent des processus de supervision et de confinement des personnes, comme le déplacement des personnes dans des réserves ou dans des communautés centrales. D'autre part, les structures de la colonisation du colonialisme servent à déshumaniser ces personnes, à les réduire à un stéréotype qui les situe au-dessous de humain et, par conséquent, les rend plus faciles à écarter. Les autres manifestations concrètes comprennent la ségrégation visant à éliminer la lignée génétique, les pratiques de suppression physique des marqueurs de l'identité comme la coupe des cheveux, le changement du style de vêtements, ou encore la destruction d'habiletés importantes comme le trappage, la chasse ou d'autres moyens qui permettraient à ces personnes de conserver leur mode de vie.



Par ailleurs, les structures coloniales vont bien au-delà de l'aspect physique; elles se traduisent aussi par des agressions contre les modes de connaissance et de compréhension. À cet effet, mentionnons par exemple l'élimination ciblée des langues autochtones, la déshumanisation des Autochtones, surtout des femmes qui, soumises aux viols et à la violence sexuelle, étaient réduites à la condition d'animaux ou d'êtres dénués de valeur, et la suppression des structures qui déterminaient l'identité ou les modes d'organisation de la société propres aux peuples autochtones, qui permettaient de garantir la survie de leur communauté. Comme Françoise R. l'a déclaré :

Mes parents, le fait qu'ils aient vécu ça, ... c'est comme s'ils n'avaient pas de vie en eux. C'est comme si ... ils ont été traités comme des animaux. C'est comme ça qu'ils ont traité mes parents. "On a le droit de prendre vos enfants comme on veut. On les amène au pensionnat indien et puis à l'hôpital." Vous savez, ce sont eux qui ont décidé. Ce n'est pas à eux de décider. C'est notre vie. Mes parents ont des sentiments et puis ils ont des émotions, et je veux qu'ils obtiennent justice<sup>8</sup>.

Ces structures ont également eu une incidence sur la construction d'identités de genre différentes, sur la survie des rites et des pratiques culturelles et sur l'éducation de la jeune génération.

Comme le montrent ces courts exemples, et comme nous l'expliquerons dans ce chapitre, les structures du colonialisme de peuplement mènent à la destruction des cultures et des peuples existants, tant sur le plan matériel que sur le plan structurel, et visent à se substituer aux structures déjà en place. Les heurts violents occasionnés par la présence coloniale n'étaient pas des événements ponctuels, mais faisaient partie d'une vaste stratégie de conquête. Au Canada, ce processus consistait plus particulièrement à discréditer la position des femmes, des filles et des personnes de diverses identités de genre autochtones, ainsi qu'à atteindre des communautés entières, y compris les hommes et les garçons, dans une tentative d'éradication, de remplacement et de destruction des peuples et des cultures autochtones.

Il est important de faire le lien entre ces processus et les structures actuelles, qui contribuent à cibler les femmes, les filles et les personnes 2ELGBTQQIA autochtones. Ce ne se sont pas que des événements du passé. En admettant la dimension structurelle de la colonisation, il devient impossible de reléguer les événements au passé ou de faire comme s'ils faisaient partie de l'histoire de quelqu'un d'autre. Lorsque la colonisation est envisagée comme une structure, on ne peut pas relativiser l'importance des éléments et idées qui en font partie, parce que plusieurs d'entre eux existent toujours aujourd'hui. Ils sont visibles quand on néglige de consulter adéquatement les groupes autochtones sur les questions relatives à l'environnement ou aux terres, ou dans le manque de services offerts dans les communautés éloignées. Ils entrent en jeu dans les interactions entre les femmes, les filles et les personnes 2ELGBTQQIA autochtones et les systèmes de justice ou de protection de l'enfance. Nous voyons ces structures dans la pauvreté persistante et le manque de ressources pour lutter contre la violence. Lorsque l'on comprend la colonisation comme une structure, il est facile de faire des liens entre les structures



du passé, physiques autant qu'idéologiques, et celles d'aujourd'hui. Sous cet angle, nous pouvons saisir leur rôle actuel dans le contrôle des services auxquels les gens ont accès, dans les lois que les communautés peuvent mettre en place, et dans la création de conditions dangereuses.

Pour combattre ces structures, nous devons comprendre leurs fondements, savoir qui les a créées et pour quelle raison. Le colonialisme de peuplement en tant que structure comprend différents événements, qui procèdent tous la même logique destructrice. En bref, comme Patrick Wolfe l'a souligné : « Le colonialisme de peuplement détruit pour remplacer<sup>9</sup>. » En Amérique du Nord, là où les colonisateurs voulaient créer une nouvelle nation, ils ont tout d'abord cherché à détruire les vieilles nations qui s'y trouvaient déjà.

Comme nous l'avons entendu dans le témoignage de Robert C. :

Le Canada est très mal à l'aise avec le mot « génocide ». Mais c'est un génocide qui s'est produit au Canada et aux États-Unis pour les membres des Premières Nations. Comment peut-on appeler ça autrement lorsqu'on attaque et rabaisse un peuple en fonction de la couleur de sa peau, de sa langue, de ses traditions, qu'on l'éloigne de ses terres, qu'on s'en prend à ses enfants, qu'on brise sa famille? Et c'est la vérité gênante que le Canada, je crois, est sur le point d'accepter. Et il va falloir avoir beaucoup de discussions pénibles pour y arriver<sup>10</sup>.

La colonisation, en tant que processus structurel et en vertu de ses divers systèmes, a utilisé des politiques conçues pour discréditer et contester le savoir et l'identité des personnes de communautés entières. Contrairement aux droits et aux responsabilités décrits dans les histoires et les témoignages que nous avons entendus, les répercussions historiques de la colonisation ainsi que les attitudes, les structures et les systèmes coloniaux qui persistent encore aujourd'hui contribuent directement aux violations des droits des femmes, des filles et des personnes 2ELGBTQQIA autochtones.

## La logique de la découverte : les premiers explorateurs européens chez les Premières Nations et les répercussions sur les rapports de genre

Au 16<sup>e</sup> siècle, des « explorateurs » mandatés par les États européens sont arrivés dans ce que l'on appelle maintenant le Canada et ont revendiqué les terres récemment « découvertes » pour leurs bienfaiteurs, afin d'en tirer des ressources pour le compte de leurs bailleurs de fonds en Europe. Ils étaient à la recherche de ressources – d'un butin – et espéraient les trouver dans les Amériques. Bien que le terme « explorateur » puisse suggérer une sorte de recherche ou de vagabondage inoffensif, il n'en était rien; ces voyages ont plutôt pavé la voie à un assaut à grand déploiement contre les Nations et les communautés autochtones qui dure depuis près de 500 ans.





Au cours de ces premières rencontres entre explorateurs et peuples autochtones, il n'était pas rare que les premiers kidnappent des Autochtones, y compris des femmes et des enfants, et les emmènent contre leur gré en Europe pour qu'ils servent d'objets de curiosité ou de preuve de l'existence des terres nouvellement « découvertes ». Cela faisait partie du processus de catégorisation des personnes (exotiques ou primitives) de façon à pouvoir les déshumaniser et en faire des objets d'étude. Par exemple, bien qu'aucune présence coloniale ne se soit établie dans le Nord du pays avant le milieu du 19<sup>e</sup> siècle, en 1577, Martin Frobisher a kidnappé un homme, une femme et un enfant inuits et les a emmenés en Angleterre où ils ont très rapidement succombé aux maladies et aux blessures<sup>11</sup>.

Entre 1534 et 1542, Jacques Cartier a effectué trois voyages distincts, traversant l'Atlantique pour revendiquer les terres qu'il avait trouvées pour le roi François de France dans ce qui deviendra plus tard la province de Québec. Samuel de Champlain a fait de même pour les Français, établissant Port-Royal en 1605. Les explorateurs anglais sont aussi venus, mais n'ont pas réussi à s'établir de façon permanente en Amérique du Nord avant le début du 17<sup>e</sup> siècle.

LE CANADA EST TRÈS MAL À L'AISE AVEC LE MOT « GÉNOCIDE ». MAIS C'EST UN GÉNOCIDE QUI S'EST PRODUIT AU CANADA ET AUX ÉTATS-UNIS POUR LES MEMBRES DES PREMIÈRES NATIONS. COMMENT PEUT-ON APPELER ÇA AUTREMENT LORSQU'ON ATTAQUE ET RABAISSÉ UN PEUPLE EN FONCTION DE LA COULEUR DE SA PEAU, DE SA LANGUE, DE SES TRADITIONS, QU'ON L'ÉLOIGNE DE SES TERRES, QU'ON S'EN PREND À SES ENFANTS, QU'ON BRISE SA FAMILLE? ET C'EST LA VÉRITÉ GÊNANTE QUE LE CANADA, JE CROIS, EST SUR LE POINT D'ACCEPTER. ET IL VA FALLOIR AVOIR BEAUCOUP DE DISCUSSIONS PÉNIBLES POUR Y ARRIVER.

Robert C.

Dès le début, certains membres des Premières Nations, hommes et femmes, ont aidé les nouveaux venus, mais en posant certaines conditions. Le concept d'intendance des terres et la notion des droits conférés par la relation avec le Créateur étaient à ce moment-là, pour les Premières Nations, très différents du mode de possession des terres en Europe. Les principes régissant l'utilisation et l'occupation des terres chez les Premières Nations étaient solides, complexes et concrets. Ils étaient toutefois très différents de la façon dont la propriété foncière, ou le régime foncier, était perçu en Europe. Par exemple, dans le pays d'origine de Cartier, la France, le système féodal établissait des structures strictes pour la distribution des terres en contrepartie de paiements ou de services. Ce régime permettait aux propriétaires fonciers de gagner de l'influence et de vivre aux dépens de ceux qui travaillaient la terre. Avec l'aide de l'Église, dont la structure hiérarchique, ou verticale, copiait de certaines façons celle de l'ordre féodal, l'ordre social était maintenu entre ceux qui étaient pourvus et ceux qui ne l'étaient pas.

L'histoire de l'Europe regorge de récits de conquêtes des peuples par d'autres peuples, et ce depuis l'expansion du Saint-Empire romain à partir du 9<sup>e</sup> siècle. Afin de pouvoir revendiquer ou posséder les terres nouvellement « découvertes », les explorateurs européens ont utilisé une doctrine juridique appelée *terra nullius*, qui veut dire « terre inhabitée » ou « terre n'appartenant



à personne », et ont fait abstraction des peuples qui y étaient déjà établis, les considérant comme de simples « barbares » ou « sauvages », comme ceux qu'ils croyaient avoir vaincus sur le continent européen auparavant.



*Première carte détaillée du territoire du colon français Samuel de Champlain, territoire qu'il a revendiqué au nom de la Nouvelle-France, 1612.*

Même si le droit canadien affirme que la doctrine de la *terra nullius* ne s'est jamais appliquée au Canada<sup>12</sup>, il était nécessaire d'invoquer cet argument juridique : à l'époque, occuper un territoire où vivaient déjà d'autres peuples ou nations était une violation du droit international. Comme Patrick Wolfe l'affirme :

Malgré les diverses théories sur la découverte, un thème qui revient constamment veut qu'il existe une distinction claire entre le dominion, inhérent aux souverains européens seulement, et le droit d'occupation des Autochtones, également exprimé en termes de possession ou d'usufruit, qui donnait aux premiers habitants un droit d'utilisation pragmatique (désignant ici la chasse et la cueillette, plutôt que l'agriculture) d'un territoire que les Européens avaient découvert. La distinction entre le dominion et l'occupation démontre clairement que le projet des sociétés colonisatrices reposait sur l'élimination des sociétés autochtones<sup>13</sup>.

Plus simplement, on pourrait dire que les explorateurs européens ont invoqué divers arguments qui visaient à légitimer leur désir de contrôler les terres, y compris la notion selon laquelle les peuples autochtones qui y vivaient ne faisaient que les utiliser sans les occuper, selon la définition européenne de la propriété. Leurs prétentions recevaient l'appui des rois et reines de l'Europe, eux-mêmes persuadés d'avoir été choisis par l'intervention divine, ce qui fondait le partenariat entre l'Église et l'État ainsi qu'à leur collaboration au projet de colonisation.

Cet argument sur les prétendues « terres inhabitées », ainsi que la bulle papale « Inter Caetera » publiée par le pape Alexandre VI le 4 mai 1493, ont donné une justification supplémentaire à la colonisation agressive. Cette bulle papale, communément connue sous le nom de « doctrine de la découverte », précisait que toute terre inhabitée par des chrétiens pouvait être « découverte » et revendiquée par des dirigeants chrétiens. Elle en revendiquait la propriété, peu importe les



prétentions de ceux qui y vivaient déjà, sur la base de l'idée qu'ils étaient des « barbares ». La bulle décrétait par ailleurs que les nations barbares devaient être renversées et que le christianisme devait être répandu partout. Cette vision ethnocentrique a positionné le christianisme comme pierre angulaire de l'humanité, de sorte que ceux qui n'avaient pas de dieu chrétien étaient considérés comme des êtres inférieurs<sup>14</sup>.

De plus, les explorateurs se sont emparés ces idées religieuses. Par exemple, Samuel de Champlain qui, en 1608, établissait une forteresse où se trouve maintenant la ville de Québec, a décrit les peuples autochtones comme des « sauvages » ou des « barbares ». Il a ajouté : « crois que promptement ils seraient réduits bons chrétiens si l'on habitait leurs terres<sup>15</sup>. » Aux yeux des colonisateurs européens, c'était une justification suffisante pour déclarer *terra nullius* et, dans le cadre de la doctrine de la découverte, pour s'engager dans une politique de colonisation agressive comprenant l'exploitation des ressources pour le commerce international et l'éventuel déploiement de colons européens pour occuper les terres nouvellement revendiquées.

Les Européens ont utilisé la colonisation pour s'assurer du pouvoir de préemption, selon lequel « étant le premier Européen à visiter et à revendiquer valablement un territoire donné, le découvreur obtenait le droit, au nom de son souverain, et par rapport aux autres Européens qui venaient après lui, d'acheter les terres aux Autochtones<sup>16</sup> ». Cela signifiait tout simplement que les peuples autochtones ne pouvaient traiter qu'avec l'État qui avait, à un moment donné, revendiqué la souveraineté du territoire découvert, ce qui leur laissait peu de chances d'obtenir justice ou de faire appel d'une décision. Le pouvoir de préemption, qui était directement opposé au droit qu'avaient ces communautés de déterminer leur propre avenir, en vertu des droits qu'ils détenaient sur les terres, a constitué l'une des premières étapes dans l'établissement des structures de la violence coloniale liées à la dénégation de leurs droits en matière de culture, de santé, de sécurité et de justice.

## Une entreprise religieuse : les débuts de la colonisation parmi les Premières Nations et les Métis

Pour les monarques européens, la revendication des terres était également liée à la revendication des âmes pour Dieu. Dans le cas du christianisme, et surtout au début du catholicisme, les croyances fondamentales transmises aux communautés par les missionnaires discréditaient les concepts autochtones liés aux genres et aux rapports entre les hommes, les femmes et les personnes de genres diverses, ainsi que le leadership des femmes au sein des communautés. Elles ont eu une incidence directe sur les droits à la culture, ainsi que sur les droits politiques et sociaux connexes dont jouissaient les femmes dans leur communauté avant la colonisation.

Au cours de cette période, le contenu même du christianisme, précisément par rapport aux femmes, a engendré des rencontres encore plus dangereuses. Les premiers idéaux chrétiens admettaient une violence fondée sur le genre explicite qui plaçait carrément les femmes dans des sphères inférieures et à part. Par exemple, les missionnaires jésuites au 17<sup>e</sup> siècle ont établi la





façon dont les Européens allaient s'attaquer aux pratiques médicales traditionnelles des femmes autochtones. Aux yeux des jésuites, les guérisseurs, femmes ou hommes, étaient perçus comme des êtres démoniaques et corrompus. En 1632, Paul Le Jeune a écrit : « C'est chose étrange que les Sauvages aient tant de créance à ces charlatans! Je ne sais comme le mensonge est plus adoré que la vérité<sup>17</sup>! » Pour Paul Le Jeune et les autres jésuites, ces sorciers et sorcières représentaient l'œuvre du diable<sup>18</sup>. En 1635, Jean de Brébeuf a décrit une guérisseuse comme accomplissant l'œuvre du diable au moyen de la pyromancie et d'autres superstitions<sup>19</sup>. De même, en 1646, Paul Ragueneau a décrit une guérisseuse comme une personne malhonnête qui a tenté de profiter d'une mère dont le fils était invalide. Pour lui, bien que la mère ait été tentée, sa foi lui a donné la force de résister à la « sorcière<sup>20</sup> ».



*M. et M<sup>me</sup> Dam, missionnaires moraves à Hopedale, au Labrador, en 1886.  
Source : Bibliothèque et Archives Canada/Album de photographies de Terre-Neuve-et-Labrador par Simeon H. Parsons/a139015.*

La conversion est donc allée de pair avec l'évincement des femmes de leur rôle traditionnel de guérisseuses et avec le remplacement des pratiques médicales autochtones par les connaissances médicales européennes. Les descriptions offertes par des jésuites comme Paul Le Jeune étaient principalement fondées sur les différences saisissantes entre le mode de vie des femmes en Europe et celui dans les sociétés autochtones en Amérique du Nord. Pour résumer, le rôle des femmes en Europe, de la fin du 16<sup>e</sup> siècle jusqu'à bien après le début du 19<sup>e</sup> siècle, en était un de soumission. Selon l'interprétation de la bible par l'Église catholique, le premier humain créé était un homme, Adam, fait à l'image de Dieu, suggérant ainsi que Dieu est aussi un homme. La femme a été créée en deuxième, pour devenir la partenaire de l'homme. Ève a été créée à partir d'une côte d'Adam et c'est pourquoi elle devait son existence à un homme. En outre, Ève a été la première à manger le fruit du jardin d'Éden, créant la doctrine chrétienne du « péché originel ». Comme l'affirmait le *Malleus maleficarum*, publié pour la première fois en 1487 et considéré comme le manuel de la chasse aux sorcières par excellence :

Toute malice n'est rien près d'une malice de femme [...] La femme, qu'est-elle d'autre que l'ennemie de l'amitié, la peine inéluctable, le mal nécessaire, la tentation naturelle, la calamité désirable, le péril domestique, le fléau délectable, le mal de nature peint en



couleurs claires [...] Une femme qui pense seule pense à mal [...] Les femmes sont par nature des instruments de Satan – elles sont par nature charnelles, une défectuosité structurelle enracinée dans la création originale<sup>21</sup>.

En Europe, ces principes fondamentaux étaient déjà utilisés pour justifier l'oppression des femmes de diverses façons. Par exemple, la femme européenne n'avait pas le droit de détenir une propriété parce qu'elle était en fait elle-même considérée comme une propriété; elle appartenait d'abord à son père, puis à son mari. La virginité d'une femme (comme la Vierge Marie) était un indicateur de son honneur, et si une femme était accusée de ne pas être « pure », le châtement qui lui était infligé pouvait être aussi sévère que la mort, et ce, même si la femme perdait sa virginité à cause d'un viol<sup>22</sup>.

L'imposition des valeurs patriarcales européennes, qui s'est traduite par l'exercice d'un contrôle et d'une domination sur les femmes autochtones, constituait un aspect important de la colonisation. La liberté et l'autodétermination dont jouissaient les femmes autochtones étaient perçues comme une opposition aux valeurs chrétiennes et un « obstacle important à la foi en Jésus-Christ<sup>23</sup> ».

Afin de réaliser pleinement l'objectif d'assimilation, la colonisation devait dévaloriser le rôle des femmes autochtones non seulement dans les colonies, mais également au sein des Premières Nations. Dans le cadre de leur mission et de leur travail, de nombreux missionnaires ont entrepris d'enseigner aux sociétés des Premières Nations comment traiter leurs femmes « comme il faut », selon les pratiques européennes. Il est prouvé que les prêtres jésuites ont tenu des rassemblements publics pour enseigner aux hommes autochtones comment battre les femmes et les enfants autochtones<sup>24</sup>. Certains témoignages racontent que des femmes ont été « privées de nourriture, humiliées, attachées à un poteau au milieu du village et publiquement fouettées<sup>25</sup> » et que le rôle des femmes comme sages-femmes et guérisseuses a été discrédité par divers prêtres et décrit comme étant « diabolique et superstitieux<sup>26</sup> ».

Ces premiers missionnaires avaient pour mandat de travailler autant à l'externe, dans leurs communications avec l'étranger, qu'à l'interne, au sein des communautés, pour dévaloriser et déshumaniser les femmes qui jouaient, à l'époque, un rôle central dans le maintien de l'ordre et le fonctionnement de la vie au sein de la communauté.

## Les débuts du contexte colonial de violence contre les personnes de diverses identités de genre

En plus de véhiculer diverses conceptions nuisibles sur le rôle des femmes, le christianisme primitif rejetait avec véhémence les conceptions différentes de l'identité de genre ou des rapports entre les genres. Déjà, dans de nombreuses sociétés des Premières Nations, ces rapports existaient dans un continuum d'identité, ou comme faisant partie d'un très grand cercle d'identité. Comme l'écrit l'auteure Sto:lo Lee Maracle :



Très longtemps avant les périodes coloniales et postcoloniales (cette petite déviation de la trajectoire dans notre histoire), les peuples autochtones ont adopté une organisation sociale au sein de laquelle les genres évoluaient dans un même continuum au sein duquel on retrouvait les mêmes interrelations circulaires et globalisantes que nous accordions à toute forme de vie [...]. Toutefois, il existe également une réalité au sein de l'humanité où, pour diverses raisons assez intimes, il arrive qu'une personne n'adhère pas exclusivement à ce concept appelé homme ou femme; la personne ne se sent pas complètement l'un ou l'autre, mais est plutôt formée des deux genres et peut-être même plus<sup>27</sup>.

Lee Maracle caractérise cette autre identité de genre comme un don particulier reçu des grands-mères à la naissance ou lors d'une révélation. Elle invoque directement la durée des relations avec les colons et la durée de l'imposition de l'Église, ainsi que la proximité des établissements non autochtones, pour expliquer pourquoi les personnes de diverses identités de genre sont passées dans la clandestinité, même dans la représentation que les communautés se font d'elles-mêmes<sup>28</sup>.

Dans un contexte historique, les personnes qui étaient considérées comme détenant un don particulier ont été rejetées et réduites, par les observateurs (pour la plupart des explorateurs et des anthropologues), à l'appellation « berdaches », provenant du mot persan « bardaj » – un esclave, surtout un garçon, que l'on garde à des fins sexuelles. L'utilisation, ou la mauvaise utilisation, de ce terme est importante, car elle représente une compréhension limitée de l'identité de genre, une simple conception binaire qui n'arrive pas à saisir l'ensemble des différentes identités de genre qui existaient au sein de certaines Premières Nations. Dans de nombreuses communautés, ces personnes étaient acceptées dans les rôles du genre qu'elles choisissaient, y compris en ce qui concerne leurs relations familiales et le mariage, et étaient vénérées pour leur don. Cette identité vous définissait dans un sens plus large et ne se limitait pas aux préférences sexuelles<sup>29</sup>.

Les personnes qui étaient considérées comme des « berdaches » étaient écartées et rejetées par les autorités religieuses, peut-être en partie en raison de l'influence qu'elles avaient, comme dans le cas des femmes, dans les communautés matrilineaires et matrilocales. La croyance selon laquelle il n'y avait que deux genres – et qui occultait ainsi un spectre complet de personnes qui avaient vécu dans les communautés depuis des temps immémoriaux – était raciste, coloniale et incroyablement dommageable. Commentant les relations entre les sexes observées chez les membres des Premières Nations entre 1711 et 1717, le jésuite Joseph François Lafitau tenait les propos suivants : « S'il y avait des femmes au courage viril qui se targuaient de la profession de guerrier, qui semblaient devenir des hommes seuls, il y avait aussi des hommes assez lâches vivre en femme... Elles croient qu'elles sont honorées de se rabaisser auprès des professions de toutes les femmes; ils ne se marient jamais<sup>30</sup>. » Comme Jacques Marquette, qui a travaillé dans le Bas-Canada vers le milieu et la fin du 17<sup>e</sup> siècle, l'a écrit :

Je ne sais par quelle superstition quelques Illinois, aussi bien que quelques Nadouessis, étant encore jeunes, prennent l'habit des femmes qu'ils gardent toute leur vie. Il y a du mystère; car ils ne se marient jamais, et font gloire de s'abaisser à faire tout ce que font les femmes. Ils vont pourtant en guerre, mais ils ne peuvent se servir que de la massue,





et non pas de l'arc ni de la flèche qui sont les armes propres des hommes. Ils assistent à toutes les jongleries et aux danses solennelles qui se font à l'honneur du calumet. Ils y chantent, mais ils n'y peuvent pas danser. Ils sont appelés aux conseils, où l'on ne peut rien décider sans leurs avis. Enfin par la profession qu'ils font d'une vie extraordinaire, ils passent pour des manitous, c'est-à-dire pour des génies ou des personnes de conséquence<sup>31</sup>.

Plus précisément, les missionnaires ont dénoncé les personnes qui avaient des identités de genre non binaires, y compris ultérieurement, dans les écoles des missionnaires et les pensionnats, où les responsables punissaient les enfants qui avaient un comportement de genre inapproprié. Étant donné qu'il était de plus en plus « dangereux », voire illégal, sous peine de se voir accuser du crime de « sodomie », de montrer ces caractéristiques, de nombreuses personnes sont intervenues auprès des membres de leurs propres familles pour les en empêcher, soit en raison de l'intervention du gouvernement et des missionnaires, soit parce qu'elles s'étaient converties.

Le Canada a lui-même présenté ses excuses officielles à la communauté LGBTQ :

À leur arrivée sur ce territoire, ceux qui l'ont colonisé ont amené avec eux des normes étrangères quant au bien et au mal – au comportement acceptable ou inacceptable. [...] Ils ont amené avec eux ces normes de genre rigides – des normes qui se sont manifestées par l'homophobie et la transphobie. Des normes qui ont mené à la quasi-destruction des identités LGBTQ et bispirituelles autochtones. Des gens dont l'identité avait été auparavant vénérée ont été couverts de honte en raison de la personne qu'ils étaient. Ils ont été rejetés et exposés à la violence<sup>32</sup>.

Comme le souligne le militant bispirituel cri Harlan Pruden, les efforts visant à améliorer la compréhension de ces questions et la sensibilisation à leur égard font aujourd'hui « partie des processus de commémoration, de reprise de notre place d'honneur, de rétablissement du respect et de la dignité de nos parents bispirituels au sein de leurs nations respectives. Nous devons faire cette éducation<sup>33</sup> ». Il souligne qu'en langue crie les pronoms « il » ou « elle » n'existent pas; cette caractéristique est commune à plusieurs autres langues autochtones, dans lesquelles la détermination du genre ne constitue pas un élément historique.

« TRÈS LONGTEMPS AVANT LES PÉRIODES COLONIALES ET POSTCOLONIALES (CETTE PETITE DÉVIATION DE LA TRAJECTOIRE DANS NOTRE HISTOIRE), LES PEUPLES AUTOCHTONES ONT CRÉÉ UNE ORGANISATION SOCIALE QU'ILS ONT ADOPTÉE, AU SEIN DE LAQUELLE LES GENRES ÉTAIENT PERÇUS DANS LE MÊME CONTINUUM, AYANT LE MÊME SENS QUE LES INTERRELATIONS CIRCULAIRES ET INTÉGRALES QUE NOUS ACCORDIONS À TOUTE VIE... TOUTEFOIS, IL EXISTE ÉGALEMENT UNE RÉALITÉ AU SEIN DE L'HUMANITÉ, SELON LAQUELLE, POUR DIVERSES RAISONS ASSEZ INTIMES, UNE PERSONNE N'ADHÈRE PARFOIS PAS SEULEMENT À CE CONCEPT D'HOMME OU DE FEMME ; LA PERSONNE NE SE SENT PAS COMPLÈTEMENT L'UN OU L'AUTRE, MAIS EST NÉANMOINS CONSTITUÉE DES DEUX GENRES ET PEUT-ÊTRE MÊME PLUS ».

Lee Maracle



## Les relations complexes au pays de la traite des fourrures

La colonisation de ce qui allait devenir le Canada ne s'est toutefois pas faite uniquement à des fins religieuses, et l'accès des missionnaires aux communautés a également été rendu possible grâce à l'expansion du commerce. Comme le soutient l'intellectuel Taiaiake Alfred, les processus de colonisation étaient indissociables de ceux du capitalisme mercantiliste et, plus tard, du capitalisme industriel. Comme il le fait observer, la croissance et l'expansion capitalistes sont tributaires de la dépossession territoriale des peuples autochtones<sup>34</sup>. En d'autres termes, l'économie qui s'est développée au Canada dépendait du retrait des peuples autochtones de leurs terres.

En 1670, le roi Charles II d'Angleterre accordait à la Compagnie de la Baie d'Hudson l'exclusivité des droits de commerce sur une grande partie du continent, ce qui a nécessité des membres des Premières Nations vivant sur le territoire qu'ils travaillent en tant que trappeurs, chasseurs, guides et pourvoyeurs auprès des divers forts et postes de traite. À la fin du 17<sup>e</sup> siècle, la demande en chapeaux de castor à large rebord était telle qu'elle a fondamentalement changé le paysage commercial au Canada.

À cet égard, l'importance cruciale de l'établissement d'alliances avec les Premières Nations n'a pas échappé aux premiers colonisateurs. Dans son ouvrage, l'historien Richard White fait état du « terrain d'entente » comme d'une période et d'un lieu d'accommodement mutuel s'échelonnant de 1650 à 1815 dans les « pays d'en haut » de la région des Grands Lacs. Ses travaux démontrent comment les relations entre les Premières Nations de langue algonquienne, les Français, les Britanniques et les Américains se sont forgées dans le contexte d'une autorité étatique faible et d'une répartition relativement égale des rapports de pouvoir – économiques et militaires – qui ont contribué à assurer des relations assez équitables et du respect entre les groupes<sup>35</sup>.



*Des femmes autochtones transportent des provisions à Camsell Portage, dans les Territoires du Nord-Ouest, en 1926. Source : Bibliothèque et Archives Canada/Fonds des Ressources naturelles du Canada/a020008.*

Dans le cadre du « terrain d'entente » dont parle Richard White, les rencontres entre les femmes des Premières Nations et les hommes européens étaient importantes. Les femmes des Premières Nations n'avaient pas l'habitude d'être des ambassadrices,

traductrices, représentantes et diplomates pour le compte de leur propre Nation. Pour leur communauté d'origine, elles pouvaient être des symboles d'amitié et d'alliance. Ces femmes ont joué un rôle clé dans l'établissement de relations commerciales solides.



Les femmes des Premières Nations ainsi que les femmes métisses ont assumé plusieurs rôles non négligeables en ce qui concerne le commerce. Ils seront examinés plus en détail dans le présent chapitre. Elles voyaient littéralement à l'approvisionnement et travaillaient elles-mêmes en tant que commerçantes. Les femmes des Premières Nations accomplissaient des tâches quotidiennes comme la production de nourriture, de vêtements, d'aliments de base comme le riz sauvage et le sirop d'érable, et la pose de collets pour la capture du gibier. De nombreuses femmes des Premières Nations travaillaient également comme commerçantes, seules ou de concert avec leur mari. Néanmoins, les contributions des femmes des Premières Nations à la santé et au bien-être des colons ne se sont pas traduites par une volonté comparable, dans les institutions et les relations qui se sont développées au cours de cette période, de respecter et de valoriser la sagesse de ces femmes. En fait, comme l'explique l'organisatrice communautaire et intellectuelle crie Michelle Good, certaines femmes des Premières Nations ont été détenues contre rançon et utilisées comme esclaves sexuelles, dans une économie dominée par les hommes et tributaire des ressources<sup>36</sup>.



*Une femme Gwichya Gwich'in prépare une peau de caribou à Tsiigehtchic, dans les Territoires du Nord-Ouest, vers 1921. Source : Bibliothèque et Archives Canada/Fonds du ministère des Affaires indiennes et du Nord canadien/a102639.*

Alors que le commerce s'implantait dans l'économie de nombreuses Premières Nations, une des facettes que les femmes des Premières Nations commençaient à considérer était le mariage. Dans le contexte du commerce et de la religion, et parce que les premiers explorateurs et les premiers colons étaient principalement des hommes, les mariages de commerçants de fourrures avec des femmes des Premières Nations étaient considérés comme un mode diplomatique viable. De plus, les femmes des Premières Nations, dont les responsabilités éventuelles comprenaient les soins à apporter à leur famille ou à leur communauté, pouvaient également trouver que l'arrangement était utile. L'Église approuvait ces mariages « tant aussi longtemps que les épouses se convertissaient d'abord au catholicisme<sup>37</sup> ».

Dans le cadre européen du mariage, les attentes étaient assez différentes de celles qui prévalaient déjà dans les communautés des Premières Nations. Les mariages par choix et les mariages arrangés existaient dans les communautés des Premières Nations, dont les traditions étaient diverses. Dans certaines Nations, la polygamie était acceptable. Dans d'autres, il était relativement facile de mettre fin au mariage. Dans d'autres encore, le mariage était surtout un arrangement économique dépourvu de règles relatives à la fidélité; les partenaires étaient donc





libres de s'engager dans des relations qui répondaient à leurs besoins. Dans la société des Plaines, par exemple, et comme l'explique l'historienne Sarah Carter, les mariages étaient beaucoup plus souples : « Les gens pouvaient être monogames ou polygames, et le choix leur appartenait. La facilité avec laquelle le divorce était obtenu excluait la coercition. [...] Une fois le mariage conclu, l'une ou l'autre des parties pouvait y mettre fin<sup>38</sup>. » En règle générale toutefois, en tant que membres d'une unité familiale, les femmes autochtones étaient interdépendantes et elles conservaient leur autonomie individuelle au sein de l'unité<sup>39</sup>. Sarah Carter fait remarquer que chez les Hurons en particulier, du fait d'un engagement résolu à l'égard de la liberté individuelle, on ne s'attend aucunement à ce que la femme « obéisse » à son mari, comme le veut la tradition chrétienne<sup>40</sup>.

Dans la foulée de la Charte de 1670, la qualité et la longévité des mariages – en particulier ceux qui n'étaient pas sanctionnés par l'Église – variaient dans le temps et le lieu à mesure qu'ils s'implantaient au pays de la traite des fourrures. Ces mariages, connus sous le nom de mariages « à la façon du pays », combinaient les traditions autochtones et européennes. Même si ces mariages n'étaient pas aussi contraignants que ceux, approuvés par l'Église, qui ont suivi, de nombreux maris européens s'attendaient à une relation monogame et d'inspiration chrétienne, dont les femmes des Premières Nations pouvaient difficilement s'extraire. Cela dit, elles furent nombreuses à être abandonnées par leur mari et à ainsi se trouver dans un état de vulnérabilité. Ce fut particulièrement le cas dans le contexte des politiques changeantes de la Compagnie de la Baie d'Hudson (CBH) et de la Compagnie du Nord-Ouest (CNO). Des années 1740 aux années 1760, la CBH a vivement découragé l'accès des femmes aux forts, sans grand succès. Néanmoins, les agents de la CBH ont continué de prendre pour épouses des femmes des Premières Nations, et certains en ont même épousé plus d'une. À l'opposé, au sein de la CNO, le mariage était encouragé et pouvait même servir à inciter les commerçants à renouveler leurs contrats pour pouvoir demeurer à proximité de leur épouse et de leurs enfants. Cependant, en 1806, la politique connaissait trop de succès – comme la CNO nourrissait et habillait les familles des employés et que la concurrence atteignait des niveaux inégalés, elle déclara que ses employés ne devaient pas épouser de femmes des Premières Nations.

Avant que les prêtres sanctionnent les mariages dans le Nord-Ouest, dès 1818, les mariages à la façon du pays avaient des répercussions importantes pour les femmes, notamment en ce qui concerne l'application d'un traitement différent de celui qui était accordé dans les mariages européens traditionnels. Du point de vue des commerçants eux-mêmes, le caractère provisoire de leur poste a fait en sorte que le mariage était souvent vu comme un arrangement temporaire. Un commerçant de la CNO, Daniel Williams Harmon, parlait en ces termes de son acceptation d'une nouvelle « épouse du pays » :

Si nous pouvons vivre ensemble en harmonie, mes intentions sont maintenant de la garder aussi longtemps que je demeurerai dans cette partie non civilisée du monde. Cependant, quand je retournerai dans mon pays natal, je m'efforcerai de la confier à un homme honnête, avec qui elle pourra passer le reste de ses jours beaucoup plus agréablement que si elle était ramenée dans le monde civilisé, où les gens, leurs manières, leurs coutumes et leur langue lui seraient étrangers<sup>41</sup>.



À certains égards, ces mariages inquiétaient aussi les fonctionnaires et les missionnaires. Ces arrangements ont été repensés par les colonisateurs, au fil du temps, au prétexte qu'ils constituaient une menace réelle pour les femmes elles-mêmes, et ceux-ci se sont appuyés sur cette logique pour justifier l'établissement de définitions du mariage de plus en plus restrictives. Pour les femmes, ils pouvaient servir à les priver de la sécurité que leur offrait leur propre système de parenté en les soumettant à une conception patriarcale du mariage.

## Pour la reine et le pays : l'évolution de l'expérience des Premières Nations dans le contexte du Canada

Comme le montre le début de l'histoire de l'exploration et du commerce, les Premières Nations, les Métis et les Inuits ont en commun certaines expériences liées à la colonisation. Il est cependant important de distinguer l'expérience de chaque groupe en la situant dans son propre contexte historique. En effet, les mêmes lois, politiques et règlements n'ont pas tous été appliqués à chaque groupe, bien que l'ait été la logique globale d'assimilation et de destruction inhérente à la colonisation.

La transition de la situation de colonies à celle de pays a changé la façon dont les autorités coloniales géraient les peuples des Premières Nations, et les femmes en particulier, puisque la destruction des Nations d'alors devait être le prélude à la formation de nouvelles nations. Les femmes constituaient un élément central dans ce projet visant entre autres à réduire la présence des Premières Nations pour ultimement les éliminer.

En 1867, le Canada est devenu une nation par l'adoption d'une constitution appelée l'*Acte de l'Amérique du Nord britannique*<sup>42</sup>. L'union des colonies de l'Amérique du Nord britannique, soit la Nouvelle-Écosse, le Nouveau-Brunswick et la Province du Canada, formera le Dominion du Canada en tant que nouveau pays. À sa création en 1867, le Dominion du Canada comprenait quatre provinces : la Nouvelle-Écosse, le Nouveau-Brunswick, le Québec et l'Ontario. De 1867 à 1999, six autres provinces et trois territoires se sont joints à la Confédération.



*Des hommes des Premières Nations reçoivent leur annuité de traité en 1930.  
Source : Bibliothèque et Archives Canada/Fonds de la Compagnie des chemins de fer nationaux du Canada/e010861493.*



# Comprendre l'esprit et l'intention véritables des relations issues des traités

Les Premières Nations du Canada n'ont pas toutes conclu des traités historiques avec le gouvernement du Canada. Toutefois, celles dont c'est le cas ont longtemps insisté sur le fait que leur interprétation actuelle n'est pas conforme à l'esprit et à l'intention des accords initialement conclus. Le lien avec la tragédie des femmes et des filles autochtones disparues et assassinées réside dans les dispositions des traités, qui visaient à garantir un mode de vie sain et sûr aux générations futures, mais qui ont été interprétées si étroitement qu'elles ont plutôt contribué à déposséder les Premières Nations et à compromettre encore davantage leur sentiment d'appartenance. La compréhension de l'esprit et de l'intention véritables de ces ententes historiques est donc importante pour considérer les femmes, les filles et les personnes 2ELGBTQQIA des Premières Nations comme les titulaires de droits que leurs ancêtres voulaient protéger, conformément à l'esprit et à l'intention des traités.

Selon l'Aîné anishinaabe Harry Bone, il faut comprendre qui étaient les Premières Nations au moment de la négociation des traités, et quelles relations elles avaient avec les colons et avec la terre, pour bien saisir l'esprit et l'intention d'origine des ententes conclues<sup>1</sup>. L'Aîné Bone de la Première Nation ojibway de Keeseekoowenin, au Manitoba, soutient que les Premières Nations sont :

« les premiers occupants et propriétaires des terres; elles protègent leurs langues, leurs croyances et leurs enseignements, et honorent le Créateur. Les traités font partie de la loi première, celle de la constitution des Premières Nations, qui englobe l'idée d'une entente pacifique avec les nouveaux arrivants sur une base égalitaire, de nation à nation<sup>2</sup>. »

L'idée de protéger les langues, les croyances et les enseignements n'est pas une idée statique, figée dans le temps. Au contraire, la protection de ces

ressources d'une importance vitale est un projet dynamique qui concerne autant le présent que l'avenir.

L'esprit et l'intention originaux des traités ne sont pas ancrés dans un passé qui nous échappe, mais se manifestent de façon bien concrète dans de nombreux accords que les Premières Nations ont conclus entre elles, avant l'arrivée des Européens. Ainsi, dans le traité du « plat à une seule cuillère », les Anishinaabe et les Haudenosaunee convenaient de partager les ressources et de s'assurer que le « plat », c'est-à-dire la terre, servirait toujours aux deux parties, pour les générations à venir. Il s'agissait d'un accord sur le partage et le soin de la terre et en retour, grâce aux valeurs de réciprocité, de respect et d'interdépendance, la terre prendrait également soin des gens. Ces accords dynamiques n'étaient pas établis pour une ou plusieurs années, ils représentaient des principes qui seraient reformulés, réinterprétés et respectés d'une génération à l'autre.





Les traités historiques négociés entre la Couronne et les Premières Nations correspondaient au genre de relation que les Premières Nations cherchaient à établir. La conclusion d'un traité était un acte d'acceptation de ces nouveaux peuples — ou kiciwamanawak (« cousins »), comme les appelle Harold Johnson, juriste et Nihiyaw (cri) — qui sont devenus membres de la famille par traité. Les obligations des nouveaux membres et de la parenté étaient fondées sur la protection, la bienveillance et l'entraide. Johnson l'explique ainsi : « Personne n'imaginait que vous tenteriez de tout prendre pour vous-mêmes et que nous devrions mendier des restes... Les traités qui ont donné à votre famille le droit d'occuper ce territoire vous donnaient aussi l'occasion d'apprendre à vivre sur ce territoire<sup>III</sup>. »

Lorsque les droits issus des traités sont interprétés étroitement, cela contrevient à l'intention prévue par les signataires. Pour qu'un droit soit considéré comme éteint, il faut qu'il ait été supprimé ou cédé, mais de nombreuses Premières Nations qui ont signé des traités avec le Canada affirment qu'il n'a jamais été question de cession. Jusqu'en 1982, toutes les instances juridiques reconnaissent le pouvoir du Parlement d'abolir les titres et les droits ancestraux et, bien que cela n'ait jamais été fait, la menace demeure réelle. La Cour suprême n'a pas écarté la possibilité d'une extinction de droits après 1982, malgré l'article 35 de la *Loi constitutionnelle*<sup>IV</sup>. Dans certains cas, elle a également jugé que le fait de tarder à intenter une action en justice était suffisant pour mettre en échec la revendication d'un titre ancestral<sup>V</sup>. Les droits ancestraux de chasse et de pêche ont également été limités par des modifications constitutionnelles, des lois fédérales et, dans certains cas, des lois provinciales<sup>VI</sup>.

L'esprit et l'intention véritables des traités, pour les Nations qui les ont signés, n'étaient pourtant pas de prévoir des limites, mais plutôt la possibilité d'établir une nouvelle relation fondée sur l'entraide, le respect et la qualité de vie des générations futures. C'est l'obligation qui demeure envers les Premières Nations, en tant que titulaires de droits. S'ils sont



*Le gouverneur général Vanier verse aux Autochtones les sommes payables en vertu du traité en 1961 à Cold Lake, en Alberta. Source : Bibliothèque et Archives Canada/Fonds de l'Office national du film du Canada/e010976122.*

interprétés correctement, les traités peuvent également fonder les obligations qu'ont les gouvernements de mettre en œuvre des mesures afin de contrer la violence à l'égard des femmes, des filles et des personnes 2ELGBTQIA autochtones.

Johnson le précise ainsi :

« Pour aller vers l'avenir, nous avons besoin d'une vision, puis il nous faut imaginer les mesures à prendre pour concrétiser cette vision... Nous ne pouvons pas faire fi de notre vision parce qu'elle semble utopique, trop grandiose ou impossible à réaliser. Nous ne pouvons pas non plus refuser de faire les premiers pas parce qu'ils sont trop petits, trop anodins... Nous ferons l'un et l'autre partie de l'avenir que nous créerons, kiciwamanawak<sup>VII</sup>. »





- I Treaty Relations Commission of Manitoba, Let's Talk Treaty, épisode 2: « The Spirit and Intent of Treaties with Elder Harry Bone. »
- II Duhamel, « Gakina Gidagwi'igoomin Anishinaabewiyang. »
- III Johnson, *Two Families*, 21.
- IV Beaudoin, « Arrêt Delgamuukw »; *Delgamuukw c. Colombie-Britannique*, [1997] 3 R.C.S. 1010;
- V *Ontario (Procureur général) c. Bear Island Foundation*, [1991] 2 R.C.S. 570; *Bande indienne de la rivière Blueberry c. Canada (Ministère des Affaires indiennes et du Nord canadien)*, [1995] 4 R.C.S. 344.
- VI Voir, par exemple, *R. c. Sparrow*, [1990] 1 R.C.S. 1075.
- VII Johnson, *Two Families*, 85.



La justification de ce statut de tutelle a été invoquée par les fonctionnaires sur de nombreux fronts, utilisant certains des problèmes qu'ils avaient eux-mêmes créés pour tenir les Premières Nations responsables de leurs propres difficultés. En réalité, les raisons étaient à la fois administratives et économiques. En vertu de la Proclamation royale de 1763, le gouvernement était tenu de respecter le titre ancestral lors de la conclusion des Traités, et le fait que divers groupes des Premières Nations étaient dispersés sur un vaste territoire était considéré comme un fardeau administratif et financier. À d'autres égards, toutefois, le gouvernement croyait que de nombreuses Premières Nations disparaîtraient à brève échéance si leur mode de vie changeait. Ainsi, dans les Plaines, l'élimination du bison a contribué à la pauvreté et à la dépossession en raison de la dépendance de nombreux groupes à son commerce et à ses produits. La dépendance à l'égard du bison n'était pas statique ni uniforme dans l'ensemble des groupes des Plaines. Cependant, du fait que cette ressource constituait la principale source de subsistance et qu'elle était utilisée dans presque tous les aspects de la vie, dont l'alimentation, le logement et l'habillement, sa disparition allait avoir de graves conséquences, notamment sur la santé et la durée de vie des Premières Nations dans ces régions<sup>43</sup>. L'abattage massif des bisons a également contribué à l'intérêt croissant envers le développement d'une économie agraire, ou agricole, qui nécessitait le retrait du bison et des personnes qui en dépendaient et le redécoupage des terres<sup>44</sup>. Comme une survivante, Paula P., l'a indiqué :

Nous, les Premières Nations, vivons dans la souffrance... on nous a enlevé la terre, notre mode de vie. Nous suivions le bison, et le bison a été pris. On ne peut plus continuer de se déplacer comme des nomades à cause des clôtures qui ont été placées. On avait la liberté d'aller à notre gré sur l'Île de la Tortue, et ils nous ont enlevé cette liberté<sup>45</sup>.

La promotion de l'immigration au moyen de politiques dirigées par le gouvernement fédéral fut l'un des moyens par lesquels les Premières Nations ont été déplacées de leurs terres. La colonisation et la construction de chemins de fer allaient donc de pair avec le projet plus vaste d'édification de la nation. Ainsi, la promesse d'un chemin de fer avait poussé la Colombie-Britannique à se joindre à la Confédération, en 1871. De 1896 à 1914, le gouvernement fédéral, sous la gouverne du ministre de l'Immigration, Clifford Sifton, a publié des pages entières de publicité aux États-Unis et dans certaines régions de l'Europe invitant les immigrants agricoles à coloniser le « dernier front pionnier de l'Ouest<sup>46</sup> ».

En ce qui concerne le défrichement des terres, le gouvernement était lié par la promesse de la Couronne, contenue dans la Proclamation royale de 1763, qui établissait la nécessité de conclure un traité avec les Premières Nations afin de régler la question de leur titre préexistant sur les terres. Quelques traités antérieurs à la Confédération avaient été conclus à cet égard, notamment les Traités Robinson. Ces derniers, signés par la Couronne et les Premières Nations dans la région du lac Supérieur en 1850, représentaient d'énormes étendues de terre beaucoup plus vastes que celles visées par les 27 traités signés de 1764 à 1836 dans le Haut-Canada<sup>47</sup>. Les Traités Robinson ont jeté les bases des traités numérotés qui ont été conclus dans le but d'ouvrir des terres à la colonisation, en particulier dans les Prairies.





Onze « traités numérotés » ont été négociés dans l'Ouest canadien de 1871 à 1921. Selon le gouvernement, ces traités ont mis fin à la propriété autochtone des terres. Cependant, à l'instar de leurs cousines du Sud ontarien, les Nations autochtones de l'Ouest canadien soutiennent qu'elles ont accepté de partager, et non de vendre, leurs terres. De plus, les droits prévus dans ces traités sont contestés, en grande partie parce que les négociateurs gouvernementaux ont fait des promesses verbales qui ne figuraient pas toujours dans les versions écrites. En général, les traités numérotés visaient les droits de chasse et de pêche, les terres de réserve, les paiements annuels en espèces, l'éducation et, dans certains cas, les soins de santé. Le gouvernement fédéral a mis fin à ce type de négociations de traités en 1921; ainsi, la majeure partie de la Colombie-Britannique, des territoires du Nord, du Québec et des Maritimes n'ont pas été couverts par ces accords historiques.



*Des membres d'une communauté sont réunis pour négocier un traité à Flying Post en Ontario, en 1906.*

*Source : Bibliothèque et Archives Canada/Collection nationale de photographie/e003894500.*

Le gouvernement les a interprétés au sens strict – par exemple, la rente de 5 \$ promise initialement continue d'être versée, sans jamais avoir été indexée, chaque année. Les Premières Nations soutiennent que cela n'est pas conforme à l'esprit et à l'intention des traités, qui visaient à assurer la sécurité et l'avenir en période d'incertitude et de changement et se voulaient des promesses d'aide et de respect mutuels. Récemment, les signataires représentant les descendants du Traité Robinson-Huron, dont les rentes ont été fixées à 4 \$ il y a plus de 140 ans, ont obtenu gain de cause dans un procès contre les gouvernements du Canada et des provinces en vue de rouvrir les négociations<sup>48</sup>.

Dans le cadre de notre processus de consignation de la vérité, un témoin a expliqué que le non-respect des droits issus de traités peut contribuer à l'insécurité au sein des communautés des Premières Nations, en particulier pour les femmes. Comme l'a expliqué Cheryl M. :

Malheureusement ... dans le territoire mi'kmaq, l'omission du gouvernement du Canada de mettre en œuvre la décision de la Cour suprême du Canada dans l'affaire Marshall de 1999, soit de permettre l'accès aux ressources des pêches, surtout pour les femmes, les femmes mi'kmaw, est un bon exemple du refus historique et continu d'offrir des



possibilités économiques. Le déni de nos ressources et de nos droits dans ce pays maintient les femmes et les peuples autochtones dans la pauvreté. Notre valeur est constamment diminuée à cause des politiques, des lois et de l'inaction des gouvernements<sup>49</sup>.

Dans l'ensemble, le gouvernement a cherché à conclure des traités lorsque cela répondait à ses besoins, en se fondant sur un ensemble de politiques axées sur le développement industriel (p. ex, les chemins de fer) et l'agriculture (p. ex, les besoins des colons immigrants). Dans bien des cas, les négociations de traités ont été ouvertes en raison de la pression exercée par les bandes, qui avaient eu vent de ces accords conclus avec d'autres communautés. Ainsi, le gouvernement a établi des traités avec certaines Premières Nations, alors que d'autres ont été ignorées.

Dans ce contexte, les dirigeants coloniaux de sont employés à retirer les membres des Premières Nations et les Métis de leurs terres pour laisser la place aux colons et assurer la ségrégation. S'appuyant sur l'histoire de la traite des fourrures et des relations commerciales, les décideurs ont commencé à insister sur une séparation accrue entre les Européens et les Premières Nations, et de nouveaux modes de contrôle ont été mis en place pour séparer davantage les peuples autochtones en groupes raciaux ou culturels perçus. Il s'agissait à la fois de lois et de politiques ciblant les Premières Nations et les Métis, dont l'application était assurée grâce à une relation étroite entre les pouvoirs administratifs et judiciaires. Les Premières Nations et les Métis, notamment les femmes, étaient particulièrement ciblés par les premières forces coloniales de maintien de l'ordre.

« NOUS, LES PREMIÈRES NATIONS, VIVONS DANS LA SOUFFRANCE... ON NOUS A ENLEVÉ LA TERRE, NOTRE MODE DE VIE. NOUS SUIVIONS LE BISON, ET LE BISON A ÉTÉ PRIS. NOUS NE POUVONS PLUS CONTINUER DE NOUS DÉPLACER COMME DES NOMADES À CAUSE DES CLÔTURES QUI ONT ÉTÉ PLACÉES. ON AVAIT LA LIBERTÉ D'ALLER QUAND ON VOULAIT SUR L'ÎLE DE LA TORTUE, ET ON NOUS A ENLEVÉ CETTE LIBERTÉ. »

Paula P.

## **La Loi sur les Indiens : un outil d'exclusion pour les femmes, les filles et les personnes 2ELGBTQQIA des Premières Nations**

Les premières lois antérieures à la Confédération comprenaient l'*Acte pour encourager la civilisation graduelle des tribus sauvages* de 1857, l'*Acte pour la gestion des terres et des propriétés des sauvages* de 1860 et l'*Acte pourvoyant à l'émancipation graduelle des Sauvages* de 1869. La première loi, l'*Acte pour encourager la civilisation graduelle des tribus sauvages*, visait à étendre la citoyenneté britannique aux personnes que le gouvernement considérait comme des « Indiens ». Parmi les conditions d'obtention de la citoyenneté, il fallait être une personne de sexe masculin, âgée de plus de 21 ans, capable de lire et d'écrire en anglais ou en



français, sans dette et de bonnes mœurs. Les demandeurs retenus recevaient 20 hectares de terres de réserve en tenure franche individuelle, prélevées sur des terres communautaires de la bande, mais devaient renoncer à leur « statut d’Indien<sup>50</sup> ». En vertu de l’*Acte pour la gestion des terres et des propriétés des sauvages*, la responsabilité des terres indiennes était transférée du bureau colonial britannique à la province du Canada et tous les pouvoirs relatifs aux Indiens et aux terres réservées aux Indiens étaient transférés au surintendant en chef, sans tenir compte de la relation directe entre la Couronne et les peuples autochtones garantie par la Proclamation royale de 1763<sup>51</sup>. Enfin, l’*Acte pourvoyant à l’émancipation graduelle des Sauvages* de 1869, édicté en réaction à l’échec quasi complet de l’*Acte pour encourager la civilisation graduelle des tribus sauvages* de 1857, visait à accélérer l’assimilation. Cette loi limitait la définition des personnes devant être considérées comme des « Indiens » et établissait le système de conseil de bande électif qui visait à remplacer les systèmes de gouvernance existants des Premières Nations<sup>52</sup>.

MALHEUREUSEMENT ... DANS LE TERRITOIRE MI'KMAQ, L'OMISSION DU GOUVERNEMENT DU CANADA DE METTRE EN ŒUVRE LA DÉCISION DE LA COUR SUPRÊME DU CANADA DANS L'AFFAIRE MARSHALL DE 1999, SOIT DE PERMETTRE L'ACCÈS AUX RESSOURCES DES PÊCHES, SURTOUT POUR LES FEMMES, LES FEMMES MI'KMAW, EST UN BON EXEMPLE DU REFUS HISTORIQUE ET CONTINU D'OFFRIR DES POSSIBILITÉS ÉCONOMIQUES. LE DÉNI DE NOS RESSOURCES ET DE NOS DROITS DANS CE PAYS MAINTIEN LES FEMMES ET LES PEUPLES AUTOCHTONES DANS LA PAUVRETÉ. NOTRE VALEUR EST CONSTAMMENT DIMINUÉE À CAUSE DES POLITIQUES, DES LOIS ET DE L'INACTION DES GOUVERNEMENTS.

Cheryl M.

Au moment de la Confédération, en 1867, la *Loi constitutionnelle* comprenait le l’article 91(24), en vertu duquel le gouvernement fédéral adopterait la loi sur les Indiens la plus exhaustive qui soit en 1876. L’*Acte pour modifier et refondre les lois concernant les Sauvages* – communément appelé l’*Acte des Sauvages*<sup>53</sup> – aurait des effets profonds et durables sur les peuples autochtones pour les générations à venir. Comme la loi préconfédérale qui l’a précédée, l’*Acte des Sauvages* prévoyait pour les femmes un traitement différencié qui était clairement sexiste et dégradant.

L’*Acte des Sauvages* de 1876 reprenait la définition donnée en 1851 du terme « Indien » selon laquelle le statut d’Indien était lié à la lignée paternelle, même si de nombreuses Nations reconnaissaient la lignée maternelle, ou les deux. Selon sa définition du terme « Indien », le statut d’une femme indienne était déterminé par le statut de son mari. Par conséquent, si son époux était un Indien, elle conservait son statut. S’il était émancipé (ou sujet canadien), elle devenait elle aussi sujet canadien. Parallèlement, si une femme non autochtone épousait un Indien inscrit, elle obtenait le statut d’Indienne. Ces lois ont contribué à réduire considérablement le nombre de personnes dont le gouvernement assumait la responsabilité du fait de rencontres entre les femmes des Premières Nations et les « Canadiens ».

Pour les personnes ayant perdu leur « statut » dans le cadre de ce processus, les risques de se faire expulser de leur communauté venaient souvent exacerber d’autres risques existants. En conséquence de cette loi et de son application sur plus d’un siècle, il y a aujourd’hui un grand





nombre de personnes au Canada (environ un tiers des membres des Premières Nations) qui sont considérées comme « non inscrites ». Ces personnes entretiennent des liens profonds avec leur communauté historique et leur identité autochtone, ou au contraire, ont été séparées de celles-ci à cause d'actes délibérés de l'État. Dans plusieurs de ces cas, le « statut » varie au sein d'une même famille, indépendamment de l'arbre généalogique. Cette question ainsi que les développements contemporains qui l'entourent sont étudiés dans un chapitre subséquent.

Il était allégué que les premières mesures législatives visaient à « protéger les Indiens », mais la croyance sous-jacente selon laquelle les peuples autochtones avaient besoin de la protection des États mêmes qui les opprimaient est à la fois condescendante et paternaliste. De plus, le fait de légiférer sur les « terres indiennes » sous-entend que les peuples autochtones n'ont pas toujours eu accès à *la totalité* des terres des colonies. Cela a eu pour effet de normaliser un système de ségrégation qui a finalement été officialisé par la création des réserves. Enfin, ces premières lois définissaient qui était considéré comme Indien et qui ne l'était pas. La détermination de l'identité des personnes et des peuples était une manifestation flagrante d'une puissance coloniale qui faisait totalement fi des droits inhérents des Autochtones à l'autodétermination.

La *Loi sur les Indiens* visait à défavoriser les femmes et les filles et à les placer dans des situations dangereuses. Par exemple, les dispositions de la loi relatives au statut d'Indien, aussi appelées « dispositions sur la privation du droit de vote », servaient à expulser une femme et ses enfants de sa communauté, la forçant à échanger ou essentiellement à brader ses droits si elle épousait un homme qui n'était pas un Indien inscrit en vertu de la *Loi sur les Indiens*. Si une femme épousait un homme des Premières Nations inscrit dans une autre bande, elle était automatiquement transférée, avec tous ses enfants, à la liste de la bande du mari. En revanche, les femmes blanches pouvaient épouser des hommes des Premières Nations et devenir admissibles au statut.

Si une femme des Premières Nations ayant le statut décidait de quitter sa communauté pour épouser un étranger, ses rentes pouvaient être commuées en un paiement unique de 50 \$. Elle perdait alors tous ses droits sur sa part des terres et des ressources de la communauté et, en vertu de la loi, était considérée non-Indienne.

On peut facilement établir un parallèle entre ces situations et celles des femmes autochtones d'aujourd'hui qui sont forcées de quitter leur communauté sans argent ni ressources. La marginalisation économique et sociale dont on a clairement fait état devant l'Enquête nationale constitue une cause profonde de la violence dans la vie des femmes et des filles autochtones aujourd'hui. Elle est la conséquence inévitable et concrète des premières politiques coloniales de contrôle, comme la *Loi sur les Indiens*, qui visait les femmes autochtones en limitant leur indépendance sociale et économique.

Comme l'a fait remarquer l'Aînée Miigam'agan, les dispositions de la *Loi sur les Indiens* relatives au statut d'Indien et les règles qui les accompagnent encore aujourd'hui équivalaient



à « bannir » les femmes – une forme traditionnelle de peine capitale qui les exposait à de nombreuses autres formes de violence :

Quand nous renions une femme et ses enfants en vertu de la *Loi sur les Indiens*, vous bannissez, nous bannissons les membres de notre famille. Pour nous, dans notre langue et selon notre compréhension des choses, le bannissement équivaut à la peine capitale [...] quand vous bannissez une personne, elle cesse d'exister. En 1985-1986, j'étais à côté de ma sœur qui, à l'âge de 17 ans, a épousé un non-Autochtone et [...] nous étions devant le chef et le conseil, en présence de membres de la communauté dans le village d'Esgigeoag, et ils ont dit que ma sœur et mes tantes avaient cessé d'exister. Elles n'étaient pas reconnues dans ma communauté.

Donc, quand vous ignorez une personne, un être humain, et qu'elle cesse d'exister, ça envoie au reste de la population le message qu'elle n'a pas à respecter cette personne. On revient donc à la case départ, où les femmes et leurs enfants n'ont pas droit à la même qualité de vie, à la même identité. Et ils sont ... susceptibles de subir toutes les formes d'actes dont ils sont victimes depuis<sup>54</sup>.

En plus d'expulser les femmes et leurs enfants des communautés, la *Loi sur les Indiens* de même que les traités ont établi des réserves destinées seulement aux membres des bandes. La *Loi sur les Indiens* accordait aux administrateurs du gouvernement beaucoup de pouvoirs en ce qui concerne les terres de réserve qui étaient attribuées, comme en témoigne sa définition du terme « réserve » :

Sa Majesté détient des réserves à l'usage et au profit des bandes respectives pour lesquelles elles furent mises de côté; sous réserve des autres dispositions de la présente loi et des stipulations de tout traité ou cession, le gouverneur en conseil peut décider si tout objet, pour lequel des terres dans une réserve sont ou doivent être utilisées, se trouve à l'usage et au profit de la bande<sup>55</sup>.

De plus, la loi et ses modifications successives, plus particulièrement la *Loi Oliver* de 1911, ont établi les modalités selon lesquelles les terres attribuées en vertu du système des réserves pouvaient être récupérées. Par exemple, la *Loi Oliver* autorisait les municipalités et les entreprises à procéder à l'expropriation de parties des réserves, sans qu'il y ait eu cession, aux fins des routes, des chemins de fer et d'autres ouvrages publics. En outre, on y a apporté des modifications supplémentaires afin de permettre qu'une réserve entière soit éloignée d'une municipalité si cela était jugé « opportun ».

Bien que les fonctionnaires aient souvent affirmé que le système avait été créé pour encourager l'établissement et l'agriculture des Premières Nations, de nombreuses réserves étaient situées



sur les terres agricoles les plus pauvres, ce qui a contribué à fragiliser l'économie de toute la communauté et, en particulier, des femmes, qui étaient en grande partie mises à l'écart dans un contexte d'agriculture paysanne. Pour les femmes, l'imposition de ce genre de politiques agraires a contribué à les dévaluer économiquement, le travail qu'elles avaient accompli jusque-là au sein de la communauté pour contribuer à la santé économique du groupe ayant été compromis par les normes fondées sur le genre et liées au système d'agriculture. En d'autres termes, les effets des hypothèses fondées sur le genre de la *Loi sur les Indiens* et du système des réserves constituaient une menace directe pour le travail que les femmes accomplissaient avant d'être confinées dans les réserves, que ce soit au chapitre des remèdes, de la terre ou du commerce<sup>56</sup>.

De plus, certaines des réserves créées se trouvaient entièrement à l'extérieur des territoires traditionnels des Premières Nations, mettant en péril le travail que des membres de la communauté avaient accompli sur ces terres traditionnelles et selon leur mode de vie. La restructuration des terres d'origine et des modes de vie a souvent contribué à séparer les communautés les unes des autres, perturbant les clans, les foyers et les systèmes familiaux qui avaient servi à assurer la sécurité et le bien-être de la communauté pendant des générations. Les foyers situés dans les réserves sont devenus des foyers nucléaires, et les familles élargies ont été encouragées à se diviser et à vivre dans des maisons séparées.

La *Loi sur les Indiens* a été appliquée à deux niveaux à la fois par la police et par les agents des Indiens affectés à chaque réserve pour superviser l'application des politiques et des procédures du ministère des Affaires indiennes. La traite des fourrures tirant à sa fin, au début du 19<sup>e</sup> siècle, le maintien de l'ordre et le contrôle policier des femmes des Premières Nations et des Métisses au sein des colonies étaient devenus encore plus étroitement liés aux structures de l'Église et de l'État, et l'établissement des services de police dans ce qui allait devenir le Canada s'inspirait des développements survenus dans d'autres parties de l'Empire britannique au cours des 18<sup>e</sup> et 19<sup>e</sup> siècles<sup>57</sup>. Les agents des Indiens avaient des opinions et des pratiques variées, comme l'ont documenté plusieurs historiens<sup>58</sup>, mais ils travaillaient à renforcer un système qui était raciste, patriarcale et contrôlant, et qui constituait un outil de première importance pour la domination, la dépossession et le génocide des communautés des Premières Nations.

## **Un système de contrôle total : le maintien de l'ordre auprès des Premières Nations et des Métis**

Le maintien de l'ordre a été établi comme autre institution, semblable à celle du mariage, visant à exercer un contrôle colonial sur les femmes autochtones et les personnes de diverses identités de genre en transformant négativement les relations entre les genres, en intervenant dans des aspects intimes de la vie des femmes, en permettant les sévices sexuels et en appliquant et en perpétuant des croyances et des politiques qui sont à la source de la tragédie des femmes et des filles autochtones disparues et assassinées. La réorganisation physique et sociale des communautés incarne la violence, à la fois historique et continue, exercée à l'endroit des femmes, des filles et des personnes 2ELGBTQQIA autochtones.





*Les membres de la Police à cheval du Nord-Ouest posent devant leur tente en 1898. Lieu inconnu. Source : Bibliothèque et Archives Canada/Fonds Henry Joseph Woodside/a016083.*

Comme l'explique l'historien Greg Marquis, les premiers administrateurs britanniques voyaient un parallèle entre le Canada et la société irlandaise. Ils considéraient cette dernière comme une société dure et rebelle ayant désespérément besoin d'une forte présence policière<sup>59</sup>. Ce fut ce modèle – celui de la Police royale irlandaise – qui a été introduit dans les Territoires du Nord-Ouest, après que le gouvernement fédéral eut acquis la Terre de Rupert de la Compagnie de la Baie d'Hudson en 1870<sup>60</sup>. Le territoire canadien posait un défi important au chapitre des méthodes d'établies application de la loi et de maintien de l'ordre étant donné les faibles concentrations de populations. La Police à cheval du Nord-Ouest (PCNO) était un corps de police pancanadien créé en 1873 par le premier ministre sir John A. Macdonald afin de maintenir l'ordre dans les terres nouvellement acquises – et pour déplacer les peuples autochtones qui vivaient toujours dans ces terres. Ce corps assumait des fonctions militaires, policières et judiciaires.

Dans les années 1880, la PCNO joue un rôle encore plus actif dans le contrôle policier des femmes des Premières Nations, les attitudes ayant commencé à se durcir à l'égard des Autochtones des Prairies en particulier. Comme l'explique Sarah Carter : « Alors qu'auparavant, ils étaient considérés comme des "irritants", relativement inoffensifs, ils furent dépeints par la suite comme une menace distincte pour les biens et la vie des colons blancs<sup>61</sup> ». L'arrivée massive de nouveaux colons, conjuguée au désir du gouvernement fédéral de faire des Prairies un grenier à blé profitable, a suscité des appels renouvelés en faveur d'une ségrégation des femmes métisses et des Premières Nations.

Les femmes des Premières Nations, en particulier, ont été présentées par le gouvernement et par la société comme une menace pour la communauté non autochtone émergente<sup>62</sup>. La situation des femmes métisses, dont l'expérience est présentée plus loin dans ce chapitre, n'était guère plus enviable – après les mouvements de résistance de la rivière Rouge et du Nord-Ouest, les Métis dans leur ensemble étaient considérés comme une force dangereuse. À l'instar des femmes des



Premières Nations, les femmes métisses ont été décrites comme une menace à la sécurité publique par l'entremise d'accusations relatives à leur état de santé et leur contagion ainsi que leur promiscuité sexuelle alléguée<sup>63</sup>.

Les agents des Indiens et les forces de l'ordre se sont activement employés à régler les déplacements des femmes, des filles et des personnes de diverses identités de genre autochtones, en particulier dans la foulée de la panique qu'a provoquée en 1886 l'idée de « la traite des filles indiennes<sup>64</sup> ». Lorsque les journaux ont publié un article faisant état de la traite des filles autochtones, la police a reproché aux hommes des Premières Nations de se livrer à un commerce illégal faisant intervenir de jeunes femmes plutôt que d'enquêter sur les crimes commis contre elles. La police a ensuite utilisé les peurs racistes liées au « mélange des races » pour promouvoir une séparation prononcée entre les peuples autochtones et les colons européens.

De plus, la police a commencé à appliquer plus activement les dispositions de la *Loi sur les Indiens* relatives à la prostitution, criminalisant ainsi les femmes et les filles des Premières Nations. John A. McDonald a déclaré publiquement : « On doit déplorer la dépravité des femmes sauvages de cette côte. Arrivées à l'âge de la puberté, elles se réfugient dans les centres habités par les Blancs et se livrent à la prostitution<sup>65</sup>. » Bien qu'il y ait peu de données probantes, voire aucune, laissant supposer que les femmes autochtones pratiquaient le commerce du sexe plus souvent que les autres femmes, la *Loi sur les Indiens* a été modifiée afin de criminaliser directement les femmes autochtones et les gens qui entretenaient ou fréquentaient un wigwam<sup>66</sup> aux fins d'acquisition de services sexuels. De plus, l'adoption du *Code criminel* en 1892 a permis de faire plus facilement condamner les femmes des Premières Nations pour le crime de prostitution<sup>67</sup>. Cela s'explique par le fait qu'avant 1892, le Dominion du Canada ne disposait pas de sa propre codification du droit criminel et que les lois sur la prostitution n'étaient pas appliquées de façon uniforme. Celles-ci découlaient de la common law anglaise, mais plusieurs provinces avaient adopté leurs propres lois pour criminaliser la tenue de maisons de débauche. Dans de nombreux endroits, la prostitution était souvent traitée comme un crime de vagabondage. Plusieurs personnes croyaient que puisque la prostitution ne pouvait être éliminée, il fallait la tolérer. Toutefois, en raison de l'accent mis sur les maladies contagieuses, des campagnes de « pureté sociale » et du fait que les femmes autochtones étaient considérées comme des éléments perturbateurs, la situation a changé. Après 1892, grâce à l'introduction du Code criminel et à l'augmentation de la population dans les aires d'implantation des colons, elles-mêmes en expansion l'application de la loi a été rendue beaucoup plus claire et efficace<sup>68</sup>.

La PCNO a également mis en application le système illégal de laissez-passer, qui exigeait que tous les membres des Premières Nations, peu importe leur genre, obtiennent un laissez-passer auprès de leur instructeur agricole ou de leur agent des Indiens avant de quitter la réserve. Comme l'a décrit Rande C. au sujet de l'application du système au cours de cette période :

Je pense aux anciennes histoires de l'époque où ma grand-mère me disait que les chefs étaient sortis de force de leur maison, jetés par terre et forcés à pelleter, comme de la merde de porc et d'autres choses du genre, et qu'ils se faisaient frapper, et que les agents



de la GRC restaient là chaque jour à attendre qu'ils disent juste un mot dans notre langue pour avoir une raison de les battre et de les envoyer en prison ou ailleurs. Vous savez, on n'était jamais autorisés à quitter la réserve, jamais autorisés à magasiner dans les mêmes magasins, jamais autorisés à faire quoi que ce soit. Et ma grand-mère a dit que c'était sa réalité durant son enfance<sup>69</sup>.

Entre autres raisons, on justifiait le système de laissez-passer en disant que c'était pour empêcher les femmes autochtones de flâner dans les rues et de menacer la sécurité publique.

Si des membres des Premières Nations se trouvaient dans des villes sans laissez-passer valide, ils pouvaient être arrêtés sommairement et renvoyés dans leur réserve. Mais pour plusieurs, y compris les femmes, des répercussions encore plus graves en découlaient parfois. Des rapports font état d'un cas, en 1886, à Battleford (en Saskatchewan), où une femme avait refusé de quitter la ville. Des agents l'auraient alors emmenée dans leur caserne et lui auraient coupé une partie de ses cheveux. Le geste a apparemment eu des conséquences importantes. Deux ans plus tard, le *Saskatchewan Herald* rapportait ce qui suit : « Au début de la semaine, la Police à cheval a ordonné à des squaws, qui venaient de temps à autre et s'installaient ici, de quitter la ville. La menace de les emmener dans une caserne et de leur couper les cheveux a eu un effet formidable, accélérant leur départ<sup>70</sup> ». Il y avait des femmes qui travaillaient dans des villes, parfois dans le domaine de la prostitution, mais la menace de sévices et de violences physiques a eu pour effet d'en faire fuir beaucoup.

Comme l'historien et chercheur en santé James Daschuk l'a souligné, de nombreuses femmes avaient bien peu de choix lorsqu'elles tentaient de gagner leur vie pour pouvoir nourrir, vêtir et protéger leur famille, en raison de la présence croissante de l'État canadien dans les Plaines, conjuguée à diverses mesures visant à gérer les Premières Nations « de la façon la plus économique possible », comme la retenue des rations et la réduction des services de vaccination<sup>71</sup>.

### **« Une entrave à l'avancement des hommes » : l'hypersexualisation des femmes autochtones**

Dans l'ensemble, ces politiques et ces lois appuyaient l'idée selon laquelle les rencontres entre les colons et les femmes autochtones devaient être considérées comme suspectes, voire immorales. Elles ont intégré dans le droit canadien la chosification des femmes autochtones, jugées hypersexuelles et criminelles, par exemple dans les modifications au *Code criminel*. De plus, on retrouve dans les documents parlementaires de la Chambre des communes des références à ces stéréotypes, comme celle-ci, en 1909 :

Les femmes, ici, comme dans presque toutes les réserves, sont une entrave à l'avancement des hommes. À peine les hommes gagnent-ils un peu d'argent que les femmes veulent rendre visite à leurs proches dans une autre réserve, ou donner un festin ou danser avec leurs amis. [...] La majorité (des femmes) sont mécontentes, sales, paresseuses et négligées<sup>72</sup>.





En appliquant ces stéréotypes, les colons de la fin du 19<sup>e</sup> siècle avaient tendance à attribuer aux membres des Premières Nations eux-mêmes la responsabilité de leurs difficultés financières, plutôt que les politiques d'assimilation inadéquates comme les programmes agricoles et le confinement des Premières Nations dans les réserves. Par exemple, les agents des Indiens et d'autres instructeurs ont attribué l'échec des réserves agricoles à la paresse des gens qui faisaient le travail, plutôt qu'à la qualité des outils, du sol ou de l'instruction. Les compétences maternelles des femmes des Premières Nations vivant dans les réserves étaient souvent remises en question, de même que leurs habitudes d'hygiène, par les instructeurs agricoles ou d'autres personnes de l'extérieur de la communauté<sup>73</sup>.

Faire porter le blâme aux communautés ou aux membres des familles était l'un des nombreux moyens utilisés pour faire oublier l'inconduite policière dans le Nord-Ouest. Les agents assistaient fréquemment à des danses ou à des rassemblements communautaires, et bon nombre de ceux qui entretenaient des relations, consensuelles ou non, insistaient sur le fait que la PCNO devait promouvoir une forte image de masculinité et de virilité<sup>74</sup>. Toutefois, la question de l'inconduite policière en ce qui concerne les agents de la PCNO avait été soulevée par les fonctionnaires dès le début. En 1878, David Laird, lieutenant-gouverneur des Territoires du Nord-Ouest, avait écrit à James Macleod, commissaire de la PCNO, au sujet de certaines allégations visant des agents :

Je crains, d'après les rapports que j'ai reçus, que certains de vos agents à Fort Walsh se comportent plutôt librement avec les femmes qui se trouvent là-bas. Il faut espérer que la bonne réputation de la police ne sera pas entachée par une indulgence trop manifeste envers de tels excès. Et j'espère sincèrement que les Indiennes ne seront pas traitées d'une manière qui pourrait causer des ennuis par la suite<sup>75</sup>.

Au cours de l'année, d'autres accusations ont été portées contre la police de Fort Macleod pour avoir « séduit des squaws », entre autres actes<sup>76</sup>.

Dans l'ensemble, ces stéréotypes découlent du soi-disant « état d'esclavage des squaws » et des images qui y sont associées, et qui ont servi à justifier l'invasion des terres et des Nations<sup>77</sup>. Comme le souligne Sarah Carter, ces stéréotypes négatifs ont également été utilisés pour expliquer le comportement de ceux qui maltraitaient les femmes et les filles autochtones, ainsi que les politiques mises en œuvre contre elles<sup>78</sup>. Ces images ont été délibérément véhiculées à la fin des années 1800. Par conséquent, dans de nombreuses réponses aux accusations portées contre la police ou d'autres colons non autochtones, il a été souligné que les injustices subies étaient en grande partie « attribuables au caractère des femmes autochtones, qui se comportaient de façon débauchée et dévergondée et qui, dans leur propre société, étaient habituées à être traitées avec mépris et à être achetées et vendues comme marchandises<sup>79</sup> ». Ces croyances et ces stéréotypes discriminatoires ont ensuite contribué à exonérer les représentants, la police et les colons non autochtones de tout blâme, ou du moins de tout crime. Dans ce système de croyances, les femmes et les filles des Premières Nations ont été ciblées parce que leur comportement ne correspondait pas aux normes qui dictaient des croyances et des attentes non autochtones à l'égard des femmes et qui provenaient de sociétés très patriarcales et oppressives en Europe.



Ces attentes ont par ailleurs servi à écarter les allégations de violence ou d'actes répréhensibles de la part de la police ou des colons. En 1886, un ancien membre de la PCNO et rédacteur en chef de la *Macleod Gazette* a fait remarquer ce qui suit : « On ne fait pas mention du fait que beaucoup de ces femmes étaient prostituées avant d'aller vivre avec l'homme blanc et que, dans la majorité des cas, cette soi-disant immoralité émane des femmes ou des Indiens eux-mêmes<sup>80</sup>. » Il répondait aux déclarations d'un missionnaire local accusant des hommes blancs vivant avec des femmes autochtones de les abandonner ensuite, et réclamant la sanction chrétienne officielle de ces mariages. La réponse du rédacteur en chef s'inscrivait dans un contexte où l'on présentait les hommes blancs comme des victimes ensorcelées et impuissantes des femmes et des filles autochtones, et où l'on disait des sociétés autochtones des Plaines qu'elles se rendaient coupables du délit de traite des personnes et, pire encore, en raison du mépris qu'on les accusait d'avoir pour les membres de leur propre communauté.

L'année suivante, en 1880, Joseph Royal, député du Manitoba, a affirmé que les membres de la PCNO se comportaient avec une « immoralité scandaleuse » partout dans l'Ouest, du fait de la traite des femmes autochtones. En 1886, le député libéral Malcolm Cameron a prononcé un discours dans lequel il accusait les agents des Indiens et d'autres agents gouvernementaux d'agir de façon « à humilier, à diminuer, à dégrader et à avilir les filles vierges des pupilles du pays<sup>81</sup> ». Il s'est également demandé pourquoi plus de 45 % des agents de la PCNO étaient traités pour des maladies vénériennes<sup>82</sup>. Ses commentaires faisaient écho à ceux de nombreuses autres personnes, qui accusaient la PCNO et ses agents d'abus de pouvoir. Toutefois, comme Sarah Carter l'explique, dans bon nombre de ces cas, les membres de la PCNO assuraient le maintien de l'ordre dans ses propres rangs et les allégations de mauvaise conduite policière contre ses membres étaient souvent rejetées<sup>83</sup>.

Parmi les accusations officielles d'inconduite policière, il y a eu peu de dossiers dans lesquels les femmes des Premières Nations ont tenté de porter des accusations contre des policiers pour voies de fait ou viols. Comme l'a souligné Sarah Carter, dans ces affaires, « les allégations semblent avoir été rejetées sous prétexte qu'elles visaient à porter atteinte à la réputation ou à exercer un chantage<sup>84</sup> ».

Les mesures d'application de la loi par la police pour décourager les crimes contre les femmes autochtones étaient d'une efficacité douteuse. Par exemple, un article du *Manitoba Free Press* de 1876 fait état d'un cas de viol dans le village de Fort Macleod par un commerçant local. Comme on peut le lire dans l'article, « bien que la Police à cheval ait répondu aux cris de la femme indienne victime de l'outrage, le sous-officier présent a hésité à enfoncer la porte de la maison pour se saisir de l'agresseur<sup>85</sup> ».

De la même façon, en 1888, le meurtre de M<sup>me</sup> *Only Kill*, décrite comme une membre de la tribu des Blood, a fait l'objet d'un non-lieu. L'accusé, le gendarme Alfred Symonds, du détachement de la PCNO de Stand Off, en Alberta, a été jugé pour avoir administré à M<sup>me</sup> *Only Kill* une dose mortelle d'iode. Il a été déclaré qu'elle avait aussi mangé des haricots aigres le même jour. M<sup>me</sup> *Only Kill* est décédée le mercredi matin, mais son corps n'a été découvert et examiné que le vendredi. À ce moment-là, l'enquête avait été gravement compromise en raison de la chaleur, et



le corps était trop décomposé pour qu'une autopsie soit effectuée en bonne et due forme. L'enquête initiale a déterminé que la mort avait été causée soit par les haricots, soit par l'iode, mais Symonds a quand même été jugé. Son superviseur, le surintendant P. R. Neale, a informé ses supérieurs qu'il ne croyait pas que les membres d'un jury dans l'Ouest allaient prononcer un verdict de culpabilité contre Symonds<sup>86</sup>. Ils n'en eurent jamais l'occasion. En août 1888, il comparut devant le juge James F. Macleod, ancien commissaire de la PCNO, mais le procureur de la Couronne a demandé de ne pas tenter de poursuites, ce qui lui a été accordé. Symonds a été immédiatement libéré.

Un autre cas, en 1889, a mis en lumière l'attitude du public à l'égard des femmes autochtones dans les centres urbains. La victime crie, identifiée uniquement par son prénom, Rosalie, travaillait comme prostituée à Calgary et a été décrite comme étant « seulement une squaw<sup>87</sup> ». La personne accusée de son meurtre brutal, William « Jumbo » Fisk, a été dépeinte par le procureur comme un « jeune homme affable, conciliant et droit<sup>88</sup> » issu d'une famille exemplaire. Rosalie, une catholique baptisée, n'a pu être inhumée dans le cimetière de la mission en raison de son passé lié à la prostitution.

Fisk avait l'appui de la plupart des habitants et par la presse populaire. Il a avoué le crime et s'est rendu, mais il a été déclaré non coupable par le jury formé de personnes de race blanche. Le juge Charles Rouleau, à son honneur, a refusé le verdict et a promptement ordonné la tenue d'un nouveau procès en demandant expressément au jury de ne pas tenir compte de la race de la victime. Lors du deuxième procès, Fisk a été reconnu coupable d'homicide involontaire et condamné à une peine de 14 ans de travaux forcés. C'était mieux que prévu : le juge, qui voulait qu'il soit condamné à perpétuité, avait reçu des lettres d'élus et de gens influents l'exhortant à imposer une peine réduite.

Il est difficile de prendre la mesure de l'opinion des femmes des Premières Nations sur le maintien de l'ordre ou les services de police à cette époque, mais comme Howard Adams, universitaire et militant métis l'a expliqué :

Les Indiens ont été brutalisés par les agents de la Police à cheval, qui défilaient souvent dans les établissements autochtones pour intimider les gens et rappeler aux Autochtones qu'ils devaient « rester à leur place ». [...] Ces agents n'étaient ni des ambassadeurs de bonne volonté ni des hommes en uniforme envoyés pour protéger les Indiens; ils étaient les forces d'occupation du colonisateur et, par conséquent, les oppresseurs des Indiens et des Métis<sup>89</sup>.

Cela rejoint ce que nous avons entendu dans nos témoignages. Comme Audrey Siegl l'a dit : « La sécurité, la justice et la paix ne sont que des mots pour nous. Depuis la création de la GRC, nous n'avons jamais été en sécurité au Canada. La GRC a été créée pour écraser les rébellions indiennes. La police a été créée pour protéger et servir l'État colonial<sup>90</sup>. »





*Cérémonie des fraises pour les femmes et les filles autochtones disparues et assassinées devant les quartiers généraux de la police de Toronto, février 2015. Mention de source : R. Jeanette Martin.*

La nature et l'ampleur du contrôle policier exercé contre les femmes autochtones, y compris les mauvais traitements infligés par la police, continuent de teinter les rapports modernes d'un profond sentiment de doute et de méfiance.

### **Les pensionnats indiens, lieux de sévices**

La participation des enfants des Premières Nations ainsi que des enfants métis et inuits au système des pensionnats indiens, de 1883 à 1996, a constitué un élément clé de l'application de la ségrégation et de la promotion de l'assimilation. Tout au long des témoignages présentés dans le cadre de l'Enquête nationale, la fréquentation du système des pensionnats ainsi que le traumatisme intergénérationnel occasionné aux membres des familles les ayant fréquentés ont été des facteurs déterminants de la tragédie des femmes, des filles et des personnes 2ELGBTQQIA autochtones disparues et assassinées.



*Le pensionnat indien de Morley et l'orphelinat McDougall à Morley, en Alberta, vers 1890-1895.  
Source : Bibliothèque et Archives Canada/Collection David Ewens/a182269.*



Bien que le système des pensionnats indiens ne fût prescrit par l'Acte relatif aux Sauvages (la *Loi sur les Indiens*) qu'à partir des années 1880, la pratique d'« éduquer » les enfants autochtones a commencé dès les années 1600, lorsque les fonctionnaires ont menacé d'amendes ou de peines d'emprisonnement les parents qui n'envoyaient pas leurs enfants à l'école<sup>91</sup>. De plus, avant que la loi n'impose la fréquentation scolaire, les agents des Indiens dans les réserves, ainsi que les forces policières, s'employaient à amener les enfants dans les écoles gérées par l'Église en exerçant des pressions sous forme de retenues de rations ou de fournitures, de menaces à l'endroit des membres de la famille ou de saisies directes des enfants sans leur consentement<sup>92</sup>. Dans une lettre du 24 juillet 1935, on informe un employé de magasin de Saddle Lake, en Alberta, que la ration mensuelle d'un homme nommé J. B. Gambler sera « supprimée entièrement » étant donné qu'il avait retiré ses enfants du pensionnat indien. L'agent des Indiens, N. P. L'Heureux, soulignait que la ration pourrait être rétablie si M. Gambler ramenait ses enfants à Wabaseca et présentait ses excuses au juge et au directeur de l'établissement<sup>93</sup>.

« LA SÉCURITÉ, LA JUSTICE ET LA PAIX NE SONT QUE DES MOTS POUR NOUS. LA POLICE, LA GRC ONT ÉTÉ CRÉÉES... LA GRC A ÉTÉ CRÉÉE POUR ÉCRASER LES RÉBELLIONS INDIENNES. LA POLICE A ÉTÉ CRÉÉE POUR PROTÉGER ET SERVIR L'ÉTAT COLONIAL ».

Audrey Siegl





# Comprendre le système des pensionnats indiens au Québec

L'histoire des pensionnats indiens au Québec diffère considérablement de celle des pensionnats ailleurs au Canada en raison du contexte sociohistorique et politique particulier de la province. La principale différence tient au fait que les pensionnats du Québec ont été créés plus tard. En effet, tous sauf deux ont ouvert dans les années 1950, alors même qu'ils commençaient à fermer dans le reste du pays<sup>I</sup>.

Au Québec, les réserves indiennes ont été constituées par vagues, de sorte que les Premières Nations s'y sont établies plus tard qu'ailleurs au pays. Au début du xx<sup>e</sup> siècle, la plupart des familles des Premières Nations vivaient encore de manière traditionnelle dans des campements saisonniers<sup>II</sup>. Peu d'enfants étaient inscrits à l'école, et ceux-ci étaient envoyés dans des écoles de mission, des externats ou des pensionnats à l'extérieur du Québec<sup>III</sup>. En réalité, les changements apportés à la *Loi sur les Indiens* pour rendre obligatoire la scolarisation des enfants des Premières Nations sont longtemps restés lettre morte au Québec. La scolarisation des enfants de 6 à 14 ans n'y est devenue une obligation légale qu'en 1943, tandis que nombre d'autres provinces avaient déjà légiféré en ce sens dès le début du xx<sup>e</sup> siècle.

Au Québec, outre deux établissements anglicans, les pensionnats indiens étaient dirigés en majeure partie par les Oblats de Marie Immaculée. Selon la Convention de règlement relative aux pensionnats indiens, le Québec comptait six pensionnats, deux foyers non confessionnels de compétence provinciale et quatre foyers non confessionnels pour les Inuits relevant du gouvernement fédéral. Par ailleurs, un nombre considérable d'enfants des Premières Nations du Québec ont vécu dans des pensionnats indiens dans une autre province, notamment en Ontario et en Nouvelle-Écosse<sup>IV</sup>. Le pensionnat de Pointe-Bleue<sup>V</sup> a été le dernier à fermer ses portes, en 1991<sup>VI</sup>. Environ 13 000 enfants ont été

scolarisés dans les dix pensionnats indiens et les établissements fédéraux du Québec<sup>VII</sup>.

La réalité des pensionnats indiens au Québec a été moins abondamment étudiée que celle du reste du pays. Certes, il s'agissait, comme ailleurs, de « civiliser » les enfants des Premières Nations au moyen d'une éducation rudimentaire. Cependant, la volonté de christianisation qui animait beaucoup de ces établissements dans le reste du pays n'était pas aussi marquée au Québec, où la plupart des enfants autochtones étaient déjà convertis au catholicisme ou à la religion anglicane au moment de la création des pensionnats. L'enseignement du français (dans les pensionnats catholiques) ou de l'anglais (dans les pensionnats anglicans), ainsi que l'apprentissage de la morale, des valeurs et des coutumes de la société québécoise restaient les principaux objectifs, envisagés toutefois dans une perspective eurocentrique<sup>VIII</sup>. Le projet éducatif des oblats ne visait pas forcément l'annihilation de l'identité autochtone des enfants des Premières Nations, mais ceux-ci n'en étaient pas moins victimes de stéréotypes. En effet, le mode de vie traditionnel de leurs parents était souvent dénigré et mis de côté pour promouvoir les valeurs du Québec telles que les formulaient les ordres religieux. Cela dit, au terme de leur scolarité dans les pensionnats, beaucoup d'enfants sont retournés dans leur communauté plutôt que de s'intégrer à la société québécoise non autochtone<sup>IX</sup>.





Sous l'angle du traumatisme intergénérationnel, l'expérience des pensionnats indiens au Québec est semblable à ce qu'elle a été ailleurs au Canada, mais les générations touchées y sont plus jeunes et moins nombreuses, étant donné la plus courte durée d'existence des pensionnats dans cette province. Toutefois, comme la fermeture des pensionnats y est en général plus récente, au moins deux générations d'ex-pensionnaires sont encore en vie, et leur traumatisme reste palpable dans leurs communautés.

Par ailleurs, on ne saurait minimiser les conséquences de l'apprentissage du français par de nombreux enfants des Premières Nations au Québec. Dans une certaine mesure, celui-ci a contribué à dresser une barrière linguistique empêchant la création de liens de solidarité avec les autres Premières Nations du Canada. Même si ce n'est pas le cas de façon générale, il reste qu'à l'échelle du pays, la voix des survivants francophones des Premières Nations au Québec est ainsi moins audible que celle des survivants des autres provinces. En conséquence, il serait souhaitable d'approfondir la recherche pour mieux comprendre le contexte de ces expériences particulières.



*Pointe-Bleue a ouvert en 1960. Il s'agit du dernier pensionnat indien à fermer ses portes, en 1991. La durée de vie relativement courte de l'établissement reflète la réalité d'une grande portion du Québec, où les pensionnats indiens ont été établis beaucoup plus tard que dans le reste du Canada. Aucune intention de violer le droit d'auteur.*

- 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 est connue aujourd'hui comme la communauté de Mashteuiatsh.
- VI Commission de vérité et réconciliation du Canada, *Sommaire du rapport*; voir aussi Bousquet, « Êtres libres ou sauvages à civiliser? »
- VII Le nombre d'écoles en activité au Québec est sujet à controverse; voir Bousquet, « Le projet des pensionnats autochtones du Québec. »
- VIII Bousquet, « Le projet des pensionnats. »
- IX Ibid.



Diverses politiques concernant l'éducation des Autochtones figurent dans les dossiers du gouvernement, et des descriptions et récits détaillés sur l'histoire et la vie quotidienne dans les pensionnats indiens ont été consignés dans le rapport final de la Commission de vérité et réconciliation. Bien qu'une analyse comparative entre les sexes ne vise pas à écarter l'expérience des garçons et des hommes autochtones ou à laisser entendre qu'elle a eu des répercussions moindres, l'objectif est de comprendre en particulier comment le système des pensionnats indiens a participé à plus grande échelle aux structures d'imposition des rôles occidentaux attribués à chaque sexe. Le lien entre l'expérience vécue dans les pensionnats indiens et l'intériorisation de la violence sera également abordé de façon plus précise, comme il ressort de nos témoignages, dans les discussions contemporaines sur la violence fondée sur le genre.

Ce bref examen montre également comment la vie des hommes et des garçons au sein des communautés a influé sur celle des femmes, des filles et des personnes 2ELGBTQQIA, léguant un triste héritage de sévices et de honte qui ont directement contribué à la violence vécue par les personnes ayant témoigné devant nous et par leurs proches.

Le système des pensionnats indiens au Canada a été un outil dévastateur et brutal qui avait pour objet d'assimiler les personnes les plus vulnérables des Nations autochtones, à savoir les enfants. Nous examinons ses effets particuliers sur les femmes, les filles et les personnes 2ELGBTQQIA autochtones afin de mieux comprendre comment elles sont devenues la cible d'une violence disproportionnée aujourd'hui.

Ce sont principalement les églises chrétiennes, notamment les églises anglicanes, presbytériennes, méthodistes et catholiques, qui géraient les pensionnats indiens au départ, bien que le Canada les ait financés et ait légiféré à cet égard par la suite. Les ordres catholiques comme les Jésuites et les Missionnaires Oblats de Marie Immaculée ont travaillé pendant longtemps en étroite collaboration avec les autorités britanniques pour maintenir l'ordre social<sup>94</sup>, et les églises protestantes étaient souvent considérées comme appuyant une hiérarchie anglo-canadienne<sup>95</sup>. En 1931, plus de la moitié des pensionnats indiens au Canada étaient administrés par des ordres catholiques (55 %). Le deuxième en importance était l'Église d'Angleterre, qui dirigeait un peu plus du quart de toutes les écoles (26,25 %). L'Église unie en gérait 16,25 %, et l'Église presbytérienne, 2,5 %<sup>96</sup>.



*Des enfants et une religieuse dans une classe du pensionnat indien de Cross Lake, au Manitoba, en 1940.*

*Source : Bibliothèque et Archives Canada/Fonds du ministère des Affaires indiennes et du Nord canadien/e011080274.*





Le financement fédéral des pensionnats indiens était calculé au prorata du nombre d'élèves. Dès 1869, les pensionnats reçurent un montant pour chaque enfant inscrit; il était donc dans l'intérêt du pensionnat de compter le plus grand nombre d'élèves. À cette fin, la prise en charge des enfants aux fins de la scolarisation dans les pensionnats indiens constituait une partie importante du travail des agents des Indiens et de la police, mettant en danger d'innombrables filles et enfants de diverses identités de genre et causant un préjudice indicible à leurs mères.

Les doctrines du christianisme étaient au centre du programme scolaire, orientant non seulement ce qui était enseigné, mais aussi la manière dont l'enseignement était dispensé. À l'instar des tentatives de conversion religieuse effectuées au début de la colonisation, l'imposition du dogme chrétien a renforcé un système patriarcal qui voyait Dieu comme un homme et la femme comme une créature secondaire destinée à tenir compagnie à l'homme. L'éducation des filles était principalement axée sur les tâches domestiques : nettoyage, couture, jardinage et cuisine<sup>97</sup>. Contrairement aux garçons, qui pouvaient être encouragés à poursuivre leurs études jusqu'à l'âge de 16 ans ou plus, les filles étaient souvent amenées à quitter l'école tôt pour participer à des « apprentissages » domestiques<sup>98</sup>. Même après avoir passé de nombreuses années dans les pensionnats indiens, les élèves réalisaient qu'ils n'avaient reçu guère plus qu'une éducation élémentaire<sup>99</sup>. De ce fait, les élèves n'étaient pas tous outillés pour occuper des emplois autres que ceux exigeant peu de compétences; pour les femmes, cette situation faisait en sorte que leurs choix se limitaient aux tâches domestiques, ou à des possibilités restreintes et peu rémunératrices dans le monde extérieur, après leur sortie de l'école.



*Des petites filles à qui l'on enseigne la couture dans le pensionnat indien de Resolution, dans les Territoires du Nord-Ouest, n.d.  
Source : Bibliothèque et Archives Canada/Fonds du ministère de l'Intérieur/a043181.*

Qui plus est, la majorité des pensionnats indiens séparaient les élèves selon le sexe – les garçons et les filles avaient des dortoirs, des entrées, des classes, des

corvées, des loisirs et des terrains de jeu différents. Cette séparation a eu de nombreux effets. Tout d'abord, les familles étaient séparées – frères et sœurs, et cousins et cousines, n'avaient pas le droit d'interagir les uns avec les autres. On a non seulement arraché les enfants à leurs parents, à leur famille élargie et à leur communauté pour les envoyer dans un pensionnat indien, mais on leur a interdit de trouver du réconfort auprès des membres de leur famille de l'autre sexe qui se trouvaient là aussi. Cette pratique était complètement différente de ce que les enfants autochtones vivaient à la maison et elle a eu pour effet de nuire au développement d'habiletés fondamentales nécessaires au maintien de relations saines entre personnes de diverses identités de genre.





De plus, elle a eu pour effet de renforcer la conception binaire du genre, chrétienne et occidentale, dans le cas des élèves de diverses identités de genre. Bien qu'il y ait peu de documentation sur l'expérience de queer ou bispirituelles dans les pensionnats indiens, l'homosexualité était considérée comme un péché par les églises et elle était punie. Les concepts de « péché » et d'« enfer » ont été utilisés pour humilier et contraindre tous les élèves, mais ils ont eu des effets particulièrement déchirants sur les élèves bispirituels.

Comme l'a expliqué le témoin expert Albert McLeod dans son témoignage :

L'homophobie et la transphobie héritées de ces églises ont fait que les personnes bispirituelles ont été réduites au silence et se sont fait humilier et aliéner. Le fait que certains des membres du personnel ecclésiastique abusaient en secret des enfants a créé un autre niveau de silence et de honte qui dure depuis des générations. [...] Au cours des 150 dernières années, dans la société canadienne, l'existence de colons et d'Autochtones queers a ultimement été effacée dans cette construction du christianisme et du et du rôle patriarcal que s'attribuait le gouvernement<sup>100</sup>.

Les enfants ont également été privés des enseignements spirituels et culturels qui auraient traditionnellement accompagné leur passage à l'âge adulte et souligné l'importance des relations et des rencontres respectueuses. En refusant aux enfants ces rencontres communautaires essentielles, les pensionnats indiens les ont privés de leur droit de trouver une place significative dans leur communauté et dans le monde. Par exemple, au lieu de recevoir les enseignements sur le pouvoir du corps féminin de la part de mères, de tantes et de grands-mères aimantes, les filles des pensionnats ont eu peur et honte lorsqu'elles ont eu leurs premières règles : « J'ai dit à l'une des filles plus vieilles : « La sœur va vraiment me taper les fesses cette fois-ci ». J'ai dit : « Je ne sais pas comment j'ai pu me couper là parce que je saigne maintenant ». Mon pyjama était plein de sang, comme mes draps, et j'avais tellement peur. Je me suis dit que cette fois-ci, elles allaient me tuer<sup>101</sup>. »

Dans cet exemple, la période que certaines Premières Nations appellent le « temps de la lune », c'est-à-dire un temps de purification, de grande puissance, de connectivité et de force, a été réduite à quelque chose d'impur et de honteux.

L'application du dogme chrétien a servi à étouffer la curiosité sexuelle naturelle qui se manifeste à la puberté. Dans les pensionnats indiens, les employés accusaient les élèves de sexe féminin de « ne penser qu'aux garçons<sup>102</sup> » et les punissaient lorsqu'elles étaient prises à parler à un garçon. Les anciennes élèves ont dit qu'elles n'avaient pas une compréhension de base de leur propre corps et ne connaissaient pas « les réalités de la vie<sup>103</sup> ».

En dépit de la répression intentionnelle de la sexualité des élèves, les sévices sexuels étaient endémiques dans les pensionnats indiens, témoignant d'une hypocrisie stupéfiante et d'une réalité tragique. Les élèves ont été les victimes non seulement du personnel et du clergé, mais aussi d'autres élèves. Les sévices infligés aux filles par les femmes et aux garçons par les hommes ont contribué à l'instauration d'un sentiment d'homophobie ainsi qu'à l'association des



relations homosexuelles avec la pédophilie et les mauvais traitements. Une culture du silence et de l'impuissance a renforcé davantage la haine de soi et la honte. Bon nombre des familles et des survivantes que nous avons entendues ont dit que ces premiers sentiments de honte et d'impuissance qui leur ont été inculqués avaient contribué à banaliser la violence pour le reste de leur vie. Certaines d'entre elles ont établi un lien direct entre les sévices qu'elles ont subis dans ces écoles et la violence sexuelle dont elles ont été victimes plus tard dans leur vie. Elaine D. se souvient :

Le prêtre de l'école nous obligeait, ma sœur et moi, à aller dans cette cantine et à toucher son pénis en échange de bonbons. Alors quand je ne voulais pas le faire parce que je ne voulais pas que ça sente, ma sœur prenait la relève. C'était comme... c'était comme s'ils me donnaient le ton pour savoir quoi faire quand j'aurais dix ans, sur l'autoroute, quand je ferais de l'auto-stop et que les hommes me feraient monter, des hommes blancs, et voudraient avoir des relations sexuelles avec moi. Eh bien, j'ai fini par apprendre à demander de l'argent ou de la nourriture ou de l'hébergement ou autre chose parce que c'est ce que le prêtre nous avait appris dans ce petit magasin du pensionnat. « Tu me fais ceci, je te donne cela. » Cela a donc donné le ton à nos vies<sup>104</sup>.

Les pensionnats indiens ont eu un autre effet dévastateur lié aux femmes disparues et assassinées. Contrairement à ce qui serait arrivé aux enfants de femmes non autochtones, il était beaucoup plus probable, après la disparition ou le meurtre de femmes autochtones, que leurs enfants soient envoyés dans des foyers d'accueil ou des foyers résidentiels, engendrant encore plus de traumatismes et de mauvais traitements. Comme l'explique Shaun L., dont la mère a été assassinée :

En 1970, ma mère, Jane [D.], a été violemment enlevée à ses cinq enfants et les résultats ont été dévastateurs pour nous, qui avons respectivement 2, 4, 6, 8 et 10 ans. Mes grands-parents ont été forcés, sous menace d'être emprisonnés, d'envoyer mes trois frères et sœurs aînés dans un pensionnat à Lower Post. Mon frère Terry et moi, nous étions en famille d'accueil.

La théorie invoquée pour perturber notre famille était que c'était dans l'intérêt supérieur de l'enfant. Est-ce que c'était mieux pour mes frères et sœurs et pour moi d'avoir à subir des années de séparation et d'isolement? Collectivement, nous avons vécu ce qui suit : problèmes de santé mentale, alcoolisme, dépendance à la drogue, itinérance, faible niveau d'instruction, violence familiale, enfants atteints de séquelles de l'alcoolisation foetale, enfants pris en charge, sentiment de dislocation, activité criminelle, espérance de vie raccourcie, idées suicidaires et tentatives de suicide, peines d'emprisonnement, maladie chronique, rapports sociaux limités, possibilités d'emploi limitées, violence sexuelle, violence physique, violence psychologique, violence émotive, perte du savoir traditionnel, perte de la langue, perte de la culture, perte de l'histoire.

En quoi est-ce dans l'intérêt supérieur des cinq enfants qui subissent ça<sup>105</sup>?



De nombreux survivants n'ont pas fait part de leur expérience de mauvais traitements à leurs amis ou à leur famille. Les enfants devaient composer avec le retrait violent de leur foyer et avec la rupture des relations familiales qu'il provoquait, mais de surcroît, au sortir des pensionnats, ils étaient aliénés de leur communauté en raison de la douleur et de la stigmatisation liées à la violence. Pour bon nombre d'entre eux, la possibilité et la capacité de rebâtir ces relations ont été compromises.

Rande C., qui a été élevé par ses grands-parents et une tante après le meurtre de sa mère, a raconté :

Mon grand-père buvait beaucoup. C'était au point où c'est moi qui allais lui chercher de la bière. Ça me plaisait parce que je pouvais aller m'asseoir avec lui... Et parfois, ça se passait en soirée et il commençait à parler des pensionnats et des sévices qu'il avait subis et endurés... Je n'avais jamais vu mon grand-père pleurer jusqu'au moment où il m'a raconté que le matin, après s'être levés, ils étaient forcés à manger leur gruau rempli de vers. Ils étaient forcés de le faire. Et ils étaient frappés et battus chaque jour.

Et, durant la nuit, il pouvait entendre ses amis se faire traîner dans les couloirs puis se faire violer. Vous savez, il disait que c'était difficile de voir ses amis le matin suivant, pleins d'ecchymoses, assis là, tremblant et pleurant<sup>106</sup>.

La difficulté d'établir des liens dans un espace marqué par le traumatisme, de même que par la honte, a été évoquée par de nombreuses personnes qui ont témoigné devant l'Enquête nationale.

### **La stérilisation forcée**

Les colonisateurs se sont servis de la perception raciste, à la fois erronée et persistante, selon laquelle les femmes des Premières Nations et les Métisses étaient des personnes non chrétiennes, non civilisées et aux mœurs légères pour justifier la mise en place de la politique eugéniste. En effet, la stérilisation était perçue comme un moyen d'éliminer complètement la population autochtone. Emily Murphy, une pionnière du mouvement des suffragettes qui est devenue la première femme juge de cour de magistrat au Canada, a écrit au sujet des effets escomptés de la stérilisation :

On ne sait pas très bien s'il faut voir les Indiens comme un problème, une nuisance ou une possibilité. [...] On pourrait ressentir un certain malaise à l'égard de leur avenir. Cette question se résout d'elle-même. Dans quelques années, il n'y aura plus d'Indiens. On les verra uniquement pour la postérité sous forme de personnages de cire et dans quelques rares pages d'histoire<sup>107</sup>.





En plus de tenter d'assimiler les Premières Nations au moyen des pensionnats indiens, les gouvernements ont pris d'autres mesures actives pour les éliminer physiquement, conformément à leurs principes pseudoscientifiques intéressés de l'époque. Le terme « eugénisme » a été inventé à la fin du 19<sup>e</sup> siècle pour désigner une philosophie qui prônait la reproduction sélective pour débarrasser la population humaine des « qualités indésirables » qui étaient transmises d'une génération à l'autre<sup>108</sup>.

Les politiques de stérilisation sont apparues au Canada dans les années 1920 dans une optique de santé publique. La *Sexual Sterilization Act* (loi sur la stérilisation sexuelle) de 1928 de l'Alberta a donné lieu à une commission d'eugénisme habilitée à recommander la stérilisation comme condition de libération d'un établissement de santé mentale. Cette condition visait les personnes considérées « mentalement déficientes ». En 1937, une modification a été apportée à la loi en vue d'autoriser la stérilisation des « personnes ayant une déficience mentale » sans leur consentement.

Comme l'explique le professeur de sociologie Dominique Clément : « De 1928 à 1972, la commission d'eugénisme de l'Alberta a approuvé 99 % des 4 785 dossiers qui lui avaient été présentés. Au fil du temps, de plus en plus de ses décisions concernaient des personnes qui n'avaient pas donné leur consentement<sup>109</sup>. » À son avis, la loi était manifestement défavorable aux jeunes adultes, aux femmes, aux Autochtones et aux Métis<sup>110</sup>. Les personnes ciblées pour la stérilisation étaient étiquetées « faibles d'esprit » ou « mentalement déficientes<sup>111</sup> ». Même si, à première vue, la loi et ses modifications s'appliquaient autant aux hommes qu'aux femmes et ne visaient pas explicitement les « Indiens », leurs conséquences étaient observées de façon disproportionnée chez les femmes et les Autochtones. En Alberta, la proportion de femmes membres de Premières Nations ayant subi une stérilisation est plus élevée que leur poids démographique dans cette province<sup>112</sup>.

Seules l'Alberta et la Colombie-Britannique avaient adopté une loi officielle sur la stérilisation, mais cette pratique était tout de même en usage partout au pays. Les lois provinciales officielles sur la stérilisation ont été abrogées en 1972 (en Alberta) et en 1973 (en Colombie-Britannique). Cependant, d'un bout à l'autre du Canada, des femmes autochtones racontent des histoires de « stérilisation forcée » qui se produisent encore aujourd'hui<sup>113</sup>. À titre d'exemple, même si la Saskatchewan n'a jamais officiellement légiféré en matière de stérilisation, elle fait face à un recours collectif intenté au nom de femmes autochtones ayant fourni la preuve qu'elles ont subi la stérilisation sans leur consentement<sup>114</sup>.

La stérilisation forcée des femmes est un geste de violence étatique dirigée contre les femmes autochtones qui contribue à la déshumanisation et à la chosification des femmes, des filles et des personnes 2ELGBTQQIA autochtones.



# Les hôpitaux autochtones et les bouleversements sociaux

Au cours du XX<sup>e</sup> siècle, le Canada a également mis sur pied un système distinct de soins de santé en créant des « hôpitaux indiens » destinés aux femmes, aux filles et aux personnes 2ELGBTQIA des Premières Nations ainsi qu'aux Inuits, dont bon nombre ont été retirés de leurs communautés au nom de la santé publique. Bien qu'il n'y ait pas deux situations identiques parmi celles vécues dans les hôpitaux indiens au Canada, les caractéristiques communes de certaines expériences, dont la peur, l'ennui et les sévices physiques et psychologiques, sont liées à la tragédie des femmes et des filles autochtones disparues et assassinées. Dans les témoignages entendus, de nombreux témoins ont fait état des enjeux découlant de la relocalisation pour des raisons médicales et des questions laissées sans réponse lorsque des mères, des tantes, des sœurs ou des enfants étaient retirés de leur famille, sans jamais leur être rendus.

Le système des hôpitaux indiens résulte des efforts déployés par les missionnaires à la fin des années 1800 et au début des années 1900 pour fournir un minimum de soins hospitaliers de base dans certaines réserves. Ces hôpitaux s'inscrivaient dans le cadre du projet d'assimilation des missionnaires et de leur volonté d'éliminer les pratiques de guérison autochtones, surtout lorsqu'elles étaient prodiguées par des femmes.

Les hôpitaux indiens étaient axés sur la médecine conventionnelle, c'est-à-dire la médecine non autochtone. Dans les années 1930, cependant, la nécessité d'une concentration accrue des soins s'est imposée, car on craignait alors que la tuberculose ne se propage en dehors des communautés autochtones. Le D<sup>r</sup> David Stewart, surintendant du sanatorium de Ninette au Manitoba, a affirmé que les réserves n'étaient pas des « lieux hermétiques où les maladies étaient contenues » et



*Le D<sup>r</sup> Peter Bryce a été médecin en chef pour le gouvernement fédéral à partir de 1904. En 1907, il a soulevé une série de questions liées aux conditions mortelles qui sévissaient dans les pensionnats indiens. En 1922, après avoir quitté la fonction publique, il a publié *A Story of a National Crime: An Appeal for Justice to the Indians of Canada*, qui documente le rôle du gouvernement dans la crise et son refus d'agir pour donner suite à ses recommandations. Source : Bibliothèque et Archives Canada/Fonds de l'Office national du film du Canada/e002265633.*





que la tuberculose se répandait dans les collectivités non autochtones par l'entremise du commerce autochtone. De plus, il a dit des Premières Nations qu'il s'agissait de populations insouciantes et ignorantes et qu'elles étaient « farcies de tuberculose<sup>1</sup> ». En raison des inquiétudes du D<sup>r</sup> Stewart et d'autres personnes, y compris des communautés situées à proximité des réserves des Premières Nations, ces hôpitaux et établissements distincts visaient à contrer la menace à la santé publique et à fournir « à une "race mourante" des soins limités<sup>2</sup> ».

En 1960, le Canada comptait 22 hôpitaux indiens gérés par le Service de santé des Indiens. La plupart n'étaient pas dans un état optimal, ayant été aménagés à même des établissements empruntés et des installations militaires abandonnées, comme à North Battleford (Saskatchewan), à Miller Bay près de Prince Rupert (Colombie-Britannique) et à Nanaimo, sur l'île de Vancouver (Colombie-Britannique). Le coût des soins offerts dans ces installations était environ 50 % inférieur à celui des soins dispensés dans les hôpitaux non autochtones.

Les membres du personnel hospitalier se considéraient essentiellement comme des agents du progrès. Brooke Claxton, ministre de la Santé nationale et du Bien-être social, disait ainsi, en 1946 :

Ni la loi ni les traités n'imposent au gouvernement du Dominion l'obligation d'établir un service de santé pour les Indiens et les Esquimaux... Toutefois, pour des raisons humanitaires et à des fins de protection indispensable du reste de la population canadienne, il est essentiel de faire le maximum pour éradiquer la maladie à sa source, partout où elle se manifeste dans les limites du pays<sup>3</sup>.

L'idée que les hôpitaux indiens, administrés par le Service de santé des Indiens au sein du nouveau ministère de la Santé nationale et du Bien-être social et non par le ministère des Affaires indiennes, étaient porteurs d'humanité et de progrès n'était, pour de nombreuses Premières Nations, que l'expression d'une promesse issue des traités conclus des décennies auparavant. Pour d'autres Premières Nations, la création des hôpitaux montrait que le



*Un enfant suit des traitements de physiothérapie en 1958 au Charles Camsell Indian Hospital à Edmonton, en Alberta. Source : Bibliothèque et Archives Canada/Fonds de l'Office national du film du Canada/a111429.*

gouvernement assumait enfin ses responsabilités légitimes. Quant aux communautés non autochtones, ces hôpitaux contribuaient à les rassurer, car ils leur évitaient de partager leur accès à des soins médicaux modernes avec des patients autochtones<sup>4</sup>.

Certaines communautés autochtones réclamaient des installations médicales. Les Siksika, par exemple, ont établi l'hôpital Blackfoot dans leur réserve grâce aux fonds provenant de la vente de certaines terres afin de fournir des soins aux membres de la communauté, à condition que les guérisseurs et les sages-femmes autochtones soient autorisés à prodiguer leurs soins aux côtés des autres professionnels. Comme l'historienne Maureen Lux le fait remarquer : « De nombreuses communautés n'ont rien vu d'incompatible dans l'intégration de la médecine occidentale à leurs pratiques de guérison autochtones. En effet, la pluralité médicale est la norme dans une grande partie du monde<sup>5</sup>. » Dans de nombreux endroits, les employés des Premières Nations – bien que sous-payés et souvent mal traités





par le reste du personnel – procuraient un certain réconfort aux patients en leur servant d'interprètes et en parlant leur langue<sup>vi</sup>. L'hôpital, construit par les Siksika dans les années 1920, a par la suite fait l'objet d'une prise de contrôle par le gouvernement fédéral dans les années 1940 et 1950, en partie à cause de ses politiques, qui prévoyaient des heures de visites nombreuses et permettaient aux Aînés ou aux enfants d'accompagner leurs parents malades à l'hôpital et de rester avec eux<sup>vii</sup>.

Pour beaucoup de membres des Premières Nations qui ont été transférés d'un pensionnat à un hôpital indien – et ils étaient nombreux en raison des mauvaises conditions qui régnaient dans la plupart des pensionnats et qui étaient propices à la propagation de maladies – les hôpitaux indiens rappelaient beaucoup les pensionnats, tant par leur structure que sur le plan des répercussions résultant de leur fréquentation. Minnie Freeman, une ancienne patiente devenue plus tard employée de l'établissement, relate l'expérience d'un enfant hospitalisé à l'hôpital de Saint-Boniface en 1957, qui avait complètement oublié sa langue maternelle et était incapable de communiquer avec sa propre famille à son retour à la maison<sup>viii</sup>. L'Enquête nationale a également entendu des histoires analogues, dont la suivante, racontée par Lina G. :

« J'ai été hospitalisée. Et ma jambe était tout enflée, et j'ai été hospitalisée parce que [...] je pense qu'ils [les chirurgiens] ont dû m'opérer à la jambe, mais je ne sais même pas si j'ai... si j'ai [encore] mes deux reins. Je pense que je n'en ai [plus] qu'un seul, parce que je dois aller... je dois aller aux toilettes, et j'ai été hospitalisée à l'hôpital [Shaw Council] pour une opération quand j'étais jeune. Après avoir passé cinq ans à l'école de Fort Smith, je suis revenue ici dans les années 1970 sans rien connaître de la langue tlicho. Je l'ai oubliée à l'hôpital, j'ai oublié ma langue quand j'ai été hospitalisée à Fort Smith, mais je me suis battue pour la retrouver<sup>ix</sup>. »

D'autres personnes ont fait état de méthodes employées afin de garder les patients « dans le droit chemin », comme le retrait des privilèges particuliers exercé en cas de refus de coopérer, ou en cas de



*Des jeunes filles se rassemblent dans leur dortoir du pensionnat indien de Shingwauk, n.d. © Gouvernement du Canada. Reproduite avec l'autorisation de Bibliothèque et Archives Canada (2019). Source : Bibliothèque et Archives Canada/Fonds du ministère des Affaires indiennes et Développement du Nord canadien /a185528.*

« résignation désespérée », qui n'était pas sans rappeler l'expérience des pensionnats, comme le décrit une ancienne infirmière qui travaillait à l'Hôpital indien Camsell dans les années 1950<sup>x</sup>.

Ces séjours prolongés loin du foyer, et surtout loin de la communauté, ont suscité chez de nombreux patients des inquiétudes quant aux répercussions sur leurs proches. Ces inquiétudes étaient aggravées par la crainte qu'ils avaient d'être arrêtés s'ils refusaient ou abandonnaient le traitement. En effet, en 1951, l'article 72 (1) de la *Loi sur les Indiens* avait été modifié afin de permettre la délivrance de mandats pour le « traitement obligatoire des maladies vénériennes et de la tuberculose, y compris la détention dans un sanatorium et le retour obligatoire des patients qui sont partis contre l'avis du médecin<sup>xi</sup> ». D'autres règlements adoptés en 1953 prévoyaient également cette disposition si une province était jugée incapable ou non disposée à prendre les mesures appropriées<sup>xii</sup>. Quelle était l'autorité responsable de tels mandats? C'était la Gendarmerie royale du





Canada (GRC), ce qui a contribué à nourrir davantage la relation de méfiance et d'animosité qui existait déjà entre celle-ci et les Autochtones, en raison des autres activités menées par la GRC dans les communautés, et particulièrement dans le contexte des pensionnats et des interventions policières auprès des femmes.

En 1946, un patient surnommé « George Hamilton » a quitté l'hôpital autochtone Dynevor, au Manitoba, pour s'occuper de problèmes familiaux. Comme il ne revenait pas, un mandat a été lancé et la GRC locale l'a arrêté pour le ramener à l'hôpital. La famille auprès de laquelle il s'était rendu n'avait pas d'autre source de soutien. Toutefois, tel que Maureen Lux l'a signalé, ce n'est qu'après la mort de ses deux enfants que le ministère des Affaires indiennes a prévu des rations alimentaires mensuelles et un approvisionnement en bois afin de s'assurer que le reste de la famille ne périrait pas pendant le traitement d'Hamilton<sup>XIII</sup>. Il s'agissait d'une situation particulière, mais les dossiers de la GRC démontrent que celle-ci s'efforçait de faire respecter l'application de la loi en matière de soins médicaux obligatoires, surtout au Manitoba, dans les cas de sentences durant en général un an<sup>XIV</sup>.

Voici un autre exemple : en février 1952, deux Inuites sont sorties de l'hôpital du Parc Savard, à Québec, vêtues uniquement de leurs peignoirs et chaussures de pantoufles. Le Service de santé savait que l'hôpital du Parc Savard était un lieu infesté par les rats et les souris, dont l'infrastructure était vétuste et les soins médicaux limités. Cependant, les femmes ont rapidement été renvoyées à l'hôpital. Ainsi, comme Maureen Lux le souligne, ces femmes étaient à l'hôpital du Parc Savard depuis quatre ans, sans aucun service d'interprète, et « on ne sait trop où elles espéraient aller... mais on pouvait leur pardonner d'avoir pensé qu'elles seraient mieux ailleurs<sup>XV</sup> ».

Chez les Inuits, le service annuel du navire de patrouille connu sous le nom de « Matavik », littéralement « là où on se déshabille », a également inspiré la peur et l'incertitude. Les Inuits y étaient traités comme du bétail au cours des différentes étapes de l'examen, au terme duquel on les marquait d'un numéro de série sur la main pour indiquer les tests qu'ils avaient subis. Comme ils n'avaient pas accès aux services d'un interprète, ceux qui portaient la mention « TB » sur leur main n'avaient souvent aucune idée de la raison pour laquelle ils étaient évacués vers le Sud, sans avoir la possibilité de dire au revoir à leurs proches<sup>XVI</sup>.

Une fois rendus à l'hôpital, comme le raconte l'ancienne patiente et interprète Minnie Aodla Freeman : « C'était très triste de voir tous ces Inuits. Certains avaient des enfants dans le Nord dont ils n'avaient pas eu de nouvelles depuis leur arrivée. Ils étaient si inquiets...<sup>XVII</sup> » De plus, l'absence d'interprète ou le manque de compréhension culturelle de la part du personnel médical du Sud nuisait souvent aux patients inuits. Minnie a déclaré ceci, alors qu'elle attendait depuis des semaines pour se faire soigner :

« Ma culture me disait que je ne devais pas poser [de questions], que dans cette situation, je pouvais amener les gens qui prenaient soin de moi à changer complètement leur comportement, que je devais accepter ce qui se passait et ne pas forcer la main au destin. Je pensais qu'ils me le diraient quand ils seraient prêts<sup>XVIII</sup>. »

Ce genre de réaction a été perçu par le personnel médical comme la manifestation d'un consentement et a donné lieu à de nombreux cas où les patients ont été traités sans savoir pourquoi, subissant des interventions auxquelles ils n'avaient pas nécessairement consenti<sup>XIX</sup>.





- I Comme discuté dans 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. (Nation Dene, Fort Rae Behchokò), Partie 1, Déclaration publique 197, Yellowknife, T.N.-O., p. 3.
- X Lux, *Separate Beds*, 109.
- XI Cité dans *ibid.*, 45.
- XII Ibid., 116.
- XIII Ibid., 114.
- XIV Ibid.
- XV Ibid., 115-16.
- XVI Ibid., 99-100.
- XVII Cité dans *ibid.*, 72.
- XVIII Ibid., 111.
- XIX Ibid., 111.





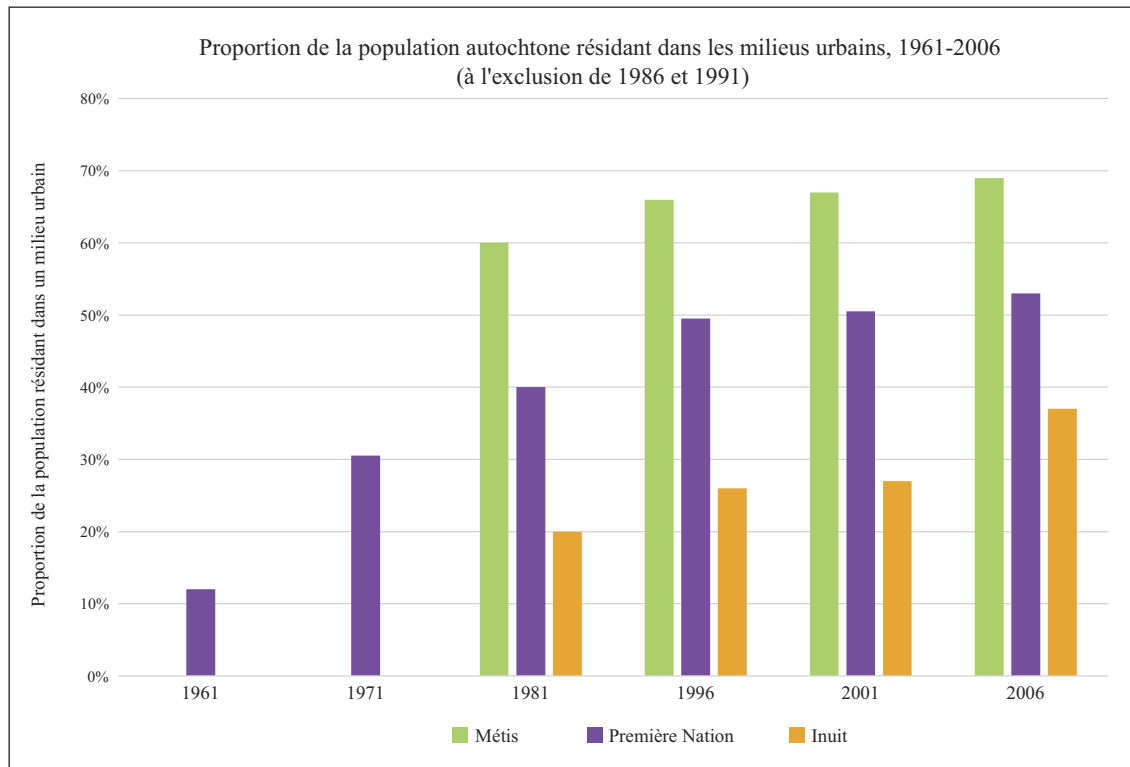
## L'urbanisation et la criminalisation

La réinstallation des femmes autochtones dans les villes peut s'expliquer dans le contexte des rencontres hostiles avec l'État canadien qui ont entraîné des réalités sociales, économiques et politiques désastreuses. La création des réserves au 19<sup>e</sup> siècle et la réinstallation forcée sur des terres impropres à l'agriculture, conjuguées à l'implantation d'un système de laissez-passer qui limitait les activités de chasse et de cueillette traditionnelles, ont contribué à l'appauvrissement des conditions et à la dépendance à l'aide sociale.

Dans plusieurs milieux urbains, la population autochtone a augmenté de plus de 50 % entre 1951 et 1961. En 1971, sept régions urbaines comptaient plus de 2 000 résidents autochtones. Il s'agit des villes de Winnipeg (4 940), Edmonton (4 260), Montréal (3 215), Vancouver (3 000), Toronto (2 990), Regina (2 860) et Calgary (2 265)<sup>115</sup>. Dans une étude portant sur les tendances entre 1961 et 2006, Mary Jane Norris et Steward Clatworthy soulignent qu'au Canada, la population autochtone en milieu urbain a augmenté de 13 % à 51 %<sup>116</sup>. Toutefois, le rapport mentionne les faits suivants : « Contrairement à la croyance populaire, qui veut que les réserves se vident au profit des villes, le taux net de la migration des Indiens inscrits vers les réserves était toujours positif, ce qui signifie que le nombre de personnes qui déménageaient dans les réserves était plus élevé que celui des personnes qui les quittaient. » Même si le taux net de la migration des membres inscrits des Premières Nations vivant en milieu urbain a varié entre les années 1960 et les années 2000, l'étude affirme que « la migration ne peut expliquer à elle seule la croissance du nombre de membres des Premières Nations dans les régions urbaines<sup>117</sup> ». Les augmentations doivent être considérées dans le contexte de la « mobilité ethnique », c'est-à-dire la revendication ou le rétablissement des liens autochtones, ainsi que de l'augmentation naturelle de la population chez les Autochtones vivant dans les principaux centres urbains. Elles sont aussi liées au rétablissement du statut d'Indien en vertu du projet de loi C-31 en 1985, qui a fait augmenter de façon considérable la population vivant à l'extérieur des réserves. Par exemple, la population hors réserve est passée de 147 424 à 256 505 entre 1987 et 1996 uniquement<sup>118</sup>.



*Des femmes et des enfants de la Première Nation Brunswick House participent à un repas festif durant la cérémonie soulignant le paiement du Traité no 9 au poste de la Compagnie de la Baie d'Hudson appelé « New Brunswick House », en Ontario. Source : Bibliothèque et Archives Canada/Collection nationale de photographie/a059589.*



Toutefois, il ne s'agit pas de suggérer que l'identité et les liens de ces personnes réinstallées étaient moins « authentiques », comme le précisent les chercheurs Evelyn Peters et Chris Andersen. Ces derniers affirment plutôt :

En mettant l'accent sur la patrie des tribus (non urbaines) comme source des identités des Autochtones en milieu urbain, on fait abstraction des manières dont plusieurs Autochtones en milieu urbain ont créé des organisations et des communautés à travers les regroupements culturels et tribaux. [...] Considérer les communautés tribales non urbaines comme source principale d'influence dans la vie des Autochtones en milieu urbain occulte la question des moyens complexes par lesquels et au sein desquels les Autochtones interagissent de façon sélective avec les sociétés urbaines pour se créer une vie digne de ce nom dans les villes<sup>119</sup>.

Indépendamment de la source de l'augmentation, et comme les témoignages l'ont démontré, la rupture des liens familiaux attribuable aux pensionnats indiens et aux politiques d'émancipation a fait que des femmes autochtones ont pu être exclues de leur communauté d'appartenance, se retrouvant parfois mères monoparentales devant subvenir seules aux besoins de leurs enfants. Dans certains cas, les villes permettaient d'avoir accès à des possibilités économiques qui n'existaient pas dans les réserves. Les femmes autochtones se sont créées une nouvelle vie dans les villes, mais elles n'ont pas toujours pu profiter des possibilités qui leur avaient été promises.



Lorsqu'elles ont commencé à chercher des emplois dans les villes canadiennes, les femmes autochtones ont dû relever de nombreux défis. Elles travaillaient souvent à des centaines de kilomètres de leur domicile et de leurs systèmes de soutien social et devaient subir une discrimination raciale qui était profondément ancrée dans les services urbains et les expériences offertes en milieu urbain. Même s'il est vrai que ces facteurs ont eu une incidence sur les hommes et les femmes autochtones qui ont déménagé dans les centres urbains, le sexisme au milieu du 20<sup>e</sup> siècle a joué un rôle particulier dans l'expérience vécue par les femmes. L'historienne Mary Jane McCallum déclare :

Les travailleuses autochtones, comme toutes les travailleuses, étaient victimes des perceptions courantes selon lesquelles la ville – et donc le travail en ville – était « mauvaise » pour les femmes. De plus, les femmes autochtones travaillaient dans des domaines comme les services domestiques, qui, à de nombreux égards, étaient associés à des races et à un sexe en particulier. Cependant, la main-d'œuvre faisait également partie d'un appareil colonial visant, entre autres, à éliminer le titre et le statut autochtones. Pour les femmes autochtones, l'emploi était généralement associé aux notions de déclin culturel et d'intégration<sup>120</sup>.

Il était courant que les femmes autochtones soient moins bien rémunérées pour leur travail que leurs homologues, et leurs conditions de vie ont directement contribué à les mettre en danger.



*Lors des cours d'économie domestique à l'école centrale de la réserve de St. Regis, Lucy Benedict (à gauche) et Dorothy Bush apprennent à tricoter. © Gouvernement du Canada. Reproduite avec l'autorisation de Bibliothèque et Archives Canada (2019). Source : Bibliothèque et Archives Canada/Fonds du ministère des Affaires indiennes et du Nord canadien/e010788128.*

Comme les historiennes Heidi Bohaker et Franca Iacovetta l'indiquent, le Canada a créé des programmes qui étaient précisément destinés à encourager la réinstallation des Autochtones dans les villes afin d'assimiler ces derniers et de les intégrer dans la société canadienne, programmes qui ont connu des succès variés<sup>121</sup>. Il s'agissait entre autres de programmes éducatifs pour les enfants et de programmes de formation professionnelle pour les adultes. Le Programme de placement et de réinstallation pour Indiens, par exemple, a été administré par le ministère des Affaires indiennes à compter de 1957. Il avait été mis en place pour répondre aux objectifs de l'État visant leur intégration complète. Le programme s'étendait également aux hommes, mais dans des domaines différents. En général, il favorisait l'adaptation « sociale » et « professionnelle » dans des métiers comme la coiffure, par exemple, ou le travail de bureau<sup>122</sup>.





*Des femmes autochtones travaillent dans une usine de conserverie de chair de crabe, à Masset, en Colombie-Britannique, entre 1930 et 1960. Source : Bibliothèque et Archives Canada/Fonds du ministère de l'Emploi et de l'Immigration/e011051620.*

Indépendamment du taux réel de succès du programme, des « histoires de réussites » étaient souvent publiées dans les *Nouvelles indiennes*, le périodique des Affaires indiennes de l'époque. Des récits comme « Miss Hoff Proves Valuable Clerk » (M<sup>lle</sup> Hoff fait un bon travail en tant que commis) ou « Domestic Services Proves Useful Step » (les services domestiques sont une étape utile) félicitaient les personnes qui s'étaient réinstallées<sup>123</sup>. Ces histoires étaient la célébration d'une anomalie perçue entre l'endroit où les femmes autochtones « devaient » être et l'endroit où elles étaient. Comme l'historienne Mary Jane McCallum l'a souligné : « À bien des égards, les travailleuses autochtones qui coiffaient dans les salons de beauté ou celles qui gravissaient les échelons de la profession d'infirmière constituaient une « main-d'œuvre inattendue », non pas en raison de leur incapacité présumée à être coiffeuse ou infirmière, mais parce que selon les hypothèses plus générales à propos de l'indianité, le fait d'être coiffeuse ou infirmière, pour une Indienne, semble tellement anormal<sup>124</sup> ».

Outre ce genre de programmes et les mesures incitatives favorisant la réinstallation, le manque relatif de services dans de nombreuses communautés et le désir des femmes de prendre un nouveau départ ont également motivé la réinstallation. Comme Rande C. l'a déclaré :

Et quand je pense à tout ça, je pense à l'égarement. Pour nous, en tant qu'Autochtones, c'est une question d'égarement. Nous avons été privés de tout ce qu'on sait. Nous avons été égarés tout ce temps. Des milieux urbains comme le quartier Eastside où ma mère s'est retrouvée, c'est parce qu'elle a été égarée, privée de son identité, de tout, de l'essence même de ce qu'on est en tant qu'Autochtones<sup>125</sup>.



En raison d'un emploi sous-payé, plusieurs femmes autochtones ont été forcées d'emménager dans des quartiers précis qui étaient la cible d'une surveillance policière excessive parce qu'ils étaient habités par des Autochtones. Ceci a naturellement mené ceux vivant en milieu urbain à être, de façon disproportionnée, victimes de harcèlement et de profilage par la police et par le système judiciaire. Les règlements en matière de nuisance et de zonage ont mené à la création de ghettos dans certains quartiers<sup>126</sup> et ont contribué à normaliser une perception publique des personnes et des communautés autochtones comme étant criminelles et dangereuses<sup>127</sup>. S'appuyant sur la criminalisation des femmes et des personnes 2ELGBTQQIA autochtones, sur la PCNO et sur la *Loi sur les Indiens* ainsi que sur le *Code criminel*, ces « zones » ont contribué – et contribuent encore – à la criminalisation des populations autochtones. Comme l'Instance permanente des Nations Unies sur les questions autochtones l'a souligné en avril 2018, dans plusieurs pays, la violence physique et les poursuites pénales sont utilisées contre les Autochtones pour les criminaliser, en particulier ceux qui défendent les droits relatifs aux terres et à l'eau, mais aussi la protection de la famille et des communautés<sup>128</sup>.



*Des femmes autochtones reçoivent leur diplôme du programme de formation pratique en sciences infirmières au Vocational Institute de Vancouver. Elles sont photographiées ici en compagnie de M. Ratcliffe, un employé de la Division des affaires indiennes. © Gouvernement du Canada. Reproduit avec l'autorisation de Bibliothèque et Archives Canada (2019). Source : Bibliothèque et Archives Canada/Fonds du ministère des Affaires indiennes et du Nord canadien/e007140515.*

La banalisation de certains endroits comme étant violents a contribué à la dévalorisation de la vie des gens qui y demeuraient<sup>129</sup>. On prétendait donc à l'époque, et encore aujourd'hui, que les personnes vivant à ces endroits ne devaient pas s'étonner d'être victimes de violence ou de voir des actes de violence se produire dans leur quartier. Ce genre de rejet du blâme sur la victime ne tient pas compte de l'histoire complexe de la colonisation qui a toujours relégué les Autochtones aux marges de la société. Cependant, ce raisonnement est souvent utilisé pour justifier la surreprésentation des Autochtones dans le système de justice. Il est aussi utilisé pour minimiser les effets des crimes commis à l'égard des femmes, des filles et des personnes 2ELGBTQQIA autochtones, en réduisant leur identité à un stéréotype incriminant (p. ex. prostituée, fugueuse ou toxicomane). Ces étiquettes ne décrivent que l'individu et la violence à laquelle il fait face au lieu d'attirer l'attention sur les systèmes qui perpétuent le danger et entraînent des violations encore plus importantes des droits des femmes, des filles et des personnes 2ELGBTQQIA autochtones.



ET QUAND JE PENSE À TOUT ÇA, JE PENSE À L'ÉGAREMENT. POUR NOUS, EN TANT QU'AUTOCHTONES, C'EST UNE QUESTION D'ÉGAREMENT. NOUS AVONS ÉTÉ PRIVÉS DE TOUT CE QU'ON SAIT. NOUS AVONS ÉTÉ ÉGARÉS TOUT CE TEMPS. DES MILIEUX URBAINS COMME LE QUARTIER EASTSIDE OÙ MA MÈRE S'EST RETROUVÉE, C'EST PARCE QU'ELLE A ÉTÉ ÉGARÉE, PRIVÉE DE SON IDENTITÉ, DE TOUT, DE L'ESSENCE MÊME DE CE QU'ON EST EN TANT QU'AUTOCHTONES.

Rande C.

D'une part, leurs déplacements à destination et en provenance de la ville souligne le fait qu'elles s'identifiaient à leur lieu de naissance malgré leur installation en milieu urbain, ce qui suggère que leur développement en ville n'est pas complètement étranger aux communautés en milieu rural. D'autre part, la mobilité élevée reflète un effet « d'attraction-répulsion » ou un « conflit avec la ville », selon lesquels les déplacements sont dus en partie aux nombreux défis auxquels elles font face, comme la protection de leur identité culturelle, la recherche de services adaptés à la culture, la discrimination et la violence ainsi que l'accès à un logement stable. Ces problèmes conduisent à une restructuration quotidienne constante de leur vie qui peut les amener à devenir des cibles d'actes de violence.





# La relocalisation des Premières Nations : le cas d'Eskasoni

La Commission royale sur les peuples autochtones (CRPA) fait état de deux catégories de relocalisations imposées aux communautés autochtones lors de la période suivant la Confédération : la relocalisation à des fins administratives et la relocalisation à des fins de développement. Tel que l'explique la CRPA dans son rapport, la première visait à faciliter l'accès du gouvernement aux communautés autochtones et le contrôle qu'il exerçait sur elles. Quant à la seconde, on y avait souvent recours pour accroître la surface des terres destinées à l'agriculture pratiquée par les colons, ce qui, par conséquent, entraînait le déplacement des personnes qui y vivaient.

En Nouvelle-Écosse, dans les années 1940, le gouvernement a entrepris un processus de centralisation, c'est-à-dire le déplacement de plusieurs communautés mi'kmaq à Eskasoni, dans le but de « réduire les coûts administratifs des services gouvernementaux aux Autochtones<sup>I</sup> ». Blaire Paul, une des personnes relocalisées, a déclaré : « Le racisme, c'est la discrimination. Le racisme, c'est l'assimilation. Le racisme, c'est la centralisation. Le racisme, c'est dire à une personne où aller vivre, quelle langue parler et comment mener sa vie<sup>II</sup> ».

Au milieu du XX<sup>e</sup> siècle, les Mi'kmaq avaient constitué 40 petites réserves en Nouvelle-Écosse. Cependant, la dépendance croissante à l'égard du travail salarié dans l'ensemble de l'économie canadienne a perturbé le mode de vie des Mi'kmaq, comme bien d'autres, et contribué à précariser leur situation financière dans plusieurs cas. La Grande Dépression a également eu des répercussions sur ces communautés et de nombreux résidents se sont tournés vers le gouvernement fédéral pour obtenir de l'aide. La CRPA explique ainsi la situation : « Parce qu'il en coûtait de plus en plus cher de soutenir les Mi'kmaq, les Affaires indiennes cherchaient des moyens de comprimer les dépenses<sup>III</sup> ». Le Ministère a finalement opté pour la solution formulée dans un rapport rédigé en 1941 par un agent local, qui recommandait la centralisation des Mi'kmaq dans

deux grandes communautés : à Eskasoni, sur l'île du Cap-Breton et à Shubenacadie, dans la partie continentale de la Nouvelle-Écosse. L'agent était d'avis que le regroupement des Autochtones dans de grandes communautés améliorerait leur situation économique, réduirait les coûts pour le gouvernement et favoriserait une administration plus efficace des services offerts aux Mi'kmaq.

Eskasoni était déjà une réserve autochtone à l'époque. D'abord cartographiée par l'arpenteur général du Cap-Breton en 1832, elle ne comptait que peu de familles. En 1834, la superficie d'Eskasoni était d'environ 2 800 acres (1 133 hectares)<sup>IV</sup>.

Le gouvernement a commencé à regrouper les gens à Eskasoni en 1942. De 1942 à 1949, 2 100 Mi'kmaq ont été « incités à se réinstaller à Eskasoni ou à Shubenacadie<sup>V</sup> ». De plus, la CRPA souligne que « de tous les événements survenus après la Confédération, ce sont les relocalisations qui ont le plus marqué la vie des Mi'kmaq de Nouvelle-Écosse. Leurs répercussions sociales, économiques et politiques se font sentir encore aujourd'hui<sup>VI</sup> ». À cette époque, le gouvernement avait convaincu le grand chef de signer une lettre d'appui au plan de réinstallation. Par la suite, cette lettre a été considérée comme une preuve d'accord de la communauté, même si les entrevues menées plus tard auprès des





résidents ont clairement démontré que la communauté n'avait pas été consultée de façon appropriée et n'avait pas consenti à être relocalisée<sup>vii</sup>.

Les personnes relocalisées à Eskasoni et à Shubenacadie étaient confrontées au problème du surpeuplement et, dans bien des cas, à des conditions dangereuses. Le ministère des Affaires indiennes avait pourtant promis des avantages tels que de nouveaux emplois, des logements et une meilleure éducation pour les enfants, ainsi que des services médicaux et d'autres possibilités, mais la réalité s'est avérée autre, en grande partie parce l'espace et les ressources n'étaient tout simplement pas suffisants<sup>viii</sup>. Par exemple, « en 1944, seulement dix maisons avaient été construites dans chaque réserve en raison de plans de construction mal conçus, d'une supervision déficiente et de retards dans la livraison des matériaux<sup>ix</sup> ». Qui plus est, les personnes qui voulaient retourner dans leur communauté d'origine après avoir été relocalisées ne pouvaient pas toujours le faire, car selon les documents historiques de la communauté, « les agents des Affaires indiennes détruisaient souvent les maisons des Autochtones après leur réinstallation à Eskasoni<sup>x</sup> ».

Les conditions qui régnaient à Eskasoni étaient désastreuses. Comme Marie Battiste le décrit, de nombreuses familles, dont la sienne, vivaient dans des logements surpeuplés. Ses parents avaient emménagé avec le cousin de sa mère et les deux familles réunies comptaient huit enfants. La cohabitation de deux ou trois familles occasionnait des problèmes parce que beaucoup de maisons n'étaient que des « coquilles », sans isolation ni aménagements intérieurs<sup>xi</sup>.

Toutefois, les économies d'échelle prévues à Eskasoni ne se sont pas concrétisées. De plus, les efforts d'expansion de l'agriculture ont été freinés par de mauvaises décisions de la part de fonctionnaires qui, par exemple, remplaçaient les vaches par des chèvres qui mangeaient les arbres fruitiers et arrosaient les pommes de terre de kérosène pour dissuader les gens de les manger<sup>xii</sup>.



*Une famille mi'kmaw est photographiée en 1891 à Elmsdale, en Nouvelle-Écosse. Source : Bibliothèque et Archives Canada/Fonds des Ressources naturelles du Canada/a039851.*

Les femmes qui avaient géré avec succès une exploitation agricole de petite taille avant leur relocalisation ou qui avaient participé à la récolte saisonnière des petits fruits dans le Maine se trouvaient, quant à elles, placées dans une position de vulnérabilité. Tributaires du travail rémunéré de leur partenaire ou de l'aide gouvernementale, de nombreuses femmes étaient ainsi forcées à vivre des situations dangereuses à cause de l'intervention gouvernementale.

Aujourd'hui, la communauté d'Eskasoni continue d'être confrontée à certains problèmes. En 2017, APTN National News a publié un article racontant l'histoire de Kiara Denny Julian, qui, alors qu'elle avait 18 ans, avait été interpellée et effrayée par le conducteur d'un camion lorsqu'elle rentrait du travail. Sasha Doucette, résidente d'Eskasoni, a indiqué que ces incidents n'étaient pas rares et qu'elle espérait que la Gendarmerie royale du Canada les prendrait plus au sérieux : « Je ne sais pas quelles mesures sont prises à ce sujet. Ils font de leur mieux pour attraper les petites filles et Dieu sait ce qu'ils veulent en faire<sup>xiii</sup> ». Une augmentation récente du trafic de drogues et de la traite de personnes à des fins





d'exploitation sexuelle dans la communauté a été citée comme l'une des raisons possibles de ce harcèlement.

Eskasoni est également aux prises avec des problèmes de logement, ce qui oblige de nombreuses femmes à vivre des situations précaires. En 2017, Suzanne Patles, Mi'kmaw, membre de la Première Nation d'Eskasoni et militante contre la fracturation hydraulique, a été expulsée de l'appartement où elle vivait depuis plus de 11 ans avec son conjoint et ses trois enfants. Le propriétaire a expliqué que l'expulsion était liée à une plainte concernant le bruit, mais selon Patles, elle n'a jamais reçu d'avertissement. En outre, elle n'a pas pu obtenir de motif officiel ou écrit de l'expulsion. Elle a expliqué que celle-ci aurait de graves conséquences pour elle et ses enfants : « Je suis une femme autochtone chassée de ma communauté parce que je n'ai nulle part où aller... Un de mes enfants est inscrit au programme d'immersion [mi'kmaq], un programme qui n'est offert nulle part ailleurs dans le monde<sup>xiv</sup> ». En fin de compte, Paties a dû confier ses enfants les plus âgés à ses frères et sœurs afin qu'ils ne soient pas arrachés à la communauté qu'ils connaissaient et chérissaient.

Le suicide chez les jeunes est un autre problème qui sévit à Eskasoni, comme dans de nombreuses communautés. En 2010, le quotidien *Cape Breton Post* a signalé que selon les statistiques disponibles, il y avait eu quatre suicides confirmés et cinq décès liés à la drogue et à l'alcool de 2008 au début de 2010. Toutefois, les administrateurs des conseils de bandes ont indiqué que les chiffres réels étaient probablement beaucoup plus élevés, compte tenu du nombre de décès déclarés accidentels. Maxine Stevens, alors agente des communications pour la communauté d'Eskasoni, l'a ainsi expliqué : « Lorsqu'une telle chose se produit dans la communauté, elle n'affecte pas seulement une famille, elle affecte aussi tous ceux qui entourent cette famille, parce que c'est une communauté très unie. Tout le monde connaît tout le monde<sup>xv</sup> ». Les décès étaient surtout fréquents chez les jeunes, de la fin de l'adolescence jusqu'au début de la trentaine, l'âge moyen étant de 21 ans à Eskasoni. Jaime Battiste a déclaré : « Je dirais que c'est plus

fréquent que les accidents de voiture. C'est soit une surdose, soit un suicide. C'est malheureusement la norme dans la communauté<sup>xvi</sup>. »

À l'époque, le taux de chômage touchait 25 % de la population active et il n'y avait pas de refuge d'urgence à Eskasoni. La communauté avait reçu des fonds immobiliers pour construire un refuge d'urgence, mais elle n'avait pas reçu de capitaux d'exploitation; même si elle pouvait construire le refuge, elle ne pouvait donc pas verser de salaire à qui que ce soit pour y travailler. En 2018, le journal *Chronicle Herald* mentionnait deux suicides en deux semaines à Eskasoni.

Le revenu moyen des résidents demeure parmi les plus faibles de la province<sup>xvii</sup>. De plus, le rapport de 2016 sur la pauvreté des enfants et des familles en Nouvelle-Écosse fait état d'un taux de pauvreté s'élevant à 75,6 % chez les enfants d'Eskasoni<sup>xviii</sup>. Comme l'explique Elizabeth Marshall, une résidente d'Eskasoni : « Je ne suis pas surprise. Je vois le chômage ici, je vois la pauvreté, je vois les gens qui demandent de l'aide. Je n'aime pas parler de ces choses parce qu'il est douloureux de voir des gens souffrir<sup>xix</sup> ». Elle ajoute que de nombreuses personnes à Eskasoni, dont elle-même, vivent de l'aide sociale – ce qui reflète la piètre planification à l'origine de la centralisation qui, dans de nombreux cas, a exposé les gens à des conditions plus précaires. Marshall ajoute : « Vous voyez la malnutrition. Vous voyez des enfants en mauvaise santé. Pour ma culture, où nous avons toujours eu une surabondance de nourriture et où il est habituel de partager cette abondance, il est très étrange de devoir être aussi pauvres<sup>xx</sup>. »

Comme le montre cette étude de cas, de nombreux problèmes engendrés par la centralisation continuent aujourd'hui de hanter des communautés comme celle d'Eskasoni et contribuent directement à mettre en danger les femmes, les filles et les personnes 2ELGBTQQIA autochtones qui en font partie. Toutefois, ces problèmes vont au-delà de la violence interpersonnelle : la colonisation, l'inaction institutionnelle et la marginalisation sociale, économique et politique continuent de renforcer ces obstacles aux droits fondamentaux de la personne, plutôt que de les surmonter.





- I CRPA, *Un passé, un avenir*, 397-398.
- II Ibid., 400.
- III Ibid., 401.
- IV Nation Eskasoni Mi'kmaw, « History. »
- V CRPA, *Un passé, un avenir*, 401.
- VI Ibid.
- VII Ibid., 402.
- VIII Nation Eskasoni Mi'kmaw, « History. »
- IX CRPA, *Un passé, un avenir*, 402.
- X Nation Eskasoni Mi'kmaw, « History. »
- XI Marie Battiste, cite dans Richardson, *People of Terra Nullius*, 67-68. Aussi cité dans CRPA, *Un passé, un avenir*, 403.
- XII CRPA, *Un passé, un avenir*, 403.
- XIII Moore, « Precious Ones. »
- XIV Roach, « Prominent Mi'kmaq warrior evicted. »
- XV Pottie, « Eskasoni struggling. »
- XVI Ibid.
- XVII Profil du recensement, Recensement de 2016, Eskasoni 3, Réserve indienne [Subdivision de recensement], Nouvelle-Écosse et Nouvelle-Écosse.
- XVIII Frank, « 2016 Report Card, » 12-13.
- XIX Palmett et Tattrie, « Child poverty numbers. »



## La rafle des années 1960 et les politiques en matière de protection de l'enfance dans le contexte des Premières Nations

Étant donné la visibilité accrue de la pauvreté chez les Autochtones vivant dans les centres urbains et la popularité croissante des sciences sociales en tant que domaine professionnel, de nouvelles politiques de protection de l'enfance ont émergé durant les années 1950 et 1960 pour cible aussi bien les femmes métisses que celles des Premières Nations. Toutefois, ces politiques étaient enracinées dans les mêmes philosophies coloniales et racistes qui visaient à démanteler les relations, les familles et les communautés autochtones. Lorsque le système des pensionnats indiens a commencé à disparaître, du moins à l'extérieur du Québec et du Nord, les mesures gouvernementales de prise en charge des enfants métis et des Premières Nations ont été réorientées vers la protection de l'enfance, les résultats demeurant généralement les mêmes.



*Alice Semple, Alfred Greenland (dans le bac) ainsi que Ruth et Georgina Greenland se promènent à Aklavik, aux Territoires du Nord-Ouest, en 1956. © Bibliothèque et Archives Canada. Reproduit avec l'autorisation de Bibliothèque et Archives Canada. Source : Bibliothèque et Archives Canada/Fonds Rosemary Gilliat Eaton/e010869059.*

Les modifications apportées à la *Loi sur les Indiens* en 1951 comprenaient l'ajout d'un article permettant d'appliquer aux Indiens les lois provinciales d'application générale. Conséquemment, des ententes intergouvernementales ont été conclues pour permettre aux provinces d'assurer la prestation des services d'éducation et de protection de l'enfance. Du coup, le nombre d'enfants autochtones pris en charge a été multiplié par 50, et il a fallu peu de temps pour que ces enfants représentent le tiers de tous les enfants pris en charge<sup>130</sup>.

L'augmentation du nombre d'enfants pris en charge était motivée par plusieurs facteurs, dont la fermeture de plusieurs pensionnats indiens pendant cette période. Le système de protection de l'enfance est rapidement devenu une nouvelle façon de voler les enfants, qui s'appuyait sur l'hypothèse selon laquelle les femmes autochtones étaient des mères incompetentes, y compris celles qui demandaient de l'aide pour fuir la violence qui existait dans leur propre communauté. En outre, la pauvreté imposée par l'État et attribuable au sous-développement dans les réserves, dans les domaines de l'éducation et des services d'emplois, a fait en sorte que de nombreuses familles, en particulier les femmes, étaient stigmatisées en raison non pas de leurs propres actes, mais plutôt des facteurs structurels qui les vouaient à des situations impossibles.





*Une femme autochtone non identifiée est photographiée avec son enfant à Fort Smith, aux Territoires du Nord-Ouest, en 1947.*

*Source : Bibliothèque et Archives Canada/Fonds ministère des Affaires indiennes et du Nord canadien/e010750216.*

La rafle des années 1960, comme on l'appelle aujourd'hui, renvoie à une période allant de la fin des années 1950 jusqu'en 1990 au cours de laquelle on estime que plus de 20 000 enfants ont été

arrachés à leur mère, à leur famille et à leur communauté<sup>131</sup>. Durant celle-ci, les enfants étaient pris en charge par milliers, rapidement et sans égard, ou presque, à leur culture (tant dans l'évaluation de la situation des enfants que par le choix de les placer dans des familles non autochtones), et sans se préoccuper du bien-être des enfants, de leur famille et de leur communauté. Le processus de prise en charge variait d'une région à l'autre. Des mères se sont fait dire que leur bébé était mort-né<sup>132</sup>; d'autres ont été forcées de signer des documents d'adoption pendant qu'elles étaient sous l'effet des médicaments<sup>133</sup>. Comme nous l'avons entendu dans de nombreux témoignages, les mères autochtones ont été convaincues, ou amenées à croire, que l'État canadien gérerait mieux qu'elles le bien-être de leur nouveau-né.

En Saskatchewan, le processus a été officialisé au moyen de programmes, comme le projet d'adoption d'Indiens et de Métis qui s'est déroulé de 1967 à 1969. Il s'agissait d'un programme ciblé visant à accroître le nombre d'adoptions d'enfants des Premières Nations et d'enfants métis, lesquels étaient déjà surreprésentés dans le système de protection de l'enfance. Ce programme, initialement financé par le ministère fédéral de la Santé et du Bien-être social – qui avait exprimé dans les années 1940 ses convictions profondes concernant la nécessité d'assimiler les Autochtones – comprenait notamment des publicités d'enfants des Premières Nations et d'enfants métis diffusées « à la télévision, à la radio et dans les journaux dans le Sud-Est de la Saskatchewan qui incitaient les familles à envisager l'adoption interraciale<sup>134</sup> ». Le programme ne tenait pas compte des facteurs sociaux et économiques qui contribuaient au nombre exagéré d'enfants pris en charge, mais lançait plutôt le blâme sur les familles autochtones qui, affirmait-on, n'offraient pas un foyer aimant à leurs enfants<sup>135</sup>.

De nombreux enfants adoptés se sont fait dire que leur famille ne voulait plus d'eux. Voici ce qu'avait à dire Bonnie F. à ce sujet :

J'ai reçu récemment un dossier de la protection de l'enfance et j'ai fait une recherche moi-même en essayant de comprendre toute l'histoire. Je souffre encore de certains des problèmes que j'ai vécus pendant cette période. J'ai été triste de lire que ma mère s'est





battue pour moi dans une lettre qu'elle a écrite pour me récupérer. D'un autre côté, j'étais tellement contente qu'elle l'ait fait parce que les lettres ont prouvé son amour pour moi après toutes ces années où l'on m'a dit qu'elle me détestait et qu'elle voulait que je sois morte. J'ai grandi en ayant peur d'un monstre et en faisant des cauchemars dans mes jeunes années. Ma maison d'accueil m'a complètement lavé le cerveau et m'a fait croire que ma mère était vraiment méchante et voulait me tuer, et j'y ai cru<sup>136</sup>.

Dans ce cas-ci, Bonnie a aussi subi des mauvais traitements pendant bien des années dans son foyer d'accueil, ce qui a continué à avoir des répercussions sur elle plus tard dans sa vie.

Parallèlement au système des pensionnats indiens, le système de protection de l'enfance est donc devenu un processus d'assimilation et de colonisation dans le cadre duquel les enfants étaient retirés de force de leur foyer, puis placés dans des familles non autochtones. Les familles d'accueil et les familles adoptives se trouvaient presque toujours à l'extérieur de la province, et souvent à l'extérieur du pays. Les adoptions faites à l'extérieur de la province ou du pays ont considérablement compliqué le rapatriement des personnes adoptées par leur famille et leur communauté.



*Une aide-soignante nourrit un bébé à l'hôpital anglican d'Aklavik, dans les Territoires du Nord-Ouest, n.d.*

© Bibliothèque et Archives Canada.

Reproduit avec l'autorisation de Bibliothèque et Archives Canada.

Source : Bibliothèque et Archives Canada/Fonds Rosemary Gilliat Eaton/e010799871.

Bon nombre de témoins mentionnent le lien direct de la rafle des années 1960 et de la prise en charge des enfants avec la violence subie comme femmes, filles et personnes 2ELGBTQQIA autochtones. Comme Cynthia C. l'a partagé, au sujet de sa propre famille : « On faisait tous partie de la rafle des années 1960, alors après avoir souffert d'abus dans des familles d'accueil, on s'est tous sauvés et on a grandi dans les rues, les mêmes rues où notre mère a grandi<sup>137</sup> ». Étant en soi une forme de violence et un facteur d'augmentation de la violence, ces systèmes ont entraîné la perte d'êtres chers de nombreux témoins, par le passé et encore aujourd'hui. Comme l'a expliqué Shaun L. :

La rafle des années 1960 a fait mal à mon frère Terry et à moi. Quand ça prend presque 50 ans pour se guérir des actions de quelqu'un d'autre, c'est un prix élevé. Commencer à



vivre et à profiter de la vie à l'âge de 50 ans, c'est un peu comme une arnaque. [...] Je n'ai pas d'histoires de ma mère et moi. Je n'ai aucune notion d'elle dans ma vie. Il y a un trou à l'intérieur [de moi] que rien ne pourra remplir. Je pense qu'il était destiné à recevoir son amour<sup>138</sup>.

Les événements entourant la rafle des années 1960 et ses effets sont beaucoup moins documentés au Québec que dans le reste du Canada en raison du contexte sociopolitique différent dans la province. Au Québec, les pensionnats indiens ont commencé à ouvrir leurs portes à peu près au moment où la rafle des années connaît son apogée dans le reste du pays. De plus, les autorités religieuses qui étaient toujours présentes dans les communautés des Premières Nations détenaient un pouvoir considérable en matière de protection de l'enfance et, jusqu'au début des années 1970, plusieurs hôpitaux étaient également administrés par des congrégations religieuses<sup>139</sup>. De plus, le déploiement des services entourant le bien-être et la protection de l'enfance a été réalisé légèrement plus tard, avec l'adoption de la *Loi sur la protection de la jeunesse* en 1979<sup>140</sup>.

En raison de la combinaison de ces facteurs, la rafle des années 1960 a été administrée différemment au Québec, et en collaboration beaucoup plus étroite avec les représentants de l'Église, dans les communautés et dans les hôpitaux. Ces derniers refusaient également aux parents la possibilité de voir leur enfant et de récupérer leur corps lorsqu'on leur disait qu'ils étaient dit décédés. Certaines familles n'ont même jamais reçu le certificat de décès<sup>141</sup>.

Comme ailleurs au Canada, la rafle des années 1960, comme elle s'est manifestée au Québec, a mené à une surreprésentation des enfants des Premières Nations au sein du système de protection de l'enfance. En fait, lorsque la *Loi sur la protection de la jeunesse* est entrée en vigueur en 1979, 6 % des enfants placés au sein du système provincial étaient des Premières Nations, alors qu'ils ne représentaient que 0,7 % des enfants du Québec<sup>142</sup>. Cette surreprésentation s'est aggravée avec le temps et, en 2016, elle s'était établie à 17 % selon les données du recensement de la même année. Même si le taux est toujours plus faible que dans le reste du Canada, il n'en demeure pas moins qu'en termes de proportions, il est considéré élevé, comme ailleurs au pays.

## Rapports avec les colons : les expériences différentes des Métis

Les expériences des Métis dans le contexte de la colonisation ont beaucoup en commun avec celles des Premières Nations, mis à part quelques exceptions notables. Liés à leurs ascendants des Premières Nations, les Métis ont vu le jour dans le contexte de la traite des fourrures, où les femmes et les filles métisses ont souffert de leurs propres expériences qui étaient à la fois semblables et distinctes de celles de leurs proches des Premières Nations. Le caractère distinct des expériences des Métis est principalement le fruit du manque de services et de soutien offerts à leurs populations, ainsi que des efforts concertés déployés dans l'appareil de l'État pour les séparer de leurs proches des Premières Nations. De plus, l'histoire de la colonisation a donné lieu à une hiérarchie identitaire qui a entraîné des conflits au sein de la communauté métisse et détourné l'attention de la marginalisation continue que connaissent les femmes, les filles et les personnes 2ELGBTQQIA métisses.



## Les femmes métisses, le commerce des fourrures et la vie au début de la colonisation

Des historiennes comme Sylvia Van Kirk et Jennifer Brown ont examiné de quelle façon le processus d'évolution vers l'état de Nation distincte a été, pour les Métis, axé sur les rôles des femmes dans le commerce des fourrures. Aux 17<sup>e</sup> et 18<sup>e</sup> siècles, à mesure que ce commerce s'est répandu dans le centre et l'ouest de l'Amérique du Nord, de nombreuses unions se sont formées entre les commerçants européens et les femmes autochtones. Les enfants nés de ces rencontres ont souvent été élevés avec la connaissance culturelle de leurs parents autochtone et européen, mais ce sont les liens familiaux de leur mère qui ont conduit à l'émergence de communautés métisses distinctes et, finalement, à une Nation métisse distincte qui s'est formée à la rivière Rouge et à d'autres endroits dans le Nord-Ouest.



*Des Métis photographiés avec des charrettes de la rivière Rouge dans la prairie, vers 1872-1873. Source : Bibliothèque et Archives Canada/Collection nationale de photographie/e011156506.*

Les femmes métisses étaient au cœur même de la traite, un système social et culturel issu du commerce des fourrures. Tout comme les femmes des Premières Nations, les Métisses fabriquaient des biens

destinés au commerce, notamment des vêtements décorés de motifs perlés. Elles produisaient aussi des aliments de base, dont le pemmican, une sorte de viande séchée facile à transporter et riche en protéines. Le travail des Métisses était essentiel à la production de pemmican et, par extension, à la rentabilité du commerce des fourrures en général, ainsi qu'à la viabilité des communautés métisses distinctes, comme celle de la rivière Rouge. Les Métisses se déplaçaient entre les postes de traite des fourrures dans la colonie de la rivière Rouge et les terrains de chasse au bison dans les prairies, effectuant un travail essentiel à l'exécution de la chasse. Même si les brigades métisses de chasse au bison relevaient de capitaines masculins, le rôle des femmes, en tant qu'épouses et aussi en tant que partenaires, était reconnu et valorisé<sup>143</sup>.

Les Métisses ont fini par remplacer les épouses des Premières Nations comme épouses de commerçants étant donné que leurs pères avaient tendance à les éduquer à la manière européenne et que la Compagnie du Nord-Ouest (CNO) avait adopté, en 1806, une politique qui interdisait à ses employés d'épouser une femme des Premières Nations. Toutefois, dans le contexte des mariages « à la façon du pays », les Métisses demeuraient vulnérables.





De plus en plus de femmes européennes commençant à arriver au Canada, les hommes pouvaient simplement rompre leur mariage « à la façon du pays », et ils ont été nombreux à le faire. C'est d'ailleurs ce qu'a fait le gouverneur George Simpson, de la Compagnie de la Baie d'Hudson (CBH), alors qu'il était au sommet de son pouvoir. Simpson a eu près d'une douzaine d'enfants avec au moins huit femmes différentes, dont plusieurs étaient Autochtones<sup>144</sup>. Betsy Sinclair, une Métisse, a été remise à un comptable de la CBH, promu par Simpson. Le gouverneur a également eu des enfants avec Margaret (Marguerite) Taylor, une Métisse, qu'il a quittée peu de temps après pour épouser Frances Ramsay Simpson, une cousine européenne arrivée à la rivière Rouge en 1830. Il a omis d'informer Margaret Taylor de son nouveau mariage et de prendre des dispositions concernant les fils issus de leur union, George Stewart et John Mackenzie. Frances, la nouvelle épouse de George Simpson, était un signe annonciateur de ce qui allait se produire. Après 1830, un nombre accru d'Européennes ont commencé à arriver dans le Nord-Ouest, et le statut social des Métisses en tant qu'épouses a décliné, rendant celles-ci vulnérables à l'abandon et à la pauvreté<sup>145</sup>. Cependant, les femmes européennes sont demeurées fortement minoritaires dans le Nord-Ouest jusque dans les années 1880 et elles se trouvaient principalement à la rivière Rouge.

Les communautés métisses, comme celles de la rivière Rouge, qui avaient mis au point leurs propres cultures sociales et politiques ont subi les pressions constantes des institutions européennes, comme la CBH et l'Église chrétienne, qui voulaient qu'elles se conforment aux régimes fonciers, aux systèmes économiques et aux relations sociales issus du patriarcat. Au fur et à mesure que le pouvoir de l'État canadien s'est formé et accru au 19<sup>e</sup> siècle, la rencontre de cette vision européenne paternaliste du monde et des pratiques traditionnelles des Métis enracinées dans leurs connaissances maternelles a donné lieu à des frictions. Un système eurocanadien fondé sur la race et le genre a été imposé à divers endroits et à différents moments. La population de la rivière Rouge avait depuis plus longtemps que celles de l'Ouest des liens directs avec les institutions européennes.

Les premiers ecclésiastiques sont arrivés en 1818, et la CBH s'est établie à Fort Garry en 1822. En 1820, il y avait des églises catholiques et protestantes à la rivière Rouge. Puisque les Métis s'installaient de plus en plus dans les communautés agricoles, souvent au cœur de paroisses chrétiennes, le clergé exerçait une influence accrue sur leur vie et limitait l'influence des femmes métisses. La doctrine chrétienne a joué un rôle déterminant en forçant les femmes métisses à assumer des rôles reposant sur des attentes européennes fondées sur le genre. Les représentants de l'Église voyaient le mari comme le chef de la famille et s'attendaient à ce que les femmes adhèrent à l'autorité masculine. Les prêtres catholiques, en particulier, associaient les femmes au personnage biblique d'Ève et les percevaient comme étant naturellement pécheresses<sup>146</sup>.

Ces idées fondées sur le genre ont eu une incidence négative sur la position des femmes dans la société métisse<sup>147</sup>. Selon cette vision du monde, leur place était à la maison et elles devaient être mariées. Les prêtres disaient souvent aux femmes de rester soumises à leur mari, peu importe les conditions du mariage, même s'il s'agissait de relations de violence<sup>148</sup>. L'importance accordée à l'autorité masculine et l'attitude raciste adoptée à l'égard des mères des Premières Nations et



des mères métisses ont poussé de nombreuses familles métisses à faire valoir le patrimoine « masculin » de leurs ancêtres européens et à cacher les origines de leurs grands-mères autochtones<sup>149</sup>.

En partie, les perspectives coloniales concernant le danger que présentaient les femmes métisses étaient souvent associées dans l'ensemble à la crainte du métissage, ou au « mélange de races », et liées à l'idée de cacher son patrimoine. Les autorités coloniales, surtout après 1840, se sont servies des craintes entourant le métissage et les mariages mixtes pour accroître le degré de ségrégation, ou de séparation, entre les Premières Nations et les communautés non autochtones environnantes, ainsi qu'entre les établissements métis et les communautés non autochtones<sup>150</sup>.

Comme l'explique Sarah Carter, le métissage dans ce contexte, et dans d'autres contextes coloniaux, était considéré comme une source importante de comportement dégénératif et de déchéance morale, et comme une menace pour un modèle de mode de vie axé sur les normes européennes. Concrètement, en ce qui concerne les Métis, « le mélange des races compromettait possiblement aussi les efforts eurocanadiens visant à acquérir des terres autochtones », comme en témoignent la *Loi de 1870 sur le Manitoba* et les travaux des commissions de certificats, qui sont examinés plus en détail plus loin dans le présent chapitre<sup>151</sup>. Pour certaines personnes, il a aussi contribué aux sentiments de honte et de culpabilité identitaires ressentis par plusieurs générations au sujet de leur identité comme Métis.

### **Déplacement et danger : la résistance métisse et l'attaque du gouvernement**

À deux occasions au cours du 19<sup>e</sup> siècle, le gouvernement canadien a violemment affronté les sociétés métisses dans les Prairies afin d'imposer sa propre vision du monde, raciste et fondée sur le genre, et de les chasser de leur territoire.

À mesure que l'État canadien établissait et élargissait son autorité dans la foulée de la Confédération de 1867, il cherchait à acquérir de nouvelles terres pour les peupler d'immigrants européens. En 1869, le Canada a acquis de la CBH la Terre de Rupert, une transaction effectuée sans consulter les peuples autochtones qui occupaient le territoire. Préoccupés par la reconnaissance de leurs droits fonciers, les Métis, sous la direction de Louis Riel, ont créé un gouvernement provisoire et ont exigé que le Canada réponde à leurs préoccupations. Dans les faits, la résistance des Métis en 1869 a donné lieu à peu de conflits directs, mais l'arrivée des soldats canadiens à la rivière Rouge, en 1870, a marqué l'avènement d'une nouvelle ère en ce qui a trait aux relations entre les Métis et le Canada, une ère caractérisée par les mensonges et la violence. Les soldats canadiens envoyés à la rivière Rouge pour superviser l'entrée dans la Confédération de la nouvelle province du Manitoba étaient déterminés à maltraiter et à harceler la population métisse; des soldats ivres ciblaient les femmes métisses et leur faisaient subir insultes et mauvais traitements<sup>152</sup>.



En 1870, en réaction à cette violence, les familles métisses se sont simplement déplacées vers l'ouest pour rejoindre d'autres communautés dans ce qui allait devenir la Saskatchewan et l'Alberta. Le répit que ces familles espéraient obtenir à la suite de l'intervention canadienne a été bref puisque le gouvernement a continué d'empiéter sur les territoires des Métis.



*Une famille métisse devant une maison en rondins à Buffalo Narrows, en Saskatchewan, vers 1900. Source : Bibliothèque et Archives Canada/Fonds du ministère de l'Intérieur/a044552.*

En 1885, Louis Riel est revenu d'exil pour diriger un autre mouvement de résistance contre la domination croissante du Canada. Comme l'ont démontré certains historiens, dont Jesse Thistle, les femmes métisses ne restaient pas silencieuses à cette époque, elles étaient plutôt au cœur de la résistance<sup>153</sup>. L'ancêtre de Thistle, Marianne Morrissette, était présente durant la bataille de Batoche et est même venue en aide aux forces métisses. Si Riel n'était pas intervenu, elle aurait péri sous les tirs de l'artillerie canadienne<sup>154</sup>. D'autres, comme Marguerite Caron et Josephite Tourond, ont participé activement à la planification et à la coordination militaires de la résistance<sup>155</sup>. La violence perpétrée contre les Métis durant la bataille et pendant la période qui a suivi a marqué les femmes comme Marianne Morrissette jusqu'à la fin de leurs jours<sup>156</sup>.

Pour de nombreuses familles métisses, la violence de l'intervention militaire canadienne a engendré de la méfiance envers les institutions canadiennes et contribué à accroître les préjugés contre les Métis<sup>157</sup>. La défaite, ainsi que la destitution ultérieure, ont eu pour effet de légitimer les perceptions sexistes de la population canadienne à l'égard des femmes métisses et de déshumaniser davantage ces dernières<sup>158</sup>. Les souvenirs liés à cette violence et les perceptions au sein de la société canadienne ont entraîné des traumatismes intergénérationnels qui ont eu des répercussions négatives sur de nombreuses Métisses et leur famille.





*Un groupe de prisonniers métis et des Premières Nations photographiés durant la Rébellion du Nord-Ouest, en 1885. Source : Bibliothèque et Archives Canada/Collection Gilbert Bagnani/a118760k.*

## Les dimensions fondées sur le genre des certificats des Métis

Ces violentes dispersions ont été codifiées dans le processus d'établissement des commissions des certificats de Métis, qui ont eu des répercussions sur l'ensemble des Métis, et surtout sur les femmes. Ces certificats, qui ont été délivrés de 1870 à 1924, ont été créés par le gouvernement fédéral comme façon de mettre fin au titre ancestral des communautés métisses établies dans le Nord-Ouest<sup>159</sup>. Le certificat consistait en un document délivré par le gouvernement fédéral, qui permettait à son détenteur de l'échanger contre une parcelle de terre ou de l'argent comptant, ce qui représentait habituellement de 80 à 240 acres de terre ou de 20 à 240 dollars<sup>160</sup>. Les commissions des certificats devaient traiter uniquement avec les Métis du Manitoba. Cependant, à mesure que le Canada avançait dans les Prairies, il devenait évident qu'il devait s'occuper des Métis de toute la région.

Même si les femmes pouvaient demander un certificat, celui-ci était souvent délivré au nom de leur père ou d'un frère si elles n'étaient pas mariées. Les femmes mariées n'étaient pas considérées par le Canada comme des chefs de famille et étaient, par conséquent, dépendantes de leur mari dans ce système patriarcal. Le certificat est donc devenu un moyen de regrouper les Métisses dans des catégories bureaucratiques facilement contrôlées (comme des femmes sans droit de propriété complet), assorties d'attentes liées à l'identité et au genre<sup>161</sup>.

Les historiens ont démontré à quel point le processus de délivrance des certificats avait été intentionnellement prolongé et était inutilement complexe<sup>162</sup>. De plus, le gouvernement fédéral a modifié souvent et unilatéralement les règles entourant les certificats<sup>163</sup>. En fin de compte, ces modifications et les retards du gouvernement dans la mise en œuvre des procédures relatives aux certificats ont fait en sorte que la majorité des terres promises aux Métis ont fini entre les mains de spéculateurs qui les ont ensuite vendues aux nouveaux immigrants<sup>164</sup>. Au lieu de fournir une base économique solide aux Métis, les commissions des certificats ont réduit davantage leurs droits, déstabilisé les communautés et enfoncé encore plus les familles métisses dans la pauvreté et la marginalisation<sup>165</sup>.



Malgré ces difficultés, certaines femmes métis ont su faire bon usage des certificats dans des moments éprouvants, comme en témoigne la vie de Marry Norris<sup>166</sup>. Figure de premier plan de la traite des fourrures, Norris avait épousé un important commerçant européenne, qui a fini par la rejeter lorsque le commerce de la fourrure a amorcé son déclin, la laissant sans grands moyens. Marry s'est alors servi du certificat comme levier pour survivre, quoique modestement.

De nombreuses femmes métisses ont également se sont appuyées sur les distinctions établies par la *Loi sur les Indiens* et les certificats des Métis pour survivre dans un monde en transformation, en jouant sur les deux identités permises.

Les Métisses voyaient le certificat comme une solution utile, mais l'État canadien s'inquiétait que les femmes profitent du système<sup>167</sup>. Le Canada était particulièrement préoccupé par les personnes qui, à cheval sur la ligne parfois perméable entre les Métis et les Premières Nations, demandaient un certificat alors qu'elles étaient visées par un traité. Bon nombre des personnes ciblées par le gouvernement pour la dépossession de certificat parce qu'elles étaient suspectées d'être des fraudeuses ou des profiteuses, étaient des femmes qui avaient perdu leur statut d'Indienne par suite de leur mariage avec un homme non inscrit (métis ou blanc). L'un des principaux objectifs du colonialisme de peuplement canadien était de mettre les communautés métisses et Premières nations complètement à l'écart<sup>168</sup>. Des universitaires ont démontré que les catégorisations administratives visaient surtout les groupes comme les « Edmonton Stragglers », c'est-à-dire les femmes qui ont reçu des annuités découlant de traités, mais qui ont abandonné les traités pour obtenir des certificats<sup>169</sup>. Le fait de cibler ces femmes d'ascendance mixte permettait de surveiller les délimitations de la classification raciale au Canada<sup>170</sup>. Le certificat est ainsi devenu un mécanisme pour imposer des limites raciales et fondées sur le genre aux Métisses, tout en séparant les familles métisses de leurs terres.

### **Les filles métisses et les pensionnats indiens**

Comme des milliers d'enfants des Premières Nations, de nombreux Métis ont fréquenté les pensionnats ou les externats indiens. Dans certains cas, le défaut des parents de payer l'impôt foncier (ce pour quoi ils étaient communément appelés « squatters », relativement aux établissements métis adjacents ou aux réserves à proximité) empêchait leurs enfants Métis de fréquenter l'école régulière. Dans d'autres cas, puisque les établissements métis se trouvaient près des communautés des réserves, les élèves métis devaient également aller dans des pensionnats indiens. L'historienne métisse Tricia Logan explique que comme les écoles étaient financées en fonction du nombre d'élèves :

On utilisait les enfants métis pour manipuler les chiffres de l'effectif scolaire et assurer le financement des écoles ayant un faible taux d'inscription. Cela dit, les enfants métis étaient les premiers à être supprimés des listes de fréquentation scolaire, ou ajoutés à ces listes, par les Églises pour accroître le taux de fréquentation de leurs écoles et obtenir ainsi plus de fonds du gouvernement fédéral<sup>171</sup>.

Tricia Logan souligne qu'en réclamant l'admission d'un nombre accru d'élèves métis, les responsables des pensionnats indiens ont rappelé au gouvernement fédéral que « ces écoles



avaient été créées non pas pour honorer les obligations découlant des traités envers les Indiens, mais plutôt comme un moyen d'empêcher, dans l'intérêt public, la croissance d'une race d'hommes sauvages qui seraient contre tous les hommes, et qui auraient tous les hommes contre eux<sup>172</sup>. »

Dans le but d'économiser de l'argent, le ministère des Affaires indiennes a créé une hiérarchie sociale à trois niveaux pour les « sang-mêlé » afin de déterminer lesquels d'entre eux devaient avoir la priorité pour fréquenter un pensionnat indien. En général, plus les enfants avaient l'apparence d'un « Indien » et plus leur famille vivait selon un « mode de vie indien », plus il était probable qu'ils soient acceptés dans les pensionnats indiens<sup>173</sup>.

De plus, le personnel des pensionnats indiens a contribué à accentuer les divisions entre les enfants métis eux-mêmes, ainsi qu'entre les enfants métis et ceux des Premières Nations. Des religieuses favorisaient ouvertement les « meilleurs » Métis (provenant de familles aisées) par rapport aux Métis « pauvres » (qui vivaient de la terre). Dans un autre exemple, Elaine D. a expliqué que son ascendance mixte européenne et autochtone faisait d'elle une cible pour les enseignants de son pensionnat indien :

Parce que j'étais Métisse, dans leur école, j'aurais dû savoir un peu plus de choses parce que j'ai du sang blanc dans les veines. Donc, quand je m'attirais des ennuis, ils m'utilisaient... comme exemple et je devais m'agenouiller devant la classe, à genoux à 6-7 ans, et tenir des livres en équilibre. L'enseignant mettait trois livres sur mes mains, et frappait sa – sa règle sur le bureau. Je tremblais et mes oreilles me faisaient mal et puis je pleurais et je lui disais que je devais aller faire pipi et tout ce qu'il faisait c'était de mettre son mètre sous ma main en me disant que mes mains n'étaient pas égales. J'avais besoin d'aller faire pipi et d'aller faire caca, et il ne me laissait pas le faire, alors je restais agenouillée dans mes excréments et mon urine toute la journée, devant la classe. Toute la journée, je servais d'exemple<sup>174</sup>.

Les enfants métis ont aussi subi beaucoup d'humiliation et de sévices. Certains étaient appelés des « chiens ». Ils se souviennent qu'on leur parlait et qu'on les nourrissait comme des chiens, et qu'on les disciplinait comme on discipline un chien<sup>175</sup>. Elaine D. se rappelle son expérience :

Pour commencer, on allait à l'école [externat] et on était battu chaque jour. À la récréation, nous quatre, petits enfants métis, on se sauvait et on se cachait dans n'importe quel trou qu'on pouvait trouver. Si je me faisais prendre... comme, je ne sais pas pour ma sœur, mais quand je me faisais prendre, les garçons m'agressaient. Ils pinçaient mes mamelons, me donnaient des coups de genou dans l'entrejambe, baissaient mon pantalon. Tout ce que je sais, c'est que souvent, mes petites culottes étaient mouillées, et que ce n'était pas parce que j'avais fait pipi dans mes culottes. Les garçons faisaient ce qu'ils voulaient<sup>176</sup>.

Une fois que les enfants avaient quitté le pensionnat indien, les agents des Indiens devaient rédiger des rapports de suivi. Comme le raconte Tricia Logan, ils déclaraient que « les élèves de sexe féminin se portaient bien si elles étaient mariées à un Blanc et qu'elles se portaient mal si elles étaient mariées à un Métis<sup>177</sup> ». Selon ce que de nombreux Aînés métis et membres des





communautés ayant survécu aux pensionnats indiens ont raconté à M<sup>me</sup> Logan, les élèves métis avaient le sentiment d'être des étrangers. Ils ont appris à se juger les uns les autres et à interioriser l'oppression exercée sur eux<sup>178</sup>.

## La marginalisation économique et politique des Métis

Même avant la crise financière, communément appelée la « Grande Crise », beaucoup de Métisses et leur famille vivaient dans la pauvreté, en marge de la société canadienne. Malgré tous les problèmes qui y sont associés, les certificats ont tout de même été une source d'argent bien nécessaire pour les Métisses et leur famille dans les périodes difficiles.

Après 1924, estimant qu'il avait bien géré les titres ancestraux des Métis, le gouvernement fédéral a mis fin aux activités des commissions des certificats. Étant donné que les Métis n'étaient pas visés par la *Loi sur les Indiens*, le gouvernement fédéral croyait qu'il n'avait plus aucune obligation à l'égard des droits des Métis. Cette croyance s'est enracinée encore plus profondément lorsque le Canada a entamé un processus visant à transférer la compétence sur les terres et les ressources des trois provinces des Prairies à leur gouvernement respectif. Le gouvernement fédéral pensait que toute responsabilité restante envers les Métis serait transférée aux provinces détenant des droits sur les terres visées. Cependant, l'Alberta, la Saskatchewan et le Manitoba ont refusé d'hériter de quelque responsabilité envers les Métis, surtout si cela imposait un fardeau financier supplémentaire<sup>179</sup>.

Pendant les années de vaches maigres de la Grande Crise, les deux ordres de gouvernement saisissaient toutes les occasions de réduire leur budget<sup>180</sup>. Dans les négociations politiques sur ce qui allait devenir les lois concernant le transfert des ressources naturelles<sup>181</sup>, qui ont transféré les responsabilités à cet égard aux provinces, les Métis sont devenus un groupe qu'il était commode d'ignorer. C'est à cette époque que les Métis se sont retrouvés pris dans le fossé entre le gouvernement fédéral et les gouvernements provinciaux. Les deux ordres de gouvernement étaient toujours conscients du sort des Métis, mais aucun ne voulait assumer d'obligations financières. Cette négligence a façonné la relation entre les gouvernements canadiens et les femmes, les filles et les personnes 2ELGBTQQIA métisses. Comme les Métis étaient davantage marginalisés, leurs communautés étaient de plus en plus ciblées par les vendeurs d'alcool qui exploitaient la pauvreté et la misère<sup>182</sup>, des conditions qui ont aggravé la violence faite aux femmes et aux filles<sup>183</sup>.

« POUR COMMENCER, NOUS ALLIONS À L'EXTERNAT ET NOUS ÉTIIONS BATTUS CHAQUE JOUR. À LA RÉCRÉATION, NOUS, QUATRE PETITS ENFANTS MÉTIS, NOUS NOUS SAUVIONS ET NOUS NOUS CACHIONS DANS N'IMPORTE QUELLE CREVASSE QUE NOUS POUVIONS TROUVER. JE ME FAISAI PRENDRE. JE NE SAIS PAS POUR MA SŒUR, MAIS QUAND JE ME FAISAI REPÉRER, LES GARÇONS M'AGRESSAIENT. ILS PINÇAIENT MES MAMELONS, ME DONNAIENT DES COUPS DE GENOUX DANS L'ENTREJAMBE, BAISSAIENT MON PANTALON. TOUT CE QUE JE SAIS, C'EST QUE SOUVENT, MES PETITES CULOTTES ÉTAIENT MOUILLÉES, ET QUE CE N'ÉTAIT PAS PARCE QUE J'AVAI FAIT PIPI DANS MES CULOTTES. LES GARÇONS FAISAIENT CE QU'ILS VOULAIENT. »

Elaine D.



Dans les années 1950 et 1960, nombre de Métis vivaient soit en périphérie des villes, dans des secteurs condamnés et considérés comme des bidonvilles (on peut penser à Rooster Town à Winnipeg)<sup>184</sup>, soit dans des communautés rurales longeant les terres publiques destinées à la construction de routes, connues sous le nom de « réserves routières ». Ces personnes qui vivaient en marge de la société canadienne ont été surnommées le « peuple des réserves routières ». Les communautés des réserves routières ont été créées par les Métis après que de nombreuses familles n'eurent pas reçu les terres que leur garantissait la *Loi sur le Manitoba*, et dans le contexte de la persécution des Métis après 1885. Elles étaient installées dans les « réserves routières », des terres revendiquées par le Canada pour la réalisation ultérieure de travaux publics (routes) et sur lesquelles les Métis étaient considérés comme des « squatters ». Bon nombre de communautés ont été détruites par la GRC. En fait, certains Aînés métis se souviennent très bien du jour où leur communauté a été rasée par les flammes et où les gens se sont sauvés en emportant à peine plus que les vêtements qu'ils avaient sur le dos.



*Ronnie et Frank Cardinal de Rooster Town, au Manitoba, s'apprêtent à marcher un mille au complet pour un bidon d'eau, en 1951.*

*Source : University of Manitoba Archives & Special Collections, Fonds du Winnipeg Tribune, PC 18 (A1981-012), boîte 59, dossier 5784, item 3.*

Pour les communautés qui n'ont pas été détruites de cette façon, la vie était encore difficile, particulièrement lorsque le gouvernement est intervenu avec des plans conçus par des non-Métis pour agir sur les réalités métisses. Cette vie, l'auteure,

dramaturge, communicatrice, cinéaste et Aînée Maria Campbell la décrit très clairement dans son autobiographie intitulée *Halfbreed*, publiée en 1976. Elle y raconte comment sa famille et sa communauté se sont enlisées dans la pauvreté lorsque la Fédération du Commonwealth coopératif (FCC) et le gouvernement de la Saskatchewan ont tenté de régler le « problème métis » par une réforme sociale. La pauvreté dans laquelle vivaient de nombreux Métis, surtout ceux du Sud de la Saskatchewan, plus visibles que ceux des communautés éloignées du Nord, était perçue par le premier gouvernement socialiste de l'Amérique du Nord comme un problème public pouvant être résolu grâce à la planification sociale. En s'inspirant d'une expérience menée par une administration libérale précédente à Green Lake, la FCC, dirigée par Tommy Douglas, élu en 1944, a créé plusieurs colonies métisses aménagées comme des fermes modèles dans lesquelles les chefs de famille métis acquéraient les compétences nécessaires à l'exploitation modernisée de ces



fermes, sous la supervision d'instructeurs blancs. Ces colonies étaient considérées comme une stratégie de réhabilitation inspirée de la vision humanitaire chrétienne. Elles étaient donc rigoureusement gérées de concert avec l'Église catholique. Chaque colonie comptait une école qui servait à intégrer les Métis aux travailleurs modernes.

Cependant, dans les années 1960, le plan de colonisation avait échoué, en partie parce que beaucoup de Métis trouvaient les colonies « aliénantes et inadéquates », mais aussi parce que de nombreuses personnes au sein du gouvernement continuaient d'accuser les Métis d'être la cause de leur propre situation de pauvreté. Malgré les intentions déclarées de la FCC, nombre de fonctionnaires continuaient d'entretenir des stéréotypes raciaux envers les Métis, ce qui influençait leurs attentes à l'égard du projet. Ces fonctionnaires estimaient que l'incapacité des Métis de s'intégrer à la société canadienne était attribuable à un défaut de caractère chez les Métis et non aux échecs de planification sociale du gouvernement. Les solutions proposées par le gouvernement de Tommy Douglas ne tenaient pas compte d'une perspective métisse et n'étaient guère plus qu'une tentative autoritaire de restructurer la vie des Métis en fonction des attentes de la population canadienne du point de vue de la race et du genre<sup>185</sup>.

La marginalisation sociale, politique et économique des femmes et des filles métisses a provoqué des situations qui ont suscité de la méfiance envers les forces policières et ont parfois même donné lieu à des cas de mauvais traitement par les policiers. Dans la version originale de son autobiographie *Halfbreed*, Maria Campbell décrit un incident majeur de sa vie. Elle explique que lorsqu'elle avait 14 ans, des agents de la GRC sont venus chez elle pour interroger sa famille au sujet du braconnage. Pendant cette visite, un des agents a traîné Campbell dans la chambre de sa grand-mère et l'a violée. Elle raconte que celle-ci l'a trouvée et l'a aidée à camoufler les faits en insistant pour qu'elle n'en dise rien à son père :

Elle m'a dit de ne pas dire à papa ce qui s'était passé, que s'il l'apprenait, il tuerait certainement ces agents de la GRC et serait pendu, et qu'on serait tous placés dans un orphelinat. Elle a dit que personne n'avait jamais cru un Sang-Mêlé devant les tribunaux, qu'ils diraient que j'avais plutôt eu des relations avec des garçons et que j'essayais de faire porter le blâme aux agents de la GRC<sup>186</sup>.

Bon nombre de femmes métisses qui vivaient dans de petites communautés, à l'instar des femmes des Premières Nations, sont allées s'installer dans d'autres centres canadiens à la recherche d'un avenir meilleur. Voici comment Maria Campbell décrit son arrivée à Vancouver :

La ville était au-delà de tout ce que j'avais pu m'imaginer! On aurait dit qu'elle n'avait pas de fin. Pendant le trajet en taxi, j'ai collé mon visage contre la fenêtre et j'ai absorbé tout ce qui m'entourait... Les gens semblaient tous riches et bien nourris. Les vitrines des magasins étaient remplies de beaux présents. Il y avait beaucoup de nourriture, de vêtements et tout ce dont une personne pouvait avoir besoin pour être heureuse<sup>187</sup>.





Cependant, Maria connut un sort très différent. Les espoirs qu'elle caressait ont vite été anéantis par la nécessité de travailler dans le commerce du sexe pour survivre et subvenir à ses besoins et à ceux de ses enfants.

Comme cet exemple le démontre, la vie que faisaient miroiter les villes ne correspondait pas forcément à la réalité que vivaient de nombreuses Métisses. L'anonymat et la taille des centres urbains pouvaient souvent mener à l'exploitation des femmes, des filles et des personnes 2ELGBTQQIA métisses. L'isolement (à la fois de la famille et de la communauté) qui en résultait pouvait entraîner un risque accru d'exposition à la violence. De plus, les Métisses n'avaient pas accès à certains services et mécanismes de soutien qui étaient pourtant offerts dans le cadre de programmes destinés aux femmes des Premières Nations.

### **Les Métis, la rafle des années 1960 et la protection de l'enfance aujourd'hui**

Comme il a été expliqué dans le contexte des expériences des Premières Nations, la rafle des années 1960 fait référence au retrait massif des enfants de leur famille. Elle a commencé dans les années 1960 et s'est poursuivie jusqu'en 1990. La prise en charge des enfants métis par le système de protection de l'enfance qui se poursuit à ce jour contribue aussi à la violence faite aux Métisses.

Dans le rapport de Tricia Logan, « Une perspective métisse sur la réconciliation », Rita Flamand, une Aînée mitchif, fait la déclaration ci-dessous à propos du retrait des enfants métis de leur communauté pendant la rafle des années 1960 :

C'est à ce moment-là qu'ils ont commencé à prendre les enfants, quand le lac a commencé à s'assécher et qu'il n'y avait plus de poissons dans le lac, les gens ont commencé à avoir la vie vraiment dure dans la communauté, et c'est à ce moment-là qu'ils ont pris les enfants. Ils auraient dû aider les parents à garder les enfants... ils ont simplement pris les enfants et n'ont pas aidé les gens<sup>188</sup>.

Les enfants métis n'ont pas été identifiés comme Métis de façon fiable, ce qui signifie que nous ne pouvons qu'émettre des hypothèses sur le nombre d'enfants métis visés par la rafle des années 1960. Plus important encore, de nombreux enfants métis ne connaissent peut-être même pas leur origine. C'est un problème qui perdure encore aujourd'hui, puisque les enfants métis adoptés peuvent ne pas être correctement identifiés en tant que Métis, et que les agences d'adoption privées sans plan de sécurité culturelle sont susceptibles de permettre aux familles adoptives de « masquer » l'origine métisse des enfants<sup>189</sup>.

Le Manitoba, la « terre natale des Métis », a été la dernière province à mettre un terme aux adoptions à l'étranger durant la rafle des années 1960<sup>190</sup>. Cependant, en 1982, en raison des pressions intenses exercées par la Fédération des Métis du Manitoba (FMM), le gouvernement du Manitoba a imposé un moratoire sur les placements à l'extérieur de la province<sup>191</sup>. Dans les décennies qui ont suivi, la FMM a intensifié ses efforts de promotion en faveur de l'autonomie des Métis en matière de systèmes de protection de l'enfance. À l'heure actuelle, le Manitoba est la seule province à avoir sa Régie des services à l'enfant et à la famille des Métis<sup>192</sup>.



Malgré ces progrès, les chiffres ne mentent pas. La perte d'enfants au sein d'un système qui est censé les protéger constitue une source de violence constante à l'égard des femmes et des filles autochtones, y compris des Métisses. Elaine D. raconte que cette expérience a eu des conséquences à long terme sur elle et sur ses enfants :

Je fais partie des enfants pris en charge pendant la rafle des années 1960 et des élèves des pensionnats indiens. Je fais partie du processus de guérison... [Mes enfants] ne comprenaient pas. Ils ne connaissaient pas mon histoire. Je raconte mon histoire pour que mes petits-enfants comprennent, oui. Je veux que les gens comprennent que les blessures... les blessures ouvertes, elles... elles ne guérissent pas, elles se transforment simplement en cicatrices. Et croyez-moi, j'en ai assez de mes cicatrices, pas seulement celles qui sont sur moi, mais celles dans mon esprit, dans mon cœur, dans mon âme<sup>193</sup>.

En 1989, le Ralliement national des Métis a publié un document d'information national qui exposait ce que tant de familles métisses avaient toujours su : les employés des services de protection de l'enfance de la province étaient « peu sensibles à la culture et aux valeurs des Métis<sup>194</sup> ». Selon les historiens Lawrence Barkwell, Lyle Longclaws et David Chartrand :

Il en résulte qu'un nombre disproportionné d'enfants métis sont pris en charge, dans bien des cas pour nulle autre raison que la réalité des Métis qui vivent dans des conditions de pauvreté et de surpeuplement. [...] La pauvreté n'a jamais été une raison acceptable de priver les enfants de leurs parents naturels et de leur place dans la famille élargie. Le fait que la pratique soit si répandue dans les communautés métisses témoigne de la mesure dans laquelle la société métisse est dévalorisée et coupée des organismes provinciaux de protection de l'enfance et de la famille<sup>195</sup>.

Étant donné que les gouvernements du Canada et des provinces ont longtemps nié l'existence des droits des Métis et marginalisé les familles métisses, il est plus difficile pour les gouvernements métis d'obtenir le contrôle de la protection de l'enfance. Les services de protection de l'enfance des Métis sont généralement financés par la province ou le territoire, plutôt que par le gouvernement fédéral. Par conséquent, comme l'expliquent les chercheuses Jeannine Carrière et Catherine Richardson, « les niveaux de financement accordés aux Métis pour les services à l'enfance et à la famille demeurent particulièrement bas<sup>196</sup> ».

La plupart des lois provinciales et territoriales sur la protection de l'enfance comportent une directive visant à inclure les peuples autochtones advenant des cas visant des enfants autochtones. Toutefois, la grande majorité d'entre elles ne désignent pas précisément les Métis, utilisant plutôt le terme général « Autochtone » ou « Indien », et ne proposent aucune façon de travailler avec eux. À titre d'exemple, la disposition la plus courante concernant les Autochtones dans les lois sur la protection de l'enfance est l'obligation d'aviser une bande autochtone en cas d'audiences d'un tribunal concernant un enfant autochtone. Cependant, il n'existe aucune disposition équivalente à l'égard des Métis<sup>197</sup>.



« JE FAIS PARTIE DES ENFANTS PRIS EN CHARGE PENDANT LA RAFLE DES ANNÉES 1960 ET DES ÉLÈVES DES PENSIONNATS INDIENS. JE FAIS PARTIE DU PROCESSUS DE GUÉRISON. ... [MES ENFANTS] NE COMPRENAIENT PAS. ILS NE CONNAISSAIENT PAS MON HISTOIRE. JE RACONTE MON HISTOIRE POUR QUE MES PETITS-ENFANTS COMPRENNENT, OUI. JE VEUX QUE LES GENS COMPRENNENT QUE LES BLESSURES... LES BLESSURES OUVERTES, ELLES... ELLES NE GUÉRISSENT PAS, ELLES SE TRANSFORMENT SIMPLEMENT EN CICATRICES. ET CROYEZ-MOI, J'EN AI ASSEZ DE MES CICATRICES, PAS SEULEMENT CELLES QUI SONT SUR MOI, MAIS CELLES DANS MON ESPRIT, DANS MON CŒUR, DANS MON ÂME ».

Elaine D.

## Rapports avec les colons : les expériences distinctes des Inuits

### Les premiers rapports avec les *Qallunaat*

Bien que les femmes, les filles et les personnes 2ELGBTQQIA inuites partagent des expériences similaires de colonisation avec d'autres peuples autochtones, il existe également de nombreuses différences. Pour les Inuits, ces importantes distinctions dans le temps et dans l'espace sont un élément clé de leurs expériences distinctives de la violence.

Comme le relate Hagar Idlout-Sudlovenick, directrice du Développement social, l'arrivée des *Qallunaat* (Européens blancs) a constitué une forme d'imposition importante et irréparable dans le Nord.

Quand les premiers *Qallunaat* sont arrivés dans le Nord, ils étaient très effrayants, comme la GRC. Et ils... Quand ils disaient aux gens, aux Inuits, de faire ceci ou cela, nous devons le faire, nous n'avions pas d'autre choix que de dire oui, et ce, en raison de la crainte, de la peur... Ils sont arrivés dans les communautés comme s'ils étaient supérieurs aux Inuits, et les Inuits craignaient ces *Qallunaat*<sup>198</sup>.

Les Inuits ont d'abord eu de nombreux échanges avec les chasseurs de baleines et pêcheurs européens, qu'ils appelaient « *Qallunaat* ». Les Inuits du Labrador ont rencontré les chasseurs de baleines et les pêcheurs tôt dans le processus de colonisation (dès le 16<sup>e</sup> siècle). Cependant, dans d'autres régions de l'Inuit Nunangat, les Inuits n'ont pas établi de relations avec les chasseurs de baleines avant la deuxième moitié du 19<sup>e</sup> siècle<sup>199</sup>.

Au fil du temps, les chasseurs de baleines ont commencé à embaucher des Inuits pour accomplir diverses tâches, y compris pour travailler comme membres des équipages de baleiniers et pour fournir aux chasseurs de baleines de la viande et des vêtements. À la fin du 19<sup>e</sup> siècle, les populations de baleines boréales avaient considérablement diminué; les Inuits étaient ainsi privés d'une ressource qui avait été essentielle à certaines communautés. Par conséquent, au début du 20<sup>e</sup> siècle, les chasseurs de baleines commerciaux ont cessé de visiter la plupart des secteurs de l'Inuit Nunangat<sup>200</sup>.





Le déclin de la chasse à la baleine commerciale a coïncidé avec l'expansion de la traite des fourrures dans l'Inuit Nunangat. Profitant de la hausse de valeur des fourrures du renard arctique sur le marché, la Compagnie de la Baie d'Hudson a procédé à l'expansion de son réseau de postes de traite dans l'Arctique au début du 20<sup>e</sup> siècle. Dans les années 1920 et 1930, des entreprises rivales et des commerçants indépendants ont eux aussi mené des activités dans la région. Ces postes ont également accueilli du personnel militaire américain, des missionnaires et divers commerçants. Au fil du temps, les Inuits sont devenus dépendants des marchandises fournies par les commerçants de fourrures. Cette dépendance a constitué un facteur important du pouvoir que les Qallunaat allaient exercer plus tard sur les Inuits<sup>201</sup>.



*Cette inscription murale est affichée dans une école des Territoires du Nord-Ouest en 1959, et évoque la vision de « ceux qui vinrent les premiers dans le Nord », y compris les prospecteurs, les mineurs, les missionnaires et les autres, sans mentionner ceux qui étaient déjà là ou la manière dont ils ont été déplacés. Source : Bibliothèque et Archives Canada/Fonds de l'Office national du film du Canada/e011177356.*

## Les rapports et l'exploitation de nature sexuelle avec les Qallunaat

Les déclarations de souveraineté du Canada dans l'Arctique ont servi d'assise pour la mise en place du système de justice canadien, et jeté les fondements du rôle que la Royale Gendarmerie à cheval du Nord-Ouest et plus tard la GRC allaient jouer dans l'Inuit Nunangat au début du 20<sup>e</sup> siècle, en appliquant les lois canadiennes dans l'Arctique. Leurs responsabilités étaient plus vastes que celles des autres corps policiers. En plus de l'application de la loi, elles devaient recueillir les données du recensement et aider les Inuits durant les urgences. La GRC a joué un rôle important dans l'établissement de l'autorité de l'État canadien au sein de la société inuite, et de ses revendications de souveraineté dans la région arctique de l'Inuit Nunangat<sup>202</sup>.

Ces premiers rapports avec les colons dans l'Inuit Nunangat ont donné lieu à de nombreuses relations sexuelles entre les hommes qallunaat et les femmes inuites. L'historien W. Gillies Ross a recensé de nombreuses « liaisons sexuelles » entre les femmes inuites et les chasseurs de baleines et policiers qallunaat. Par exemple, de 1897 à 1911, plus de 60 % des naissances enregistrées chez les Inuits près du port du cap Fullerton étaient attribuées à des pères qallunaat<sup>203</sup>.



Un grand nombre de ces relations étaient sans aucun doute consensuelles. Certaines étaient probablement attribuables aux désirs sexuels des femmes inuites. L'historienne Dorothy Eber a fait état de la relation entre le capitaine de baleinier américain George Comer et Nivisinaaq (une femme inuite et dirigeante communautaire que les chasseurs de baleines connaissaient sous le nom de « Shoofly »). Selon Dorothy Eber, la relation entre ces deux personnes a été à la fois chaleureuse et durable<sup>204</sup>. Tant l'histoire orale inuite que les journaux du capitaine Comer indiquent qu'il se souciait grandement du bien-être de cette femme et, après la fin de l'époque de chasse à la baleine, qu'il lui a régulièrement envoyé des cadeaux jusqu'à ce qu'elle décède.

Dans d'autres cas, la dynamique était très différente. Certaines femmes inuites ont peut-être consenti aux liaisons avec les hommes qallunaat, et les ont peut-être même amorcées, mais ça ne signifie pas que l'on n'a pas profité d'elles ou qu'elles n'ont pas souffert de conséquences négatives en ce qui a trait à leur santé sociale, émotionnelle et physique. Par exemple, la Commission de vérité de Qikiqtani<sup>205</sup> a déterminé que les relations entre les femmes inuites et les agents de la GRC entraînaient fréquemment « de l'angoisse pour les femmes et des souffrances persistantes pour les enfants qui n'avaient jamais rencontré leur père et étaient physiquement différents des autres dans leur communauté<sup>206</sup> ».



*Un groupe de femmes inuites photographées devant le détachement de la GRC à Frobisher Bay, aux Territoires du Nord-Ouest, vers 1950.*

© Gouvernement du Canada. Reproduite avec l'autorisation de Bibliothèque et Archives Canada (2019). Source : Bibliothèque et Archives Canada/Fonds du Ministère de la Santé/e004665194.

Dans de nombreux cas, les liaisons entre les hommes qallunaat et les femmes inuites étaient clairement caractérisées par la coercition et les mauvais traitements. La Commission de vérité de Qikiqtani a déterminé que « certains membres de la GRC utilisaient leur position d'autorité pour forcer les femmes inuites à participer à des actes sexuels<sup>207</sup> ». Rhoda Akpaliapik Karetak, une Aînée de la région d'Arviat, a raconté les sévices sexuels passés subis par des femmes inuites de la part des agents de la GRC dans un film documentaire.



Certains agents de la GRC nous battaient et nous violaient, nous les femmes. Ils nous emmenaient dans une autre salle et verrouillaient la porte. J'ai été battue et violée, mais je n'avais personne vers qui me tourner. Nous ne savions pas qu'ils n'étaient pas censés agir comme cela. Même si nous avons été informées de nos droits, nous ne pouvions pas parler ouvertement en tant qu'Inuits. Des années plus tard, quand j'y repensais, je devenais très en colère<sup>208</sup>.

July Papatsie a déclaré à la Commission de vérité de Qikiqtani qu'une dynamique semblable existait dans la région de Qikiqtani :

Avec tant de pouvoir, ils pouvaient faire tout ce qu'ils voulaient... Les membres de la GRC pouvaient faire tout ce qu'ils voulaient avec n'importe quelle femme qui vivait dans le Nord. N'importe quoi. Maintenant cette femme qui a été sexuellement agressée par cet agent ne peut rien dire, elle n'a aucun endroit où aller pour se plaindre. Son mari sait ce qui se passe, mais il ne peut rien faire, il est impuissant<sup>209</sup>.

« CERTAINS AGENTS DE LA GRC NOUS BATTAIENT ET NOUS VIOLAIENT, NOUS LES FEMMES. ILS NOUS EMMENAIENT DANS UNE AUTRE SALLE ET VERROUILLAIENT LA PORTE. J'AI ÉTÉ BATTUE ET VIOLÉE, MAIS JE N'AVAIS PERSONNE VERS QUI ME TOURNER. NOUS NE SAVIONS PAS QU'ILS N'ÉTAIENT PAS CENSÉS AGIR COMME CELA. MÊME SI NOUS AVIONS ÉTÉ INFORMÉES DE NOS DROITS, NOUS NE POUVIONS PAS PARLER OUVERTEMENT EN TANT QU'INUIITS. DES ANNÉES PLUS TARD, QUAND J'Y REPENSAIS, JE DEVENAIS TRÈS EN COLÈRE ».

Rhoda Akpaliapik Karetak

## L'imposition du christianisme aux Inuits

Les missionnaires chrétiens ont également établi une présence permanente dans l'Inuit Nunangat au début du 20<sup>e</sup> siècle. Dans les années 1930, la plupart des Inuits étaient devenus membres de diverses églises chrétiennes<sup>210</sup>. Les missions ont perturbé la relation entre les femmes et hommes inuits. La spécialiste inuite Lisa Koperqualuk a expliqué que la transition au christianisme a entraîné le déclin des dirigeantes inuites au Nunavik, parce que les missionnaires anglicans ne reconnaissaient pas le leadership des femmes. Voici son explication : « Au début, il n'était pas rare, chez les Inuits, d'avoir des dirigeantes et des *angakkuitt* de sexe féminin, mais leur nombre était limité. Quand une nouvelle ère de christianisme s'est amorcée au début du 20<sup>e</sup> siècle, elle a malheureusement fermé la porte aux femmes<sup>211</sup>. » Par conséquent, l'Église a contribué à l'imposition de relations patriarcales au sein de la société inuite, tout comme elle l'avait fait auparavant dans de nombreuses Premières Nations.

Les soins médicaux étaient souvent associés au concept de conversion. Sarah Stringer, une infirmière à l'île Herschel en 1897, a écrit qu'elle espérait que le succès de la médecine occidentale convaincrait les Inuits d'abandonner leurs pratiques traditionnelles<sup>212</sup>. Les





missionnaires croyaient que les personnes qui devenaient des chrétiens étaient souvent plus disposées à abandonner les pratiques médicales traditionnelles et à adopter la médecine occidentale.

Le révérend David Marsh a évoqué un tel processus en décrivant comment son épouse Winifred a convaincu une Inuite convertie, Caroline Gibbons, de donner naissance selon les pratiques occidentales. Il a raconté comment la première tâche de Winifred fut de repousser les guérisseuses Padlimiut traditionnelles et de leur interdire d’avoir des contacts avec cette femme enceinte, afin d’éliminer leur influence. Cette rencontre a été encadrée par un langage qui mettait l’accent sur les dangers des pratiques traditionnelles et l’autorité des praticiens de la médecine occidentale<sup>213</sup>.



*Un Inuit discute avec deux missionnaires en 1953. Source : Bibliothèque et Archives Canada/Fonds du ministère des Affaires indiennes et du Nord canadien/e010674338.*

## Les interventions du gouvernement et l’assimilation des Inuits

Avant 1940, l’État canadien avait maintenu une approche de laissez-faire concernant les Inuits. Le gouvernement fédéral avait décidé initialement de ne pas appliquer aux Inuits les pratiques d’assimilation qui étaient fondamentales à la colonisation des Premières Nations, comme la *Loi sur les Indiens*. Même si le gouvernement a apporté de l’« aide » aux groupes inuits démunis qui étaient devenus dépendants de la traite des fourrures dans les années 1920 et 1930, il avait pour politique qu’il était préférable que les Inuits demeurent des chasseurs et piégeurs qui « vivent de la terre<sup>214</sup> ».

Cette approche a commencé à changer durant la Seconde Guerre mondiale dans l’intérêt de la défense<sup>215</sup>, lorsque l’État est intervenu de façon de plus en plus intensive au sein de la société inuite. Les motivations et les buts de ces interventions ont changé au fil du temps. Cependant, elles ont de nombreuses caractéristiques en commun, comme l’a écrit la politicienne inuite Mary Simon :



Dans la période qui a mené aux années 1960 et 1970, la relation entre les Européens et les Inuits était manifestement unilatérale. Nous, les Inuits, avons subi une perte graduelle de contrôle sur notre capacité de prendre des décisions pour nous-mêmes et pour les terres et les eaux qui assurent notre subsistance depuis des milliers d'années. Nous sommes devenus un peuple colonisé. Nous avons été poussés en marge du pouvoir politique, économique et social dans l'Inuit Nunangat.

Les points faibles de cette relation unilatérale ont eu lieu durant la période où des camps familiaux entiers ont été décimés par la rougeole, quand on a forcé des foyers inuits à se réinstaller à des milliers de milles plus loin pour répondre aux objectifs de programmes élaborés ailleurs, et quand des enfants inuits ont été forcés d'aller dans des pensionnats<sup>216</sup>.

En général, les Inuits estimaient qu'ils n'avaient pas d'autre choix que de suivre les plans élaborés par les représentants du gouvernement. Par exemple, dans un rapport de la Commission de vérité de Qikiqtani, on a expliqué que les Inuits estimaient qu'ils ne pouvaient pas dire « non » quand des représentants qallunaat leur disaient d'envoyer leurs enfants dans des pensionnats indiens à l'extérieur de la communauté.

De nombreuses années après avoir fait face au traumatisme d'avoir été envoyée à l'école à l'extérieur de sa communauté à l'âge de 7 ans, Jeannie Mike a raconté pour la [Commission de vérité de Qikiqtani] une confrontation qu'elle a eue avec sa mère. Alors qu'elle regardait ses propres enfants de 7 ans, Jeannie a déclaré qu'elle se sentait obligée de lui demander « Comment as-tu pu me laisser partir ? » Sa mère a répondu : « Quand les Qallunaat demandaient quelque chose, refuser ne faisait pas partie des choix<sup>217</sup>. »

En raison du déséquilibre du pouvoir qui s'était installé, il était difficile, voire impossible, pour la plupart des Inuits de refuser les instructions des représentants du gouvernement. L'auteure et politicienne inuite Sheila Watt-Cloutier explique que cette relation de pouvoir a fait que les Inuits percevaient les Qallunaat avec un type de crainte et d'inquiétude qu'ils appellent *ilira*<sup>218</sup>. Cette relation de pouvoir qui faisait qu'il était difficile pour les Inuits de refuser des ordres des Qallunaat caractérisait toutes les activités gouvernementales dans l'Inuit Nunangat dans les années 1940, 1950 et 1960.



# Travailler avec les Qallunat :

## le programme de gendarmes spéciaux de la GRC dans l'Arctique

Pendant les 70 premières années de ses activités dans l'Arctique, la Gendarmerie royale du Canada (GRC) était entièrement dépendante des gendarmes spéciaux inuits. Un rapport réalisé dans le cadre de la Commission de vérité Qikiqtani explique comment les agents de la GRC venus du Sud comptaient sur les gendarmes spéciaux inuits.

Afin d'être en mesure de communiquer avec les Inuits et de survivre aux conditions de l'Arctique, la GRC nécessitait l'aide et le soutien des Inuits, tant comme employés que simplement comme voisins. Tous les détachements policiers ordinaires comptaient au moins un employé inuit. Généralement, la femme et les enfants de cet employé inuit contribuaient également aux tâches du détachement. À partir de 1936, et au moins jusqu'en 1970, les rapports de patrouilles envoyés à Ottawa faisaient officiellement référence aux employés inuits en tant que « gendarmes spéciaux », ce qui correspondait à un rang et à des états de service officiels au sein de la GRC. Bien souvent, les agents de la GRC envoyés dans les régions du Nord ne recevaient aucune formation particulière sur la survie, l'orientation ou les modes de déplacement en territoire nordique. Ils étaient donc totalement dépendants des gendarmes spéciaux inuits qui chassaient pour nourrir les qimmiit [chiens de traîneaux], construisaient les igloos, guidaient les agents et leur servaient d'interprètes<sup>1</sup>.

La Commission de vérité Qikiqtani a en outre établi que la GRC profitait également du travail non rémunéré effectué par les familles des gendarmes spéciaux.



*Le gendarme spécial inuit Minkyoo, du détachement de Twin Glacier de la GRC, construit un bâtiment pour le comptoir du fjord Alexandra au Nunavut, en 1953.  
Source : Bibliothèque et Archives Canada/Fonds de l'Office national du film du Canada/a137757.*





Les familles des gendarmes spéciaux inuits apportaient aussi une aide considérable et précieuse à la GRC, la plupart du temps sans contrepartie. Les femmes fabriquaient et réparaient les vêtements destinés aux patrouilles, effectuaient les tâches ménagères et préparaient les repas. On s'attendait également à ce que les enfants contribuent aux tâches du détachement<sup>I</sup>.

Cependant, même s'ils jouaient un rôle fondamental dans les activités de la GRC en Arctique, les gendarmes spéciaux n'ont pas eu la possibilité de faire carrière dans les services de maintien de l'ordre.

Peu de preuves indiquent que la GRC avait prévu la possibilité que les gendarmes spéciaux choisissent de devenir des agents de la GRC à part entière. En effet, les employés inuits n'ont eu accès à aucune formation et n'ont été chargés d'aucune tâche qui auraient pu entraîner une rémunération supérieure ou l'obtention d'un nouveau poste. En 1969, la GRC avait essentiellement mis fin à son utilisation des qimmiit; à partir du moment où la GRC a cessé de requérir les services des Inuits pour les aider à se déplacer en traîneaux à chiens, le rôle des gendarmes spéciaux inuits s'est principalement limité à celui d'interprète<sup>II</sup>.

Selon l'historienne inuite Deborah Kigjugalik Webster, la GRC n'a pas non plus reconnu les fonctions occupées par les gendarmes spéciaux inuits. Dans bon nombre de livres sur l'Arctique écrits par d'anciens agents de la GRC, « on peut trouver des références aux guides esquimaux ou aux interprètes esquimaux, alors qu'il s'agissait en fait de gendarmes spéciaux, et personne n'est nommé »<sup>IV</sup>.



*Deux gendarmes spéciaux inuits de la GRC, Simone (à gauche) et Mosesee (à droite), attachent l'étendard au traîneau à chiens du gouverneur général Massey à Iqaluit, dans les Territoires du Nord-Ouest, en 1956. Source : Bibliothèque et Archives Canada/Fonds de l'Office national du film du Canada/e002265633.*

I Commission de vérité Qikiqtani *Paliisikkut*, 22.

II Ibid.

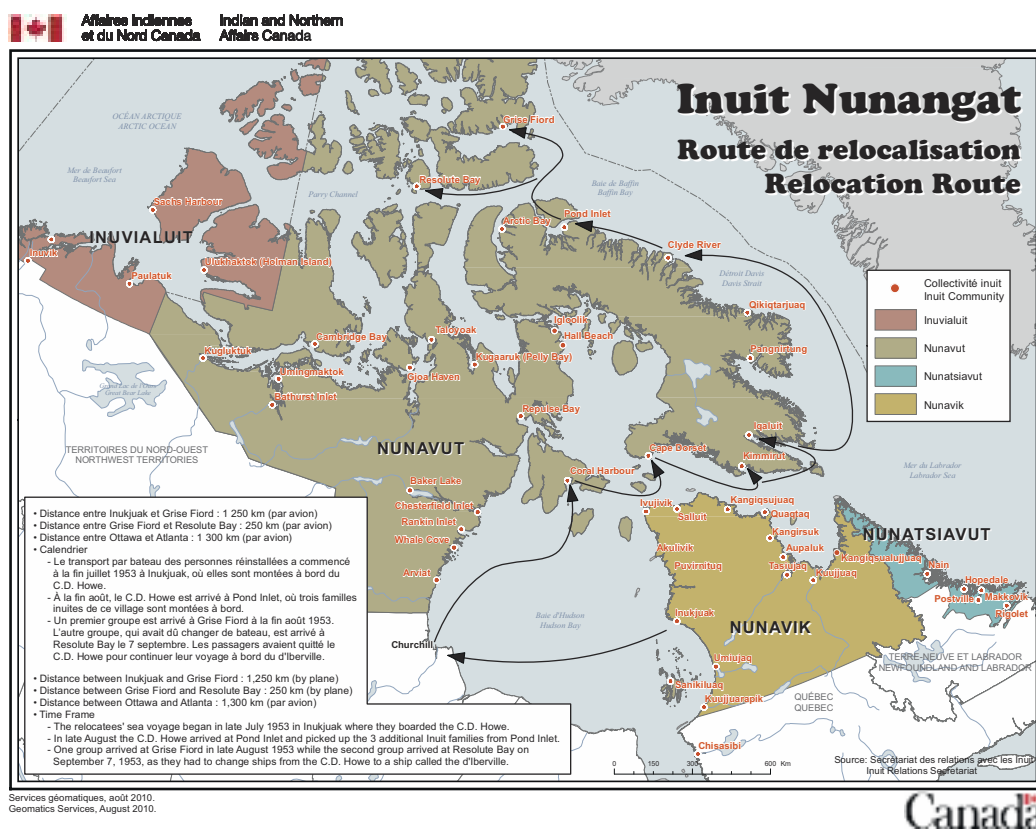
III Ibid., 23.

IV CBC News North, « Northern researcher digs. »



## Les relations forcées et le massacre des chiens de traîneau

Les réinstallations sont une des interventions gouvernementales les plus connues pour cette période, et elles ont eu d'importantes répercussions sociales et économiques pour les communautés. Des années 1940 aux années 1970, le gouvernement du Canada a réinstallé de nombreux groupes d'Inuits, ainsi que certaines Premières Nations. Quelques groupes inuits ont été réinstallés à maintes reprises. Les premières réinstallations des Inuits du lac Ennadai (1949, 1957, 1958) et du Nunavik (1953, 1958) visaient à réduire la dépendance des Inuits à l'aide gouvernementale après l'effondrement de la traite des fourrures. Les réinstallations ultérieures visaient à centraliser les Inuits en peuplements permanents pour accroître l'efficacité de la prestation des services sociaux<sup>219</sup>. Le gouvernement de Terre-Neuve-et-Labrador a également réinstallé plusieurs groupes d'Inuits du Labrador pour réduire le coût de la prestation des services<sup>220</sup>.



Ces réinstallations sont maintenant reconnues pour les coûts sociaux et les perturbations qui en ont découlé. Il est maintenant bien établi qu'un grand nombre de ces réinstallations ont été mal planifiées et ont entraîné des difficultés considérables pour les Inuits touchés et, dans certains cas, la famine. Parfois, les familles ont été séparées, ce qui a causé de grandes souffrances émotionnelles. De plus, comme nous l'expliquons ci-après, le passage aux communautés centralisées et permanentes a été grandement traumatisant pour certains Inuits<sup>221</sup>.





D'autres perturbations ont aussi eu une incidence durable. En plus de la réinstallation, l'abattage des chiens de traîneau inuits est peut-être l'intervention la plus controversée parmi les mesures prises durant cette période. Dans les années 1950 et 1960, la GRC et des représentants gouvernementaux ont abattu de grands nombres de chiens de traîneau inuits dans les régions de Qikiqtani (île de Baffin) et du Nunavik<sup>222</sup>. Par conséquent, de nombreux Inuits ont perdu leurs équipes de chiens et ont été obligés de déménager dans les communautés permanentes qui avaient été établies par les Qallunaat. Au Québec, la Société Makivik et le gouvernement du Québec ont demandé à un juge à la retraite de la Cour supérieure de diriger une enquête sur l'abattage des chiens de traîneau au Nunavik. Dans son rapport définitif en 2009, ce dernier a conclu que la société au Nunavik avait « subi des conséquences néfastes découlant des mesures, des attitudes et des erreurs des bureaucrates, des mandataires et des représentants des deux gouvernements, qui ont abattu au moins 1 000 chiens au Nunavik durant les années 1950 et 1960 ». Les Inuits ne possédaient pas les chiens de traîneau que pour les loisirs. Ces chiens étaient essentiels pour préserver un certain mode de vie. Leur massacre a grandement influé sur la capacité des Inuits de vivre sur les terres et de maintenir leurs styles de vie traditionnels, et a contribué à une perturbation sociale et à une dépendance qui étaient encore plus grandes à l'égard du travail salarié, entraînant

ainsi des changements dans les relations sociales et le bien-être économique des familles inuites et des femmes, des filles et des personnes 2ELGBTQQIA inuites.



*Des enfants inuits avec leurs chiens, qui sont pour eux d'une importance vitale et nécessaires à leur subsistance, à Clyde River, dans les Territoires du Nord-Ouest, en 1943. Source : Bibliothèque et Archives Canada/Fonds du ministère des Affaires indiennes et du Nord canadien/a102208.*

## Les pensionnats indiens et les foyers scolaires chez les Inuits

À partir de la fin des années 1950, le gouvernement du Canada a rendu obligatoire la scolarité formelle pour les enfants inuits. Certains Inuits ont été envoyés aux pensionnats indiens dirigés par l'Église alors que d'autres ont fréquenté des externats relevant du le gouvernement fédéral. Même si les enfants inuits qui fréquentaient les externats pouvaient techniquement être à la maison avec leurs parents pendant la soirée et les fins de semaine, dans bien des cas ces derniers demeuraient sur les terres. Par conséquent, les externats nécessitaient tout de même que la plupart des enfants inuits résident dans des pensions, ce qui entraînait une séparation pénible et traumatisante des enfants et de leurs parents<sup>223</sup>. Dans *Saqiyuq: Stories from the lives of three Inuit Women*, Rhoda Kaujak Katsak raconte à quel point il était pénible d'être séparée de ses parents pendant qu'elle fréquentait un externat fédéral.





Je me souviens du premier Noël où mes parents sont venus pour le temps des Fêtes, je me souviens d'avoir vécu un moment très difficile. Je m'amusais parce que mes parents étaient là, parce que j'étais avec eux. Mais quand ils ont été prêts à retourner au camp, ça m'a brisé le cœur. Je n'arrêtais pas de pleurer. Je me souviens que mon père était assis bien droit sur une chaise et que j'étais agenouillée devant lui, et que je ne n'arrêtais pas de pleurer sur ses genoux. Je suis restée comme ça pendant des heures et des heures. Je pleurais et je le suppliais de m'emmener avec lui, mais il ne pouvait rien faire. Même s'il avait voulu, il ne pouvait rien faire. À ce moment-là, j'étais très en colère contre lui parce qu'il ne me ramenait pas à la maison avec lui. Plus tard, je me suis rendu compte que nous devions aller à l'école. Il n'avait pas le choix. C'était les instructions des autorités qallunaat dans l'établissement, et il ne pouvait rien faire<sup>224</sup>.

Par ailleurs, les pensionnats indiens et les externats ont exposé de nombreux élèves à des mauvais traitements, et contribué à l'érosion du savoir traditionnel des Inuits<sup>225</sup>. Comme l'a déclaré la survivante inuite des pensionnats Annie B. : « Ma mère, elle ne pouvait pas me parler parce que je parlais anglais. On devait communiquer avec nos doigts seulement. Communiquer avec mes doigts, avec ma mère naturelle<sup>226</sup>. »



*Des enfants inuits devant l'école de la Mission catholique romaine à Aklavik, dans les Territoires du Nord-Ouest, en 1928. © Gouvernement du Canada. Reproduit avec l'autorisation de Bibliothèque et Archives Canada (2019). Source : Bibliothèque et Archives Canada/Fonds du ministère des Affaires indiennes et du Nord canadien/e006609805.*

Les pensionnats indiens et les foyers scolaires représentaient également un mécanisme pour la prise en charge des enfants. Avant l'intervention du gouvernement, de nombreux Inuits pratiquaient l'adoption selon les coutumes comme moyen de faire face à l'évolution des circonstances, mais dans les années 1960, le gouvernement est intervenu aussi dans ces systèmes. Dans les communautés inuites, la pratique de l'adoption selon les coutumes, une situation dans laquelle l'enfant était adopté par de la parenté (et qui a aussi eu lieu dans beaucoup de communautés des Premières Nations), aidait à prendre soin des enfants inuits et à veiller à ce qu'ils soient élevés dans des environnements sécuritaires sur le plan culturel. Les adoptions entre Inuits pouvaient avoir lieu dans des moments difficiles comme la maladie, l'insuffisance alimentaire ou le décès des parents biologiques, et permettait de veiller à ce que la population soit répartie de façon fonctionnelle entre les divers camps et d'assurer le maintien des liens de parenté.



*Des enfants photographiés sur le navire SS Distributor, en direction de l'école Mission à Fort Providence, dans les Territoires du Nord-Ouest, en 1928. Source : Bibliothèque et Archives Canada/ Fonds du ministère des Affaires indiennes et du Nord canadien/a101061.*

En 1961, l'Ordonnance sur la protection de l'enfance a imposé une nouvelle règle selon laquelle les Inuits devaient faire l'objet d'évaluations de leur domicile avant l'adoption et envoyer la documentation à Ottawa dans les 30 jours de l'adoption. Cela signifiait qu'une absence de domiciles « qualifiés » pouvait accroître le nombre d'élèves inuits inscrits à des établissements exploités par le gouvernement.

Même s'ils ne représentaient pas la majorité, certains fonctionnaires ont rejeté l'Ordonnance en soutenant que les systèmes d'adoption selon les coutumes avaient été utilisés dans l'Inuit Nunangat depuis des générations et fonctionnaient bien. Le juge John Howard Sissons, qui a présidé l'affaire de la première adoption selon les coutumes inuites enregistrée légalement en 1961, a affirmé que les nouvelles règles imposées par l'ordonnance faisaient obstacle aux droits inuits et aux systèmes de parenté. De plus, il a souligné qu'elles imposaient des limites aux Inuits qui souhaitaient adopter un enfant, en raison de la géographie et de l'accès aux services postaux étant donné que les documents devaient être postés. Les obstacles linguistiques nuisaient eux



*Des élèves suivent un cours au foyer fédéral d'Arviat au Nunavut, n.d. Source : Bibliothèque et Archives Canada/Fonds Donald Benjamin Marsh/e007914491.*



aussi au respect de ces nouvelles règles officielles. Dans la requête du juge Sissons pour l'adoption d'un enfant nommé « Kitty » par un couple respecté, Qiatsuk et Nuna Noah, il a fait valoir que l'adoption selon les coutumes « est positive et a fait ses preuves au fil de nombreux siècles, [que] ces personnes ne devraient pas être obligées de l'abandonner, et [que] les tribunaux devraient la reconnaître<sup>227</sup> ». Les efforts de M. Sissons ont été une réussite, et il a continué d'enregistrer des centaines d'adoptions selon les coutumes dans ce qui s'appelle maintenant le Nunavut et la région des Inuvialuit.



*Un représentant du ministère des Affaires indiennes s'adresse à deux femmes inuites au sujet de la bouillie pour bébé, en 1948.*

*Source : Bibliothèque et Archives Canada/Fonds du ministère des Affaires indiennes et du Nord canadien/a167631.*

Tout comme dans d'autres parties du Canada, cependant, le nombre d'enfants dans le système d'État s'est accru. Selon le

directeur de la protection de la jeunesse du Nunavik, depuis 2017, un jeune Inuit sur trois au Nunavik a eu affaire aux services de protection de la jeunesse. Les travailleurs gèrent en moyenne 45 dossiers, comparativement à 18 par travailleur de services d'intervention, ce qui signifie que les ressources et les capacités sont peut-être exploitées au maximum<sup>228</sup>.

« JE ME SOUVIENS DU PREMIER NOËL OÙ MES PARENTS SONT VENUS POUR LE TEMPS DES FÊTES, JE ME SOUVIENS D'AVOIR VÉCU UN MOMENT TRÈS DIFFICILE. JE M'AMUSAIS PARCE QUE MES PARENTS ÉTAIENT LÀ, QUE J'ÉTAIS AVEC EUX ET QUE JE RÉSIDAIS AVEC EUX. MAIS QUAND ILS ÉTAIENT PRÊTS À RETOURNER AU CAMPEMENT, CELA ME BRISAIT LE CŒUR. JE PLEURAI CONSTATAMMENT. JE ME SOUVIENS QUE MON PÈRE ÉTAIT ASSIS BIEN DROIT SUR UNE CHAISE ET QUE J'ÉTAIS AGENOUILLÉE DEVANT LUI, ET QUE JE NE N'ARRÊTAIS PAS DE PLEURER SUR SES GENOUX. JE SUIS RESTÉE COMME ÇA PENDANT DES HEURES. JE PLEURAI ET JE LE SUPPLIAIS DE M'EMMENER AVEC LUI, MAIS IL NE POUVAIT RIEN FAIRE. MÊME S'IL AVAIT VOULU, IL NE POUVAIT RIEN FAIRE. J'ÉTAIS ALORS TRÈS EN COLÈRE CONTRE LUI PARCE QU'IL NE ME RAMENAIT PAS À LA MAISON AVEC LUI. PLUS TARD, JE ME SUIS RENDU COMPTE QUE NOUS DEVIONS ALLER À L'ÉCOLE. IL N'AVAIT PAS LE CHOIX. IL S'AGISSAIT DES INSTRUCTIONS DES AUTORITÉS QALLUNAAT ET IL NE POUVAIT RIEN FAIRE. »

**Rhoda Akpaliapik Karetak**





## La réinstallation pour des raisons médicales chez les Inuits

Le gouvernement a commencé à assumer une responsabilité accrue pour la prestation des soins de santé aux Inuits après 1940. Comme d'autres interventions, la prestation des soins de santé du gouvernement était un aspect de la colonisation. La réaction du gouvernement aux épidémies de tuberculose constitue un exemple tristement célèbre de l'expérience par les Inuits de la prestation des soins de santé dans le cadre d'un système externe imposé qui leur a causé des souffrances sociales incroyables. À partir de 1950, un navire de patrouille appelé *C.D. Howe* (le navire que les Inuits connaissaient comme « Matavik, » ou « la place où on se déshabille ») visitait les camps inuits côtiers chaque été pour fournir des soins de santé. Les Inuits atteints de tuberculose étaient envoyés dans un sanatorium dans le Sud, où ils étaient séparés des membres de leur famille pendant de longues périodes (parfois des années)<sup>229</sup>. La cinéaste inuite et ancienne commissaire du Nunavut Ann Meekitjuk Hanson a expliqué que le navire de patrouille est rapidement devenu célèbre chez les Inuits.

Le *C.D. Howe* suscitait la peur. Une peur épouvantable. Si vous aviez la tuberculose ou toute autre maladie, on vous gardait à bord et on vous emmenait. Vous aviez à peine le temps de dire au revoir à votre famille, si toutefois elle était à bord avec vous, et vous ne saviez pas où on vous emmenait. De plus, il fallait faire le tour de l'Arctique pendant environ trois mois, jusqu'à ce que le navire termine sa tournée des communautés et se dirige vers le Sud. Les Aînés parlent encore de ce navire aujourd'hui<sup>230</sup>.

Ces réinstallations pour des raisons médicales ont entraîné la disparition de nombreuses femmes inuites de leur famille. Par exemple, dans son témoignage dans le cadre de l'Enquête, Micah A. a expliqué que l'on avait emmené sa grand-mère pour un traitement contre la tuberculose et qu'elle n'est jamais revenue : « La mère de ma mère, avant ma naissance, a été envoyée dans le Sud à cause de la tuberculose, dans un sanatorium. Elle est décédée là-bas et elle a été enterrée à Winnipeg. Nous n'avons pas pu la trouver pendant longtemps et elle n'est jamais revenue à la maison<sup>231</sup>. »



*Qaqqatunaag, une Inuite, observe le navire C.D. Howe ancré dans le fjord de Pangnirtung, dans les Territoires du Nord-Ouest, n.d. Source : Bibliothèque et Archives Canada/Fonds de l'Office national du film du Canada/a166461.*



*Colatah, âgé de 2 ans, est examiné à bord du navire C.D. Howe par un médecin membre de la patrouille chargée de l'enquête de santé dans l'Arctique de l'Est, n.d. Source : Bibliothèque et Archives Canada/Fonds de l'Office national du film du Canada/e005477090.*

L'introduction des soins de santé occidentaux constitue un exemple de la façon dont la colonisation était fondée sur le genre, car ces soins intervenaient dans des aspects de la vie qui sont de nature très intime pour les femmes inuites, comme l'accouchement. En retirant des femmes inuites enceintes de leur communauté et en les envoyant dans des hôpitaux pour donner naissance à leurs enfants, le gouvernement a perturbé la transmission du savoir des femmes inuites concernant le travail de sage-femme<sup>232</sup>. Ce processus a également causé des souffrances émotionnelles considérables aux femmes inuites. Dans *Saqiyuk*, l'Aînée Apphia Agalakti Awa a décrit les difficultés émotionnelles causées par le fait d'être envoyée à un hôpital pour donner naissance à son bébé.

J'étais enceinte et j'ai dû aller à l'extérieur de la communauté pour accoucher; c'était l'été et je suis allée à Iqaluit pour donner naissance à mon bébé. Je n'avais jamais accouché à Iqaluit auparavant. J'ai accouché de tous mes autres enfants sur les terres, dans notre hutte de terre ou dans un igluviak ou une tente.

J'avais des problèmes avec ma grossesse cette fois-là, et les Qallunaat ont déclaré que je devais aller à l'extérieur de la communauté. J'étais enceinte de Ida. Elle a été le dernier bébé dont j'ai accouché et j'ai dû partir dans son cas. Ma fille Joanna n'avait que 5 ans quand je suis partie, et Phillip et Salomie n'étaient que des bébés, de petits bébés. On s'est rendu en bateau jusqu'à l'avion et je me souviens d'avoir regardé par la fenêtre de l'avion. Je me souviens d'avoir regardé mes enfants par la fenêtre, de voir Martha qui portait Phillip dans son amautik et Oopah qui portait Salomie dans son amautik. Je me sentais si mal d'abandonner mes jeunes enfants, de les laisser tout seuls. On était en août et la glace était toute partie. J'avais les larmes aux yeux quand j'ai quitté notre camp et mes enfants, mes petits enfants. J'étais tellement triste. On était au début d'août quand je suis partie. Je ne suis revenue à notre camp avec Ida qu'en janvier.



Quand je suis arrivée à Iqaluit, ça m'a pris quatre jours à l'hôpital pour accoucher. Les infirmières m'ont étendue sur le dos, et je ne pouvais donc pas accoucher. J'ai eu tellement de difficulté avec cet accouchement! Avant, quand j'accouchais, je le faisais assise, et mon mari était habituellement avec moi. Ça m'a pris quatre jours pour mettre au monde mon dernier bébé. Quand j'accouchais sur les terres, mon mari était avec moi, me tenait la main et m'aidait. J'y étais habituée, et je ne pouvais donc pas accoucher à l'hôpital. Lorsque vous avez accouché par vous-même ou avec une amie ou votre mari, c'est seulement ainsi que vous pouvez accoucher. J'étais en travail à l'hôpital, mais je ne réussissais pas à accoucher, parce que mon mari n'était pas avec moi<sup>233</sup>.

L'introduction des soins de santé du gouvernement a par ailleurs entraîné la stérilisation de certaines Inuites. Selon un rapport de la Commission de vérité de Qikiqtani, il existe une importante controverse lorsqu'il s'agit de savoir si les Inuits avaient consenti à cette pratique. Comme l'a indiqué la Commission de vérité de Qikiqtani, les prêtres catholiques ont attiré l'attention sur cet enjeu, qui a fait l'objet d'une couverture nationale. Le père Lechat a estimé que 23 % des femmes à Igloolik avaient été stérilisées, et des procédures semblables ont été exécutées à l'hôpital d'Iqaluit. Comme l'a indiqué la Commission : « Barry Gunn, un ancien administrateur régional à Iqaluit, a soutenu que les femmes avaient accepté les procédures de stérilisation et signé des formulaires à cet effet. Cependant, en raison des problèmes linguistiques, elles ne se sont peut-être pas rendu compte de ce qu'elles acceptaient<sup>234</sup>. »

« LE CD HOWE SUSCITAIT LA PEUR. UNE PEUR ÉPOUVANTABLE. SI VOUS AVIEZ LA TUBERCULOSE OU TOUTE AUTRE MALADIE, ON VOUS GARDAIT À BORD ET ON VOUS EMMENAIT. VOUS AVIEZ À PEINE LE TEMPS DE DIRE AU REVOIR À VOTRE FAMILLE, SI ELLE ÉTAIT À BORD AVEC VOUS, ET VOUS NE SAVIEZ PAS OÙ ON VOUS EMMENAIT. DE PLUS, VOUS DEVIEZ FAIRE LE TOUR DE L'ARCTIQUE PENDANT ENVIRON TROIS MOIS, JUSQU'À CE QUE LE NAVIRE TERMINE SA TOURNÉE DES COMMUNAUTÉS ET SE DIRIGE VERS LE SUD. LES AÎNÉS PARLENT ENCORE DE CE NAVIRE AUJOURD'HUI. »

Ann Meekitjuk Hanson

## La centralisation et le traumatisme social

En raison de ces interventions, au début des années 1970, la plupart des Inuits étaient déjà réinstallés dans les établissements permanents créés par les Qallunaat; certains par choix, certains par coercition<sup>235</sup>. Dans tous les cas, la réinstallation des camps inuits aux villages contrôlés par les Qallunaat a apporté d'énormes changements à la vie économique, politique et sociale des Inuits. Elle a causé une réduction considérable de leur autonomie et de leur faculté d'autodétermination parce que le pouvoir gouvernemental était établi plus fermement dans les établissements que dans les camps<sup>236</sup>.

La réinstallation a également causé le déclin des systèmes inuits de leadership et d'autorité, car les méthodes traditionnelles de contrôle social ont perdu leur efficacité et les dynamiques politiques et religieuses ont changé<sup>237</sup>. Ann Meekitjuk Hanson a expliqué que la réinstallation est une cause fondamentale d'un grand nombre des problèmes sociaux auxquels les communautés inuites font face aujourd'hui.





Quand les Inuits vivaient sur les terres, nous vivions en petits groupes composés d'environ trois à cinq familles. Il est facile de s'occuper d'un groupe de cette taille. Il est plus facile de maintenir l'ordre social, et il y a donc moins de problèmes sociaux. Mais quand nous nous sommes réinstallés dans des communautés plus grandes et que nous avons commencé à vivre avec tellement d'autres personnes, il y a eu beaucoup de confusion. J'ai vu des chasseurs et des dirigeants puissants devenir pauvres. Ils faisaient maintenant partie d'une économie basée sur les salaires, dans le cadre de laquelle on travaille pour un employeur et on reçoit un salaire pour son travail; la chasse et la cueillette sur les terres n'avaient plus de valeur comme travail à temps plein.

Quand nous vivions sur les terres, nous avions toujours un dirigeant qui s'occupait essentiellement de tout le monde. Quand nous nous sommes réinstallés à Frobisher Bay et dans d'autres communautés, nous ne savions plus qui étaient nos dirigeants. Il y avait les gestionnaires de la Compagnie de la Baie d'Hudson, les agents de la GRC, les ecclésiastiques et les agents du gouvernement. Nous n'avions pas l'habitude d'avoir un si grand nombre de dirigeants à un seul endroit. De plus, ils étaient tous des Qallunaat. L'absence d'un leadership inuit a causé bien des problèmes sociaux. Soudainement, il y avait plus de commérages, de tricherie, de vols, de cas d'adultère, d'alcool et de choses de ce genre<sup>238</sup>.

Les interventions du gouvernement dans la société inuite ont causé bien des souffrances émotionnelles à de nombreux Inuits. Comme l'a expliqué Sheila Watt Cloutier, ces interventions ont été extrêmement traumatisantes et ont modifié comment un grand nombre d'hommes traitaient les femmes de leur entourage quand « la honte, la culpabilité ainsi que la perte d'intégrité et de fierté étaient tournées vers l'intérieur, s'envenimaient et devenaient de la colère et de la rancœur<sup>239</sup> ».

Ce traumatisme a ensuite été transmis d'une génération à l'autre. Alors qu'une génération luttait pour faire face à ses expériences traumatisantes, les jeunes générations étaient exposées à leurs propres expériences traumatisantes (par l'entremise des « expériences négatives vécues durant l'enfance »)<sup>240</sup>. Un rapport de l'organisme Pauktuutit Inuit Women of Canada a expliqué comment ce traumatisme intergénérationnel est transmis par les cycles de violence.

Deux causes principales peuvent expliquer les niveaux élevés actuels de violence et de sévices dans le contexte inuit : 1) la perte de la culture et des traditions; et 2) la perte de contrôle sur le destin individuel et collectif. Cette histoire provoque un traumatisme psychologique, l'éclatement des familles, la dépendance à l'alcool et aux drogues et des sentiments accrus d'impuissance. La peur, la méfiance, les mauvais traitements et le déni en sont le résultat, créant ainsi un cycle de violence dans lequel les personnes peuvent être à la fois une victime et un agresseur, un cycle qui se répète avec chaque nouvelle génération<sup>241</sup>.



Le traumatisme causé par les interventions gouvernementales dans les années 1940, 1950 et 1960 est donc la cause profonde d'un grand nombre d'actes violents commis envers les femmes inuites aujourd'hui. Comme nous l'expliquons dans la deuxième section du présent rapport, la majorité des femmes inuites assassinées l'ont été par leur conjoint. Par conséquent, la violence familiale et le traumatisme non résolu qui l'alimente sont des causes fondamentales du meurtre des femmes inuites<sup>242</sup>. Comme l'a expliqué Sandra N., un membre de famille :

Si une femme a été blessée, elle ne mènera pas la vie qu'elle veut. Tant qu'elle ne cherchera pas de méthodes ou de moyens de guérison pour aller mieux, sa vie n'aura pas de sens. Ça commence dès le début. Le commencement remonte à aussi loin que l'époque des pensionnats. Il y a cette influence. Et ces comportements sont répétés par la génération suivante. Même s'ils ne veulent pas faire ça, c'est ce qu'ils ont appris. La douleur et les dommages causés au bon sens, c'est perdu. Et ce comportement continue. Et voici le résultat. La douleur ressentie nous amène à ce résultat<sup>243</sup>.

En 1996, la Commission royale sur les peuples autochtones a déterminé que la guérison des traumatismes doit être une priorité pour régler ces problèmes sociaux<sup>244</sup>. L'Aînée Rhoda Akpaliapik Karetak souligne ce qui suit :

Les Inuits n'ont pas eu beaucoup de temps pour réfléchir à ce qui leur est arrivé ces 100 dernières années et à la souffrance qu'ils ont connue quand leur mode de vie a changé soudainement. Leur estime d'eux-mêmes et leur santé mentale ont été gravement touchées, et ils n'ont pas encore essayé d'y réfléchir ou de réellement le comprendre. Si les Aînés et les parents inuits n'ont pas l'occasion de parler de leurs problèmes non réglés à quelqu'un en mesure de leur apporter de l'aide, il est difficile de trouver des solutions à ces problèmes non résolus qui résultent de la colonisation. Dans le passé, les Inuits pouvaient consulter leurs Aînés ou leur shaman pour les aider à affronter les problèmes, mais depuis la colonisation des Inuits, on n'a plus recours à la façon inuite de gérer les problèmes non résolus<sup>245</sup>.

Par conséquent, en plus d'être une cause profonde de la violence contre les femmes inuites, la colonisation a également nui à la capacité des Inuits de régler le problème.



*Eelee Higgins allume le qulliq à Ottawa, en Ontario, avec l'aide de la commissaire Robinson.*

## Conclusion : une tragédie qui résulte de plusieurs siècles de colonialisme

Dans ce chapitre, nous avons examiné en bref l'histoire de la colonisation au Canada au moyen d'une perspective intersectionnelle et fondée sur le genre, et nous avons soutenu que les politiques, les pratiques et les stéréotypes auxquels font face les femmes, les filles et les personnes 2ELGBTQQIA autochtones aujourd'hui sont nés il y a longtemps. En comprenant la colonisation comme une structure de rencontres, plutôt qu'une série d'événements isolés, nous avons démontré comment les systèmes et les modes de connaissance autochtones relatifs à la terre, à la gouvernance et à l'identité étaient ciblés par les colonisateurs, qui souhaitaient posséder la terre et se débarrasser des personnes qui y vivaient. De plus, nous avons axé notre analyse sur les principaux « objets de rencontre » – politiques et règles, stéréotypes et idées fausses – au contact desquels les femmes, les filles et les personnes 2ELGBTQQIA des Premières Nations, métisses et inuites ont vécu des expériences de discrimination et d'autres répercussions négatives. En parallèle, le présent chapitre a révélé la force et la résilience de ces femmes, ces filles et ces personnes 2ELGBTQQIA, dont les traditions et les valeurs continuent de se manifester aux niveaux individuel, familial et communautaire.





Un point clé de ce dossier est de reconnaître qu'il n'appartient pas seulement à notre passé. Elles ont une apparence différente aujourd'hui, mais ces politiques et les structures et idées qui les alimentent sont toujours bien présentes aujourd'hui et demeurent des formes de violence. Nous ne pouvons pas balayer du revers de la main des choses comme les défaillances des services de police, des soins de santé ou de la protection de l'enfance en disant que c'était simplement la façon de faire d'une époque révolue. Dans les faits, bien des personnes qui ont témoigné dans le cadre de l'Enquête nationale ont fait l'expérience de ces politiques et ne se sont pas encore remises de leurs conséquences. Bien d'autres en font présentement l'expérience. Un grand nombre des politiques et idées en place aujourd'hui, ainsi que les structures auxquelles elles sont associées, sont des versions modernes des mêmes atrocités du passé.

Notre analyse de ces expériences nous permet de tirer trois conclusions importantes.

D'abord, le processus de colonisation variait selon le genre, parce que les femmes et les personnes 2ELGBTQQIA autochtones ont vécu ces rencontres différemment des hommes autochtones. Le processus de colonisation comprend de multiples moments de rencontre et de transformation où les droits fondamentaux à la culture, à la santé, à la sécurité et à la justice sont en jeu, surtout pour les femmes, les filles et les personnes 2ELGBTQQIA autochtones.

Les colonisateurs européens ont apporté dans les territoires autochtones leurs propres idées sur les rôles des femmes et des hommes et ils les ont appliquées à diverses communautés ayant leurs propres traditions, rôles et valeurs en ce qui a trait aux femmes, aux filles et aux personnes de diverses identités de genre. En Europe, les régimes fonciers et les systèmes juridiques et sociaux reposaient sur le patriarcat, soit la dominance des hommes. Les premiers Européens n'ont tout simplement pas réussi à voir comment les rôles des femmes autochtones soutenaient des communautés entières, en plus de leurs propres familles, et aidaient à assurer la continuité de la culture, du savoir, de la langue et des valeurs d'une génération à l'autre. Quand ils ont finalement compris certains de ces rôles, ils ont constamment minimisé le rôle des femmes dans la production économique et dans la gouvernance en vue de cibler les communautés aux fins d'assimilation et, finalement, d'extermination.

Deuxièmement, le fait de cibler les femmes, les filles et les personnes 2ELGBTQQIA autochtones n'est pas nouveau, et a en fait été courant tout au long du processus de colonisation. Les pensionnats indiens et les divers types de réinstallations ont entraîné la disparition des mères, des filles et des tantes de leurs familles, parfois de façon permanente, et généré des conditions qui alimentent la violence au lieu de la prévenir. De plus, la violence à l'endroit des femmes autochtones, y compris les sévices sexuels dans les pensionnats indiens et par divers représentants coloniaux, est un sujet courant tout au long de l'histoire de la colonisation qui contribue directement à la méfiance des peuples autochtones envers un grand nombre de ces institutions aujourd'hui. Cette méfiance, à son tour, fait qu'il est moins probable que les femmes, les filles et les personnes 2ELGBTQQIA autochtones fassent confiance à ces systèmes dans leur état actuel.



Troisièmement, le processus de colonisation a créé les conditions économiques, sociales et politiques de la tragédie des femmes, des filles et des personnes 2ELGBTQQIA autochtones disparues et assassinées à laquelle nous faisons face aujourd'hui. Les peuples autochtones ont été marginalisés économiquement par la dépossession de leurs terres et ressources et par la destruction de leurs économies. Les femmes autochtones ont fait l'objet d'une marginalisation politique et sociale découlant de l'imposition du patriarcat par les Églises chrétiennes et le gouvernement du Canada. La colonisation a par ailleurs donné lieu à des idées racistes et ethnocentriques qui continuent de déshumaniser les femmes autochtones et d'en faire des cibles de la violence. Les cycles de traumatisme intergénérationnel, déclenchés par la colonisation, sont une cause profonde de la violence familiale dans les communautés autochtones aujourd'hui.

La tragédie des femmes, des filles et des personnes 2ELGBTQQIA autochtones disparues et assassinées résulte de centaines d'années de colonialisme. C'est ce que nous ont dit les familles et les survivantes. Compte tenu de ces témoignages, et comme l'affirment Sarah Hunt, membre de la nation Kwakwaka'wakw, et Cindy Holmes, nous ne devrions pas être surpris que « le rythme d'aujourd'hui ... soit rendu possible par des processus et idéologies du colonialisme qui persistent à ce jour<sup>246</sup> ».

De nombreux témoins durant l'Enquête nationale ont parlé du besoin d'en apprendre davantage sur l'histoire de la colonisation, et ce, même en tant que cibles de ses politiques.

Comme Mike Metatawabin, président du conseil d'administration du Service de police Nishnawbe-Aski l'a expliqué :

Ce que nous ne devons pas oublier, c'est que les politiques d'assimilation, les politiques relatives aux pensionnats indiens, et leurs répercussions, ont laissé des séquelles permanentes : de la violence, de la colère et des problèmes non résolus. Et, je pense que la plupart du temps, moi-même, en tant que survivant d'un pensionnat, je n'ai pas compris ce qui s'est passé, ou ce qui nous est arrivé ou ce qui se passe même au sein de nos propres familles. J'ai essayé de comprendre la colère ou la raison pour laquelle les gens sont tellement en colère les uns contre les autres. Ça m'a pris jusqu'à ce que j'aie... que j'atteigne l'âge de 30 ans avant de pouvoir commencer à comprendre ce qui s'était passé. Et, en gros, la plupart de nos gens n'ont jamais eu cette chance ou n'ont pas encore eu ce nouveau départ. Nous avons encore beaucoup de chemin à faire. Nous avons beaucoup de chemin à parcourir avant de comprendre ce qui nous est vraiment arrivé avec toutes ces politiques<sup>247</sup>.



Membre de la famille d'une victime et survivant, Shaun L. a expliqué pourquoi cette histoire est importante aujourd'hui :

Après 500 ans, ces idées [coloniales] n'ont pas tellement changé. Les femmes et les filles des Premières Nations sont traitées comme si elles étaient remplaçables. Elles ne le sont pas. Elles donnent la vie, racontent des histoires, sont les gardiennes de l'histoire, les prophètes et les matriarches. [...] Les conséquences du colonialisme sont comme une retombée de guerre nucléaire, un hiver sans lumière<sup>248</sup>.

Partant des thèmes couverts dans le présent chapitre, nous établissons le contexte des chapitres suivants, qui mettent l'accent sur les rapports plus contemporains avec la culture, la santé, la sécurité et la justice – ou leur absence – comme prolongements de ces moments historiques, et comme manifestations partielles d'un éventail complexe de limitations, d'obstacles et de défis, passés et présents, qui affectent les droits fondamentaux collectifs et individuels et qui continuent de cibler les femmes, les filles et les personnes 2ELGBTQQIA de façon néfaste.





## Notes

- 1 Chef Judy Wilson (Nation Secwépemc), Partie 1, Volume public 86, Vancouver, C.-B., p. 4. Dans ce chapitre, comme dans tous nos chapitres, la citation est tirée de la transcription officielle de la langue dans laquelle la personne a témoigné, même si la citation a été traduite.
- 2 Hunt, « More than a Poster Campaign. »
- 3 Alfred, « Colonialism and State Dependency, » 45.
- 4 Pour en savoir plus, voir Chartrand, « Métis Treaties in Canada. » Voir aussi Gouvernement d'Ontario, « Nous représentons la Terre. »
- 5 Voir McDonald-Dupuis, « The little-known history. »
- 6 Wolfe, « Settler Colonialism, » 387.
- 7 Ibid., 388.
- 8 Françoise R. (Pikogan), Partie 1, Volume public 61, Montréal, Qc., p. 48.
- 9 Wolfe, « Settler Colonialism, » 388.
- 10 Robert C. (Première Nation Musgamagw Dzawada'enuxw), Partie 1, Volume public 114, Vancouver, C.-B., p. 53.
- 11 Fossett, *In Order to Live Untroubled*.
- 12 Voir Harrington, « Canada Was Never Terra Nullius » et *Nation Tsilhqot'in c. Colombie-Britannique*, 2014 CSC 44, [2014] 2 R.C.S. 256 at para. 69.
- 13 Wolfe, « Settler Colonialism, » 391.
- 14 Pope Alexander VI, « Inter caetera. » Pour en savoir plus, voir Assemblée des Premières Nations, *Dismantling the Doctrine of Discovery*; John, « Study on the impacts of the Doctrine of Discovery »; et Conseil oecuménique des Eglises, « Statement on the Doctrine of Discovery. »
- 15 Heidenreich et Ritch, *Samuel de Champlain*, 281.
- 16 Wolfe, « Settler Colonialism, » 391.
- 17 Thwaites, *Les relations jésuites*, vol. 5, 237.
- 18 Ibid., vol. 8, 173.
- 19 Ibid., 174-175.
- 20 Ibid., vol. 29, 152-153.
- 21 Sprenger et Kramer, « Malleus Maleficarum. »
- 22 Davenport-Hines, *Sex, Death, and Punishment*.
- 23 Ethienne et Leacock, *Women and Colonization*, 30.
- 24 Simpson, « Anger, Resentment and Love. »
- 25 Dua et Robertson, *Scratching the Surface*, 63.
- 26 Pickles et Rutherford, *Contact Zones*, 233.
- 27 Maracle, « A Journey in Gender, » 39.
- 28 Ibid.
- 29 Pour plus d'informations sur la nature contestée et les malentendus concernant l'utilisation du terme « berdache », voir Cannon, « The Regulation of First Nations Sexuality. »
- 30 Traduction libre. Cité dans Martin Cannon, « The Regulation of First Nations Sexuality, » 3.
- 31 Thwaites, *Les relations jésuites*, V. 59, 127.
- 32 Bureau du Premier Ministre, « Discours du premier ministre Justin Trudeau pour présenter des excuses aux Canadiens LGBTQ2. »
- 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 Pour un traitement historique de l'évolution des modèles de mariage dans le Canada colonial, voir 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 *Acte de l'Amérique du Nord britannique*, 1867, SS 1867, c 3.
- 43 Feir, Gillezeau, et Jones, « The Slaughter of the Bison, » 1.
- 44 Ibid., 11.
- 45 Paula P. (Crie/Lakota/Écossaise), Partie 1, Déclaration publique 374, Vancouver, C.-B., pp 41-42.
- 46 Bruce, « The Last Best West. »
- 47 Surtees, « The Robinson Treaties (1850). »
- 48 CC.-B., « Northern Ontario First Nations win battle. »



- 49 Cheryl M. (Mi'kmaq), Partie 1, Volume public 18, Membertou, N.-É., p. 28.
- 50 Robinson, « Gradual Civilization Act. »
- 51 *Loi concernant les Indiens et les terres indiennes*, C.S.L.C. 1860, c. 14.
- 52 Robinson, « Gradual Civilization Act. »
- 53 *Loi modifiant et codifiant les lois concernant les Indiens*, S.C. 1876, c. 18.
- 54 Aînée Miigam'agan (Mi'kmaq), Partie 1, Volume public 44(a), Moncton, N.-B., pp 65-66, 67.
- 55 *Loi sur les Indiens*, R.S., c. I-6, s. 18.
- 56 Cannon, « The Regulation of First Nations Sexuality, » 11–12.
- 57 Pour un résumé utile de l'émergence du modèle de la « nouvelle police », voir Marquis, *The Vigilant Eye*, 7-15.
- 58 Pour une histoire plus détaillée du travail de divers agents des Indiens, voir Brownlie, *A Fatherly Eye*; Satzewich, « Indian Agents »; Dyck, *What Is the Indian « Problem »*; et Steckley, *Indian Agents*. Pour en savoir plus sur la politique générale et les opérations, voir Irwin, « Indian Agents in Canada. » Pour en savoir plus au sujet de Duncan Campbell Scott, chef du ministère pendant plus de 20 ans et architecte de nombreuses politiques parmi les plus répressives, voir Titley, *A Narrow Vision*.
- 59 Marquis, *The Vigilant Eye*, xix.
- 60 Bien que le territoire du Nord-Ouest et la Terre de Rupert soient deux territoires distincts, ils sont souvent confondus. À l'origine, et lors du transfert de 1869, la Terre de Rupert comprenait ce qui est aujourd'hui le nord du Québec et de l'Ontario, toute la province du Manitoba, la plus grande partie de la Saskatchewan et une partie du sud de l'Alberta. Le territoire du nord-ouest était constitué de zones situées au nord et à l'ouest de la Terre de Rupert. Mais, en 1870, lorsque le Canada a acheté ces territoires à la Compagnie de la Baie d'Hudson, ils ont été renommés Territoires du Nord-Ouest et combinés.
- 61 Carter, *Capturing Women*, 21.
- 62 Ibid., 53.
- 63 Ibid.
- 64 « Traffic in Indian Girls » était le titre d'un article de presse paru dans le *Morning Press* (Toronto) le 30 janvier 1886, dans lequel l'auteur affirmait que des agents et des contrats indiens près de Fort McLeod introduisaient le whisky et la traite des personnes dans les territoires et envoyaient les femmes dans des « villes frontalières à des fins immorales ». Une copie de l'article est disponible à <https://cdnc.ucr.edu/?a=d&d=MP18860130.2.5&e=-----en--20--1--txt-txIN-----1>.
- 65 Dominion du Canada, *Rapport annuel du département des affaires indiennes*, 1884, lix.
- 66 *Le code criminel de la dominion du Canada, tel qu'amendé en 1893*, s. 191 (a), (b), et (c).
- 67 Backhouse, « Nineteenth-Century Canadian Prostitution Law »; Bourgeois, « Race, Space, and Prostitution. »
- 68 Pour en savoir plus, voir Shaver, « Prostitution »; Backhouse, « Nineteenth-Century Canadian Prostitution Law. »
- 69 Rande C. (Kwakwaka'wakw), Partie 1, Volume public 94, Vancouver, C.-B., p. 37.
- 70 *Saskatchewan Herald*, 15 mars 1886, cité dans Carter, *Capturing Women*, 188.
- 71 Daschuk, *Clearing the Plains*, 122, 134.
- 72 Dans CHC, Documents de la session 14 33, no 15 (1909): 110, cité dans Carter, *Capturing Women*, 162.
- 73 Carter, *Capturing Women*.
- 74 Ibid., 172–174.
- 75 Cité dans Morgan, « The North-West Mounted Police, » 56.
- 76 Ibid.
- 77 Pour plus de détails, voir Anderson, *A Recognition of Being*, 82–85.
- 78 Carter, *Capturing Women*, 165.
- 79 Ibid., 183.
- 80 *Macleod Gazette*, 16 mars 1886, cité dans Carter, *Capturing Women*, 183.
- 81 Ibid.
- 82 Carter, *Capturing Women*, 167–68.



- 83 Ibid., 169.
- 84 Ibid., 181.
- 85 Ibid.
- 86 Macleod, *The North-West Mounted Police*, 145. Voir aussi Archives Nationales, RG 18, vol. 24, file 667-1888, cité dans Carter, *Capturing Women*, 189.
- 87 Smith, « Bloody Murder, » 13, cité dans Carter, *Capturing Women*, 189.
- 88 Gray, *Talk to My Lawyer!*, 7.
- 89 Adams, *Prison of Grass*, 78.
- 90 Entrevue avec Bernie Williams et Audrey Siegl, le 30 septembre 2018, par Kelsey Hutton, pp. 44–45.
- 91 Voir Miller, *Shingwauk's Vision*.
- 92 Voir aussi LeBeuf, *The Role of the Royal Canadian Mounted Police*.
- 93 APTN Investigates, [www.aptn.ca/news/wpcontent/uploads/sites/4/2014/10/SchoolLetter1.jpg](http://www.aptn.ca/news/wpcontent/uploads/sites/4/2014/10/SchoolLetter1.jpg).
- 94 Comité de vérité et réconciliation du Canada, Volume 1, 28.
- 95 Ibid., 681-685.
- 96 Ibid., 682.
- 97 McCallum, *Indigenous Women*, 32–33.
- 98 Ibid.
- 99 Ibid., 31.
- 100 Albert McLeod, (Nation Crie Nisichawayasihk/communauté métisse de Norway House), Partie 3, Volume public 8, Toronto, Ont., pp. 60-61. Pour plus d'informations sur les séquelles des pensionnats indiens sur les personnes bispirituelles, voir la vidéo suivante: Daily Xtra, « Residential schools' impact on two-spirit people. » Le 5 novembre 2014. <https://youtu.be/SzT2ed8xRIU>.
- 101 Commission de vérité et de réconciliation du Canada, *Les survivants s'expriment*, 98.
- 102 Ibid., 95.
- 103 Ibid., 98.
- 104 Elaine D. (Métisse), Partie 1, Déclaration publique 13, Smithers, C.-B., p. 12.
- 105 Shaun L. (Kaska Dena, Clan du corbeau), Partie 1, Volume public 3, Whitehorse, YT, p. 7.
- 106 Rande C. (Kwakwaka'wakw), Partie 1, Volume public 94, Vancouver, C.-B., pp. 28-29.
- 107 Tel que cité dans Henderson, *Settler Feminism*, 179.
- 108 Pour plus de détails, voir Crews, « Biological Theory. »
- 109 Clément, « Eugenics. »
- 110 Ibid.
- 111 Eugenics Archive, « Feeble-mindedness. »
- 112 Pour en savoir plus sur l'histoire de la stérilisation forcée, voir Stote, « The Coercive Sterilization. »
- 113 Kirkup, « Indigenous women coerced. »
- 114 *M.R.L.P. and S.A.T. v. The Attorney General of Canada, The Government of Saskatchewan, Saskatchewan Health Authority et. al.* (16 Feb. 2018), Q.B. No. 1485 of 2017 (Déclaration), <https://www.mauricelaw.com/upload/Class-Action-Docs/Notice-to-Defendants-Q.B.-No-1485-of-2017.pdf>.
- 115 Voir Norris et Clatworthy, « Urbanization and Migration Patterns. »
- 116 Voir Norris et Clatworthy, « Aboriginal Migration, » 3-5.
- 117 Ibid.
- 118 Price, Travato et Abada, « Urban Migration. »
- 119 Peters et Andersen, *Indigenous in the City*, 8-9.
- 120 McCallum, *Indigenous Women, Work, and History*, 7.
- 121 Bohaker et Iacovetta, « Making Aboriginal People 'Immigrants Too', » 443.
- 122 Pour en savoir plus, voir McCallum, *Indigenous Women, Work, and History*, 66-119.
- 123 Bohaker et Iacovetta, « Making Aboriginal People 'Immigrants Too', » 443.
- 124 Pour en savoir plus, voir McCallum, *Indigenous Women, Work, and History*, 66-119.
- 125 Rande C. (Kwakwaka'wakw), Partie 1, Volume public 94, Vancouver, C.-B., p. 44.
- 126 Razack, « Gendered Racial Violence, » 97.





- 127 Pour en connaître plus au sujet de la façon dont certaines réglementations aggravent l'inégalité en général, voir White, « How Zoning Laws Exacerbate Inequality » et Driedger, « Residential Segregation ». Les politiques et les lois associées à la ségrégation forcée sont distinctes du concept de «regroupement» qui voit parfois les gens se grouper en communautés au sein de centres urbains. Les pratiques auxquelles nous faisons référence ici traitent spécifiquement de la criminalisation de populations et de quartiers, particuliers en ce qui concerne la planification urbaine et les lois de zonage et de nuisance.
- 128 Ramachandran, « Indigenous peoples in the grip of 'criminalization'. »
- 129 Razack, « Gendered Racial Violence, » 117.
- 130 Tara Williamson, « Just what was the Sixties Scoop? »
- 131 Johnston, *Native Children and the Child Welfare System*; Commission de vérité et de réconciliation du Canada, Rapport provisoire, 14–15.
- 132 Comité sénatorial permanent des affaires sociales, des sciences et de la technologie, « Honte à nous : L'adoption forcée des enfants nés d'une mère célibataire pendant la période d'après-guerre au Canada. »
- 133 Clancy, « Survivors recall the Sixties Scoop. »
- 134 Stevenson, « Selling the Sixties Scoop. »
- 135 Ibid.
- 136 Bonnie F. (Première Nation), Partie 1, Volume public 81, Vancouver, C.-B., pp. 15-16.
- 137 Cynthia C. (Nation Crie Ermineskin/Maskwacis), Partie 1, Volume public 81, Vancouver, C.-B., p. 5.
- 138 Shaun L. (Kaska Dena, Clan du corbeau), Partie 1, Volume public 3, Whitehorse, YT, pp. 8-9.
- 139 Desrosiers, « Le système de santé au Québec, » 16.
- 140 D'Amours, « Survol historique de la protection, » 411.
- 141 Pour plus de détails au sujet de cet aspect, voir Volume 2, le rapport Québec de l'Enquête nationale sur les femmes et les filles autochtones disparues et assassinées.
- 142 Sigouin, « Les mécanismes de protection de la jeunesse. »
- 143 Macdougall et St. Onge, « Rooted in Mobility. »
- 144 Ross, « Canadian Hero? »
- 145 Pour une analyse plus détaillée au sujet des « femmes du pays » métisses, voir Van Kirk, *Many Tender Ties*.
- 146 Payment, « 'La Vie en Rose'? » 20-22.
- 147 Ibid., 21.
- 148 Poelzer et Poelzer, *In Our Own Words*, 33-34.
- 149 Payment, « 'La Vie en Rose'? » 20.
- 150 Voir Carter, *The Importance of Being Monogamous*.
- 151 Ibid., 152.
- 152 Sealey et Lussier, *The Métis*, 92.
- 153 Thistle, « The Puzzle of the Morrissette-Arcand Clan. »
- 154 Thistle, « 'Poster #8: Batoche, 1885' ».
- 155 Payment, « 'La Vie en Rose'? », 26.
- 156 Thistle, « The Puzzle of the Morrissette-Arcand Clan. »
- 157 Sealey et Lussier, *The Métis*, 133. Voir aussi Payment, « 'La Vie en Rose'? » 28.
- 158 Payment, « 'La Vie en Rose'? » 26.
- 159 Augustus, « The Scrip Solution, » iii.
- 160 Ens et Sawchuk, *From New Peoples*, 159. Voir aussi Robinson, « Métis Scrip in Canada. »
- 161 Sealey et Lussier, *The Métis*, 135.
- 162 Ibid., 96–97.
- 163 St-Onge, « The Dissolution of a Métis Community. »
- 164 Voir aussi Milne, « The Historiography of Métis Land Dispersal. »
- 165 Ens et Sawchuk, *From New Peoples*, 239.
- 166 Niemi-Bohun, « Colonial Categories, » 96.
- 167 Augustus, « The Scrip Solution, » 77.
- 168 Ibid.
- 169 Niemi-Bohun, « Colonial Categories, » 96.
- 170 Adese, « 'R' is for Métis, » 209.
- 171 Logan, « A Métis Perspective on Truth and Reconciliation, » 76.
- 172 Ibid., 77–78.
- 173 Ibid.
- 174 Elaine D. (Métisse), Partie 1, Déclaration publique 13, Smithers, C.-B., p. 7.



- 175 Logan, « A Métis Perspective on Truth and Reconciliation, » 82–83.
- 176 Elaine D. (Métisse), Partie 1, Déclaration publique 13, Smithers, C.-B., p. 6.
- 177 Logan, « A Métis Perspective on Truth and Reconciliation, » 82.
- 178 Ibid.
- 179 Ens et Sawchuk, *New Peoples*, 256–57.
- 180 Ibid.
- 181 Ibid.
- 182 Ibid., 207.
- 183 Campbell, *Halfbreed*, 36–37.
- 184 Burley, « Roostertown. »
- 185 Ens et Sawchuk, *New Peoples*, 305-7. Voir aussi Payment, *The Free People*, 276-77.
- 186 Tel que cité dans Reder et Shield, « 'I write this for all of you'. »
- 187 Campbell, *Halfbreed*, 114.
- 188 Logan, « A Métis Perspective on Truth and Reconciliation, » 80.
- 189 Carrière, « Adoption of Métis Children. »
- 190 Manitoba Metis Federation, *They Are Taking Our Children From Us*.
- 191 Barkwell, Longclaws et Chartrand, « Status of Métis Children. »
- 192 Carrière et Richardson, « The Invisible Children. »
- 193 Elaine D. (Métisse), Partie 1, Déclaration publique 13, Smithers, C.-B., p. 46.
- 194 Cité dans Barkwell, Longclaws et Chartrand, « Status of Métis Children, » 34.
- 195 Ibid.
- 196 Carrière et Richardson, « The Invisible Children, » 51–52.
- 197 Carrière et Richardson, « The Invisible Children. »
- 198 Hagar Idlout-Sudlovenick (Inuite), Parties II et III mixtes, Volume public 1, Iqaluit, Nun., pp. 38-39.
- 199 René Fossett, *In Order to Live Untroubled*.
- 200 Ray, *The Canadian Fur Trade*; Stevensen, *Inuit, Whalers, and Cultural Persistence*; Nunavut Wildlife Management Board, *Final Report of the Inuit Bowhead Knowledge Study*.
- 201 Ray, *The Canadian Fur Trade*; Tester et Kulchyski, Tamarniit (Mistakes).
- 202 Commission de vérité Qikiqtani, *Paliisikkut: Policing in Qikiqtaaluk*.
- 203 Ross, *Whaling and Eskimos*.
- 204 Eber, *When the Whalers*, 114.
- 205 La Commission de vérité Qikiqtani était une commission d'enquête créée par la Qikiqtani Inuit Association en 2006 pour examiner la relation entre les Inuits et le gouvernement fédéral entre 1950 et 1975. Voir [www.qtcommission.ca](http://www.qtcommission.ca).
- 206 Commission de vérité Qikiqtani, *Paliisikkut: Policing in Qikiqtaaluk*, 38.
- 207 Ibid., 43.
- 208 Tel que cité dans le film E1-472 KIKKIK, (1:16:00–1:18:30).
- 209 Commission de vérité Qikiqtani, *Paliisikkut: Policing in Qikiqtaaluk*, 43-44.
- 210 Trott, « Mission and Opposition »; Oosten, Laugrand et Remie, « Perceptions of Decline. »
- 211 Koperqualuk, « Puvirniturmiut Religious and Political Dynamics, » 114.
- 212 Rutherford, « 'She Was a Ragged Little Thing,' » 232.
- 213 Ibid., 233.
- 214 Tester et Kulchyski, *Tamarniit (Mistakes)*.
- 215 En décembre 1954, la construction de la ligne d'alerte avancée à distance (LAAD), une chaîne intégrée de 63 centres de radars et de communications s'étendant sur 3 000 milles de l'ouest de l'Alaska à travers l'Arctique canadien jusqu'au Groenland.
- 216 Simon, « Canadian Inuit, » 880.
- 217 Commission de vérité Qikiqtani, *Illiniarniq: Schooling in Qikiqtaaluk*, 37.
- 218 Watt-Cloutier, *The Right to Be Cold*, 72.
- 219 Tester et Kulchyski, *Tamarniit (Mistakes)*; Oosten, Laugrand, et Serkoak, « The Saddest Time of My Life »; Commission de vérité Qikiqtani, *Nuutauniq: Moves in Inuit Life*.



- 220 Commission royale sur les peuples autochtones, *Rapport de la Commission royale sur les peuples autochtones, Volume 1 – Un passé, un avenir.*
- 221 Commission royale sur les peuples autochtones, *Rapport de la Commission royale sur les peuples autochtones, Volume 2 – Une relation à redéfinir*; Commission de vérité Qikiqtani, *Nuutauniq: Moves in Inuit Life.*
- 222 De nombreux Inuits déclarent depuis longtemps que des agents de la GRC ont systématiquement tué des milliers de chiens de traîneau dans le cadre d'un plan gouvernemental visant à les forcer à abandonner leurs camps traditionnels. Dans son propre rapport de 2006, la GRC a conclu que ce n'était pas le cas. En 2003, le rapport de la Commission de vérité Qikiqtani a expliqué que même si les agissements des agents de la GRC étaient habituellement conformes aux lois sur le contrôle des animaux lorsqu'ils abattaient les chiens, ces lois n'étaient pas expliquées correctement aux Inuits, et ceux-ci ne comprenaient souvent pas pourquoi les chiens étaient abattus. L'abattage des chiens de traîneau a entraîné d'importants changements dans les moyens de subsistance traditionnels basés sur la chasse et, comme l'a rapporté la Commission de vérité Qikiqtani, n'a pas été appliqué de manière uniforme.
- 223 Commission de vérité Qikiqtani, *Illiniarniq: Schooling in Qikiqtaaluk*; Commission de vérité et réconciliation du Canada, *Pensionnats du Canada : L'expérience inuite et nordique.*
- 224 Wachowich et al, *Saqiyuq*, 166.
- 225 Commission de vérité Qikiqtani, *Illiniarniq: Schooling in Qikiqtaaluk*; Commission de vérité et réconciliation du Canada, *Pensionnats du Canada : L'expérience inuite et nordique.*
- 226 Annie B. (Inuite, Pangnirtung), Partie 1, Volume public 16, Winnipeg, Man., p. 9.
- 227 Adoptive Families Association of C.-B., « Perspectives. » Voir aussi Bucknall, « John Howard Sissons. »
- 228 Fennario, « One in three Inuit youth. »
- 229 Commission de vérité Qikiqtani, *Aaniajurliriniq: Health Care in Qikiqtaaluk*; Lux, *Separate Beds.*
- 230 Hanson, « Women Are Natural Leaders, » 61.
- 231 Micah A. (Inuite, Talurjuaq ), Partie 1, Volume public 46(b), Rankin Inlet, Nun., p. 2.
- 232 Commission de vérité Qikiqtani, *Aaniajurliriniq: Health Care in Qikiqtaaluk.*
- 233 Wachowich et al, *Saqiyuq*, 103-104.
- 234 Commission de vérité Qikiqtani, *Aaniajurliriniq: Health Care in Qikiqtaaluk*, 50-51.
- 235 Redfern, « Supporting Civil Development, » 105.
- 236 Brody, *The People's Land.*
- 237 Koperqualuk, « Puvirniturmiut 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 et Hicks, « Early Childhood Adversity. »
- 241 Pauktuutit, « National Strategy to Prevent Abuse, » 3.
- 242 Les traumatismes intergénérationnels ont également été identifiés comme une cause fondamentale de plusieurs autres problèmes auxquels les Inuits sont aujourd'hui confrontés, notamment la toxicomanie, le suicide chez les jeunes et les conflits avec le système de justice pénale. Voir Government du Nunavut, Nunavut Tunngavik Incorporated, le Embrace Life Council et la Gendarmerie royale du Canada, « 2010 Nunavut Suicide Prevention Strategy »; Nunavut Tunngavik Incorporated, *Annual Report: Examining the Justice System in Nunavut*; Inuit Tapiriit Kanatami, « National Inuit Suicide Prevention Strategy »; et Government of Nunavut, « Nunavut Crime Prevention Strategy. »
- 243 Sarah N. (Inuite, Inukjuak), Partie 1, Volume public 64, Montréal, Qc., p. 16.
- 244 Commission royale sur les peuples autochtones, *Rapport de la Commission royale sur les peuples autochtones, Volume 4 – Perspectives et Réalités.*
- 245 Karetak, « Healing Unresolved Issues, » 200-201.
- 246 Hunt et Holmes, « Everyday Decolonization, » 54.
- 247 Mike Metatawabin (Première Nation Fort Albany), Parties II et III mixtes, Volume public 5, Québec, Qc., p. 155.
- 248 Shaun L. (Kaska Dena, Clan du corbeau), Partie 1, Volume public 3, Whitehorse, YT, p. 5.





## Combattre l'oppression

Cette section du rapport final s'appuie sur le cadre établi dans la section 1 et sur l'exploration des nombreuses formes de violence relatées par les témoins aux parties 1, 2 et 3 du processus de consignation de la vérité. Nous accordons ici la place centrale à la voix des familles et des amis dont une personne proche a perdu la vie en raison de la violence, ainsi qu'à la voix des survivantes et des personnes qui ont offert du soutien aux personnes dans le besoin. Nous le faisons afin d'honorer la résilience, la capacité d'agir et l'expertise dont font preuve les femmes, les filles et les personnes 2ELGBTQQIA autochtones pour traiter les problèmes qui les affligent plus que tout autre individu. En outre, nous mettons au cœur de ce chapitre la voix des survivantes et des membres de famille, qui surmontent leur souffrance afin de rendre hommage aux personnes qui ne sont plus parmi nous.

Comme indiqué dans la section 1, notre approche intersectionnelle s'appuie sur ces voix, constituant l'autorité, pour comprendre en quoi les expériences vécues représentent le mieux la complexité des problèmes rencontrés. Les exemples présentés dans cette partie du rapport final ne visent pas à mettre l'ensemble des organismes, des ministères et des institutions dans le même panier. Cependant, si l'on revient à notre approche pour comprendre les rencontres ci-partagées, ces expériences nous aident à analyser des situations de préjudice et de traumatisme, à trouver les meilleures solutions possible et à tracer une nouvelle voie.



Dans notre rapport provisoire, nous avons adopté la définition de la « violence » de l'Organisation mondiale de la santé (OMS) : « La violence est l'utilisation intentionnelle de la force physique, de menaces à l'encontre des autres ou de soi-même, contre un groupe ou une collectivité, qui entraîne ou risque fortement d'entraîner un traumatisme, des dommages psychologiques, des problèmes de développement ou un décès<sup>1</sup>. » Cette définition englobe la violence entre personnes, la violence auto-infligée (suicide ou automutilation) et les conflits armés. L'Enquête nationale élargit toutefois la définition de la violence pour inclure la violence coloniale, culturelle et institutionnalisée, ce qui est conforme à son cadre de référence, au décret administratif ainsi qu'aux décrets connexes.

Comme l'affirme l'initiative de prévention de la violence du gouvernement de Terre-Neuve-et-Labrador, « la violence est ancrée dans l'inégalité et peut survenir une seule fois ou encore de façon répétée sur toute la durée d'une vie ». Parfois, elle touche plusieurs générations, comme l'ont indiqué plusieurs témoins que nous avons entendus. La violence et les mauvais traitements sont « utilisés pour établir et maintenir en place un pouvoir et un contrôle sur une personne. Elles reflètent souvent un déséquilibre de pouvoir entre la victime et son agresseur<sup>2</sup>. »

L'initiative mentionnée ci-dessus définit neuf formes de violence :

<b>Violence physique</b>	<b>Violence sexuelle</b>	<b>Violence émotionnelle</b>
Il y a violence physique lorsqu'une personne utilise une partie de son corps ou un objet pour contrôler les gestes d'une autre personne.	Il y a violence sexuelle lorsqu'une personne est forcée de participer à des activités sexuelles contre son gré.	Il y a violence émotionnelle lorsqu'une personne dit ou fait quelque chose pour qu'une autre personne se sente stupide ou bonne à rien.
<b>Violence psychologique</b>	<b>Violence spirituelle</b>	<b>Violence culturelle</b>
Il y a violence psychologique lorsqu'une personne fait des menaces ou sème la peur chez une autre personne pour avoir une emprise sur elle.	Il y a violence spirituelle (ou religieuse) lorsqu'une personne utilise les croyances spirituelles d'une autre personne pour la manipuler, la dominer ou la contrôler.	Il y a violence culturelle lorsqu'une personne subit un préjudice en raison de pratiques qui font partie de sa culture, de sa religion ou de ses traditions.
<b>Violence verbale</b>	<b>Violence économique</b>	<b>Négligence</b>
Il y a violence verbale lorsqu'une personne utilise des mots, à l'écrit ou à l'oral, pour causer un préjudice à une autre personne.	Il y a violence économique lorsqu'une personne contrôle les ressources financières d'une autre personne sans son consentement ou utilise ces ressources à mauvais escient.	Il y a négligence lorsqu'une personne a la responsabilité de prendre soin d'une autre personne ou de l'aider, mais qu'elle ne le fait pas.



Dans la présente section, nous nous appuyons donc sur une définition plus large de la violence, fondée sur le principe voulant que la violence soit structurelle, systémique et institutionnelle, et qu'elle fasse partie intégrante du quotidien des peuples autochtones. Nous considérons la violence sous toutes ses formes, non seulement en tant qu'acte, mais également comme un modèle et une structure qui doivent être déconstruits pour être bien compris.

Ce rapport s'appuie sur des travaux de spécialistes tels que la regrettée Patricia Monture Angus, citée par la chercheuse Cindy Holmes, qui appelait, en 1995, à une nouvelle définition élargie de la violence qui « reflétait la complexité des relations de pouvoir coloniales et des formes de violence intersectionnelles et interreliées subie par les peuples autochtones ». L'Enquête nationale reconnaît la violence étatique – le colonialisme, le patriarcat, la misogynie et le racisme – comme faisant partie intégrante de la violence que subissent quotidiennement les femmes, les filles et les personnes 2ELGBTQQIA autochtones. Nous employons ce type de définition pour expliquer qu'il n'existe pas une forme unique de violence contre les femmes autochtones ni une cause unique expliquant les disparitions et les meurtres de femmes et de filles autochtones. Réduire la violence à laquelle les femmes sont confrontées à sa seule forme interpersonnelle est une interprétation beaucoup trop limitée pour en comprendre la source. Se baser simplement sur le concept de la « violence des hommes à l'endroit des femmes autochtones », comme l'explique Cindy Holmes, contribue à la recolonisation et efface les mécanismes plus vastes favorisant la perpétuation de toutes les formes de violence que subissent les femmes, les filles ainsi que les personnes 2ELGBTQQIA autochtones<sup>3</sup>.

Nous maintenons que la violence coloniale est complice de toutes ces formes de violence. La partie 2 de notre rapport final examine l'ensemble de ces formes de violence vécues par les personnes qui en sont la cible, ainsi que les rencontres qui, selon leur nature, ont été la source de préjudice ou de guérison. Enfin, nous adoptons une approche de décolonisation afin de mieux comprendre comment ces formes de violence sont reliées pour les peuples autochtones et comment les relations qui les sous-tendent peuvent être transformées.

## Les quatre facteurs qui entretiennent la violence coloniale

Dans les quatre prochains chapitres, nous abordons des thèmes tirés des témoignages que nous avons entendus. Plutôt que d'axer chaque chapitre sur un événement ou sur un moment de l'histoire, nous avons choisi des thèmes qui illustrent comment les structures qui maintiennent la violence coloniale sont à l'œuvre dans certains secteurs clés avec lesquels les femmes, les filles et les personnes 2ELGBTQQIA autochtones interagissent au quotidien. En choisissant des thèmes qui tiennent compte de ces expériences dans les domaines de la culture, de la santé, de la sécurité et de la justice, nous établissons délibérément des liens avec les instruments internationaux relatifs aux droits de la personne que le Canada s'est engagé à soutenir, car il s'agit d'un angle important sous lequel percevoir ces obligations. Les droits des femmes autochtones en matière de culture, de santé, de sécurité et de justice ne sont pas accessoires. Il s'agit de droits fondamentaux de la personne qui sont nécessaires et obligatoires.





De plus, chacun des quatre chapitres souligne le caractère identique des facteurs qui entretiennent la violence coloniale dans chaque domaine thématique. Bien que la nature des expériences varie d'un groupe à l'autre et que nous n'utilisons pas cette approche pour attribuer ces expériences à l'ensemble des peuples autochtones, nous mettons en évidence leurs points communs pour déterminer les causes sous-jacentes de la violence, comme le prévoit notre mandat.

En décrivant les rencontres qui ont mené leur proche à vivre des situations de préjudice, les familles et les survivantes qui ont témoigné devant l'Enquête nationale se sont constamment rapportées à quatre facteurs généraux traduisant comment leurs expériences étaient enracinées dans le colonialisme historique et contemporain. Ces quatre facteurs continuent de permettre des manifestations historiques et contemporaines du colonialisme, ce qui donne lieu à une violence accrue au fil des générations.

Sarah Clark, témoin expert et directrice générale de l'Arctic Children and Youth Foundation, a expliqué ce qui suit :

Le traumatisme historique a des répercussions cumulatives et intergénérationnelles, ce qui signifie que ses effets se transmettent d'une génération à l'autre. Les diverses sources de traumatisme qui se situent à l'extérieur des communautés autochtones, dont je viens de parler, ont entraîné un éventail de comportements dysfonctionnels et néfastes, comme des actes de violence physique et sexuelle, qui se répètent génération après génération au sein de la communauté. Par conséquent, on assiste à des comportements négatifs, comme une consommation abusive d'alcool, des actes de violence sexuelle, physique et émotionnelle, une négligence à l'égard des enfants, et des crimes violents. Les liens entre les effets d'événements antérieurs comme ceux-là et les résultats néfastes d'aujourd'hui ont été confirmés par de nombreuses études<sup>4</sup>.

Nos quatre facteurs sont expliqués au chapitre 1, mais nous les représentons ici aux fins de rappel :

- **Le traumatisme historique, multigénérationnel et intergénérationnel** se rapporte au contexte entourant les luttes contemporaines contre les traumatismes et les préjudices collectifs qui découlent des politiques antérieures et actuelles. Ce contexte illustre que le fonctionnement des systèmes actuels perpétue souvent le traumatisme au lieu de guérir la génération touchée. Nous soutenons que le traumatisme intergénérationnel et multigénérationnel est directement lié à la violence interpersonnelle et à l'automutilation, et qu'il place ultimement les femmes, les filles et les personnes 2ELGBTQQIA autochtones dans des situations dangereuses.
- **La marginalisation des conditions sociales et économiques** qui garantissent que les structures émanant du passé continuent d'exister dans les systèmes contemporains responsables de la marginalisation. En particulier, la dépossession continue des peuples



autochtones, par le truchement de politiques qui empirent ou maintiennent les piètres conditions de vie, démontre de quelle manière la situation socioéconomique, également liée à la marginalisation politique, contribue directement à la violence dans plusieurs domaines visés par les droits. De plus, les répercussions de cette marginalisation sur les femmes, les filles et les personnes 2ELGBTQQIA autochtones sont particulièrement importantes en raison de la violence qui en découle.

- **Le maintien du statu quo et le manque de volonté de la part des institutions** sont des moyens par lesquels les gouvernements, les institutions et d'autres parties ont essayé de se soustraire à leurs responsabilités, juridiques et autres envers les femmes, les filles et les personnes 2ELGBTQQIA autochtones. Leurs politiques, ou l'insuffisance de politiques, contribuent directement à cibler ces dernières, car le manque de volonté, le financement inadéquat et le maintien du statu quo les marginalisent.
- **Le refus de reconnaître la capacité d'agir et l'expertise des femmes, des filles et des personnes 2ELGBTQQIA autochtones** est un thème récurrent, sur le plan historique et contemporain, surtout compte tenu de l'internalisation du patriarcat et de la misogynie qui, comme bien des femmes l'ont mentionné, les maintient à l'écart des structures politiques officielles. Pour remettre en cause le statu quo, nous avançons que les organismes, les institutions et les gouvernements doivent vouloir travailler avec les personnes qui possèdent la plus grande expertise – les personnes touchées par la violence – et reconnaître leur capacité d'agir, leur résilience ainsi que leurs solutions<sup>5</sup>.

Dans la conclusion de chaque chapitre, nous établissons des liens entre de nombreux problèmes évoqués et les instruments internationaux relatifs aux droits de la personne afin de mettre en évidence les engagements du Canada à cet égard. Comme Ellen Gabriel, témoin expert et défenseure des droits des Autochtones, l'a souligné dans son témoignage :

Lorsque nous parlons de droits de la personne, ce que je tiens à souligner, c'est qu'il faut nous concentrer sur leur mise en œuvre. Tout comme le stipule l'ONU, les droits de la personne sont universels, inaliénables, indivisibles, interdépendants et interreliés. Ils soutiennent l'égalité et la non-discrimination, la participation et l'inclusion ainsi que la responsabilisation au regard de la primauté du droit, et rien de tout cela n'a été offert aux Autochtones. On nous dit constamment que nous ne savons pas ce qui est mieux pour nous, que les politiques du gouvernement sont les meilleures. On nous dit constamment que les intérêts des tiers pour exploiter nos terres et nos territoires, pour extraire nos ressources, sont plus importants que nos droits, que l'argent va apaiser la douleur causée par la perte de notre terre, ce qui n'est pas le cas<sup>6</sup>.



Ces normes établies par les instruments relatifs aux droits de la personne sont inutiles si elles ne sont pas appliquées intégralement pour soutenir les droits fondamentaux de la personne, ce qui n'a pas eu lieu dans plusieurs histoires présentées dans ce rapport. Ces normes doivent devenir une réalité, non seulement à l'échelle des institutions et des systèmes, mais également dans chacune des relations, des rencontres et des interactions que peuvent avoir les femmes, les filles et les personnes 2ELGBTQQIA autochtones.

Nous vous invitons à lire les prochains chapitres sans perdre de vue la situation d'ensemble et en tenant compte de vos propres croyances et relations – que vous soyez une survivante, un membre de famille, un allié ou un non-Autochone. Ces expériences montrent que nous avons tous un rôle à jouer pour assurer le respect de l'ensemble des droits des femmes, des filles et des personnes 2ELGBTQQIA autochtones. Les rencontres négatives décrites dans les sections suivantes ne visent pas à suggérer que toutes les personnes et toutes les institutions adoptent les mêmes attitudes discriminatoires; elles visent plutôt à souligner le fait que le changement commence à la base. Toutefois, on retrouve ces attitudes de façon remarquablement constante dans les nombreuses expériences rapportées par les Autochtones et, par conséquent, ces relations et ces rencontres sont précisément les éléments sur lesquels nous devons nous pencher pour rétablir la sécurité des femmes, des filles et des personnes 2ELGBTQQIA autochtones.





## Combattre l'oppression : le droit à la culture

### Introduction : identité et culture

Comme démontré au chapitre 4, l'histoire de la colonisation a altéré les relations des gens avec leur culture et leur identité au moyen d'efforts concertés visant leur assimilation et de politiques conçues pour rompre leurs liens culturels et familiaux. Les effets de la colonisation sur les femmes, les filles et les personnes 2ELGBTQQIA autochtones se sont transmis d'une génération à l'autre et ont modifié la façon dont celles-ci accèdent à leurs droits culturels.

En partageant leurs vérités propres au sujet de leurs proches disparues ou assassinées, les témoins ont souvent évoqué les liens entre la violence, les circonstances entourant la violence et la perte de la culture traditionnelle – une forme de violence en soi. Au sein de nombreuses communautés autochtones, le droit à la culture comprend la capacité de pratiquer et de transmettre les traditions culturelles et la langue ainsi que les manières d'entrer en relation avec les autres et avec le territoire. Cependant, en décrivant le rôle que joue la culture dans leur vie, plusieurs témoins ont parlé des nombreuses façons dont ce droit à la culture a été enfreint. Au sujet de ces violations, des témoins ont décrit les obstacles auxquels ils se heurtent pour accéder à des services adaptés à leur culture dans des domaines comme la santé, la sécurité et la justice. Ils ont également décrit la façon dont la prise en charge actuelle et tragique des enfants autochtones par le système de protection de l'enfance bafoue les droits culturels des peuples autochtones. Pour bien des gens, les séquelles permanentes du colonialisme et les efforts soutenus pour détruire les fondements culturels, linguistiques et spirituels des Autochtones, de leurs familles et de leurs communautés se font toujours sentir, comme en témoignent la séparation des familles, la discrimination institutionnelle et le déni sociétal de ces réalités. Dans tous ces cas, la violation des droits culturels contribue à d'autres formes de violence qui ont des conséquences disproportionnées sur la vie des femmes, des filles et des personnes 2ELGBTQQIA autochtones.



*Au cours de l'Enquête nationale, un des éléments clés de notre processus a été d'investir dans les relations et de les placer au centre de notre analyse. À Iqaluit, les commissaires s'entretennent avec Hagar Idlout-Sudlovenick et Inukshuk Aksalnik de la Qikiqtani Inuit Association.*

Le racisme se trouve au cœur de cette discussion, car il s'agit d'une forme particulière de violence coloniale qui vise à miner, à minimiser et à négliger les droits culturels des Autochtones ainsi qu'à rabaisser ces derniers. Nous devons notamment nous attarder sur les rencontres dont ont fait mention de nombreux témoins, qu'elles soient humaines ou systémiques, dont l'issue aurait pu être tout autre si elles s'étaient fondées sur une approche non discriminatoire qui laisse de côté les préjugés et les partis pris pour s'appuyer sur le respect en tant que valeur fondamentale.

Dans ce chapitre, nous nous penchons d'abord sur la façon dont les traumatismes intergénérationnels et multigénérationnels perpétuent la violence coloniale dans le présent, comme expliqué dans les récits liés à la perte de la culture. Nous abordons ensuite comment l'accès insuffisant aux droits sociaux, économiques et politiques compromet l'obtention de services adaptés à la culture et mine le droit à la culture. Puis, nous décrivons des cas où le manque de volonté politique et les interventions institutionnelles déficientes ont porté atteinte au respect envers les cultures autochtones. Ensuite, nous examinons les témoignages des personnes qui ont partagé leurs vérités propres, car ils comportent des histoires révélant comment restaurer les droits culturels au moyen de la capacité d'agir, de la résilience et de l'expertise. Enfin, nous cernons les expériences communes qui se rattachent aux facteurs perpétuant la violence coloniale, mentionnés dans les témoignages de membres des Premières Nations, de Métis et d'Inuits, et nous soulignons les manifestations caractéristiques des violations des droits culturels telles qu'elles ont été présentées à l'Enquête nationale.

Si les exemples de rencontre mis en évidence dans ce chapitre ne représentent pas la totalité des expériences des Autochtones au sein des divers systèmes et institutions, nous soutenons qu'ils sont importants et qu'ils représentent les formes d'oppression culturelle subies par les femmes, les filles et les personnes 2ELGBTQQIA autochtones. Ils suscitent également une réflexion sur le lien entre la protection des droits culturels et l'établissement préalable de relations respectueuses, et sur la façon dont ces rencontres peuvent être la source de préjudice ou de guérison pour les personnes qui ont servi de cible principale à la violence et au racisme systémiques, institutionnalisés et interpersonnels.



## Définir la « culture »

Les vérités propres partagées par les familles, les survivantes, les Gardiens du savoir et d'autres personnes avec l'Enquête nationale indiquent clairement que la culture doit être intégrée à toute initiative visant à rétablir et à protéger les droits des Autochtones et les droits de la personne en général. De la même manière, les témoins ont souvent souligné que le racisme et la discrimination sont des obstacles majeurs à l'accès à ces droits, notamment le droit fondamental à la sécurité personnelle. Ainsi, plusieurs d'entre eux ont soutenu que les droits culturels sont nécessaires à la pleine jouissance de tous les droits. De nombreux témoignages ont fait valoir qu'il est essentiel de reconnaître, de respecter et de préserver la culture autochtone, telle qu'elle est perçue par les différents groupes autochtones, au sein des institutions et des systèmes, par exemple la protection de l'enfance, les soins de santé, l'administration de la justice et bien d'autres. La protection des droits culturels dans ces domaines repose essentiellement sur le respect de l'importance de l'unité familiale et sur la volonté d'aborder les façons dont les violations contemporaines subies par les familles autochtones, en particulier quant à la prise en charge des enfants, mettent ces droits en péril. Les témoignages ont également relevé comment la violation des droits culturels, dans bien des cas, contribue à mettre en danger des personnes et à créer des situations dans lesquelles les femmes, les filles et les personnes 2ELGBTQQIA sont la cible d'actes de violence.

Les organisations internationales ont noté la primauté des droits culturels et, en parallèle, de l'autodétermination. Comme l'explique Alexandra Xanthaki, professeure de droit, le concept de « culture » a évolué au cours des dernières décennies, ainsi que la portée de ce qui constitue aujourd'hui les droits culturels. Pendant des décennies, les organisations internationales ont eu tendance à considérer que la culture était étroitement liée à la protection d'objets culturels appartenant à l'État ou à des particuliers<sup>7</sup>. Toutefois, cette définition était loin de correspondre à ce que de nombreuses communautés, notamment autochtones, entendaient par « culture ». Ainsi, depuis la fin des années 1980, la définition a été élargie.

Au sens le plus large, le mot « culture » est défini comme suit par Xanthaki :

la somme des activités et des produits matériels et spirituels d'un groupe social donné qui le distingue des autres groupes semblables, [...] un système cohérent et autonome de valeurs et de symboles ainsi qu'un ensemble de pratiques qu'un groupe culturel particulier reproduit au fil du temps et qui fournit aux personnes les repères et les significations nécessaires pour orienter le comportement et les relations sociales au quotidien<sup>8</sup>.

Comme elle l'explique, « selon cette définition élargie, le droit à la culture couvre tous les aspects de la vie<sup>9</sup> ». Outre les biens culturels, la « culture » comprend des éléments comme le mode de vie, la langue, l'histoire ou la littérature (orale et écrite), les systèmes de croyances, les cérémonies, les environnements et les traditions « au moyen desquels les personnes, les groupes et les communautés expriment leur humanité et le sens qu'ils donnent à leur existence, et construisent leur vision représentant leurs rencontres avec les forces extérieures qui ont une incidence sur leur vie<sup>10</sup> ».





Selon son interprétation actuelle dans le domaine du droit international, le droit à la culture des peuples autochtones comprend plusieurs aspects clés. Par exemple, il inclut la participation non discriminatoire à la vie culturelle de l'État dans son ensemble, mais il englobe également le droit à l'autonomie culturelle et à la protection des biens, des coutumes, des pratiques, des traditions et des manifestations à caractère culturel. Dans le contexte des droits internationaux, le Mécanisme d'experts sur les droits des peuples autochtones des Nations Unies précise que les femmes et les enfants autochtones sont souvent détenteurs d'un savoir culturel important, mais qu'ils peuvent également être touchés de façon disproportionnée par les violations du droit à la culture<sup>11</sup>.

Dans le cadre international, les approches en matière de droits culturels, économiques et sociaux soulignent le caractère essentiel et central de l'unité familiale. Le Plan d'action mondial de la population affirme que la famille est l'unité la plus fondamentale de la société, et le Réseau d'information en matière de population des Nations Unies (POPIN) indique que « malgré les nombreux changements qui ont modifié leurs rôles et leurs fonctions, la famille continue de fournir le cadre naturel du soutien affectif, financier et matériel essentiel à la croissance et au développement de ses membres. [...] La famille, sous toutes ses formes, est la pierre angulaire du monde ». Ses obligations en tant que principal agent de socialisation englobent des domaines clés qui sont menacés lorsqu'elle est mise en danger, notamment l'établissement de liens affectifs, économiques et sociaux, la protection de ses membres, en particulier les enfants, tout comme la prestation de soins, la socialisation et l'éducation des jeunes<sup>12</sup>.

Cette explication témoigne du nouveau poids et de la nouvelle valeur que la communauté internationale accorde aux droits culturels, ainsi que de l'ampleur de la désorganisation et de la perturbation que de nombreux témoins ont déclaré ressentir dans les politiques et les pratiques qui menacent l'unité familiale et la culture qu'elle protège. Comme l'a expliqué un témoin de Vancouver, Patrick S. : « Un Aîné m'a dit un jour que notre culture est aussi profonde que les coquillages qui s'amoncellent depuis la nuit des temps au fond de l'océan. Si vous travaillez vraiment, vraiment dur, vous pourrez peut-être réussir à passer à travers la première couche le temps d'une vie. Notre culture est profonde à ce point-là<sup>13</sup>. »

En 2016, le Conseil des droits de l'homme des Nations Unies a adopté à l'unanimité une résolution demandant à tous les États de « respecter, promouvoir et protéger le droit de chacun de participer à la vie culturelle, dont la possibilité d'avoir accès au patrimoine culturel et d'en jouir, et de prendre les mesures pertinentes pour atteindre cet objectif<sup>14</sup>. » Le Comité des droits de la personne a également fait remarquer que, pour les peuples autochtones, le droit à la culture peut exiger que divers autres droits soient également respectés, notamment le droit de participer à des activités traditionnelles; le droit d'accès aux terres, aux territoires et aux ressources; le droit à la famille; et le droit de participer aux processus décisionnels qui touchent leurs droits culturels<sup>15</sup>. Les États ont également l'obligation de mettre en place des mécanismes de prévention et de réparation visant tout acte qui prive les peuples autochtones de leur intégrité en tant que peuples distincts et de leurs valeurs culturelles ou de leur identité ethnique, et qui contient toute forme d'assimilation ou d'intégration forcée<sup>16</sup>.



Comme le soulignent les Nations Unies, « les violations flagrantes des droits économiques, sociaux et culturels ont compté parmi les causes fondamentales de conflits, et l'absence de mesures en cas de discrimination systématique et d'inégalité dans la jouissance de ces droits peut nuire au relèvement après un conflit ». Plus encore :

Le déni des droits économiques, sociaux et culturels peut entraîner la violation d'autres droits fondamentaux. Par exemple, il est souvent plus difficile pour des personnes qui ne savent ni lire ni écrire de trouver du travail, de participer à des activités politiques ou d'exercer leur liberté d'expression. L'incapacité de protéger le droit d'une femme à un logement adéquat (par exemple l'insécurité en matière d'occupation résidentielle) peut l'exposer davantage à la violence familiale, car elle peut avoir à choisir entre rester dans une relation violente ou se retrouver sans abri<sup>17</sup>.

« UN AÎNÉ M'A DIT UN JOUR QUE NOTRE CULTURE EST AUSSI PROFONDE QUE LES COQUILLAGES QUI S'AMONCELLENT DEPUIS LA NUIT DES TEMPS AU FOND DE L'OCÉAN. SI VOUS TRAVAILLEZ VRAIMENT, VRAIMENT DUR, VOUS POURREZ PEUT-ÊTRE RÉUSSIR À PASSER À TRAVERS LA PREMIÈRE COUCHE LE TEMPS D'UNE VIE. NOTRE CULTURE EST PROFONDE À CE POINT-LÀ. »

Patrick S.

À première vue, le droit à la culture ne semble pas être étroitement lié au problème des femmes et des filles autochtones disparues et assassinées. Toutefois, il est essentiel de comprendre le rôle que joue la culture dans le contexte de la sécurité des femmes, des filles et des personnes 2ELGBTQQIA autochtones pour mettre un terme à la souffrance et entamer la guérison.

Source de souffrance, la violation des droits culturels enlève tout pouvoir aux peuples autochtones, particulièrement aux femmes, aux filles et aux personnes 2ELGBTQQIA, au moyen du racisme, du rejet et de mesures sévères mises en œuvre par l'État, qui cherche à leur imposer des systèmes. Comme il existe un lien entre les droits culturels, la capacité de la culture à promouvoir la sécurité et la capacité des femmes à la transmettre, la violation de ces droits est importante pour comprendre la discrimination dont ces personnes font l'objet auprès de tous les ordres de gouvernement.

Par ailleurs, le rôle de la culture dans la guérison – la promotion des droits culturels et la continuité culturelle, c'est-à-dire la transmission de la culture d'une génération à l'autre<sup>18</sup> – est essentiel. De nombreux témoins ont défini la culture comme un espace où leurs proches pouvaient trouver confort, sécurité, santé et protection contre la violence. De plus, la promotion des droits culturels après une tragédie, par exemple pendant le traitement, les enquêtes et les poursuites, signifie, pour les femmes, les filles et les personnes 2ELGBTQQIA autochtones, la protection des droits et des valeurs fondamentales qu'elles ont définis.



## Les facteurs favorisant la violence : le traumatisme intergénérationnel et multigénérationnel

Les témoins qui ont raconté leurs histoires à propos de leur famille, leurs terres, leur foyer et leurs biens ont souvent parlé du rôle important que joue la culture pour assurer la santé, la sécurité et le bien-être au sein de leur famille, de leur communauté et de leur milieu. Comme de nombreux témoins l'ont déclaré, la pratique de cérémonies et l'utilisation des remèdes traditionnels ont été, et sont toujours, des outils précieux qui se trouvent au cœur de leur culture et qui donnent lieu à des relations axées sur le respect et la réciprocité. Comme nous en avons discuté au chapitre 2, les femmes, les filles et les personnes 2ELGBTQQIA autochtones occupaient traditionnellement une place d'honneur et étaient respectées dans ces systèmes culturels.



*L'équipe de l'Enquête nationale et les membres du Cercle des Grands-mères et des Aînés dirigent le chant Strong Woman à Québec, au Québec.*

En décrivant leurs expériences contemporaines, les témoins ont également exposé la façon dont la violence envers leur communauté, violence qui a contribué à la perte de la culture et des pratiques culturelles et donc à la destruction simultanée de ces systèmes de valeurs et de ces visions du monde, a fondamentalement changé la nature de la famille et de la communauté et, plus précisément, la place des femmes, des filles et des personnes 2ELGBTQQIA au sein de la famille et de la communauté. Patrick S. a expliqué comment, dans la société d'aujourd'hui, les systèmes de croyances sexistes et racistes qui font la promotion de l'individualisme, de la hiérarchie et de l'exercice de l'autorité sur les autres vont à l'encontre des systèmes culturels traditionnels des Autochtones en matière d'établissement des relations et d'organisation.

Un Aîné m'a raconté une histoire la semaine dernière. Et il a dit : « Il y a les Blancs... il y a les hommes blancs et il y a les Blancs. » [...] Il a dit : « Les Blancs, ce sont les gens avec qui, tu sais, la Nation blanche est celle avec qui on a des interactions : nos enseignants, nos amis [...] [ils] n'essaient pas de nous impressionner, n'essaient pas de





nous changer, acceptent simplement qui nous sommes et, tu sais, on est... on est de bons voisins avec eux, essentiellement. [...] Les hommes blancs sont ces gens, quel que soit leur sexe, qui nous soumettent, qui nous oppriment, qui encore, vous voyez, s'accrochent aveuglément à cette dominante, à ce paradigme de pouvoir, de hiérarchie. Ce sont eux, les hommes blancs<sup>19</sup>. »

Pour de nombreuses personnes, la perte de la culture contribue à créer un traumatisme ou est vécue comme une forme de traumatisme qui se transmet d'une génération à l'autre et qui est aujourd'hui renforcée par divers moyens. Dans le contexte des Premières Nations et des Métis, les histoires partagées par les témoins concernant la perte de la culture et la violation des droits culturels, ainsi que les répercussions permanentes de cette perte sur leur famille et leur communauté, commencent souvent par l'évocation des systèmes de pensionnats et d'externats indiens, la rafle des années 1960 ou à la prise en charge des enfants par le système actuel de protection de l'enfance, qui se sont tous traduits par une rupture avec les traditions et par une coupure des relations avec la communauté. Dans le cas des Inuits, la violation des droits culturels est semblable. Toutefois, la centralisation et la réinstallation massives d'Inuits ainsi que le changement récent imposé à leur mode de vie ont entraîné de surcroît des répercussions importantes. Pour les personnes 2ELGBTQQIA, les histoires sur la perte de la culture et sur la violation des droits culturels, dont les effets se font encore ressentir aujourd'hui, décrivent le changement fondamental qui s'est produit au sein des cultures traditionnelles par rapport à la valeur et au respect accordés aux personnes bispirituelles. Ce changement a parfois mené à leur exclusion et à leur effacement de leurs communautés.

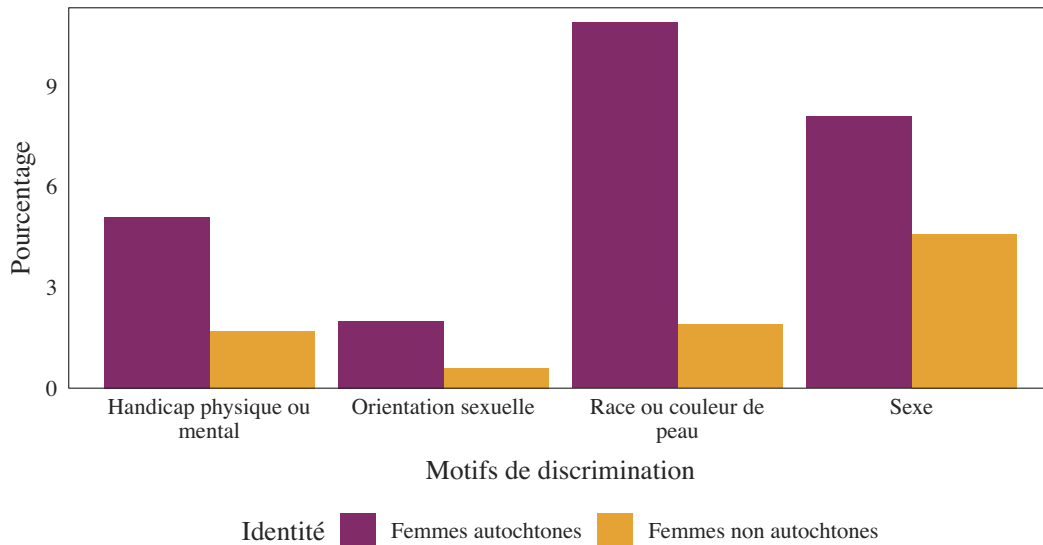
Ces « modèles de violence culturelle », comme les décrit l'anthropologue juridique Rosemary J. Coombe, comprennent également les éléments suivants :

la saisie des terres traditionnelles, l'expropriation et l'utilisation d'objets culturels autochtones à des fins commerciales sans la permission des communautés autochtones, l'interprétation erronée des récits, des mythologies et des cultures des Autochtones, la suppression de leurs langues et de leurs religions, et même le retrait forcé d'Autochtones de leur famille et le déni de leur identité autochtone<sup>20</sup>.

Ces processus comprennent également les tentatives visant à convaincre les Autochtones qu'ils sont, en quelque sorte, de moindre valeur que les non-Autochtones, au moyen de l'éducation et de la socialisation comme leviers de déshumanisation.



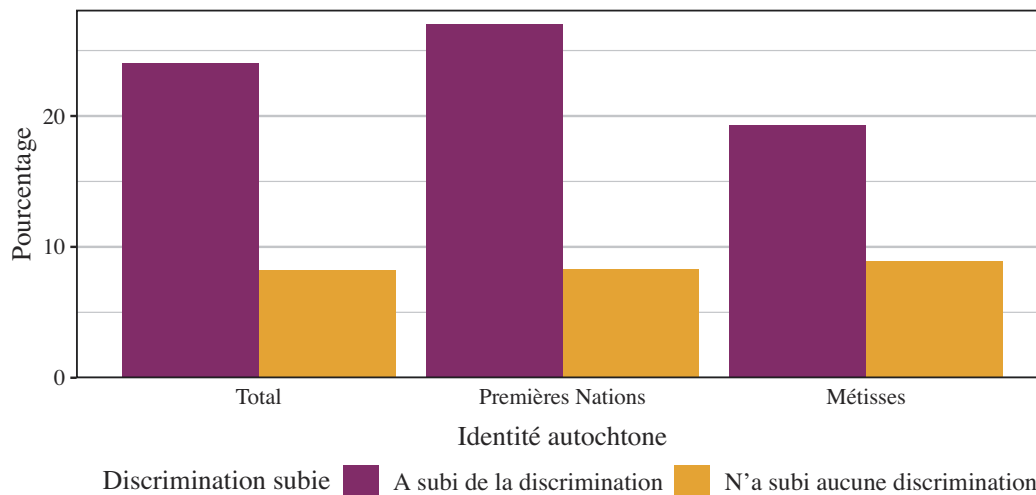
### Motifs de discrimination ou de traitement injuste selon l'identité autochtone



Source : Enquête sociale générale de 2014 – Victimisation

Les femmes autochtones sont plus susceptibles d'avoir subi de la discrimination que les femmes non autochtones, et ce, pour des raisons autres que la race : il est 3 fois plus probable qu'elles soient victimes de discrimination en raison d'une incapacité physique ou mentale; 1,76 fois en raison de leur sexe; 3,3 fois en raison de leur orientation sexuelle; et 5,7 fois en raison de leur race ou de la couleur de leur peau.

### Discrimination et faible sentiment d'appartenance à la communauté locale Femmes autochtones au Canada



Source : Enquête sociale générale de 2013

Les femmes autochtones qui ont subi de la discrimination sont nettement plus susceptibles de déclarer avoir un sentiment d'appartenance à la communauté locale plutôt faible ou très faible. Cet effet est plus prononcé chez les femmes des Premières Nations que chez les femmes métisses.



Notamment, ces pratiques sont encore à l'œuvre aujourd'hui et elles empêchent les peuples autochtones de jouir pleinement de leurs droits parce qu'ils sont Autochtones. En tant que membre de famille et chef de la communauté des Kaska Dena, Ann M. R. explique ce qui suit :

En tant qu'Autochtones, on est très distincts, avec un héritage, une langue, une pratique culturelle et des croyances spirituelles uniques. Alors, j'aimerais que tout le monde comprenne ce que signifie être « distinct ». Le dictionnaire dit unique, qui peut être facilement discernable, reconnaissable, visible, évident, prononcé, notable, frappant. C'est nous en tant que peuple autochtone. On a prouvé que vous ne pourrez jamais nous assimiler et vous ne pourrez jamais nous changer. Le Livre blanc de 1969 a essayé de faire ça. Ça n'a pas fonctionné. Les politiques et les structures coloniales d'aujourd'hui continuent de privilégier la voie de l'assimilation<sup>21</sup>.

### **Le stress post-traumatique collectif et individuel**

Comme nous l'avons examiné au chapitre 4, l'histoire de la colonisation a eu des effets dévastateurs sur tous les peuples autochtones et a touché de façon distincte les femmes, les filles et les personnes 2ELGBTQQIA. Les effets cumulatifs de l'assimilation et de la privation des droits découlant de la *Loi sur les Indiens* pour les Premières Nations, ainsi que de la séparation de tous les peuples autochtones du Canada de leurs terres, ont contribué à la perte de leur culture, de leur langue et de leur famille. Comme le décrit Moses M., cette perte relative à la culture, la langue et la famille s'accompagne de la disparition des modes de connaissance des Autochtones et de leur façon de tisser des liens avec les autres qui, dans le passé, favorisait les bonnes relations interpersonnelles.

Mon père nous asseyait et disait [s'exprime en nuu-chah-nulth]. Très peu de mots, mais des mots très puissants qui disent que le respect est la première loi de notre peuple. Vous devez toujours la respecter, et peu importe ce que vous allez faire, il n'y a pas grand-chose qui ira de travers. Il savait aussi que nous, notre peuple, n'étions que des humains, et que si on faisait un faux pas, on allait apprendre de cette expérience pour ne pas répéter de nouveau la même erreur.

Ma mère nous a aussi appris le respect d'une façon différente [s'exprime en nuu-chah-nulth]. Je comprends de cela qu'en tant que personne, je ne peux pas exiger le respect, mais je dois le mériter. Et ça, c'est une autre partie de notre vie aujourd'hui. Je viens d'une tribu d'environ 1 250 personnes, et il y a juste 20 ou 25 de nos membres qui savent parler la langue. Alors, on ne comprend plus ce que nos Aînés peuvent nous enseigner à propos de diverses choses, comme le respect [s'exprime en nuu-chah-nulth]<sup>22</sup>.

Les témoins qui ont fréquenté un pensionnat indien ou dont les parents ou grands-parents y sont allés et en sont sortis vivants, de même que ceux qui ont été touchés par la rafle des années 1960,





ont fait observer la façon dont ces régimes particuliers, dont nous avons beaucoup entendu parler, les ont mis en danger. Michele G. explique ce qui suit :

Peut-être que le gouvernement était en train d'amorcer le processus de fermeture des pensionnats indiens, mais la rafle des années 1960 a en quelque sorte remplacé ceux-ci. Autrement dit, ils ont continué à venir dans notre réserve, à nous prendre alors que nous étions enfants. La seule chose qui avait changé, c'était qu'ils nous envoyaient dans des familles de classe moyenne partout au pays. Certaines étaient de bonnes familles, d'autres étaient mauvaises, et d'autres encore étaient horribles<sup>23</sup>.

Les effets concrets de ces expériences ont été variables, mais pour bien des gens, les conséquences les plus graves et les plus durables ont été celles qui ont fondamentalement bouleversé leur estime de soi, leurs liens familiaux et leur sentiment d'appartenance, jusque-là forgés et protégés par leur culture et leur famille. Carol B. a fait l'observation suivante :

Je pense vraiment que le traumatisme intergénérationnel causé par les pensionnats indiens a assurément eu une incidence négative sur nos familles. Comment pouvez-vous possiblement apprendre à vous aimer et à vous valoriser quand on vous dit tout le temps, au quotidien, que vous n'avez aucune valeur? Et qu'on doit sortir l'Indien de vous. Comment pourriez-vous vous valoriser ou vous aimer? Et comment pourriez-vous vous attendre à aimer et à valoriser vos enfants? Et pour moi, c'était très important que je parle au nom de ma mère, parce que si elle était en vie aujourd'hui, on aurait une relation affectueuse. Ou elle m'aimerait de la meilleure [...] façon qu'elle sait le faire, compte tenu des circonstances dans lesquelles elle a dû grandir<sup>24</sup>.

À l'instar de Carol, d'autres témoins ont décrit leurs expériences dans les pensionnats indiens. Les difficultés continues qu'eux-mêmes et leurs proches ont dû affronter après avoir fréquenté ces établissements ont perturbé leur famille et leur culture, provoquant un traumatisme. Les effets cumulatifs, comme le déclare Gail C., constituent une forme de trouble de stress post-traumatique (TSPT).

Donc, entre la famine, lois et les politiques, les attitudes, ce que Sandra appelait hier les [les pensionnats indiens] et les familles d'accueil, on a des populations entières qui souffrent de stress traumatique... le TSPT. [...] Vous savez, les gens ont été piégés et ils souffrent. Et ils traversent une période difficile. Et c'est le genre de choses qui... c'est aussi le genre de choses qui entraînent la violence contre les femmes autochtones. [...] Quand on a ce genre de renseignements concernant la façon dont nos femmes sont perçues, elles deviennent des cibles<sup>25</sup>.



Des expériences comme celles décrites par Gail relativement au traumatisme engendré par le système des pensionnats indiens, le système de familles d'accueil ainsi que les répercussions continues de ce traumatisme sur le bien-être des familles autochtones font l'objet de recherches menées par Amy Bombay et d'autres spécialistes. Ceux-ci s'intéressent à l'influence des pensionnats indiens sur la vie non seulement des survivants, mais également sur celle de leurs enfants et de leurs petits-enfants. Dans les travaux de recherche qu'elle a transmis à l'Enquête nationale, Amy Bombay explique que les conditions largement reconnues comme étant présentes dans les pensionnats indiens constituent ce qu'on appelle des « expériences négatives vécues durant l'enfance ». Il s'agit notamment de piètres conditions de vie, d'une alimentation ou de vêtements inadéquats ainsi que de violence physique, sexuelle et psychologique. Parmi les élèves des pensionnats indiens, ces expériences négatives vécues durant l'enfance sont courantes et ont des conséquences importantes<sup>26</sup>.

Ces expériences continuent d'avoir des effets néfastes et comprennent des facteurs, pointés du doigt par les survivants, qui sont liés à la destruction de la famille et à la perte de la culture. Par exemple, les recherches d'Amy Bombay et d'autres spécialistes démontrent que la séparation de la famille, attribuable aux pensionnats indiens, a été l'aspect le plus souvent mentionné (77,8 %) parmi les expériences qui continuent d'avoir une incidence négative. Autre élément important : une proportion presque équivalente de survivants des pensionnats indiens considèrent que la perte d'identité culturelle (69,9 %) a eu un effet néfaste, tout comme la violence verbale ou psychologique (70,7 %)<sup>27</sup>. Les survivants ont nommé d'autres éléments étroitement liés à l'identité culturelle qui ont eu une incidence négative, notamment la perte de la langue (68,2 %), la séparation de la communauté (67,4 %) et la perte de la religion ou de la spiritualité traditionnelle (66 %). Le fait que les survivants des pensionnats indiens ayant participé à l'étude aient attribué plus souvent l'incidence négative de ces établissements aux pertes au niveau de la famille et de la culture qu'à des facteurs comme le manque de nourriture (48,8 %), les conditions de vie très difficiles se traduisant notamment par l'absence de chauffage (48,2 %), et même la violence sexuelle (42,6 %), démontre l'importance exceptionnelle que revêtent ces aspects<sup>28</sup>.

« EN TANT QU'AUTOCHTONES, ON EST TRÈS DISTINCTS, AVEC UN HÉRITAGE, UNE LANGUE, UNE PRATIQUE CULTURELLE ET DES CROYANCES SPIRITUELLES UNIQUES. ALORS, J'AIMERAIS QUE TOUT LE MONDE COMPRENNE CE QUE SIGNIFIE ÊTRE "DISTINCT". LE DICTIONNAIRE DIT UNIQUE, QUI PEUT ÊTRE FACILEMENT DISCERNABLE, RECONNAISSABLE, VISIBLE, ÉVIDENT, PRONONCÉ, NOTABLE, FRAPPANT. C'EST NOUS EN TANT QUE PEUPLE AUTOCHTONE. ON A PROUVÉ QUE VOUS NE POURREZ JAMAIS NOUS ASSIMILER ET VOUS NE POURREZ JAMAIS NOUS CHANGER. LE LIVRE BLANC DE 1969 A ESSAYÉ DE FAIRE ÇA. ÇA N'A PAS FONCTIONNÉ. LES POLITIQUES ET LES STRUCTURES COLONIALES CONTINUENT DE PRIVILÉGIER LA VOIE DE L'ASSIMILATION. »

Ann M. R.



Les effets cumulatifs de cette rupture de continuité culturelle et familiale sont concrets – et dévastateurs. Outre les séquelles pour les survivants des pensionnats, Amy Bombay explique ce qui suit : « Une convergence de preuves démontre que les enfants et les petits-enfants des personnes ayant fréquenté des pensionnats indiens sont susceptibles de souffrir de divers problèmes mentaux, physiques et sociaux<sup>29</sup>. »

Dans son témoignage, Robin R. a expliqué de façon percutante ces cycles de traumatisme qui sont intégrés à la vie de nombreuses personnes et qui se manifestent sur plusieurs générations. La violence est alors bien ancrée et acceptée dans la vie de nombreux survivants des pensionnats indiens et dans celle de leurs enfants et petits-enfants. Elle semble « prédéterminée ».

Mon avenir était prédéterminé de bien des façons. Tous mes grands-parents ont fréquenté le pensionnat indien. Ils souffraient d'alcoolisme grave. Lorsque j'étais enfant et que je vivais en Alberta, je ne me souviens pas avoir vu un seul membre de ma famille à jeun. Ma mère a été élevée dans la violence; elle a subi des abus physiques et sexuels tout au long de son enfance. Je ne sais pas grand-chose de mon père parce qu'il a quitté ma mère lorsque j'étais très jeune. Je me souviens vaguement du père de mon père, je ne l'ai jamais vraiment bien connu. Les seules figures paternelles que j'ai eues, ce sont les hommes qui sont entrés dans la vie de ma mère et qui ont continué de lui infliger les mauvais traitements qu'elle avait connus toute sa vie. Heureusement, je n'ai pas subi de violence de la part des compagnons de ma mère, mais la toxicomanie était aussi un problème pour elle et pour les hommes qui sont entrés dans notre vie. Malgré cela, quand j'étais adolescente, j'étais une étudiante boursière et je me préparais à l'université et au collège. J'étais très studieuse, je ne buvais pas et je ne consommait pas de drogues.

Ce sont quelques-unes des choses de mon passé qui m'ont menée dans cette situation, où j'ai partagé ma vie avec un homme capable d'assassiner mon enfant. Je voulais échapper à la douleur de mon enfance. Je voulais une maison à moi où je pourrais me sentir en sécurité, où je me sentirais en lieu sûr. J'avais 15 ans quand j'ai eu Isabella. Son père était un toxicomane de 19 ans qui essayait de cesser de consommer des drogues. Comme j'ai grandi en regardant ma mère se faire maltraiter physiquement, j'ai permis que ça fasse aussi partie de mes relations, croyant que c'était plutôt normal que je l'accepte<sup>30</sup>.

Naturellement, les effets cumulatifs des traumatismes ont aussi fait naître, chez les personnes qui ont raconté leurs expériences, un sentiment de colère et de déracinement qui ne guérit pas toujours avec le temps. Comme l'a expliqué Verna W. :

La vie n'a pas été facile pour nous. Mais, vous savez, je ne sais pas si [les pensionnats indiens m'ont] rendue plus forte ou plus en colère contre le monde aujourd'hui parce qu'ils ne font toujours rien... ne font rien pour nous rendre justice, à qui que ce soit parmi nous, et ça c'est partout au Canada. Je suis toujours en colère parce qu'il n'y a rien avec quoi me réconcilier<sup>31</sup>.





D'autres témoins ont décrit la perte d'un sentiment d'appartenance. Chrystal S. s'est exprimée ainsi :

Vous savez, on n'a vraiment pas [...] eu de foyer pendant si longtemps, durant des générations; on a été déplacés durant de nombreuses générations. Certaines générations ont grandi dans des pensionnats indiens, donc séparées encore davantage de leurs foyers. Des membres de certaines générations, des grands-parents aux arrière-grands-parents, n'avaient déjà pas de foyer, mais ont ensuite été envoyés dans des pensionnats indiens, où ils n'ont connu que des horreurs inimaginables pour des enfants. Et aujourd'hui, au Canada, aujourd'hui à Vancouver, dans le Downtown Eastside, ils n'ont même pas leur propre foyer dans cette communauté.

Le problème le plus important pour les peuples autochtones du Canada aujourd'hui est d'avoir un foyer. On n'a pas de foyer depuis si longtemps. Pas de chez-soi où vivre. Comment peut-on élever nos enfants si on ne sent pas qu'on appartient à un foyer? Si on n'a pas de lieu sûr où vivre? Si l'on n'est pas entouré de notre famille? Si on ne nous permet même pas d'avoir cela, pas même de nous sentir à notre place, comment peut-on élever nos enfants dans ce contexte<sup>32</sup>?

Amy Bombay croit que pour briser ce cycle, il faut essentiellement renouer les liens familiaux et culturels qui ont été rompus par les systèmes de pensionnats indiens et de familles d'accueil. À la lumière de ses recherches, elle explique que « les facteurs liés à la culture et à l'identité culturelle jouent un rôle particulièrement protecteur en atténuant les effets négatifs des pensionnats indiens et d'autres aspects de la colonisation<sup>33</sup> ». Malheureusement, comme plusieurs témoins l'ont mentionné à l'Enquête nationale, les systèmes institutionnels avec lesquels les peuples autochtones interagissent ignorent souvent l'importance de la culture et de la famille. Ce faisant, au lieu de détruire les relations et les systèmes nocifs qui créent des conditions traumatisantes, ils les renforcent.



## RÉFLEXION APPROFONDIE

# La nécessité d'une approche systémique pour transformer la protection de l'enfance

Le rapport final comprend des témoignages qui illustrent dans quelle mesure le système de protection de l'enfance a réussi à créer les conditions propices à entretenir la violence au sein des familles, des communautés et des groupes autochtones au Canada. L'histoire du système de protection de l'enfance, tout comme bon nombre de ses versions contemporaines, démontre qu'il est essentiel d'adopter une approche systémique globale afin de fondamentalement transformer son fonctionnement au Canada, c'est-à-dire de mettre fin au manque de respect envers les familles autochtones et les droits des enfants autochtones. Comme l'ont souligné plusieurs témoins, la prise en charge généralisée des enfants, à une telle ampleur, représente la forme de violence la plus brutale à l'égard d'une mère, en plus de la violence qu'elle représente pour l'enfant<sup>A</sup>. Un système aussi défaillant qui expose les enfants autochtones à un risque accru de violence, à l'heure actuelle et à l'avenir, n'exige rien de moins qu'un changement total de paradigme.

## Quelque 66 millions de nuits et 187 000 années d'enfance : mise en contexte du système de protection de l'enfance au Canada

Au cours des audiences, plusieurs survivantes du système de protection de l'enfance et membres de familles dont les proches n'ont pas survécu se sont confiés à l'Enquête nationale. Le nombre élevé d'enfants autochtones pris en charge est directement lié à l'histoire et à l'héritage contemporain des politiques coloniales. Selon Cindy Blackstock, membre de la Première Nation des Gitksan, directrice générale de la Société de soutien à l'enfance et à la

famille des Premières Nations du Canada et professeure à l'École de travail social de l'Université McGill :

Il s'agit réellement des racines du colonialisme, où l'on a créé cette dichotomie entre les « sauvages », c'est-à-dire les Autochtones, et les « civilisés », soit les forces coloniales. Si vous êtes un sauvage, vous n'êtes pas capable de vous occuper du territoire. Par conséquent, un civilisé s'en chargera. De plus, si vous êtes un sauvage, vous n'avez pas la capacité de prendre soin de vos enfants. Un civilisé le fera à votre place<sup>B</sup>.

Enlever des enfants autochtones à leur famille représente une forme de violence coloniale qui a pour effet de violer les droits fondamentaux des Autochtones et de compromettre leur culture, leur santé et leur sécurité. Il s'agit d'une attaque directe contre la survie culturelle, biologique, physique et générale du groupe. Pour ces enfants laissés pour compte, les enfants de femmes disparues ou assassinées, la prise en charge a des répercussions considérables, qui sont permanentes et revêtent une importance capitale. Il est essentiel de tenir compte de ces répercussions dans la conception des programmes et des initiatives de guérison ainsi que dans la réforme complète du système actuel.

Cindy Blackstock a témoigné avec beaucoup de passion sur le sujet. Elle a fait remarquer que, à tous égards, les enfants autochtones sont encore ceux qui sont les plus susceptibles d'être pris en charge. Comme elle l'indique : « Je vais vous donner une idée de l'ampleur du phénomène dans les réserves seulement : entre 1989 et 2012, les enfants des Premières Nations étaient 12 fois plus à risque d'être pris en charge, principalement en raison de négligence, de pauvreté, de toxicomanie et de logement inadéquat<sup>C</sup>. » Son témoignage a montré dans quelle mesure les motifs de la prise en charge des enfants sont liés à la violation de leurs droits





fondamentaux. En outre, ils démontrent le besoin de guérison en matière de culture, de santé et de sécurité, comprenant à la fois la sécurité sociale et physique.

Certains témoignages entendus par l'Enquête nationale ont révélé que les enfants pouvaient être exposés à des dangers plus graves et plus élevés lorsqu'ils étaient pris en charge par le système. Dans plusieurs cas, ils sont mis dans des situations où la probabilité de préjudice et de violence est encore plus grande qu'avant. Par exemple, le sondage national sur l'itinérance chez les jeunes, mené en 2015 par l'Observatoire canadien sur l'itinérance dans neuf provinces et au Nunavut, a déterminé que près de 60 % des 1 103 jeunes sans-abri (âgés de 13 à 24 ans) sondés avaient déjà été pris en charge par le système de protection de l'enfance ou l'étaient encore<sup>D</sup>. Une étude de la Colombie-Britannique publiée en 2009 par l'organisme Representative for Children and Youth et par le bureau du directeur de la santé publique de la province a dévoilé qu'un peu plus du tiers des enfants pris en charge avaient également eu des démêlés avec le système de justice pour les jeunes<sup>E</sup>. Selon ce même rapport, les enfants pris en charge étaient plus susceptibles d'avoir affaire à la loi que de terminer leurs études secondaires.

Le bouleversement continu de la culture, de l'identité et de la famille provoqué par le système de protection de l'enfance est en contradiction directe avec les études qui démontrent comment favoriser la résilience et améliorer la vie des Autochtones. Comme le soutient Amy Bombay, la fierté culturelle et la pratique de la culture favorisent souvent une meilleure santé générale<sup>F</sup>.

Dans plusieurs cas, les familles, ainsi que le sentiment d'appartenance, l'identité et la culture pouvant être procurés par elles, sont encore plus réprimés par les obstacles structurels. En 2018, Bernadette Smith, membre de l'Assemblée législative du Manitoba à Winnipeg, a travaillé pour modifier les lois de la province régissant la prise en charge des enfants afin de s'assurer que la pauvreté ne constitue pas à elle seule un motif pour les enlever à leur famille<sup>G</sup>, une situation qu'ont vécue et rapportée plusieurs témoins. Toutefois, la formule en place prévoit encore l'octroi d'un financement aux enfants pris en charge plutôt qu'aux familles de ceux-ci. Si les familles recevaient

des fonds, elles bénéficieraient ainsi d'un soutien adéquat ou éviteraient la prise en charge de leurs enfants en premier lieu.

Natalie G. a noté que les fonds allaient au mauvais endroit, c'est-à-dire aux services de protection de l'enfance au lieu des familles qui en ont besoin. Elle a fait les observations suivantes :

Ils [les services à l'enfance et à la famille des Mi'kmaq] dépensent des milliers et des milliers de dollars dans la prise en charge de ces enfants. Il est difficile de concevoir qu'ils sortent un enfant de son milieu familial et le confient à un autre foyer et qu'ils vont dépenser environ 5 000 \$ pour l'achat de nouveaux lits, de nouvelles commodes, de nouveaux vêtements, de nourriture, etc. Pourquoi n'utilisent-ils pas ces 5 000 \$ pour acheter de nouveaux lits et de la nourriture afin d'aider les parents, afin qu'ils obtiennent un soutien *L'nu* [Mi'kmaq], vous comprenez<sup>H</sup>?

Selon Cindy Blackstock, le refus continu de s'attaquer aux racines structurelles des difficultés rencontrées par les familles autochtones en lien avec la pauvreté, le logement et d'autres besoins essentiels favorise le maintien d'un système où la prise en charge des enfants devient un moyen pour les gouvernements de s'enrichir par l'augmentation des transferts fédéraux, tout en préservant ce système qui sape la culture et les systèmes familiaux autochtones. Comme l'a affirmé le sénateur Murray Sinclair, « le monstre qui a été créé au sein des pensionnats indiens a déménagé dans une nouvelle maison. Ce monstre habite maintenant le système de protection de l'enfance<sup>I</sup> ».

Au sujet de cette crise, Cindy Blackstock maintient qu'il importe de comprendre les répercussions de ce système sur les enfants. Elle s'explique :

Les enfants ne pensent pas au concept de surreprésentation. Lorsqu'ils ont hâte à quelque chose ou à ce que quelque chose soit terminé, ils se demandent : « Combien de dodos reste-t-il avant que je voie ma maman? » Cette feuille d'analyse indique le décompte de ces nuits. Combien de nuits les enfants des Premières Nations ont-ils passées loin de leur famille, en foyer d'accueil, entre 1989 et 2012? Quelque 66 millions de nuits ou 187 000 années d'enfance<sup>J</sup>.





## Les droits des enfants et les obligations du Canada

Pour Cindy Blackstock et les autres, ces 66 millions de nuits représentent des violations des droits fondamentaux contre ces enfants. Comme le font remarquer plusieurs personnes, les droits des enfants pris en charge ont également un lien direct avec les obligations du Canada en matière de droits de la personne.

En 1978, devant les Nations Unies, la Pologne a été le premier pays à proposer l'idée d'une convention consacrée aux droits des enfants. Cependant, il a fallu attendre 10 ans pour que la proposition obtienne l'appui unanime de la communauté internationale.

Un groupe de travail a entamé la rédaction de la convention en 1979. Il était composé de membres du Fonds des Nations Unies pour l'enfance (UNICEF), de différentes organisations non gouvernementales (ONG) et des 48 États membres de la Commission des droits de l'homme<sup>k</sup>. Le 20 novembre 1989, l'Assemblée générale des Nations Unies (ONU) a finalement adopté la *Convention relative aux droits de l'enfant* (CDE) dans le cadre de la résolution 44/25.

Les 54 articles de la CDE et ses deux protocoles facultatifs reposent sur quatre principes fondamentaux : la non-discrimination, l'intérêt supérieur de l'enfant, le droit à la vie, à la survie et au développement, ainsi que le respect des opinions de l'enfant.

Par exemple, l'article 3 de la CDE indique ce qui suit : « Dans toutes les décisions qui concernent les enfants, qu'elles soient le fait des institutions publiques ou privées de protection sociale, des tribunaux, des autorités administratives ou des organes législatifs, l'intérêt supérieur de l'enfant doit être une considération primordiale. » La CDE mentionne expressément que la protection de l'enfance constitue un secteur où les droits des enfants peuvent être menacés. L'article 9(1) affirme que : « Les États parties veillent à ce que l'enfant ne soit pas séparé de ses parents contre leur gré, à moins que les autorités compétentes ne décident, sous réserve de révision judiciaire et conformément aux lois et procédures applicables, que cette séparation est nécessaire dans l'intérêt supérieur de l'enfant. »

En théorie, l'article 9(1) signifie que toute décision touchant les enfants, notamment dans le contexte de la protection de l'enfance, doit être prise en gardant à l'esprit ce principe. Par exemple, lorsque ce principe est mis en œuvre, les enfants ne doivent pas être séparés de leur famille sauf si cette séparation est nécessaire dans leur intérêt supérieur. Toutefois, les témoignages ont signalé le degré d'interprétation de la notion « intérêt supérieur de l'enfant » par les travailleurs sociaux et du motif pour expliquer la séparation des enfants de leur famille en premier lieu. En effet, cette disposition relative à l'intérêt supérieur de l'enfant est empreinte de subjectivité et de préjugés culturels qui ont eu des effets dévastateurs, particulièrement lorsque la disposition est appliquée sous l'angle colonial ou raciste. À titre d'avocate, de juge et de défenseure des droits des enfants, Mary Ellen Turpel-Lafond a déclaré ce qui suit :

La définition de l'intérêt supérieur de l'enfant se trouve parmi les aspects les plus importants qui doivent changer de façon globale et immédiate. Ainsi, la nouvelle définition doit indiquer qu'il est dans l'intérêt supérieur de l'enfant de rester avec sa famille et de respecter son droit de maintenir un lien avec sa communauté, sa famille, sa Nation et son identité. De plus, on ne devrait plus invoquer le principe de l'intérêt supérieur de l'enfant pour retirer ce dernier de son milieu en raison de la pauvreté ou des effets continus des pensionnats indiens<sup>l</sup>.

L'article 24 de la CDE reconnaît également le droit de tous les enfants à la santé et au bien-être, qu'ils vivent avec leur famille biologique ou dans un foyer d'accueil. Comme l'ont établi plusieurs chercheurs, les conditions de vie des enfants autochtones continuent d'être, en moyenne, bien en deçà de la norme s'appliquant aux autres enfants au Canada. Par exemple, les enfants des Premières Nations qui résident dans un centre urbain risquent deux fois plus de vivre dans la pauvreté, au sein d'une famille monoparentale ou dans un logement inadéquat, ou encore de souffrir de la faim, que les enfants qui ne sont pas des membres des Premières Nations et qui habitent le même milieu<sup>m</sup>. Ce rapport fait état des difficultés en matière d'infrastructure, de logement, de pauvreté et de manque de services rencontrées par les communautés des Premières Nations vivant dans des réserves et par les communautés inuites. Dans les communautés plus éloignées ou du Nord, les enfants handicapés des Premières Nations





doivent lutter pour obtenir des services et pour assurer leur sécurité alimentaire. Cette situation représente encore aujourd'hui une crise aux proportions considérables<sup>N</sup>.

Conformément à la CDE, les obligations du Canada sont également associées à d'autres instruments du droit national et international protégeant les droits des enfants, notamment la *Déclaration des Nations Unies sur les droits des peuples autochtones* (DNUDPA) et la *Loi canadienne sur les droits de la personne* (LCDP). La discrimination envers les enfants autochtones viole aussi le *Pacte international relatif aux droits civils et politiques* (PIRDPC) et la *Déclaration universelle des droits de l'homme* (DUDH). Selon la Société de soutien à l'enfance et à la famille des Premières Nations, les obligations du Canada sont également liées au principe appelé l'honneur de la Couronne et à l'obligation fiduciaire.

En 2018, la Coalition canadienne pour les droits des enfants (CCDE) a publié un document de consultation examinant l'incidence de la protection de l'enfance sur les droits des enfants au Canada. De manière plus précise et en lien avec la *Convention relative aux droits de l'enfant*, la CCDE a déterminé trois secteurs clés à examiner et à réformer rapidement. En premier lieu, les données et la reddition de comptes doivent être en mesure de témoigner de l'ampleur réelle des pratiques en matière de protection de l'enfance au sein des communautés autochtones. Cette réforme fait partie des appels à l'action n<sup>os</sup> 2 et 55 de la Commission de vérité et de réconciliation (CVR). En deuxième lieu, une réforme législative doit être effectuée pour que « tous les acteurs accordent la priorité absolue à l'intérêt supérieur de l'enfant ». Pour ce faire, il est notamment nécessaire de demander l'avis de l'enfant et d'en tenir compte. Enfin, des mesures doivent être mises en œuvre pour soutenir les familles, y compris « le devoir de l'État de fournir un soutien aux parents d'enfants vulnérables, de lutter contre la discrimination pratiquée par la fonction publique et d'assurer un accès équitable aux services pour toutes les familles<sup>O</sup> ».

Il est important d'inclure les appels à l'action de la CVR. De plus, ceux-ci se rapportent à la réalité de plusieurs personnes qui sont venues témoigner devant les commissaires de l'Enquête nationale. Ces appels à l'action, élaborés parallèlement à son rapport final axé sur les expériences des survivants

des pensionnats indiens, indiquent que les services de protection de l'enfance sont un héritage important du système lui-même. Les cinq premiers appels à l'action de la CVR portent sur la protection de l'enfance. Ils demandent à tous les ordres de gouvernement de collaborer pour réduire le nombre d'enfants pris en charge, de rendre compte de ce nombre avec précision, de pleinement mettre en œuvre le principe de Jordan en se fondant sur l'équité réelle, de soutenir le droit des gouvernements

## Appels à l'action de la CVR – Protection de l'enfance

1. Nous demandons au gouvernement fédéral, aux gouvernements provinciaux et territoriaux de même qu'aux gouvernements autochtones de s'engager à réduire le nombre d'enfants autochtones pris en charge en ayant recours aux moyens suivants :
  - i. Le contrôle et l'évaluation des enquêtes sur la négligence.
  - ii. L'affectation de ressources suffisantes pour permettre aux communautés autochtones et aux organismes de protection de l'enfance de garder les familles autochtones ensemble, dans les cas où il est sécuritaire de le faire, et de garder les enfants dans des environnements adaptés à leur culture, quel que soit l'endroit où ils habitent.
  - iii. La prise de mesures pour voir à ce que les travailleurs sociaux et les autres intervenants qui mènent des enquêtes liées à la protection de l'enfance soient bien renseignés et formés en ce qui touche l'histoire et les répercussions des pensionnats.
  - iv. La prise de mesures pour voir à ce que les travailleurs sociaux et les autres intervenants qui mènent des enquêtes liées à la protection de l'enfance soient bien renseignés et formés au sujet de la possibilité que les familles et les communautés autochtones représentent de meilleures solutions en vue de la guérison des familles.
  - v. L'établissement d'une exigence selon laquelle tous les décideurs du milieu de la protection de l'enfance doivent tenir compte des répercussions de l'expérience des pensionnats sur les enfants et sur ceux qui leur fournissent des soins<sup>O</sup>.





autochtones d'établir et de maintenir en place leurs propres organismes et, enfin, d'épauler les familles autochtones à l'aide de programmes de formation au rôle de parent qui sont adaptés à leur culture<sup>p</sup>. En outre, les recommandations appellent expressément le gouvernement à s'assurer que les services de protection de l'enfance sont adaptés à la culture et qu'ils tiennent compte des séquelles laissées par les pensionnats indiens sur les générations suivantes, en termes de placement et de soutien continu.

Malgré son obligation de rendre des comptes au Comité des droits de l'enfant des Nations Unies, le Canada n'était pas en mesure, en 2012, de l'informer du nombre exact d'enfants pris en charge, notamment les enfants âgés de 14 à 18 ans qui pourraient avoir été placés dans des « établissements de soins alternatifs ». En 2012, le gouvernement du Canada a comparu devant le Comité des droits de l'enfant des Nations Unies pour qu'il examine sa conformité à la CDE. Dans son évaluation du Canada, qui s'intitule « Observations finales », le comité fait part de préoccupations précises au sujet des enfants autochtones dans les domaines de la protection de l'enfance, de la santé, de la pauvreté, de l'éducation et de la justice pour les jeunes<sup>r</sup>. En ce qui concerne spécifiquement la protection de l'enfance, le comité a recommandé de toujours faire évaluer les décisions de retirer les enfants de leur milieu familial par « des équipes de professionnels multidisciplinaires et compétentes » et il a appelé le gouvernement à « élaborer des critères pour la sélection, la formation et le soutien des personnes s'occupant d'enfants [...] et [à] veiller à ce qu'ils soient régulièrement évalués<sup>s</sup> ». Il a recommandé que la prise en considération de l'opinion de l'enfant « soit une condition nécessaire dans tous les processus décisionnels officiels qui concernent les enfants », y compris les décisions en matière de protection de l'enfance<sup>t</sup>. Cette mesure est particulièrement essentielle pour les jeunes qui ne sont plus pris en charge. Le comité a recommandé qu'ils soient soutenus et qu'ils participent à la planification de leur transition<sup>u</sup>. De plus, et surtout, le comité a constaté que le Canada ne peut se soustraire à ses obligations en raison de sa structure fédéraliste, à savoir la façon dont les services sont financés par Ottawa et fournis par les provinces ou par d'autres gouvernements<sup>v</sup>.

Marlyn Bennett, une chercheuse sur la protection de l'enfance qui est également membre de la Nation Ojibway de Sandy Bay au Manitoba, fait remarquer ce qui suit :

Pays riche et prospère reconnu internationalement pour son acharnement envers les persécuteurs des classes défavorisées, le Canada fait toutefois pâle figure si l'on commence à observer d'un peu plus près la façon dont ses enfants autochtones sont traités. Les facteurs sociaux qui influent sur la santé en général pour les communautés des Premières Nations ont une forte incidence sur celle de leurs enfants et sur leur bien-être, et représentent souvent une entrave à leurs succès futurs<sup>w</sup>.

Dans le cadre de sa participation à l'émission *Power and Politics* de la SRC à la fin 2017, l'ancienne ministre des Services aux Autochtones, Jane Philpott, a révélé que la surreprésentation des enfants autochtones pris en charge au Canada représentait une « crise humanitaire<sup>x</sup> ». Cependant, pour plusieurs personnes qui ont travaillé dans le milieu et qui ont observé le système pendant des années, il y a lieu de se méfier. Cindy Blackstock a évoqué l'histoire oubliée du Dr Peter Henderson Bryce, le médecin hygiéniste en chef des Affaires indiennes, qui a enquêté sur la santé des enfants dans les pensionnats indiens en 1904 et dont les conclusions ont été ignorées. « Voilà une tendance qui se maintient tout au long de l'histoire de la protection de l'enfance : le gouvernement canadien est mieux avisé et il fait le choix délibéré de ne pas faire mieux<sup>y</sup>. »

## La diversité du secteur de la prestation de services

L'observation du Comité des droits de l'enfant des Nations Unies énonçant que le Canada ne doit pas manquer à ses obligations en raison de sa structure fédérale est capitale. Comme plusieurs études consacrées aux systèmes de protection de l'enfance l'ont souligné, les types et les niveaux d'intervention en cette matière au Canada sont extrêmement divers. Cette diversité existe, en partie, car différents ordres de gouvernement participent au financement et aux opérations des services de protection de l'enfance. De plus, elle découle de la nature très variée de la qualité des soins et des pratiques qui s'y rattachent.





Comme M<sup>me</sup> Bennett l'affirme, elles changent « d'un organisme à l'autre et d'une région à l'autre, selon le fonctionnement des organismes de services à l'enfance et à la famille des Premières Nations<sup>z</sup> » ainsi que celui des organismes et des fournisseurs de services aux Métis et aux Inuits. La diversité des types de soins dépend également de la structure, de l'entente de financement et du niveau de soins confié aux services de protection de l'enfance. Le système non autochtone intervient, tel qu'il est administré dans chaque province et territoire, dans les communautés autochtones qui ne sont pas desservies par les organismes autochtones.

## Les organismes provinciaux

Aux termes de la Constitution canadienne, les services de protection de l'enfance sont du ressort provincial lorsqu'il est question d'enfants non autochtones. Cependant, en vertu des modifications à la *Loi sur les Indiens* apportées en 1951, la protection des enfants des Premières Nations relève officiellement de la compétence provinciale plutôt que fédérale, comme c'était le cas auparavant. À cette époque, les sociétés d'aide à l'enfance, comme on les appelait alors, existaient déjà depuis un certain temps. La première société d'aide à l'enfance a été créée en 1891 à Toronto. De plus, l'Ontario a été la première province à adopter en 1893 une loi portant sur le bien-être de l'enfance, qui a considéré comme un acte criminel les mauvais traitements infligés aux enfants. Comme le soutiennent les chercheurs Jim Albert et Margot Herbert, la loi, dont le nom complet est *Act for the Prevention of Cruelty to and Better Protection of Children*, « a encouragé le placement en famille d'accueil, a conféré aux sociétés d'aide à l'enfance un pouvoir de tutelle et a créé le bureau du surintendant des enfants négligés<sup>AA</sup> ». Au sein de ce système, la plupart des fournisseurs de services ont eu tendance à blâmer les familles pour leur inaptitude à prendre soin de leurs enfants, plutôt qu'à comprendre les enjeux sociaux plus vastes, notamment la pauvreté de la classe ouvrière, qui ont créé les conditions propices aux mauvais traitements et à la « négligence » alléguée.

Jusqu'aux années 1950, le gouvernement du Canada a effectué des interventions en matière de protection de l'enfance dans les réserves en y déployant ses agents des Indiens, qui pouvaient intervenir dans les cas d'abandon ou d'abus présumés<sup>BB</sup>. Comme

l'explique Marlyn Bennett, ces interventions ne reposaient sur « aucune base juridique » et, dans la plupart des cas, la solution consistait à envoyer l'enfant au pensionnat indien. Toutefois, en raison des modifications apportées à la *Loi sur les Indiens* en 1951, les gouvernements provinciaux se sont investis davantage dans la protection de l'enfance en vertu de l'article 88, selon lequel les lois provinciales d'application générale devaient s'appliquer aux Premières Nations de toute province. Auparavant, la responsabilité constitutionnelle de ces « Indiens inscrits » incombait au gouvernement fédéral seulement. Étant donné que la protection de l'enfance relevait de la responsabilité des provinces en vertu de la *Loi constitutionnelle*, elles ont commencé à s'engager davantage en raison de l'article 88, qui leur permettait d'intervenir dans les domaines ne relevant pas de leur compétence constitutionnelle. Comme il n'existait pas d'article traitant précisément de la protection de l'enfance dans la *Loi constitutionnelle* ou dans la *Loi sur les Indiens*, le gouvernement fédéral a affirmé que ces services pouvaient être fournis par les provinces, ce qu'a confirmé la Cour suprême du Canada en 1976 dans le cadre de l'arrêt *Natural Parents v. Superintendent of Child Welfare (Parents naturels c. le surintendant de la protection de l'enfance)*<sup>CC</sup>.

Le secteur de la protection de l'enfance s'est transformé de façon considérable depuis ses débuts. En effet, on s'efforce maintenant de mieux comprendre la situation des familles avant de porter une accusation de négligence. De plus, la professionnalisation du personnel (auparavant, ce métier reposait en grande partie sur le bénévolat ou était axé sur la religion) a modifié la façon dont travaillent les organismes fédéraux et provinciaux de protection de l'enfance. Entre autres, la publication des appels à l'action de la Commission de vérité et de réconciliation du Canada a également pressé le gouvernement fédéral d'intervenir de façon plus active pour clarifier les domaines de compétence et ses propres responsabilités envers les enfants autochtones pris en charge. L'une des six mesures du gouvernement fédéral à cet égard consiste à examiner la possibilité d'élaborer conjointement une loi fédérale sur les services à l'enfance et à la famille.

Cependant, comme une grande partie de nos témoignages le démontrent, les critiques adressées à ces organismes dénoncent les expériences des enfants





autochtones dans les systèmes provinciaux et territoriaux où la violence systémique porte atteinte à leurs principaux droits, y compris leurs droits en tant qu'enfants. De plus, en raison de ces expériences, ces derniers risquent d'être exposés plus tard à la violence.

Au sein du système de protection de l'enfance provincial et territorial, comme le soulignent les chercheuses Vandna Sinha et Anna Kozlowski, « la province ou le territoire est responsable d'offrir le service, de faire les lois qui s'y rattachent, de l'administrer et de le financer pour les familles vivant hors des réserves<sup>DD</sup> ». Dans les provinces et les territoires, les enfants sont envoyés à des organismes, principalement en fonction de leur emplacement, ce qui a des conséquences évidentes sur les familles autochtones vivant en milieu urbain et qui ne sont pas liées à une réserve en particulier ou à un établissement métis.

## Les organismes de services aux Premières Nations

En général, l'application des lois et des normes provinciales signifie que la compétence des gouvernements des Premières Nations pour la gestion de leurs propres services leur est déléguée et qu'ils doivent respecter les normes établies par la législation provinciale et territoriale en la matière. La Directive 20-1, une formule de financement nationale administrée par le ministère des Affaires indiennes et du Nord canadien, comme on l'appelait à l'époque, est entrée en vigueur en 1991. Elle exige que « les organismes de services à l'enfance et à la famille des Premières Nations concluent des ententes avec les provinces de manière à ce que la gamme de services offerts dans les réserves soit comparable à celle fournie hors des réserves<sup>EE</sup> ». En pratique, il y a deux ententes séparées. La première établit la délégation des pouvoirs avec le gouvernement provincial ou territorial, alors que la deuxième est conclue avec le gouvernement fédéral et établit le financement octroyé aux organismes. Ce dernier est fondé sur un seuil démographique d'enfants âgés de 0 à 18 ans vivant dans les réserves. Dans certaines provinces, par exemple l'Ontario, il existe d'autres ententes : celle-ci finance les services et obtient ensuite un remboursement du gouvernement fédéral.

Selon une étude effectuée sur les services aux Premières Nations au Canada, on compte plus de 125 organismes de services à l'enfance et à la famille des Premières Nations en activité<sup>FF</sup>.

La Directive 20-1 comprend cinq modèles courants mis en œuvre par les organismes de services aux Premières Nations, notamment les suivants :

1. Le modèle de délégation : Ce modèle prévoit l'attribution de pouvoirs aux organismes de services à l'enfance et à la famille, délégués pour offrir des services aux Premières Nations dans les réserves et hors de celles-ci conformément aux lois et aux normes provinciales ou territoriales. Ces organismes peuvent détenir le plein pouvoir, ce qui leur permet d'avoir une autorité totale en matière de protection et de prévention. Ils peuvent également détenir un pouvoir partiel, ce qui les autorise à fournir des services de soutien et de prévention aux familles alors que l'autorité provinciale ou territoriale offre les services de protection de l'enfance.
2. Le modèle des organismes prémandatés : Ces organismes offrent un soutien en matière de prévention et épaulent les familles en vertu des ententes conclues avec les provinces ou les territoires. On les retrouve surtout en Ontario et, selon Cindy Blackstock, « ils fournissent un service essentiel en s'assurant que les clients ont accès à des ressources adaptées à leur culture pour les questions de prévention et de foyer d'accueil. Par conséquent, ils apportent un soutien important aux communautés autochtones et des Premières Nations en les aidant à prendre soin de leurs enfants, de leurs jeunes et de leurs familles<sup>GG</sup> ».
3. Le modèle des règlements de bande : Ce modèle est assujéti aux dispositions de la *Loi sur les Indiens* qui permettent aux conseils de bande d'adopter des règlements dans leurs réserves. En Colombie-Britannique, la Première Nation de Spallumcheen gère son propre organisme. Elle représente le seul cas où, comme le mentionne Marlyn Bennett, ces règlements peuvent « contourner l'application des lois ou des normes provinciales en matière de protection de l'enfance ». Pour y parvenir, elle a utilisé ce modèle<sup>HH</sup>. Toutefois, les règlements de la Première Nation de Spallumcheen ont été





contestés plusieurs fois devant les tribunaux canadiens, qui n'ont pas réussi jusqu'à maintenant à les annuler. Il est à noter que l'adoption de systèmes semblables dans d'autres réserves n'a pas porté fruit.

4. Le modèle tripartite : Selon ce modèle, les gouvernements provinciaux ou territoriaux et le gouvernement fédéral délèguent leur pouvoir législatif aux Premières Nations à condition qu'elles respectent les normes provinciales. Il s'agit du cas de la Première Nation Sechelt en Colombie-Britannique. Celle-ci détient le plein pouvoir sur les services à l'enfance et aux familles, qu'elle a elle-même élaborés et mis en œuvre selon le modèle de l'accord tripartite. Conformément à cette disposition, les règlements de l'accord Sechelt n'ont pas de limite géographique et ils s'appliquent aux membres vivant dans la réserve et hors de celle-ci. De plus, comme le rapportent les chercheuses Ardith Walkem et Halie Bruce, l'accord Sechelt « reconnaît la capacité des Sechelt d'adopter des lois en matière de protection de l'enfance<sup>ll</sup> ». Aux termes de l'article 14(1) :

Le conseil a, dans la mesure où l'y autorise la constitution de la bande, le pouvoir d'édicter des textes législatifs en toute matière comprise dans les domaines suivants : [...]  
(h) la prestation de services sociaux et d'aide sociale aux membres de la bande, y compris, notamment, la garde et le placement de leurs enfants<sup>jj</sup>.

5. Le modèle de l'autonomie gouvernementale : En vertu du traité conclu avec les Nisga'a, « ces derniers ont réussi à offrir des services complets à l'enfance et à la famille dans les quatre communautés suivantes : Gitlaxt'aamiks, Gitwinksihlkw, Laxgalts'ap et Gingolx<sup>kk</sup> ». Les services sont conformes à la *Child, Family and Community Service Act* sont fondés sur le *Ayuuk* (l'héritage de la culture et des lois orales des Nisga'a). Les intervenants des services de protection de l'enfance s'efforcent d'assurer la sécurité et la santé des enfants. Ils offrent des services obligatoires (un élargissement de la loi en matière de protection de l'enfance) et non obligatoires (des services bénévoles et communautaires), y compris des services de soutien à la famille axés sur la prévention.

Comme M<sup>me</sup> Bennett l'explique, le modèle basé sur la culture peut offrir « l'avantage de se fonder sur la vision du monde, les cultures et les histoires des Autochtones, en plus de soutenir les processus de soins traditionnels aux enfants et à la famille, au lieu de leur faire concurrence<sup>ll</sup> ».

Il y a également plusieurs communautés qui n'administrent pas leur propre organisme pour plusieurs raisons, comme le précise Marlyn Bennett :

Soit les petites économies d'échelle ne permettent pas de dégager le financement adéquat et les ressources humaines suffisantes pour gérer un organisme, soit il y a un manque de volonté de la part des gouvernements provinciaux et territoriaux pour soutenir le développement des organismes autochtones, soit diverses communautés sont satisfaites des services qui sont fournis par la province ou par le territoire, souvent en les consultant<sup>mm</sup>.

Dans ces cas, la province ou le territoire de résidence fournit les services par l'entremise des organismes non autochtones existants, notamment à plusieurs membres des Premières Nations hors réserve.

En 2000, l'Assemblée des Premières Nations et le ministère des Affaires autochtones et du Nord Canada ont réexaminé la Directive 20-1 et émis des recommandations pour l'améliorer. Leur rapport mettait l'accent sur des sujets comme la gouvernance, la législation et les normes, les communications et le financement d'organismes existants de services aux enfants et aux familles des Premières Nations. Leurs recommandations étaient axées sur la précision des responsabilités, des compétences et des ressources, sur l'importance de mieux tenir compte des facteurs qui ont une incidence négative sur les soins, sur le financement pour le développement des capacités et, principalement, sur le soutien à apporter aux objectifs des Premières Nations « afin [que ces dernières puissent] exercer une compétence absolue sur la protection de l'enfance. Les principes et les objectifs de la nouvelle politique doivent mener à l'autonomie gouvernementale et soutenir le leadership des Premières Nations à cet égard<sup>nn</sup> ».





## Les organismes de services aux Métis

La protection de l'enfance chez les Métis diffère à certains égards de celle assurée par les organismes des Premières Nations. Cette différence est principalement due au fait que pendant un siècle, les Métis formaient, de toute évidence, « le peuple oublié ». Exclues des champs de compétence des gouvernements provinciaux et fédéral, qui refusaient de revendiquer leur responsabilité envers les Métis en tant que Nation, les enfants métis ont néanmoins été mis sur le « marché de l'adoption » et placés dans des familles non autochtones. Les Premières Nations ont vécu une expérience semblable dans le cadre de la rafle des années 1960. Le marketing de masse dont ont fait l'objet ces enfants à cette époque et le refus du gouvernement fédéral de reconnaître sa responsabilité à leur égard ont amené les Métis à se retrouver sans ressource ni assistance.

Cependant, au début des années 1980, « les dirigeants métis et des Premières Nations ont mené activement une campagne contre la pratique de l'adoption d'enfants métis et des Premières Nations par des familles ne vivant pas dans la communauté locale, particulièrement contre le placement des enfants à l'extérieur de la province et du pays<sup>OO</sup> ». Au Manitoba, cette action a permis l'interdiction des adoptions hors province et la constitution d'un comité spécial présidé par le juge Edwin Kimelman, afin d'examiner le placement et l'adoption d'enfants métis et des Premières Nations.

Publié en 1985, le rapport final du comité, intitulé *No Quiet Place*, recommandait d'apporter des changements à la loi du Manitoba sur la protection des enfants afin de favoriser la préservation de l'héritage culturel et linguistique tout au long du développement de l'enfant. Le juge Kimelman a affirmé que l'ensemble des pratiques antérieures visaient la séparation des enfants de leur famille et que cette situation témoignait des « efforts concertés pour commettre un génocide culturel<sup>PP</sup> ». Par la suite, *No Quiet Place* a contribué à l'établissement de relations entre le gouvernement du Manitoba et la Fédération des Métis du Manitoba pour traiter des problèmes liés à la protection de l'enfance.

Quelques années plus tard, en 1991, l'Enquête publique sur l'administration de la justice et les peuples autochtones a produit son propre rapport,

dont l'analyse donnait un aperçu du traitement historique des Autochtones au sein des services sociaux. Plus précisément, il a révélé « que les pratiques en matière de protection de l'enfance au Manitoba ont entraîné des conséquences majeures et destructrices sur les familles, sur les communautés et sur la culture autochtones<sup>QQ</sup> ». Comme l'ont résumé les chercheurs Shannon Allard-Chartrand et collab., l'Enquête publique sur l'administration de la justice et les peuples autochtones a recommandé que plusieurs changements soient apportés au système de protection de l'enfance, notamment l'adoption de lois pour que les services soient adaptés à leur culture et la mise sur pied d'un organisme métis de services à l'enfance et à la famille<sup>RR</sup>.

En 1999, la création de la Commission de mise en œuvre des recommandations sur la justice autochtone est venue redonner vie aux recommandations de l'Enquête publique sur l'administration de la justice et les peuples autochtones et de l'Initiative de protection de l'enfance. Selon Allard-Chartrand et collab. :

Le gouvernement provincial et les dirigeants métis et des Premières Nations ont conjointement mis sur pied l'Enquête publique sur l'administration de la justice et les peuples autochtones et l'Initiative de protection de l'enfance. Cette enquête devait mettre en œuvre une stratégie pour restructurer le système de protection de l'enfance au Manitoba. L'objectif le plus important de cette initiative était de créer un mandat panprovincial pour les Métis et d'étendre le pouvoir des Premières Nations à l'extérieur des réserves<sup>SS</sup>.

Parmi les autres mesures, les travaux ont donné lieu à une modification de la *Loi sur les services à l'enfant et à la famille* du Manitoba stipulant que « les Autochtones ont le droit de recevoir des services à l'enfant et à la famille, d'une manière qui tient compte de leur statut unique ainsi que de leur patrimoine culturel et linguistique<sup>TT</sup> ». De plus, quatre nouvelles autorités de services à l'enfance et à la famille ont été créées parallèlement au processus, dont la First Nations of Northern Manitoba Child and Family Services Authority, la First Nations of Southern Manitoba Child and Family Services Authority, la Metis Child and Family Services Authority et la General Child and Family Services Authority. En vertu de trois protocoles d'entente distincts, la Fédération





des Métis du Manitoba, l'Assemblée des chefs du Manitoba et Manitoba Keewatinowi Okimakanak se sont engagés à administrer et à fournir les services à l'enfance et à la famille grâce à un modèle de délégation selon lequel le système continue d'être assujéti aux règlements provinciaux ou territoriaux. Ils y sont parvenus au moyen d'une nouvelle loi proclamée en 2003. En vertu de celle-ci, la province conserve le pouvoir d'établir les normes en matière de protection de l'enfance, d'évaluer le respect des exigences de la loi par les autorités déléguées ainsi que d'allouer à ces dernières les fonds et les services de soutien. En retour, les autorités sont autorisées à établir des normes de service complétant celles qui existent déjà.

Pour l'agence de protection de l'enfance des Métis du Manitoba, qui est indépendante de la Fédération des Métis du Manitoba, et comme confirmé par Allard-Chartrand et collab. « la nouvelle structure gouvernementale représente un énorme progrès vers le rapatriement des enfants métis. L'agence est mieux outillée que le système antérieur pour offrir aux familles métisses des services adaptés à leur culture. Par conséquent, les familles et les communautés métisses exercent une autodétermination accrue<sup>UU</sup> ». Par contre, les lacunes généralisées au sein de l'ancien système se retrouvent dans le nouveau, particulièrement celles qui sont liées à la formation des superviseurs sur la sensibilisation aux cultures autochtones et sur la lutte contre le racisme. On note également un manque de financement et de systèmes de soutien familial en matière de prévention et des ressources insuffisantes pour assumer la charge de travail, une situation qui entraîne un roulement élevé de personnel et qui en affecte négativement la santé<sup>VV</sup>. En 2006, le rapport *Strengthen the Commitment: An External Review of the Child Welfare System* a également « mis l'accent sur la nécessité d'établir un mécanisme doté des ressources appropriées afin de fixer et de mettre en œuvre les objectifs de l'Enquête publique sur l'administration de la justice et les peuples autochtones et de l'Initiative de protection de l'enfance<sup>WW</sup> ».

De nos jours, il existe un certain nombre d'organismes de protection des enfants métis, notamment en Colombie-Britannique, en Alberta et, comme mentionné précédemment, au Manitoba, à qui on a délégué la prestation des services de protection de l'enfance dédiés aux Métis. Le gouvernement fédéral n'a jamais accordé de

financement à ces organismes jusqu'à maintenant. La province du Manitoba finance ses organismes, alors que, comme l'indique le rapport de la CVR, « en Alberta, la province finance des municipalités et des établissements métis pour les services de protection de l'enfance métis [...] en Colombie-Britannique, cinq agences de services à l'enfance et à la famille métisses offrent des services, tandis qu'un organisme à but non lucratif, la Commission métisse pour l'enfance et la famille, mène des consultations auprès du gouvernement provincial<sup>XX</sup> ».

En Alberta, l'organisme de services aux enfants et aux familles métisses « veille à ce que les enfants et les familles soient servis avec dignité, respect et compréhension tout au long de la prestation des services à la famille et des programmes de soutien communautaires destinés aux familles métisses, afin que [le] personnel puisse contribuer à renforcer l'enfant, la famille et la communauté métis ». Son objectif est de réduire le nombre d'enfants pris en charge par les services de la province de l'Alberta en « améliorant la qualité et l'efficacité des services sociaux, en élaborant des programmes visant à renforcer les familles autochtones et en sensibilisant davantage les communautés à la responsabilité du bien-être des enfants autochtones<sup>YY</sup> ».

## Les services à l'enfance et à la famille destinés aux Inuits

Dans l'ensemble de l'Inuit Nunangat, les enfants inuits sont aux prises avec des difficultés différentes de celles vécues dans d'autres régions, par exemple l'accès difficile à des services de protection pertinents et adaptés à la culture ainsi que les expériences de prise en charge. Comme le souligne la chercheuse Lisa Rae de l'Organisation nationale de la santé autochtone, « plusieurs difficultés rencontrées par les communautés inuites de nos jours tirent leurs origines d'événements historiques<sup>ZZ</sup> ». Parmi celles-ci, on retrouve « l'imposition de valeurs non inuites aux communautés inuites et l'imposition du système de justice canadien, l'introduction relativement récente de l'économie basée sur les salaires, les séquelles des pensionnats indiens et des foyers scolaires ainsi que la perte de l'autonomie, de la culture et du mode de vie des Inuits<sup>AAA</sup> ». Ces expériences, combinées à l'imposition de « l'administration bureaucratique du Sud sur le mode de vie inuit », entraînent les taux élevés de prise en charge d'enfants dans le Nord, où





plusieurs habitants ont de la difficulté à atteindre un niveau de vie de base. De plus, comme Lisa Rae l'explique :

Ces changements majeurs, et particulièrement le traumatisme vécu par plusieurs Inuits à l'époque des pensionnats indiens, ont engendré une augmentation des taux de suicide et la normalisation du suicide dans les communautés inuites, des taux élevés d'alcoolisme, de toxicomanie et de violence familiale, des problèmes de santé mentale et une capacité insuffisante d'adaptation<sup>BBB</sup>.

Certaines différences dans les structures et les mécanismes qui gèrent les services à l'enfance et à la famille dans l'Inuit Nunangat s'expliquent par les ententes en matière de revendications territoriales et d'autonomie gouvernementale en vigueur dans cette région.

Le territoire du Nunavut a été créé en 1999, conformément à la *Loi sur le Nunavut* et dans le cadre de la conclusion de l'Accord sur les revendications territoriales du Nunavut, qui a reçu la sanction royale en 1993. Tous les services à l'enfance et à la famille y sont fournis par le ministère de la Santé et des Services sociaux du gouvernement du Nunavut et par l'entremise de la Division des services à l'enfance et à la famille. En vertu de la loi, il existe des dispositions prévoyant des accords avec les communautés inuites qui permettent à celles-ci d'avoir un contrôle accru sur la protection de l'enfance et sur l'adoption selon les coutumes. Le Nunavut n'a pas encore créé sa propre loi en matière de protection de l'enfance. Comme la population desservie est majoritairement inuite, plusieurs personnes insistent pour que cette loi, lorsqu'elle aura été créée, reflète les lois, les valeurs et les pratiques inuites.

Dans la région désignée des Inuvialuit, située dans la portion ouest de l'Arctique des Territoires du Nord-Ouest, les services de protection de l'enfance et de la famille sont fournis par les autorités régionales de la santé en vertu de la Convention définitive des Inuvialuit de 1984. Bien que l'autorité en matière de services soit locale, elle demeure une forme de délégation assujettie aux lois territoriales, à défaut de témoigner de l'autonomie gouvernementale inuite et de la compétence inuite exercée sur la protection de l'enfance. En 2015, une entente de principe sur

l'autonomie gouvernementale des Inuvialuit a été signée. Elle comprend l'article 8.1, qui stipule ce qui suit :

Le gouvernement inuvialuit peut faire des lois relativement à la prestation de services à l'enfance et à la famille pour les Inuvialuit vivant dans la région ouest de l'Arctique, à condition que ces lois comportent des normes : visant à assurer la protection des enfants; et appliquant le principe de la primauté de l'intérêt supérieur de l'enfant<sup>CCC</sup>.

En outre, l'entente de principe a établi que les lois inuvialuit doivent être compatibles avec les principes et les objectifs fondamentaux des Territoires du Nord-Ouest concernant les services à l'enfance et à la famille. Selon le cadre actuel, des dispositions sont en place pour que les communautés inuites, métisses et des Premières Nations concluent des ententes communautaires afin d'exercer un contrôle accru sur la protection de l'enfance, par l'entremise d'ententes particulières et de dispositions pour l'adoption coutumière, en tenant compte de leurs perspectives distinctes.

En vertu de la Convention de la Baie James et du Nord québécois, signée en 1975, qui portait sur la revendication territoriale du Nunavik, la région qui couvre le Nord du Québec, les services de protection de l'enfance sont fournis par la Régie régionale de la santé et des services sociaux du Nunavik, l'un des 17 services régionaux au Québec. De la même façon que pour les Inuvialuit, il s'agit d'un modèle de délégation doté d'un pouvoir local et régional accru, mais régi par les lois de la province du Québec, dans ce cas-ci. Les services de protection de l'enfance sont offerts par l'entremise de deux centres de santé : le centre de santé Tulattavik (baie d'Ungava) à Kuujuaq et le centre de santé Inuulitsivik (baie d'Hudson) à Puvirnituq. L'Administration régionale Kativik est représentée au sein du conseil d'administration de la Régie régionale de la santé et des services sociaux.

Conformément à l'accord du Nunatsiavut, signé à Terre-Neuve-et-Labrador en 2005, le Nunatsiavut peut édicter ses lois en matière de services à l'enfance et à la famille en vertu de l'article 17.15 :

Le gouvernement du Nunatsiavut peut faire des lois dans les terres des Inuits au Labrador et les communautés inuites relativement aux aspects





suivants concernant les installations et les programmes et services sociaux à l'égard de la famille, des jeunes et des enfants pour les Inuits :

- (a) les programmes et les services pour la protection, l'aide, le bien-être et le développement des enfants, des jeunes et des familles, y compris les programmes et les services centrés sur la prévention et l'intervention précoce relatifs aux enfants, aux jeunes et aux familles;
- (b) le recrutement, l'approbation, le soutien et la surveillance des services résidentiels pour les enfants et les jeunes, y compris le personnel soignant, l'hébergement d'urgence et les foyers collectifs;
- (c) le placement d'enfants dans des services résidentiels approuvés;
- (d) les services de soins aux enfants, y compris l'accréditation et la surveillance des installations de soins aux enfants et des personnes qui fournissent des services de soins aux enfants dans des résidences privées<sup>DDD</sup>.

Même si le Nunatsiavut détient ce pouvoir, il ne l'a pas encore exercé, car il se concentre pour le moment au renforcement de ses capacités afin d'assurer une transition saine et harmonieuse du système actuel à une prestation de services fournie par une autorité régionale de la santé.

Les services de protection de l'enfance et de soutien à la famille peuvent être organisés différemment d'une administration à l'autre. De plus, les services offerts aux Inuits peuvent être accessibles aux personnes qui ne sont pas inuites, mais qui vivent sur ce territoire.

Comme l'affirme Lisa Rae, « bien que ces accords constituent un tournant majeur pour les Inuits, le transfert des pouvoirs sur les services et le renforcement des capacités des communautés inuites de les assumer sont des processus lents qui comportent de nombreuses difficultés<sup>EEE</sup> ». En outre, la prestation des services de protection de l'enfance par ces divers organismes n'a pas nécessairement permis de résoudre tous les problèmes liés aux enfants pris en charge. Par exemple, le Nunavut a

entrepris l'examen de sa *Loi sur les services à l'enfance et à la famille*. Dans le cadre de celui-ci, un juge a déterminé ce qui suit :

Cette loi contrevient à la Charte canadienne des droits et libertés, car elle n'offre pas de mécanisme qui permet d'examiner au bon moment les motifs du retrait après la prise en charge. Actuellement, quand un travailleur social enlève l'enfant à sa famille, il n'existe aucun moyen pour les parents d'interjeter appel de la décision devant les tribunaux en temps opportun<sup>FFF</sup>.

Un rapport de 2011 du vérificateur général du Canada a également souligné les graves problèmes au sein du ministère de la Santé et des Services sociaux du Nunavut, notamment l'incapacité du ministère à respecter ses propres normes et procédures, le manque de contrôles de sécurité dans les foyers d'accueil, la mauvaise tenue de dossiers, le manque de coordination entre les services, le nombre insuffisant de travailleurs sociaux et les charges de travail impossibles à gérer<sup>GGG</sup>.

Au Nunavik, la Commission des droits de la personne et des droits de la jeunesse a mené une enquête dans la région de la baie d'Ungava et de la baie d'Hudson en 2007 après avoir reçu des plaintes au sujet de la prestation de services visant notamment le manque de ressources pour les personnes dans le besoin, la formation insuffisante du personnel et le manque de connaissances relatives à la *Loi sur la protection de la jeunesse* du Québec<sup>HHH</sup>.

L'enquête a mis en lumière la nécessité :

d'améliorer la structure de gouvernance des organismes de service et la prestation des services, d'améliorer les ressources spécialisées, comme les services aux toxicomanes, d'évaluer les familles d'accueil, d'offrir une formation et du soutien aux familles d'accueil et de mettre sur pied un programme d'assistance pour les employés afin de soutenir et de former les travailleurs. L'enquête a également émis des recommandations en matière de logement, d'adoption et de mise en application de la *Loi sur le système de justice pour les jeunes*<sup>III</sup>.





En 2010, un rapport de suivi a conclu que certains progrès avaient été accomplis dans des domaines en particulier. Toutefois, il soulignait que 30 % des enfants vivant au Nunavik étaient signalés auprès des services de protection de l'enfance, que le crime était en hausse, que le taux de suicide demeurait élevé et que l'abus d'alcool et de drogue comptait parmi les principaux domaines d'enquête ainsi que parmi les motifs courants de placement d'enfant<sup>jjj</sup>. Le recrutement et la formation du personnel posaient toujours problème, tout comme l'évaluation des familles d'accueil potentielles, les besoins en matière de logement et la mobilisation des organisations régionales<sup>kkk</sup>. En 2018, le réseau Aboriginal Peoples Television Network a présenté un reportage qui relatait qu'un jeune inuit sur trois au Nunavik recevait des services en matière de protection de l'enfance et que les intervenants devaient prendre en charge environ 45 cas, alors que la moyenne provinciale était de 18<sup>lll</sup>.

Même si ces régions sont différentes, elles possèdent beaucoup de points communs. En 2010 et en 2011, un groupe de référence en matière d'enfance et de services sociaux inuits a défini un certain nombre d'enjeux importants pour les Inuits relativement aux services de soutien aux familles et de protection de l'enfance. Ces enjeux exigeaient notamment les mesures suivantes :

1. Se pencher sur la pauvreté des enfants et des familles causée, en partie, par le coût de la vie élevé et les problèmes de toxicomanie de plusieurs familles inuites;
2. Favoriser la participation des communautés pour trouver des solutions à divers problèmes;
3. Adopter une approche spécifique aux Inuits et fondée sur les distinctions en ce qui a trait à la protection de l'enfance et au soutien aux familles;
4. Développer des ressources et des services adaptés à leur culture et former les fournisseurs de services au sujet de la culture et des valeurs inuites, car plusieurs d'entre eux ne sont pas Inuits ou ne sont pas originaires de cette région;
5. Mettre l'accent sur la prévention et sur le soutien à apporter aux familles pour prévenir la prise en charge en premier lieu;
6. Améliorer les mécanismes de soutien aux personnes qui ont des difficultés financières ou

qui vivent une situation sociale précaire, en prenant comme modèle le service de soins à domicile du Nunatsiavut;

7. Soutenir les pratiques traditionnelles, y compris l'adoption selon les coutumes;
8. Garantir l'accès aux services juridiques afin d'assurer une représentation adéquate dans les affaires liées à la protection de l'enfance;
9. Chercher à obtenir plus de conseils auprès des Inuits pour définir la meilleure façon de répondre aux besoins de ces derniers et de respecter les priorités;
10. Maintenir les liens culturels et communautaires des enfants adoptés par des familles non inuites qui sont envoyés hors de leur communauté;
11. Renforcer la participation de la communauté dans la prise de décision qui touche les enfants et les jeunes;
12. Renforcer les capacités des communautés inuites pour que les gens puissent gérer leurs services et pour améliorer la vitalité économique.

Ces thèmes et expériences communs témoignent de la nécessité de conclure des accords pour tenir compte des circonstances et des besoins locaux. Ils mettent également en relief les thèmes plus vastes que sont les ressources adaptées à la culture et les approches qui sont spécifiques aux Inuits, car ces points sont importants pour les enfants, pour les jeunes et pour les familles.

## « Ce n'est pas qu'une question de paperasserie » : les conflits de compétence et la non-conformité

La complexité des accords et les difficultés associées à la grande diversité des services de protection de l'enfance sont des exemples frappants et importants de l'incidence de la coopération intergouvernementale sur le fonctionnement et la prestation de ces services.





Selon Cindy Blackstock, le fait que le gouvernement ne respecte pas l'application du principe de Jordan<sup>MMM</sup>, comme expliqué précédemment dans ce rapport, ne représente pas simplement son inaction dans ce dossier, qui est traité partiellement seulement, mais engendre également de graves conséquences : « Je tiens à souligner que cette non-conformité n'est pas neutre. Ce n'est pas qu'une question de paperasserie. Cette situation a de véritables répercussions sur les enfants<sup>NNN</sup>. »

Huit rapports publiés de 1994 à 2015 et contenant environ 28 recommandations évoquent la nécessité d'améliorer les services à l'enfance et à la famille pour les Autochtones. Les rapports indiquent que les lacunes des systèmes de protection de l'enfance contribuent de plusieurs façons à la violence contre les femmes, les filles et les personnes 2ELGBTQQIA autochtones. Premièrement, la dislocation des familles et des communautés autochtones découlant de la prise en charge des enfants par les gouvernements du Canada, dont ont systématiquement souffert plusieurs générations, a causé un traumatisme et a entraîné l'abus d'alcool et d'autres drogues, la faible estime de soi, la rupture culturelle, la défaillance des compétences parentales et, ultimement, la violence. Deuxièmement, les enfants pris en charge sont plus vulnérables à l'exploitation et aux agressions sexuelles pendant la période où ils sont pris en charge. De plus, les jeunes risquent davantage de se retrouver dans la rue plus tôt s'ils ont été pris en charge. Troisièmement, le fait de sortir du système ou d'atteindre l'âge maximal de prise en charge peut accroître considérablement la vulnérabilité à la violence des jeunes femmes autochtones, particulièrement si le soutien qu'elles reçoivent de leur communauté ou les relations qu'elles y entretiennent prennent fin abruptement.

La plupart des recommandations rattachées à ce sous-thème s'adressent aux gouvernements provinciaux ou témoignent de la nécessité de mieux coordonner les services et le financement entre plusieurs ordres de gouvernement. Pratiquement tout le monde a mentionné le besoin d'améliorer la coordination intergouvernementale en matière de financement.

En 2016, le Tribunal canadien des droits de la personne (TCDP) a conclu que le gouvernement fédéral faisait preuve de discrimination à l'égard des enfants autochtones pris en charge en leur accordant un financement inférieur à celui octroyé aux enfants non

, Cree, Ojibway



*Cindy Blackstock témoigne devant l'Enquête nationale à Winnipeg, au Manitoba.*

autochtones dans la même situation<sup>OOO</sup>. Le TCDP a jugé que cette discrimination perpétuait les désavantages historiques, en particulier les séquelles causées par les pensionnats indiens. De plus, le TCDP a déterminé que le gouvernement fédéral n'avait pas mis en œuvre le principe de Jordan et que la structure de la Directive 20-1 favorisait essentiellement le retrait des enfants autochtones de leur famille en finançant davantage les bénéficiaires non autochtones, en leur accordant une plus grande souplesse et en leur imposant moins d'exigences en matière de rapport, ce qui a donné lieu à des services non adaptés à la culture<sup>PPP</sup>. Bien que le TCDP ait établi que le gouvernement fédéral a fait des efforts pour corriger les lacunes de la directive au cours des dernières années, ces mesures n'ont pas permis d'éliminer adéquatement les inégalités des formules de financement de la protection de l'enfance pour les enfants des Premières Nations.

Le gouvernement fédéral a tardé à mettre en œuvre les ordonnances du TCDP. En mars 2019, celui-ci a rendu une septième ordonnance de non-conformité contre le gouvernement fédéral, car il n'avait pas pleinement mis en application le principe de Jordan<sup>QQQ</sup>. Alors que le gouvernement fédéral a





promis d'accroître le financement pour régler les problèmes relatifs à la protection de l'enfance et pour veiller à ce que les services soient équitables pour les enfants autochtones, l'objet de sa promesse demeure bien en deçà de ce dont les familles ont besoin<sup>RRR</sup>. La majorité des provinces canadiennes ont entamé au moins un examen systémique des services de protection de l'enfance au sein de leur propre territoire<sup>SSS</sup>. À ce jour, il n'existe pas de normes nationales en matière de protection de l'enfance qui sont imposées par voie législative.

## « Le coût de l'inaction » : encourager de nouvelles initiatives en matière de changement

Pour de nombreux témoins, les changements doivent être effectués dès maintenant afin de commencer à éliminer les véritables répercussions de la protection de l'enfance sur la sécurité humaine et sur celle des femmes, des filles et des personnes 2ELGBTQQIA autochtones. Comme l'a expliqué Cindy Blackstock :

La perte de l'enfance représente le coût de l'inaction. Voilà le prix que nous payons en endurent, ne serait-ce qu'un jour de plus, ce sous-financement et cette semi-égalité. C'est pourquoi nous devons faire tout notre possible comme personnes, ou à l'aide de mécanismes ou d'enquêtes, pour assurer que la génération actuelle d'enfants inuits, métis et des Premières Nations est celle qui n'aura plus à se remettre des séquelles de son enfance, car nous sommes mieux avisés et nous devons parvenir à cette fin<sup>TTT</sup>.

Comme l'a entendu l'Enquête nationale, le coût de l'inaction est trop élevé. Les conséquences de ces moments de transition peuvent être graves, particulièrement en raison du grand nombre d'enfants autochtones qui ne sont plus pris en charge à cause de leur âge ou qui sont retirés de leur famille quotidiennement. De plus, le niveau invraisemblable d'indifférence démontré, jusqu'à récemment à tout le moins, envers une tragédie qui s'aggrave depuis

des décennies met en évidence à quel point les gouvernements sont conscients de ce coût et de la nécessité de changer les choses.

L'Enquête nationale a entendu des témoignages précis liés au coût de l'inaction, en particulier au cours des moments de transition. Par exemple, plusieurs jeunes qui ne sont plus pris en charge en raison de leur âge sont abandonnés lorsqu'ils atteignent l'âge de la majorité, soit 18 ans dans la plupart des cas, par le système de protection de l'enfance et de la famille financé pour les soutenir jusqu'à cette étape. Bon nombre de ces jeunes atteignent simplement l'âge maximal de prise en charge du système de protection de l'enfance sans avoir noué de relation familiale stable et sans avoir acquis les compétences nécessaires pour survivre seul et encore moins pour s'épanouir.

Comme le démontre la recherche de la Coalition canadienne pour les droits des enfants, « les systèmes de protection de l'enfance ne préparent pas adéquatement les jeunes à la vie qui les attend au terme de leur prise en charge et accentuent la chute du taux de diplomation d'études secondaires, l'exacerbation des problèmes de santé mentale, et le risque de démêlés avec le système de justice pénale pour les adolescents<sup>UUU</sup> ».

Stephen Gaetz, professeur et directeur de l'Observatoire canadien sur l'itinérance à l'Université York, fait remarquer ce qui suit :

La fin de la prise en charge, lorsqu'elle survient dans un contexte difficile, s'accompagne souvent de manifestations négatives, tels l'itinérance, le chômage, la perte de motivation et le manque de réussite sur le plan scolaire, l'inaptitude et les ennuis avec la justice, lesquels peuvent, en définitive, confiner les jeunes dans le cercle vicieux de la pauvreté. Bon nombre de ceux qui cessent d'être pris en charge par le système de protection de l'enfance n'arrivent pas à réussir la transition vers une vie d'adulte autonome, car les compétences psychosociales dont ils disposent sont sous-développées, leur formation scolaire est inadéquate, le soutien et les ressources mis à leur disposition sont insuffisants, et leur capacité émotionnelle et physique est déficiente en comparaison aux autres jeunes adultes qui en sont à la même étape de leur cheminement<sup>VVV</sup>.





Par ailleurs, au sein de plusieurs administrations, les règlements régissant la protection de l'enfance font abstraction des plus récents changements sociaux et économiques. Ainsi, il est plus difficile pour les jeunes d'être autonomes à un âge précoce. Par exemple, plus de 40 % des Canadiens âgés de 20 à 29 ans vivent avec leurs parents en raison du coût élevé du logement, de leur fréquentation d'un collège puis d'une université ou des mauvaises perspectives d'emploi<sup>www</sup>. Par conséquent, les services de protection de l'enfance qui cessent de fournir un soutien aux jeunes à un âge relativement précoce les mettent en danger. Bien qu'il existe des programmes visant à corriger ces lacunes, ils ne sont pas offerts partout et ne donnent pas tous de bons résultats. Plusieurs témoignages à l'Enquête nationale ont illustré comment les jeunes ayant atteint l'âge maximal de prise en charge ont sombré dans l'itinérance ou, parfois même, sont décédés.

Comme le soutient Cora Morgan, défenseure des familles des Premières Nations pour l'Assemblée des chefs du Manitoba, l'issue des jeunes qui atteignent l'âge maximal de prise en charge au Manitoba, par exemple, est insatisfaisante.

En ce qui concerne la réussite scolaire au Manitoba, seulement 25 % des jeunes pris en charge terminent leurs études secondaires. Vous savez, beaucoup de personnes se retrouvent en situation d'itinérance, car ils ont atteint l'âge maximal de prise en charge. Voilà ce qui se passe quand on retire les jeunes de leur communauté. Ils perdent leur langue, leurs relations, leur famille; ils arrivent à Winnipeg en cherchant à s'intégrer, mais ils ne tombent pas toujours sur les compagnons les plus convenables<sup>xxx</sup>.

Mary Ellen Turpel-Lafond a présenté *Paige's Story*, un rapport relatant l'histoire d'une jeune fille qui n'était plus prise en charge par le système en raison de son âge et qu'on a retrouvée morte dans le quartier Downtown Eastside de Vancouver. Dans le cadre de son témoignage, elle a déclaré ce qui suit :

Essentiellement, Paige a passé sa vie à Vancouver, particulièrement dans le quartier Downtown Eastside, à changer constamment de domicile. Puis, elle a atteint l'âge maximal de prise en charge par le système, comme plusieurs autres jeunes. J'ai entendu de nombreuses histoires semblables et j'ai assez travaillé auprès des ces

derniers pour savoir que lorsqu'ils atteignent l'âge de 19 ans, en Colombie-Britannique, ils sont mis à la rue, avec en main un sac à ordures contenant leurs effets personnels. Ainsi, Paige, ayant atteint l'âge maximal de prise en charge, n'avait nulle part où aller, sauf dans le Downtown Eastside. Elle est morte, tragiquement, d'une surdose à l'âge de 19 ans dans ce quartier<sup>yyy</sup>.

Il est essentiel de résoudre les problèmes de prise en charge continue et de soutien inadéquat pour les jeunes qui atteignent l'âge maximal établi. Certaines organisations autochtones ont milité pour que le gouvernement fédéral élabore un plus grand nombre de dispositions législatives en matière de système de protection de l'enfance, considérant qu'il s'agit d'un moyen susceptible de faciliter l'autodétermination des Autochtones<sup>zzz</sup>. Il est également important d'améliorer la reddition de comptes relative aux pratiques passées et actuelles du système de protection de l'enfance. Le contrôle de ce système, principalement assuré par les gouvernements provinciaux, engendre des conséquences problématiques. Parmi celles-ci, on note des disparités importantes entre les provinces concernant la mesure dans laquelle chaque gouvernement provincial reconnaît la compétence autochtone visant les enfants autochtones pris en charge par le système de protection de l'enfance, notamment la portée de l'autorité conférée aux organisations des Premières Nations pour administrer ce système (ainsi que le soutien financier et technique qui est offert pour y parvenir)<sup>aaaa</sup>. De plus, les lois provinciales sur la protection de l'enfance et les cadres fédéraux en matière de financement peuvent être conflictuels et incohérents. Même si la loi constitutionnelle canadienne ne définit pas assez clairement les responsabilités financières intergouvernementales, particulièrement lorsqu'il y a chevauchement possible entre les compétences provinciales et fédérales, la législation fédérale (en coordination avec les provinces et les territoires) peut fournir plus de précisions<sup>bbbb</sup>.

Dans son témoignage, Valérie Gideon, directrice régionale de la santé des Premières Nations et des Inuits dans la région de l'Ontario pour Santé Canada, a mentionné un groupe de travail nommé récemment par le ministre de la Justice pour réviser « l'ensemble des lois, des politiques et des procédures opérationnelles dans le contexte de la Déclaration des Nations Unies et des droits des Autochtones à l'article 35 ».





Comme elle l'a fait remarquer :

Il s'agit d'une question de priorités. Il est évident que maintenant, comme la ministre Bennett consulte activement les Premières Nations, les Inuits et les Métis au sujet de la reconnaissance et de la mise en œuvre d'un cadre des droits autochtones, et comme il y a des discussions sur les services à l'enfance et à la famille et sur leur législation potentielle, il y a beaucoup de travaux en cours<sup>CCCC</sup>.

Ces initiatives comprennent une participation plus active de ceux qui ne sont habituellement pas desservis par le gouvernement fédéral, dont les Métis et les Inuits. Au cours de la révision effectuée par le groupe de travail, « plus de 65 séances de mobilisation ont été tenues dans tout le pays et près de 2 000 personnes y ont participé<sup>DDDD</sup> ».

À la fin de 2018, la ministre des Services aux Autochtones de l'époque, Jane Philpott, a annoncé que le gouvernement du Canada allait présenter, au début de l'année 2019, un projet de loi fédéral élaboré conjointement portant sur les services aux enfants et aux familles autochtones. Accompagné du chef de l'Assemblée des Premières Nations, Perry Bellegarde, du président national de l'Inuit Tapiriit Kanatami, Natan Obed, et du président du Ralliement national des Métis, Clément Chartier, M<sup>me</sup> Philpott a signalé que les enfants autochtones représentent 52,2 % des enfants en famille d'accueil dans des résidences privées au Canada. Elle a également mentionné que ces derniers sont exposés à des risques plus élevés sur les plans de la santé, de la violence et de l'incarcération<sup>EEEE</sup>. Comme en fait état le résumé de la rencontre produit par le gouvernement, les mesures prises témoignent de la nécessité d'apporter d'importantes modifications législatives.

Actuellement, les familles autochtones sont assujetties à des règles et à des systèmes qui ne reflètent pas leur culture ni leur identité. L'objectif du projet de loi est de changer cela, lui qui vise à appuyer les familles autochtones pour qu'elles puissent élever leurs enfants au sein de leurs territoires et de leurs Nations, et à augmenter les efforts pour prévenir la prise en charge des enfants par l'État lorsqu'il est possible et sécuritaire de le faire<sup>FFFF</sup>.

Le projet de loi vise à confirmer les droits aux termes de l'article 35 de la Constitution canadienne, de soutenir les appels à l'action de la CVR et de respecter les engagements du Canada envers la DNUDPA et la CDE. Selon le gouvernement, le projet de loi est fondé sur le principe d'autodétermination et sur le droit des Autochtones de déterminer leurs propres lois, politiques et pratiques visant les services à l'enfance et à la famille.

La ministre Philpott a soutenu que l'objet du projet de loi était nécessaire et que celui-ci constituerait « un outil indispensable pour soutenir ces efforts ». La ministre des Relations Couronne-Autochtones, Carolyn Bennett, a affirmé : « Il s'agit d'une étape essentielle dans le soutien aux droits et au mieux-être des enfants autochtones. Le statu quo est inacceptable<sup>GGGG</sup>. »

De même, les dirigeants autochtones ont souligné l'importance de réformer les services à l'enfance et à la famille de façon à respecter, comme l'a expliqué le chef de l'Assemblée des Premières Nations Perry Bellegarde, « [leurs] droits, [leurs] cultures et [leurs] structures familiales. [...] Les Premières Nations sont prêtes à mettre l'accent sur la prévention plutôt que sur la prise en charge par l'État, et à appliquer leurs lois, leurs politiques et leurs valeurs culturelles, qui placent les enfants au centre de [leurs] nations ». Natan Obed, le président de l'Inuit Tapiriit Kanatami, a réitéré l'engagement des Inuits à « travailler de manière constructive et axée sur les distinctions pour élaborer conjointement une loi fédérale sur la protection de l'enfant et de la famille afin de contribuer à réduire de manière significative les inégalités sociales dans l'Inuit Nunangat et à l'échelle du Canada, et ultimement à réduire la surreprésentation des enfants inuits placés dans des foyers d'accueil ». Clément Chartier, le président du Ralliement national des Métis, a déclaré :

Ce projet de loi ouvrira un nouveau chapitre sur la voie d'une reconnaissance accrue à l'effet que nous, au sein de la Nation métisse, sommes les mieux placés pour soutenir nos enfants et en prendre soin. C'est une initiative sans précédent qui veillera à la survie, à la dignité et au mieux-être de nos familles, de nos communautés et de notre nation pour les générations à venir<sup>HHHH</sup>.

Le 28 février 2019, le ministre des Services aux Autochtones, Seamus O'Regan, a déposé le projet de





loi C-92, une loi concernant les enfants, les jeunes et les familles des Premières Nations, des Inuits et des Métis. Élaboré en collaboration avec les partenaires autochtones, y compris l'Assemblée des Premières Nations, l'Inuit Tapiriit Kanatami et le Ralliement national des Métis, le projet de loi vise à affirmer le droit inhérent des Autochtones d'exercer leur compétence en matière de services à l'enfance et à la famille ainsi qu'à « établir des principes nationaux tels que l'intérêt supérieur de l'enfant, la continuité culturelle et l'égalité réelle pour guider l'interprétation et l'administration du projet de loi<sup>III</sup> ». Le projet de loi expose de façon tangible de nouveaux facteurs à considérer pour déterminer ce qu'est « l'intérêt supérieur » d'un enfant autochtone pris en charge, y compris les valeurs culturelles, linguistiques et spirituelles ainsi que la relation, importante et continue, avec sa propre famille biologique, la communauté et le groupe autochtone. Le projet de loi met aussi l'accent sur le besoin d'axer les efforts sur la prévention afin de réduire le nombre d'enfants pris en charge et d'offrir un soutien aux familles, en tant qu'unité essentielle.

## Conclusion : « Pouvoir rêver librement »

Pour trouver des solutions, Cindy Blackstock ajoute :

Il est important de renouer avec ces moyens culturels permettant d'assurer la sécurité des enfants et d'être prêts à les mettre en œuvre. Selon nous, l'une des choses que la colonisation a enlevées à de nombreux peuples autochtones, sans doute la chose la plus importante à mon avis, est leur capacité d'avoir leurs propres rêves. À quoi ressemblent une famille et un enfant Gitksan épanouis? Certains d'entre nous ont une partie de la réponse. Mais on a fait éclater la vision commune, partiellement dans certains cas, totalement dans d'autres. Par conséquent, il nous faut rêver de nouveau pour redéfinir cette vision, puis travailler avec la communauté pour rétablir ce rêve<sup>III</sup>.

Le projet Pierres de touche d'un avenir meilleur de la Société de soutien à l'enfance et à la famille des Premières Nations, lancé en 2005, est un exemple de promotion de la réconciliation dans le domaine de la

protection de l'enfance. Le projet repose sur cinq principes, à savoir :

- l'autodétermination : respecter le fait que les Autochtones sont les mieux placés pour prendre des décisions à propos de leurs propres enfants;
- l'holisme : respecter le fait que l'enfant fait partie d'une réalité où les éléments qui la composent sont tous interreliés et où la famille, la communauté, la Nation et le monde sont respectés;
- la culture et la langue : honorer la culture et la langue d'un enfant autochtone et soutenir cette approche en offrant des services de protection de l'enfance et de soutien à la famille adaptés à la culture;
- les interventions structurelles : lutter contre la pauvreté, les logements inadéquats et la toxicomanie pour offrir des services efficaces de protection de l'enfance et de soutien à la famille pour les enfants autochtones;
- la non-discrimination : fournir aux enfants autochtones des services de protection de l'enfance et des services connexes comparables à ceux que reçoivent les enfants non autochtones et privilégier le savoir autochtone pour mieux répondre aux besoins des enfants autochtones<sup>KKKK</sup>.

L'Enquête nationale a entendu parler d'autres programmes qui renforcent le lien à la communauté et qui visent à dénouer cette tragédie. Dans son témoignage, Cora Morgan a discuté d'un programme du First Nations Children's Advocate Office, qui vient en aide aux mères dont les nouveau-nés sont susceptibles d'être pris en charge. Cette initiative met l'accent sur l'établissement d'un lien culturel et sur la création d'un milieu sûr, dès la naissance. Comme elle l'a expliqué :

En ce qui concerne les nouveau-nés, nous recevions des appels de mamans dont l'enfant allait être pris en charge au moment de quitter l'hôpital. Ainsi, nous avons commencé à intervenir à au centre hospitalier pour tenter d'éviter que les bébés soient retirés de leurs mères. Puis, nous nous sommes efforcés d'en





offrir davantage. Nous avons rapidement été en mesure de donner des mocassins [à ces tout-petits]<sup>LLLL</sup>.

Elle a également évoqué l'atelier Sacred Babies (bébés sacrés), où les participants préparent des paquets pour leur famille<sup>MMMM</sup>.

Les personnes qui ont témoigné devant l'Enquête nationale au sujet des enfants déjà pris en charge ont également déterminé certaines pratiques, axées sur la sécurité culturelle, qui pourraient ultimement contribuer à créer un sentiment d'appartenance pour l'enfant et améliorer sa future qualité de vie. Comme l'a indiqué Mary Ellen Turpel-Lafond, les plans culturels consacrés aux enfants en foyer d'accueil sont nécessaires pour leur permettre de maintenir un lien solide avec leur communauté et avec leur identité culturelle et, par conséquent, pour assurer leur sécurité personnelle. Elle a affirmé :

Je crois qu'il devrait être nécessaire d'adopter ce que j'ai appelé précédemment des plans culturels, ce qui signifie qu'un plan culturel doit être mis en œuvre. Cela éviterait [aux enfants] de découvrir plus tard qui est leur famille [...]. Ainsi, il n'y aurait pas cette discontinuité entre [leur]

identité, [leur] culture et [leur] temps passé au sein d'un foyer d'accueil<sup>NNNN</sup>.

Comme le démontrent les programmes et les efforts mentionnés dans cette réflexion approfondie, il existe des solutions. Comme le soutient Cindy Blackstock :

Un grand nombre de personnes pensent que nous devons trouver de nouvelles solutions pour résoudre certains des problèmes les plus urgents relatifs aux enfants des Premières Nations pris en charge et à leur famille. Je ne suis pas de cet avis. En fait, je crois que nous connaissons depuis au moins 111 ans les inégalités auxquelles sont confrontées ces communautés et la façon dont elles sapent les espoirs et les rêves des enfants et favorisent d'ailleurs leur retrait de leur famille. D'abord, dans les pensionnats indiens, puis pendant la rafle des années 1960 et aujourd'hui, à notre époque actuelle<sup>OOOO</sup>.

Le système de protection de l'enfance actuel exerce une forme de violence sur les femmes, les filles et les personnes 2ELGBTQQIA autochtones et contribue de façon importante à leur insécurité.





## Conclusions :

- L'État canadien s'est servi des lois et des organismes de protection de l'enfance pour opprimer, déplacer, perturber et détruire les familles, les communautés et les Nations autochtones. Il s'agit d'outils utilisés pour perpétrer un génocide contre les Autochtones.
- Le cadre législatif, les politiques et les services de protection de l'enfance de l'État sont fondés sur des lois, des valeurs et des visions du monde qui ne sont pas autochtones et, de ce fait, ils sont inefficaces. En outre, ils enfreignent les droits autochtones inhérents de gérer les services à l'enfance et à la famille et d'avoir pleine compétence sur ces domaines.
- Enlever un enfant à sa mère représente une forme de violence à l'égard de l'enfant. Il s'agit également de la pire forme de violence envers la mère. La prise en charge perturbe les liens familiaux et culturels au sein de la communauté autochtone et prive ainsi l'enfant de la sécurité que ces relations assurent.
- Il existe un lien direct entre les systèmes actuels de protection de l'enfance et les disparitions et les meurtres des femmes, des filles et des personnes 2ELGBTQQIA autochtones ainsi que l'incidence de violence contre elles.
- L'État a une obligation fiduciaire envers les enfants et les jeunes qu'il prend en charge. Le Canada ne soutient pas les enfants autochtones pris en charge par l'État de façon à ce qu'ils soient en sécurité jusqu'à l'âge adulte.
- Les enfants autochtones sont retirés de leur foyer à cause de la pauvreté ou en raison d'un préjugé racial et culturel. L'État voit dans ces circonstances de la « négligence ». Il s'agit d'une forme de discrimination et de violence.
- Un signalement effectué au moment de la naissance contre les mères autochtones, y compris celles qui ont été prises en charge elles-mêmes, peut être le seul fondement de l'appréhension de leur nouveau-né. De tels signalements sont racistes et discriminatoires. Ils constituent une grave violation des droits de l'enfant, de la mère et de la communauté.
- Le système de protection de l'enfance ne répond pas aux besoins des enfants ni des jeunes autochtones et il ne les protège pas des mauvais traitements ni de l'exploitation. L'incapacité de l'État à les protéger permet aux trafiquants de personnes de les cibler pour ensuite les exploiter sexuellement.
- Le financement par l'État des services de protection de l'enfance incite à la prise en charge des enfants et des jeunes autochtones. Soulignons par exemple que l'État préfère financer les foyers d'accueil plutôt que d'offrir une aide économique et des services de soutien aux familles, que les politiques de l'État limitent l'accès à des services de soutien spécialisés sauf si l'enfant est pris en charge, et que les modèles de financement des organismes sont fondés sur le nombre d'enfants dont les organismes ont la garde.
- Un nombre disproportionnellement élevé d'enfants inuits, métis et des Premières Nations doivent quitter leur communauté et leur région afin d'obtenir des services et des soins. En effet, la prestation de services à l'enfance et à la famille ainsi que les infrastructures sont insuffisantes dans les communautés éloignées et du Nord. Cette situation peut donner lieu à de la négligence, en raison des conflits de compétence, et à des services qui ne sont pas adaptés à leur culture. Par ailleurs, elle peut entraîner le non-respect des droits des enfants et de leur famille, en tant que personnes et en tant qu'Autochtones.





A	Janet Smylie (Crie/Métisse), Parties II et III mixtes, Volume public 2, Iqaluit, Nun.; Cora Morgan (Première Nation Sagkeeng), Parties II et III mixtes, Volume public 10, Winnipeg, Man.; Jackie Anderson (Métisse), Partie 2, Volume public 3, Calgary, Alb.	BB	Bennett, « First Nations Fact Sheet, » 1.
B	Cindy Blackstock (Gitxsan), Partie 3, Volume public 10, Toronto, Ont., pp. 256-257.	CC	Cité dans Bennett, « First Nations Fact Sheet, » 2.
C	Cindy Blackstock (Gitxsan), Partie 3, Volume public 10, Toronto, Ont., p. 259.	DD	Sinha et Kozlowski, « The Structure of Aboriginal Child Welfare, » 7.
D	Gaetz et al., tel que cité dans Hyslop, « How poverty and underfunding. »	EE	Bennett, « First Nations Fact Sheet, » 2.
E	Représentant des enfants et des adolescents et l'administrateur en chef de la santé publique de la Colombie-Britannique, « Kids, Crime and Care. »	FF	Pour une liste d'agences, voir Société de soutien à l'enfance et à la famille des Premières Nations du Canada, « First Nations Child and Family Service Agencies in Canada. »
F	Amy Bombay (Ojibway, Premières Nations Rainy River), Parties II et III mixtes, Volume public 10, Winnipeg, Man., pp. 182-183.	GG	Blackstock, « Aboriginal Child Welfare, » cited in Bennett, « First Nations Fact Sheet, » 4.
G	Malone, « Change to Manitoba's child apprehension. »	HH	Bennett, « First Nations Fact Sheet, » 2, 4.
H	Natalie G. (Mi'kmaq), Partie 1, Volume public 18, Membertou, NS, p. 87.	II	Walkem et Bruce, « Calling Forth Our Future, » 62.
I	Krugel, « Child welfare system. »	JJ	Ibid, 61.
J	Cindy Blackstock (Gitxsan), Partie 3, Volume public 10, Toronto, Ont., p. 260.	KK	Gouvernement Nisga'a Lisims, « About NCF. »
K	« The Beginnings of the Convention on the Rights of the Child. »	LL	Bennett, « First Nations Fact Sheet, » 5.
L	Mary Ellen Turpel-Lafond (Crie), Parties II et III mixtes, Volume 13, Winnipeg, Man., p. 202.	MM	Ibid, 5-6.
M	Conseil canadien des défenseurs des enfants et des jeunes, « Enfants autochtones. »	NN	McDonald, Ladd, et al., « First Nations Child and Family Services, » 119.
N	McIntyre, Walsh et Connor, « A Follow-Up Study of Child Hunger, » tel que cité dans Bennett et Auger, « Les droits des enfants des Premières Nations », 3.	OO	Bostrom, Rogan et Asselin, « The Aboriginal Justice Inquiry » cité dans Allard-Chartrand et al., « Métis Children and Families, » 10.
O	Canadian Coalition for the Rights of Children (CCRC), « The System Needs Fixing, » 2.	PP	Ibid.
P	Commission de vérité et de réconciliation du Canada, <i>Appels à l'action</i> , p. 1.	QQ	Bourassa, « Summary review, » cité dans « Métis Children and Families, » 10.
Q	Ibid.	RR	Ibid, 10.
R	Bennett et Auger, « Les droits des enfants des Premières Nations », 4.	SS	Ibid, 11.
S	Comité sur les droits de l'enfant, « Concluding Observations, » in CCRC, « The System Needs Fixing, » 5.	TT	Ibid.
T	Ibid.	UU	Ibid, 12.
U	Ibid.	VV	Ibid, 12.
V	Ibid.	WW	Ibid.
W	Bennett et Auger, « Les droits des enfants des Premières Nations », 8.	XX	Commission de vérité et de réconciliation du Canada, <i>Pensionnats du Canada, l'histoire</i> , 52.
X	Rapporté par Barrera, « Indigenous child welfare rates. »	YY	« Métis Child & Family Services Society. »
Y	Cindy Blackstock (Gitxsan), Partie 3, Volume public 10, Toronto, Ont., p. 187.	ZZ	Rae, « Inuit Child Welfare, » 4.
Z	Bennett, « First Nations Fact Sheet, » 1.	AAA	Ibid.
AA	Albert et Herbert, « Child Welfare. »	BBB	Ibid.
		CCC	Canada, Relations Couronne-Autochtones et Affaires du Nord Canada, « Négociations sur l'autonomie. »
		DDD	Labrador Inuit Land Claims Agreement, « Land Claims Agreement, » p. 264.
		EEE	Rae, « Inuit Child Welfare, » 10.
		FFF	Nunatsiaq News, « Judge: Nunavut child protection, » tel que cité dans in Rae, « Inuit Child Welfare, » p. 11.36
		GGG	Bureau du vérificateur général du Canada, <i>Rapport du vérificateur général du Canada- mars 2011</i> .
		HHH	Commission des droits de la personne et de droits de la jeunesse Québec, « Enquête portant sur les services. »
		III	Rae, « Inuit Child Welfare, » 11-12.





JJJ	Commission des droits de la personne et de droits de la jeunesse Québec, « Enquête portant sur les services ».	UUU	CCRC, « The System Needs Fixing. »
KKK	Rae, « Inuit Child Welfare, » 11-12.	VVV	Gaetz et al., « Without a Home, » 49-50.
LLL	Fennario, « One in three Inuit youth. »	WWW	Gaetz, « Coming of Age, » 2.
MMM	Selon le principe de Jordan, si un enfant des Premières nations a besoin de services, il doit les recevoir immédiatement du gouvernement du premier contact. Le principe est né en réponse à des conflits de compétence qui pourraient surgir entre les gouvernements fédéral et provinciaux sur la juridiction qui devrait payer pour ces services médicaux.	XXX	Cora Morgan (Première Nation Sagkeeng), Parties II et III mixtes, Volume public 11, Winnipeg, Man., pp. 153-154.
NNN	Cindy Blackstock (Gitxsan), Partie 3, Volume public 10, Toronto, Ont., p. 246.	YYY	Mary Ellen Turpel-Lafond (Crie), Parties II et III mixtes, Volume public 13, Winnipeg, Man., p. 77.
OOO	<i>Société de soutien à l'enfance et à la famille des Premières Nations du Canada et autres c. Procureur général du Canada (représentant le ministre des Affaires autochtones et du Nord canadien) 2016 TCDP.</i>	ZZZ	Grammond, « Federal Legislation, » 136.
PPP	Société de soutien à l'enfance et à la famille des Premières Nations du Canada, « Memorandum of Fact, » 8.	AAAA	Ibid.
QQQ	<i>Société de soutien à l'enfance et à la famille des Premières Nations du Canada et autres c. Procureur général du Canada (représentant le ministre des Affaires autochtones et du Nord canadien) 2016 TCDP 2.</i>	BBBB	Ibid.
RRR	Ostroff, « Trudeau budget continues illegal discrimination. »	CCCC	D <sup>e</sup> Valérie Gideon (Nation Mik'maq de Gesgapegiag), Partie 2, Volume public 4, Calgary, AB, p. 50.
SSS	Les gouvernements de l'Alberta, de la Colombie-Britannique et du Manitoba ont commandé plusieurs examens de leurs systèmes de protection de l'enfance respectifs. La Saskatchewan, le Québec et le Nouveau-Brunswick ont tous entrepris des examens de leurs systèmes de protection de l'enfance respectifs. L'Ontario, la Nouvelle-Écosse, Terre-Neuve-et-Labrador et le Yukon ne semblent pas avoir commandé de tels examens d'études réalisées dans leurs juridictions respectives.	DDDD	Canada, Service aux Autochtones Canada, « Réduire le nombre. »
TTT	Cindy Blackstock (Gitxsan), Partie 3, Volume public 10, Toronto, Ont., p. 260.	EEEE	Ibid.
		FFFF	Ibid.
		GGGG	Ibid.
		HHHH	Ibid.
		IIII	Canada, Services aux Autochtones Canada, « Une Loi. »
		JJJJ	Cindy Blackstock (Gitxsan), Partie 3, Volume public 10, Toronto, Ont., pp. 257-258.
		KKKK	Blackstock et al, « Reconciliation in Child Welfare. »
		LLLL	Cora Morgan (Première Nation Sagkeeng), Parties II et III mixtes, Volume public 10, Winnipeg, Man., pp. 45-46.
		MMMM	Cora Morgan (Première Nation Sagkeeng), Parties II et III mixtes, Volume public 10, Winnipeg, Man., p. 46.
		NNNN	Mary Ellen Turpel-Lafond (Crie), Parties II et III mixtes, Volume public 13, Winnipeg, Man., p. 289.
		OOOO	Cindy Blackstock (Gitxsan), Partie 3, Volume public 10, Toronto, Ont., p. 182.



*Des Aînés métis et des Premières Nations sont reconnus et remerciés à l'issue des audiences sur le racisme à Toronto, en Ontario.*

## **Les répercussions des systèmes coloniaux sur l'identité, la famille et la culture**

Parmi les systèmes les plus souvent mentionnés et ceux qui sont à l'origine d'expériences communes chez tous les groupes autochtones, à savoir les Premières Nations, les Métis et les Inuits, les pensionnats et les externats indiens ainsi que les interventions liées à la rafle des années 1960 ou à la protection de l'enfance constituent un catalyseur important de la violence faite aux femmes, aux filles et aux personnes 2ELGBTQIA autochtones. Plus précisément, les souffrances constantes que ces expériences ont causées en perturbant les rapports familiaux continuent de mettre en péril la sécurité de ces dernières. On le constate tout particulièrement chez les personnes qui doivent encore aujourd'hui composer avec les séquelles de ces systèmes dont souffre leur famille, comme en témoignent la violence physique et émotionnelle, les blessures qui ne guérissent pas, la pauvreté et la consommation de drogues.

Certains des mauvais traitements subis dans le contexte des écoles d'assimilation et des foyers d'accueil parrainés par l'État sont décrits plus en détail au chapitre 4. La présente section porte surtout sur l'effet affaiblissant de ces expériences sur les liens familiaux et communautaires, des liens qui pourraient à terme rétablir la sécurité des femmes autochtones et assurer leur protection. Ces répercussions ne se font pas sentir seulement à court terme. En effet, selon de nombreux témoins, elles peuvent durer des années.

Entre autres, Shara L. a raconté à quel point il était difficile d'avoir huit frères et sœurs et de grandir séparée d'eux en raison des pensionnats indiens. En définitive, cette séparation a transformé sa famille pour toujours. Shara a décrit sa rencontre avec l'un des membres de sa famille lors d'un rassemblement avec des Aînés.

En m'approchant, [j'ai vu] que c'était [un membre de ma famille]. J'ai dit, comme, « Ô, mon Dieu. [...] » Et j'allais le prendre dans mes bras, il s'est levé et il m'a fait une accolade par-dessus le comptoir. Une barrière se trouvait entre nous, et malgré cela, je voulais faire le tour pour le serrer tout contre moi. Non, il a dit... « Hé, [...] comment ça va? » Comme, même pas... même pas une minute. Vous savez. Et tout de suite mes mécanismes de défense se sont enclenchés, un mur s'est dressé, et tout de suite, j'ai...





« Retiens tes émotions. Ne montre pas ce que tu ressens. Ne... ne t'exprime pas. » Et ça défilait dans ma tête, parce qu'il faisait la même chose. Il m'a juste donné un petit câlin, sans véritablement me serrer. Tout de suite, j'ai su. Ouais, ça le touche encore même s'il a plus de soixante ans. Il a encore cette mentalité, cette, ce qu'on lui a enseigné au pensionnat indien<sup>34</sup>.

Une autre témoin, Ann M. R., a expliqué que les pensionnats indiens avaient eu des répercussions sur de nombreuses générations des communautés de Pelly Banks et du lac Frances. La sœur d'Ann a été retrouvée morte à l'âge de 26 ans dans une décharge, après avoir été emprisonnée pendant deux semaines pour avoir consommé de l'alcool, car à l'époque, au Yukon, il était illégal pour les Autochtones de consommer de l'alcool. Ann était au pensionnat indien et elle n'a pas été informée de la mort de sa sœur. Elle se souvient très nettement de la peine de sa mère, affirmant que « son cœur est mort le jour où elle a perdu Tootsie<sup>35</sup> ». Elle a fait valoir qu'en raison de la ségrégation des familles dans les pensionnats indiens, elle ne connaissait pas vraiment sa sœur.

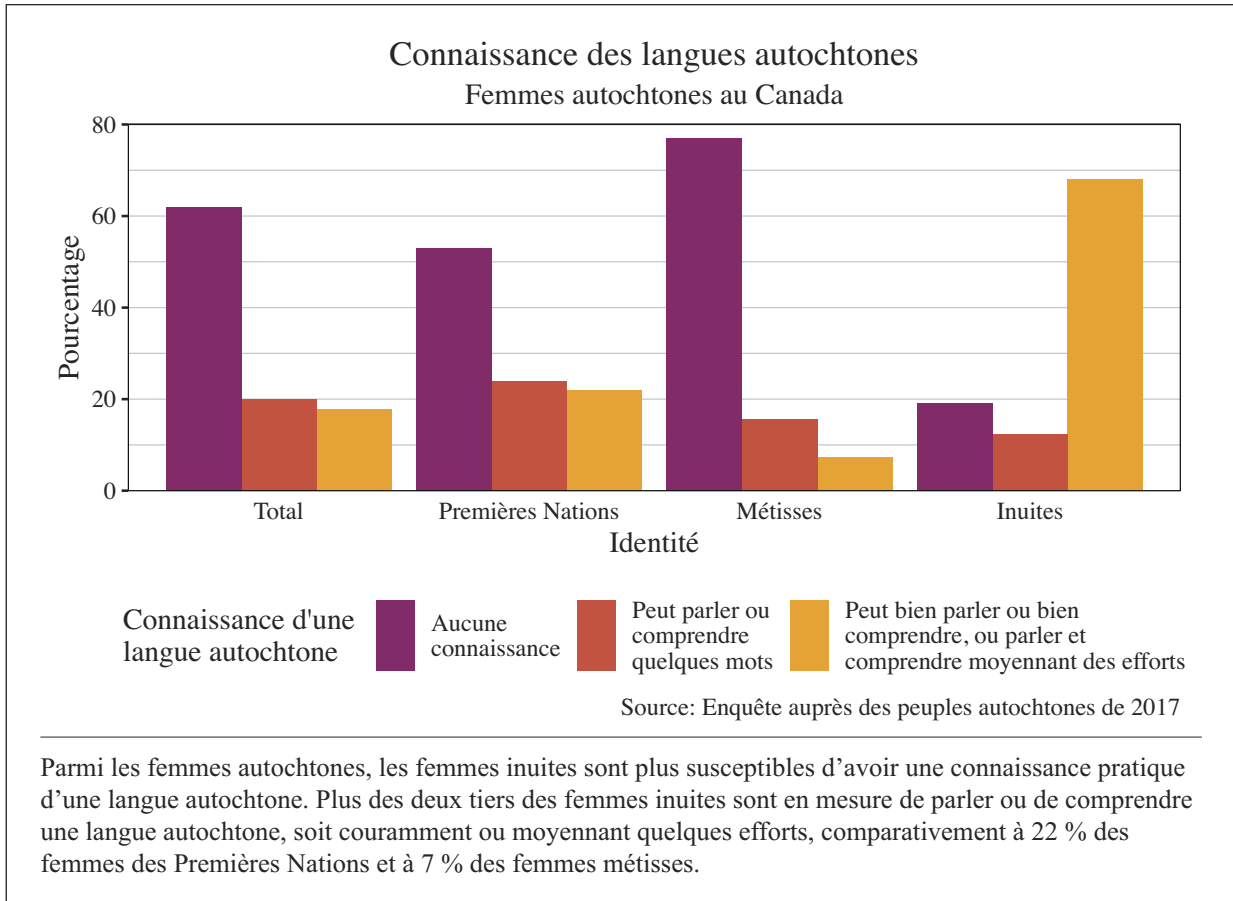
Comme Ann, de nombreux autres témoins ont un frère ou une sœur qui sont morts dans les pensionnats indiens. Bon nombre d'entre eux n'ont pas été informés de ces décès, et ont été mis au courant seulement à leur retour à la maison. Comme l'a déclaré l'Aîné Jal T. :

Après sept ans au pensionnat indien, je n'avais pas vu mes sœurs depuis quatre ans. Quand je suis rentré à la maison, on m'a dit que mes sœurs étaient décédées et [j'ai demandé] pourquoi personne ne m'avait avisé. Il semblerait qu'on ne voulait pas perturber mon éducation et mon cheminement scolaire. Vous pouvez donc imaginer le choc, parce que les femmes sont les plus importantes dans notre vie<sup>36</sup>.

En plus de cette perturbation de la famille, de la communauté et de la culture, ou peut-être en raison de celle-ci, bien des gens ont parlé des leçons qu'on leur avait enseignées au pensionnat indien et de l'effet qu'ont eu les stéréotypes négatifs au sujet de leur culture et de leur système familial sur la façon dont ils ont élevé leurs propres enfants par rapport à la culture et à la langue autochtones. Ainsi, pour plusieurs personnes, les effets négatifs du système des pensionnats indiens se sont poursuivis hors du cadre de ces établissements et se sont faits ressentir jusque dans les familles.

Pour protéger ses enfants, Moses M. a choisi de ne pas leur enseigner sa langue, le nuu-chah-nulth. Il a fait la remarque suivante pour décrire l'influence de son expérience dans un pensionnat indien sur sa relation avec sa langue et, conséquemment, le rôle de la culture et de la langue dans sa relation avec ses enfants.

Je suis un survivant d'un pensionnat indien. Je parlais la langue de mon peuple jusqu'à ce que j'aie à l'école à sept ans. Et aujourd'hui, j'ai neuf enfants... ou enfin, j'en avais neuf [la fille de Moses a été assassinée], et plus de 60 petits-enfants, et je ne leur ai jamais appris notre langue. Je me suis toujours demandé pourquoi. C'était ma façon à moi de protéger mes enfants, parce qu'on m'avait battu quand je parlais ma langue. Mais je suis toujours ici. Je la parle encore<sup>37</sup>.



Dans sa déclaration, Muriel D. a décrit l’effet de l’expérience de sa mère au pensionnat indien sur son rôle parental.

Je voulais juste parler de tous les effets du pensionnat indien. Ils nous ont pris, comme, enlevés à ma mère et nous, moi et mes sœurs et mes frères, tout ce qu’on a dû traverser et ils ne nous ont jamais rien appris, ou on n’a jamais eu d’affection physique ou émotionnelle, je crois. Ma mère était tellement... était tellement fermée. Et donc en tant que [...] nous tous, mes sœurs et mes frères, on est totalement meurtris parce que... parce que ma mère a été à l’école Blue Quills<sup>38</sup>.

Au sujet des répercussions des pensionnats indiens sur les familles autochtones et des difficultés qu’elle a vécues parce que sa mère avait fréquenté un pensionnat indien, Carol B. a dit tout simplement :

Je ne peux pas honnêtement m’imaginer comment c’est d’être brutalisée quotidiennement. Qu’on vous donne le sentiment d’être absolument rien. Je... et ça me fait mal au cœur. Et c’est pour ça que j’ai pu pardonner à ma mère. Vous savez, elle a fait du mieux qu’elle pouvait avec ce qu’elle avait. Et comme je l’ai dit plus tôt, je pense que c’est impossible d’aimer si vous n’avez jamais ressenti d’amour vous-même<sup>39</sup>.



Carol B. a pu pardonner à sa mère et comprendre qu'il était difficile pour elle d'élever des enfants en raison de la violence et de la marginalisation structurelle qu'elle avait subies. Toutefois, la perspective des fonctionnaires fédéraux et des intervenants du système de protection de l'enfance à cet égard a toujours différé, et diffère toujours, de celle des membres de famille comme Carol, ce qui se reflète dans les politiques en vigueur.

Pour plusieurs témoins, les pensionnats indiens ont contribué à la mise en place de conditions utilisées par l'État canadien pour justifier le retrait des enfants autochtones de leur foyer. Il s'agit selon eux de l'un des effets continus les plus graves de ces établissements sur la culture et sur les familles autochtones. Comme certains l'ont observé, la rafle des années 1960 et l'actuelle tragédie qui entoure la prise en charge des enfants sont considérées par bien des gens comme la continuation des écoles d'assimilation dans lesquelles de nombreux Autochtones ont été projetés. Comme l'a expliqué Corey O'Soup dans le cadre de l'Enquête nationale :

Vous savez, au plus fort des pensionnats indiens, des milliers d'enfants étaient retirés de leur foyer. [...] Aujourd'hui, on retrouve plus d'enfants dans le système de placement en famille d'accueil qu'il n'y en a jamais eu dans celui des pensionnats indiens. Et ce n'est pas une question historique, c'est une question contemporaine. On continue d'enlever les enfants<sup>40</sup>.

Carol B. s'est exprimée en ces termes :

Nous avons un autre système de pensionnat indien, à commencer par la protection de l'enfance. Combien d'enfants sont pris en charge par le système en ce moment? Nos enfants ne sont peut-être pas emmenés et placés dans des pensionnats indiens, mais ils sont placés... sont placés dans des foyers d'accueil. [...] Est-ce que ce n'est pas la même chose? Je veux dire, on vient de ravoir nos enfants. Et maintenant, ils sont de nouveau emmenés pour être élevés par... et je suis désolée de le dire, des familles non autochtones. Il faut les placer dans des familles autochtones. Des foyers d'accueil autochtones. Encore une fois, on nous enlève notre culture, notre langue, notre famille, nos racines. Ils nous le font encore une fois, mais d'une manière différente. Il faut que ça change<sup>41</sup>.

Les liens que des témoins ont établis entre la fréquentation d'un pensionnat indien et la protection de l'enfance sont confirmés dans une recherche présentée par Amy Bombay.

Et nous avons constaté, encore une fois, que le fait d'avoir un parent qui a fréquenté un pensionnat indien était lié à un nombre plus élevé de cas rapportés d'expositions cumulatives à diverses difficultés pendant l'enfance, et nous avons réalisé que ces expositions cumulatives avaient pour conséquence d'ouvrir la voie, en quelque sorte, à une plus grande probabilité que les gens passent du temps en foyer d'accueil. Nous





avons donc observé que les personnes dont l'un des parents avait fréquenté un pensionnat indien étaient plus susceptibles de passer du temps en foyer d'accueil, et que ces expériences difficiles pendant l'enfance étaient un facteur clé dans ce cycle intergénérationnel<sup>42</sup>.

Ces prises en charge ont des répercussions importantes, car, comme la fréquentation d'un pensionnat indien, elles brisent la famille et isolent ses membres. D'autres témoins ont mentionné les conséquences qu'ont eues ces expériences sur leurs relations familiales, des expériences qui les ont marqués à jamais. Juanita D. a évoqué ce souvenir :

Je pense que ma toute première famille d'accueil je n'ai pas beaucoup de souvenirs, comme, les souvenirs que j'ai sont des traumatismes. Donc, je sais que j'ai souffert de certaines formes de torture. Et donc, ça veut dire que j'étais enfermée pendant que je vivais là; la porte était fermée à clé.

Je n'avais pas de contact humain. On me donnait à manger sous la porte. Je me souviens que j'étais au troisième étage ou quelque chose comme ça. Il y avait des fenêtres sous moi et puis le sol. Et j'ai sauté par la fenêtre, je me suis enfuie et je voulais voir ma mère. Je n'avais pas, comme, de visites de ma mère, jamais. Je n'avais pas de visites de ma famille<sup>43</sup>.

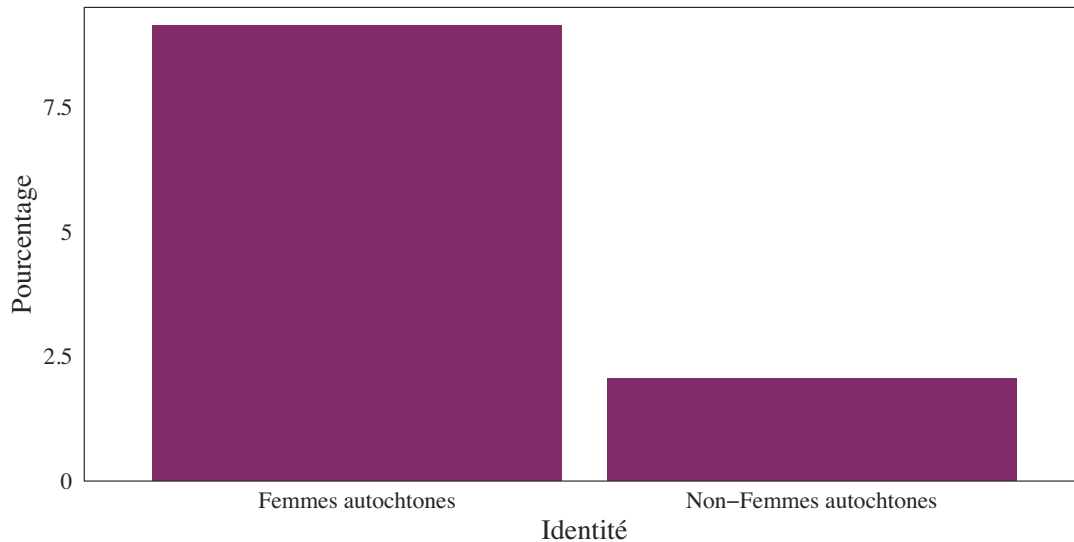
Elle a raconté s'être sentie isolée en foyer d'accueil : « Et je ne me souviens pas d'avoir eu de liens affectifs. Je n'ai jamais ressenti ces liens ou cet amour qu'on devrait donner aux enfants. Je n'avais pas non plus accès à des services de counselling ou à des liens avec ma culture. Et je n'ai jamais pu voir un membre de ma famille non plus pendant cette période.<sup>44</sup> »

« JE NE PEUX PAS HONNÊTEMENT M'IMAGINER COMMENT C'EST D'ÊTRE BRUTALISÉE QUOTIDIENNEMENT. QU'ON VOUS DONNE LE SENTIMENT D'ÊTRE ABSOLUMENT RIEN. JE... ET ÇA ME FAIT MAL AU CŒUR. ET C'EST POUR ÇA QUE J'AI PU PARDONNER À MA MÈRE. VOUS SAVEZ, ELLE A FAIT DU MIEUX QU'ELLE POUVAIT AVEC CE QU'ELLE AVAIT. ET COMME JE L'AI DIT PLUS TÔT, JE PENSE QUE C'EST IMPOSSIBLE D'AIMER SI VOUS N'AVEZ JAMAIS RESENTI D'AMOUR VOUS-MÊME. »

Carol B.



### Relevait auparavant de la responsabilité légale du gouvernement, selon l'identité autochtone



Source : Enquête sociale générale de 2014 – Victimisation

Les femmes autochtones sont 4,4 fois plus susceptibles d'avoir été sous la responsabilité légale du gouvernement (9,1 %) que les femmes non autochtones (2,1 %), notamment dans les domaines du placement en famille d'accueil, des foyers de groupe, des pensionnats indiens ou des centres de détention pour les adolescentes.

Darlene S. a raconté une expérience semblable. Au sujet du temps passé en foyer d'accueil et de la travailleuse sociale responsable de son dossier, elle a dit :

Elle était [...] une vraie agente des services sociaux. Elle était une femme méchante qui allait bien faire son travail, et à ce moment-là, je ne savais même pas qui elle était, jusqu'à ce qu'elle me le dise [...] et tout ce qu'elle a dit, c'est : « Tu ne devras pas avoir de contacts avec les membres de ta famille indienne. » Ce sont les mots qu'elle a utilisés<sup>45</sup>.

Carol B. a décrit l'incidence de cette aliénation sur son sentiment d'identité et sur ses liens avec la culture.

J'ai grandi dans le système. Et à ce moment-là, comme chaque fois que je demandais à mes parents d'accueil de l'information sur ma famille, ils disaient juste : « Tu sais bien, ils font partie du passé; tu devrais être reconnaissante d'avoir un toit au-dessus de ta tête. Et il faut laisser le passé derrière. » Donc, ne pas avoir cette information... ne pas avoir... ne pas savoir où sont vos racines. Vous vous sentez simplement comme si vous n'avez aucun sentiment d'appartenance. Est-ce que je fais partie du milieu autochtone? Est-ce que je fais partie du milieu non autochtone? Donc on grandit dans la confusion<sup>46</sup>.



Dans bien des cas, les frères et sœurs étaient séparés et ne se revoyaient plus jamais. Dans d'autres cas, ils se retrouvaient, mais leur expérience en foyer d'accueil avait déjà marqué leur relation pour toujours. Voici ce qu'a raconté Danielle E. :

Lorsque j'avais environ 9 ans et Laney [Eleanor, sa sœur] en avait 10, ils nous ont enlevés de notre maison. [...] Dans la cour arrière de ce foyer d'accueil, on avait un sofa et on l'utilisait comme maisonnette. Eleanor et moi, on était sur le sofa et on s'est promis que, peu importe les circonstances, quand on serait grandes, on se trouverait... on se retrouverait. Et on s'est retrouvées<sup>47</sup>.

Carol M. a fait remarquer :

Ça reflète en grande partie ce que notre peuple a vécu, le fait d'être un enfant qui grandit dans un foyer d'accueil, dans un foyer de Blancs, qui essaie de rétablir les liens avec sa famille, sa culture. Il est perdu. Je crois qu'ils disent que beaucoup de nos enfants ne sont pas revenus des pensionnats indiens. Vous savez, c'est vrai. Beaucoup d'entre eux sont morts et beaucoup d'entre eux se sont perdus à l'intérieur d'eux-mêmes. On s'est perdus. On a été perdus. On est perdus. Je pense qu'aucun d'entre nous n'est revenu à la maison<sup>48</sup>.

Dans son témoignage, Carla M. a établi un lien entre la perte de la culture et des valeurs transmises par l'enseignement traditionnel et les attitudes contemporaines à l'égard de la violence faite aux femmes autochtones.

[C'est] à cause de l'humiliation subie dans les pensionnats indiens... du moins, c'est de là que je crois que ça vient... il existe cette croyance que toute personne assassinée le méritait, qu'elle s'est mise en danger. Cette humiliation dure depuis si longtemps. Puis, les familles acceptent ça et se disent qu'elles faisaient ceci, qu'elles étaient cela. Ça n'arrive pas seulement aux femmes des Premières Nations, mais ça arrive seulement aux femmes. Oh, elles portaient ce genre de vêtement, donc elles méritaient d'être assassinées<sup>49</sup>.





# Des femmes confiées aux institutions depuis la naissance :

## le rôle des organismes de protection de l'enfance et des systèmes de signalement de naissance

Tel que nous l'avons entendu de la bouche même des familles et des survivantes, mais aussi des Gardiens du savoir et des témoins experts, le fait d'arracher un enfant à ses parents à la naissance représente l'une des pires formes de violence qui soit. Par ailleurs, lorsqu'un nouveau-né a été enlevé à ses parents, il peut s'avérer excessivement difficile pour ces derniers de réobtenir sa garde. Le fonctionnement des systèmes de signalement des naissances ou de prise en charge des nouveau-nés constitue l'exemple le plus frappant de cette violence qui perdure envers les mères et les enfants. Dans plusieurs provinces et territoires, les services de protection de l'enfance ont mis en place de tels systèmes : c'est le cas notamment au Manitoba, où les pratiques des autorités responsables ont récemment été rendues publiques dans les médias sociaux<sup>1</sup>. Fait à noter, dans cette province, tout médecin qui traite une femme enceinte âgée de moins de 18 ans doit obligatoirement déclarer la naissance. Bien qu'à l'occasion, des raisons légitimes puissent justifier de retirer un enfant à ses parents dès la naissance pour sa propre sécurité, tout porte à croire que le système de signalement des naissances touche les femmes autochtones et leurs nourrissons de manière disproportionnée.

### La nature des signalements de naissance

Le signalement de naissance est l'un des facteurs contribuant aux taux disproportionnés de prise en charge des nourrissons et des enfants autochtones par les services de protection de l'enfance. Le Guide de normalisation des services à l'enfant et à la famille du Manitoba, par exemple, offre quelques indications : « Les signalements de naissance s'appliquent aux femmes enceintes que les autorités considèrent comme étant à risque élevé en ce qui a trait aux soins qu'elles fourniront à leur nouveau-né. Au Manitoba, on lance ce type de signalements en vue de suivre les déplacements des femmes

enceintes qui ont un risque élevé, et de les localiser<sup>11</sup>. » En milieu hospitalier, les signalements servent à désigner certaines femmes – en majeure partie autochtones – au moyen d'un code et permettent au besoin à l'organisme de prendre en charge l'enfant à sa naissance.

Ainsi, les travailleurs sociaux de l'hôpital se voient remettre une liste de femmes enceintes précisant pour chacune la date d'accouchement prévue et, dès que l'une de ces femmes est admise à l'hôpital, le signalement est effectué.

Souvent, les mères autochtones sur le point de donner naissance ignorent qu'elles font l'objet d'un signalement. Comme l'a observé la D<sup>re</sup> Janet Smylie,





médecin de famille, chercheuse en santé publique et santé des Autochtones, et Gardienne du savoir :

Je suis étonnée de constater qu'il y a des gens qui croient encore aujourd'hui qu'il est acceptable de transmettre un signalement de naissance à l'hôpital sans en informer une femme. Je suis au courant que d'autres fournisseurs de soins prénataux ont en fait été réprimandés par des organismes de services sociaux ou de protection de l'enfance, tant autochtones que non autochtones, pour avoir fait savoir à une femme qu'il existait un signalement de naissance dont ils avaient eu vent. Pour ma part, je n'arrive pas à comprendre. Comment en sommes-nous arrivés là? En effet, il me semble qu'il est très important d'en informer les gens, si ce genre d'intervention autorisée par la loi a lieu. En fait, je ne crois pas qu'il soit acceptable, au sein du système de soins de santé canadien, de dissimuler des renseignements de cette importance et de ne pas les communiquer aux personnes intéressées<sup>III</sup>.

Dans son témoignage, Cora Morgan, qui œuvre à la défense des droits des familles des Premières Nations au First Nations Family Advocate Office de l'Assemblée des chefs du Manitoba, abonde dans le même sens. Lors des audiences, elle a expliqué que les signalements de naissance avaient souvent lieu sans que la future mère en ait connaissance, et qu'une approche beaucoup plus efficace consisterait à informer cette dernière et à collaborer avec elle, au besoin, pour qu'il ne soit pas nécessaire de lui retirer le nouveau-né :

Ce qui se produit, bien souvent, c'est qu'un organisme à Winnipeg [...] ouvre le dossier de la personne visée et signale la naissance à venir, et ce, parfois à l'insu de la future maman, qui mènera sa grossesse à terme et donnera naissance à son bébé à l'hôpital, pour ensuite recevoir une lettre de l'organisme l'avisant que son enfant lui sera retiré.

Toutefois, il pourrait en être autrement. Dès qu'un [...] signalement de naissance est fait, le dossier pourrait être transféré à l'organisme

compétent, qui se pencherait alors sur la situation de la mère afin de déterminer s'il n'y aurait pas lieu d'envisager d'autres solutions avant que le bébé ne vienne au monde, plutôt que d'attendre qu'il voie le jour<sup>IV</sup>.

## Ciblées pour la vie

Les défenseurs des droits des Autochtones en matière de protection de l'enfance et de soins de santé sont particulièrement troublés par cette pratique, qui continue de cibler et de punir les femmes autochtones tout au long de leur expérience de maternité. Il arrive même que des femmes enceintes soient l'objet d'un signalement parce qu'un autre de leur enfant a été pris en charge par les services de protection de l'enfance, même si les faits remontent à plus d'une décennie.

De plus, dans son témoignage, M<sup>me</sup> Morgan a partagé un exemple qui révèle que l'effet de stigmatisation de ce système sur les femmes autochtones elles-mêmes peut les poursuivre longtemps après qu'elles ont cessé d'être prises en charge : « Je me souviens du cas de cette femme qui a eu son premier bébé à l'âge de 38 ans. Comme elle n'était plus prise en charge depuis 18 ans en raison de son âge, son bébé a tout de même fait l'objet d'un signalement. Par conséquent, le fait est que nos familles sont bel et bien à risque<sup>V</sup>. »

Selon M<sup>me</sup> Sandie Stoker, directrice administrative de l'organisme Child and Family All Nations Coordinated Response Network, le fait qu'un parent ait vécu quelque difficulté ayant provoqué l'intervention des services de protection de l'enfance par le passé constitue un facteur, plus particulièrement si rien n'a changé dans la vie de cette famille<sup>VI</sup>. En d'autres termes, si le futur parent ou un de ses enfants a déjà été pris en charge, il est probable qu'un signalement de naissance sera établi à son endroit, indépendamment de ses compétences parentales et du temps qui s'est écoulé depuis la prise en charge. M<sup>me</sup> Morgan a d'ailleurs cité un autre exemple qui illustre bien que, même lorsque des parents autochtones déploient des efforts surhumains en vue de se préparer à leur nouveau rôle, le système de





signalement de naissance peut tout de même les priver de la garde de leur nouveau-né :

Donc, le tout premier signalement de naissance qui m'a été confié est survenu quelques mois seulement après le début de mon emploi. Il s'agissait d'une jeune femme qui n'avait néanmoins plus l'âge d'être prise en charge. Durant sa jeunesse, elle avait été exploitée et avait eu des problèmes de toxicomanie. Elle était maintenant âgée de 23 ans, était sur le point d'accoucher de son premier enfant et ne ratait jamais un seul programme de formation au rôle de parent, et ce, de sa propre initiative. Elle et son conjoint s'étaient préparés à la venue de l'enfant et son bébé risquait de lui être retiré. Par conséquent, lorsque je me suis présentée à l'hôpital une heure avant que les représentants de l'organisme n'arrivent sur place pour leur retirer leur bébé, les parents avaient en leur possession six sacs de linge d'enfant et leur siège de voiture. Ils étaient fin prêts. La grand-mère paternelle était là. À mon arrivée, la mère allaitait son bébé et, vous savez, j'avais peine à croire à ce qui était en train d'arriver. J'ai aussitôt téléphoné à notre grand chef en me disant : « Est-ce bien réel? C'est à vous crever le cœur. »

Le père, vous savez, n'était plus vraiment lui-même. Je lui ai dit : « Bien, le problème tient au fait que la mère a grandi en famille d'accueil et ils ont émis un signalement de naissance. Ils n'ont aucune préoccupation ni aucune interrogation à votre égard, et il s'agit de votre bébé. Vous devriez pouvoir prendre votre bébé. » Il a alors répondu : « D'accord, je vais prendre mon bébé. » Il s'apprêtait justement à le faire puis l'intervenante adjointe lui a dit : « Vous savez, ils vont appeler la police et vous serez probablement accusé si vous prenez votre bébé. » Il a alors renoncé.

La travailleuse sociale est arrivée avec le siège d'auto de l'organisme et ils ont pris le bébé. J'ai appris par la suite que le signalement de naissance avait été émis lorsque la mère était enceinte de trois mois seulement. Ils le lui ont caché pendant toute sa grossesse. Et l'organisme est tout de suite intervenu après avoir reçu un

appel de l'hôpital. Autrement dit, pendant cette période qui a duré au moins six mois, ils auraient pu se rendre au domicile de la maman pour apprendre à la connaître et prendre le temps... vous savez, à tout le moins lui donner sa chance<sup>VII</sup>.

De plus, le signalement d'une naissance et la prise en charge d'un enfant peuvent être imputables à l'autre parent, qui ne vit peut-être pas avec le parent ayant la garde. Un reportage diffusé en janvier 2018 dans le cadre de l'émission *The Current* présente le cas d'une jeune fille de 16 ans qui fréquentait l'école et vivait avec sa mère et dont le fils lui a été retiré en raison des démêlés que le père de l'enfant avait avec la justice à l'époque et des préoccupations que suscitaient ses propres aptitudes parentales qui, selon ses dires, étaient appropriées. Comme elle l'explique en entrevue : « La travailleuse sociale à qui mon dossier avait été confié à l'époque [...] a tout simplement dit que je taquinai mon fils. Comme si je pouvais taquiner un nourrisson de quatre mois. Je ne sais pas trop comment on pourrait taquiner un enfant de cet âge. Je suppose que ma façon de faire ne lui plaisait pas, tout bonnement, que je n'étais pas à ses yeux un bon parent<sup>VIII</sup>. »

Janet Smylie a expliqué que le fait de cibler les mères autochtones et les nouveau-nés de cette manière privait ces femmes de la possibilité de créer des liens affectifs avec leur enfant et de leur prodiguer les soins nécessaires, surtout si elles en ont été empêchées par le passé du fait d'une séparation forcée :

Par conséquent, je suis d'accord pour dire, si je me fie à mon expérience en prestation de soins, que lorsqu'il se produit ne serait-ce qu'un seul retrait d'enfant, il semblerait que cela entache le dossier des gens, qui porteront alors l'étiquette de mauvais parents leur vie durant. Certes, je ne connais pas toujours la teneur des discussions qui ont cours au sein de l'organisme de protection de l'enfance, mais c'est tout de même très intéressant, car même dans notre système de justice pénale, nous partons du principe que les gens peuvent changer, pas vrai? Et qu'ils peuvent être rééduqués, quoique j'hésite à employer cette expression pour faire référence à la situation des parents<sup>IX</sup>.





La D<sup>re</sup> Smylie reconnaît qu'au bout du compte, un tel traitement constitue une forme de racisme.

Je suis également d'avis que le racisme joue un rôle considérable, qu'il s'agisse de racisme systémique ou d'attitudes racistes, sans oublier la violence attribuable au régime colonial. Donc, à la lumière de mon expérience, c'est-à-dire après 25 années passées à fournir des soins primaires, y compris des soins de maternité, à diverses familles inuites, métisses et des Premières Nations dans différents milieux urbains et ruraux et en régions éloignées, je constate que l'on porte constamment des jugements erronés à l'égard des parents inuits, métis et des Premières Nations<sup>x</sup>.

## Les incidences sur la santé et sur le bien-être

En s'appuyant sur ses nombreuses années d'expérience comme médecin de famille et en tant que Gardienne du savoir, la D<sup>re</sup> Smylie a aussi témoigné au sujet des graves répercussions, pour la mère comme pour l'enfant, des signalements de naissance et de la séparation qui s'ensuit lorsque le nouveau-né est retiré à ses parents. Elle a rappelé que l'importance de ces tout premiers liens était bien reconnue, tant par les systèmes de savoir autochtones que par les courants dominants en matière de recherche en santé.

Par conséquent, nous aurions beau nous en remettre uniquement à la littérature médicale générale et ne pas tenir compte, par exemple, de l'importance que les Gardiens du savoir et les Aînés autochtones m'ayant soutenue dans mon témoignage accordent aux sentiments de sécurité, d'appartenance et d'identité autochtone; autrement dit, nous aurions beau faire abstraction de ces principes et nous pencher uniquement sur les résultats en matière de santé générale et de santé mentale s'échelonnant sur toute une vie, il ne fait aucun doute que ces pratiques nuisent gravement au développement de l'enfant, sans parler de la santé générale et de la santé mentale de la mère. Donc, selon moi, le fait qu'un enfant

soit ainsi retiré à ses parents est comparable au décès de l'enfant, tant aux yeux de la mère que de la famille<sup>x1</sup>.

Cora Morgan, qui a livré un témoignage lors des audiences de Gardiens du savoir, d'experts et de représentants des institutions qui se sont tenues à Winnipeg, au Manitoba, sur le thème de la protection de l'enfance a fait don de mocassins pour bébé. Elle a prêté serment sur ceux-ci et tenait à les laisser, après avoir livré son témoignage, parmi les pièces déposées dans le cadre de l'Enquête. Elle a raconté pourquoi elle a choisi de prêter serment sur ceux-ci. Elle avait participé à une cérémonie au sein de la Première Nation de Serpent River au moment où le First Nations Family Advocate Office débutait ses activités. Lorsqu'elle a expliqué aux femmes présentes à la cérémonie en quoi consistait la mission de ce bureau et son travail auprès des familles, elle a aussitôt reçu leur soutien. Or, à Serpent River, on trouve des pétroglyphes, dont l'un représente un bébé arborant des plumes dans ses cheveux : en effet, un bébé qui porte des plumes dans les cheveux reviendra toujours au berceau. Avant de partir, M<sup>me</sup> Morgan s'est entretenue avec Nancy Rowe, de la Première Nation des Mississaugas de New Credit, en Ontario, à propos du travail que devait accomplir le bureau, et elle a eu ces mots : « Si la seule chose que nous puissions faire est d'offrir des plumes aux bébés, alors nous ferons au moins cela. » Par la suite, Nancy s'est rendue à Winnipeg en voiture pour y apporter des plumes, et elle a commencé à confectionner, avec l'aide d'autres enseignantes, des centaines de mocassins pour bébé pour en faire don au bureau. Les employés du First Nations Family Advocate Office offrent ces mocassins aux femmes enceintes qui viennent les rencontrer au moment où elles commencent à rassembler leur trousseau de naissance; ils en offrent aussi en milieu hospitalier aux femmes qui se verront retirer leur enfant à la naissance.

Dans son témoignage, M<sup>me</sup> Morgan a expliqué comment l'équipe de soutien de l'organisme s'y prend pour s'orienter dans le système de signalement de naissance.





Puisque notre effectif s'est élargi en octobre dernier, nous disposons maintenant d'une équipe de soutien prénatal. Ainsi donc, cette équipe, qui œuvre auprès des futures mamans et des mamans ayant des bébés, participe à la défense de leurs intérêts en cas de signalement de naissance. Son rôle consiste à travailler avec les mères, ainsi qu'avec les pères, et à leur offrir des programmes traditionnels de préparation au rôle de parent. Elle offre aussi un atelier intitulé « Bébés sacrés » et aide les familles à constituer leurs trousseaux de naissance<sup>xii</sup>.

Toutes ces pratiques sont conformes à ce que Janet Smylie décrit comme étant le maintien d'une « continuité des rapports<sup>xiii</sup> », qui vise à soutenir et à reconnaître l'importance des premiers liens.

Donc, pour jouir d'une santé et d'un bien-être optimaux, du moins à mon sens en tant que femme métisse, nous avons besoin de ces relations de grande qualité durant la prime enfance, car elles nourrissent un sentiment d'amour, de sécurité et d'appartenance. Le tout mène ensuite au développement de l'estime de soi, de l'acceptation de soi, de la compassion et de solides aptitudes à s'engager dans des relations. Et si les relations sont le ciment qui nous unit, il est alors essentiel d'investir dans ces approches<sup>xiv</sup>.

Bien que les pratiques comme le signalement de naissances et l'évacuation médicale des femmes enceintes qui vivent dans des communautés éloignées pour leur permettre d'accoucher ailleurs sont souvent des mesures justifiées pour atténuer le risque, la D<sup>re</sup> Smylie fait valoir que cette définition particulière du risque est réductrice et qu'elle traduit un point de vue biomédical et colonial. Selon elle :

Cette façon de poser la question du risque par rapport à la naissance et à la parentalité sous-estime [...] l'importance de la naissance en tant que moyen de renforcer la *wahkohtowin*, cette période sacrée au cours de laquelle un nourrisson est perçu – du moins, selon ma vision du monde en tant que Métisse, laquelle évolue sans cesse –

comme étant un présent spirituel qui relève du monde des esprits, ainsi que le besoin pour cet esprit d'être accompagné au cours de cette transition vers la vie matérielle. Par ailleurs, la personne qui assiste à la naissance devient un membre de la parenté qui comprendra cet enfant, sera renseigné sur cette famille et favorisera le bien-être de l'enfant tout en veillant à ce qu'il puisse cultiver ses talents. Il ne faut pas négliger non plus l'importance de naître sur cette terre, n'est-ce pas? C'est pourquoi il existe des protocoles entourant la naissance, de façon à tisser avec cette terre ce lien auquel renvoie la *wahkohtowin*. En réalité, vous comprendrez que tous ces éléments tournent autour de nos cultures. Par conséquent, le risque de perdre sa culture est un aspect auquel on doit prêter attention, tout comme la sécurité physique si précieuse de la mère et de son enfant. En fait, grâce aux modèles modernes de prise en charge par les sages-femmes autochtones, vous avez le meilleur des deux mondes<sup>xv</sup>.

La D<sup>re</sup> Smylie a également traité des autres risques du système de signalement de naissance et de retrait des bébés, qui poussent les femmes autochtones à éviter de se rendre à l'hôpital ou de chercher à obtenir une aide médicale lorsqu'elles attendent un enfant, de crainte que celui-ci ne leur soit enlevé. Dans le cadre des audiences d'experts et de Gardiens du savoir sur le racisme institutionnel, le D<sup>r</sup> Barry Lavalée, médecin de famille et, à l'époque, directeur du soutien aux étudiants pour le Centre d'éducation en santé des Autochtones de l'Université du Manitoba, a reconnu que les femmes autochtones entretiennent sans doute une « crainte raisonnable » de faire l'objet d'un signalement de la part des services de protection de l'enfance si elles cherchent à obtenir des soins médicaux pour leur enfant ou en vue de leur accouchement<sup>xvi</sup>. Pareillement, M<sup>me</sup> Morgan a été témoin, dans le cadre de son travail de défense des droits des familles au First Nations Family Advocate Office de l'Assemblée des chefs du Manitoba, de situations qui l'amènent à conclure que le simple fait pour une femme d'être Autochtone l'expose à un éventuel signalement de naissance.





Je constate en effet que les femmes sont stigmatisées [par un système qui cherche à leur enlever leur enfant à sa naissance]. L'une de mes collègues était sur le point d'avoir son deuxième enfant. Parce qu'elle était Autochtone en apparence, le médecin en a tout de suite déduit qu'elle... qu'il y avait là matière à signalement pour son bébé<sup>xvii</sup>.

Pour certaines femmes autochtones, le problème lié à l'obtention de soins de santé génésiques dans des établissements ordinaires de soins de santé est parfois exacerbé par une incompréhension des facteurs culturels de la part des professionnels de la santé. Par exemple, comme l'a expliqué Jennisha Wilson, gestionnaire au centre Tungasuvvingat Inuit des programmes liés à l'industrie du sexe, à l'abandon du commerce du sexe et à la lutte contre la traite de personnes, la méconnaissance de la culture et de l'histoire inuites provoque souvent des tensions entre les femmes inuites et le personnel de soutien.

J'entends aussi souvent parler des défis que représente le fait d'être Inuit et de l'incompréhension que cela engendre. Souvent confondus avec les Premières Nations, les Inuits sont ainsi privés de leur identité et de leur capacité de se mobiliser autour de leurs besoins précis et de faire comprendre les différences qui existent entre les cultures. Ce ne sont là que quelques-unes des vulnérabilités. Cependant, mettez-vous à la place de quelqu'un qui met le cap sur le sud en quête de soutien et qui se heurte au racisme, à la discrimination et à l'absence de... les gens souhaitent vous voir à tel ou tel endroit, puis tout

à coup, ils ne sont plus trop certains de la place qui vous sera réservée en tant que personne. Bien entendu, cela vous rend méfiant... vous pousse à entretenir une méfiance envers les gens, les fournisseurs de services, les autorités chargées de l'application des lois, mais cela vous amène aussi à ne pas vous sentir à votre place<sup>xviii</sup>.

## Conclusion

Pour recréer le tissu familial et social des communautés autochtones d'une manière qui réduise aussi les risques de violence et de préjudices futurs, il est important d'assurer la santé et le bien-être des mères autochtones et de leur nouveau-né. Selon Cora Morgan, cela passe par « l'examen de la légalité des signalements et des pratiques de signalement des naissances et du retrait des nouveau-nés à leurs parents<sup>xix</sup> ». De l'avis de Janet Smylie, il faut commencer par mettre en valeur et protéger les premiers liens formés avec l'enfant. Comme elle le fait remarquer : « [C]omment restaurer [...] un sentiment d'amour, de paix, de joie, de justice, de sécurité et d'appartenance si nos nouveau-nés continuent de nous être retirés<sup>xx</sup>? » Cela suppose notamment, comme nous l'avons entendu, l'adoption de pratiques pouvant engendrer santé, bien-être et force. Cela suppose aussi, tel que les faits le démontrent, que nous devons favoriser des pratiques comme le recours aux sages-femmes de la communauté et le droit de donner naissance chez soi, afin de s'assurer que les liens sécurisants qui seront tissés à cet instant précis demeureront cimentés pour la vie et finiront un jour par contribuer à la sécurité.





- I *Chronicle Herald*, « 'Blindsided.' »
- II Manitoba, « Services de protection de l'enfance, » s. 1.3.1.
- III D<sup>re</sup> Janet Smylie (Métisse), Parties II et III mixtes, Volume public 2, Iqaluit, Nun., pp. 246–247.
- IV Cora Morgan (Première Nation Sagkeeng), Parties II et III mixtes, Volume public 11, Winnipeg, Man., p. 203-204.
- V Cora Morgan, (Première Nation Sagkeeng), Parties II et III mixtes, Volume public 11, Winnipeg, Man., p. 26.
- VI CBC Radio, *The Current*, « 'I felt like my heart was ripped out.' »
- VII Cora Morgan (Première Nation Sagkeeng), Parties II et III mixtes, Volume public 11, Winnipeg, Man., pp. 25–26.
- VIII CBC Radio, *The Current*, « 'I felt like my heart was ripped out.' »
- IX D<sup>re</sup> Janet Smylie (Métisse), Parties II et III mixtes, Volume public 2, Iqaluit, Nun., pp. 236-237.
- X D<sup>re</sup> Janet Smylie (Métisse), Parties II et III mixtes, Volume public 2, Iqaluit, Nun., p. 235.
- XI D<sup>re</sup> Janet Smylie (Métisse), Parties II et III mixtes, Volume public 2, Iqaluit, Nun., p. 240.
- XII Cora Morgan (Première Nation Sagkeeng), Parties II et III mixtes, Volume public 11, Winnipeg, Man., p. 46.
- XIII D<sup>re</sup> Janet Smylie (Métisse), Parties II et III mixtes, Volume public 2, Iqaluit, Nun., p. 160.
- XIV D<sup>re</sup> Janet Smylie (Métisse), Parties II et III mixtes, Volume public 2, pp. 122–123.
- XV D<sup>re</sup> Janet Smylie (Métisse), Parties II et III mixtes, Volume public 3, p. 36.
- XVI D<sup>r</sup> Barry Lavallee (Première Nation/Métis) Partie 3, Volume public 9, Toronto, Ont., p. 228.
- XVII Cora Morgan (Première Nation Sagkeeng), Parties II et III mixtes, Volume public 10, Winnipeg, Man., p. 199.
- XVIII Jennisha Wilson, Parties II et III mixtes, Volume public 16, St. John's, T.-N.-L., p. 41.
- XIX Cora Morgan (Première Nation Sagkeeng), Parties II et III mixtes, Volume public 10, Winnipeg, Man., p. 81.
- XX D<sup>re</sup> Janet Smylie (Métisse), Parties II et III mixtes, Volume public 2, Iqaluit, Nun., p. 135.



## La Loi sur les Indiens et la pratique du « bannissement »

En parlant des façons dont les femmes et les filles autochtones servaient de cibles au sein des systèmes coloniaux, plusieurs témoins ont aussi pointé du doigt la *Loi sur les Indiens* et ont décrit comment cette loi et son déni du statut d'Indien illustraient non seulement un déni de patrie, mais également un déni de liens avec la culture, la famille, la communauté et avec leurs soutiens respectifs. Pour les personnes recherchant la sécurité qu'assure un foyer – sur le plan culturel et physique – et pour plusieurs communautés des Premières Nations, les effets intergénérationnels et multigénérationnels de la *Loi sur les Indiens* sont importants et ont érigé des obstacles pour empêcher l'accès aux droits culturels et à la sécurité culturelle.

Nombre de femmes, de filles et de personnes 2ELGBTQQIA des Premières Nations subissent encore aujourd'hui les conséquences de la *Loi sur les Indiens*, qui a accordé le statut d'Indien à certaines personnes tout en le retirant à d'autres. Ce sujet est discuté en détail dans le chapitre 4. La présente section aborde les conséquences de la *Loi* dans un contexte contemporain. Malgré le rétablissement du statut pour des milliers de femmes et de filles, la stigmatisation persistante qui accompagne l'exclusion antérieure en raison de la *Loi* peut entraîner des situations dangereuses.

Wendy L., par exemple, a expliqué comment sa mère a été arrachée à sa communauté et n'a pas été autorisée à y retourner, même après avoir retrouvé son statut d'Indien.

À cause de ce qui est arrivé à ma mère, j'ai l'impression d'une certaine façon qu'elle était perdue parce qu'on lui a enlevé son identité culturelle et son statut; elle a vraiment été arrachée à sa communauté à cause des dispositions discriminatoires de la *Loi sur les Indiens*, [...] où on lui a retiré son statut. Ça, comme bien des gens le savent, ça n'est pas arrivé aux hommes autochtones. En fait, lorsque les hommes autochtones mariaient une femme non indienne, peu importe sa race, non seulement ils conservaient leur statut et leur appartenance à la bande, mais leur épouse et leurs descendants obtenaient le statut et l'appartenance à la bande. Alors aujourd'hui, vous avez des familles mixtes dans les réserves et hors des réserves où une femme qui a marié un homme non autochtone a en fait été exclue de sa communauté. Donc, d'une certaine manière, ma mère était perdue parce qu'on lui a enlevé sa communauté et sa famille, et ça a eu des conséquences importantes sur sa vie, son éducation, sa situation économique et sur elle, en tant que personne<sup>50</sup>.

Le « bannissement », comme d'autres témoins l'ont appelé, a eu des répercussions à long terme sur sa mère. Lorsque le grand-père de Wendy est décédé en 1968, Nona, la mère de Wendy, n'a pas eu le droit de vivre dans la maison familiale, malgré le fait qu'il ait laissé à Nona, son seul enfant, sa terre, ses biens et ses maisons. Comme Nona a été déclarée non-Autochtone, elle n'a pas été autorisée à hériter de la maison où elle est née et a grandi, ni même à y vivre. Wendy a ajouté : « Je crois dans un sens qu'elle était perdue. Il lui manquait sa famille, sa communauté, les mesures de soutien qu'elle pouvait recevoir, le soutien du gouvernement, financier, ou les programmes, la participation à la communauté. On lui a enlevé tout ça<sup>51</sup>. »





Malgré l'insistance de quelques dirigeants de la communauté qui soutenaient que quiconque ayant du sang squamish et voulant revenir dans la communauté était le bienvenu, Wendy a affirmé que « ce n'était pas vrai, que les femmes n'ont pas été accueillies de nouveau<sup>52</sup> ». Bien que Nona ait récupéré son statut et ait été inscrite de nouveau sur la liste des membres de la bande, on lui a interdit de revenir vivre dans la réserve de la Nation des Squamish. Pour reprendre les mots de Wendy, les femmes ici étaient « arrachées à leur communauté et littéralement jetées à l'extérieur de la réserve et forcées de partir.<sup>53</sup> »

Dans son témoignage, Natalie G. a présenté un autre exemple de la façon dont la discrimination fondée sur le genre dans la *Loi sur les Indiens* et l'appartenance à la bande excluait les femmes mi'kmaq de leur communauté. Comme Natalie l'a expliqué, le refus d'accorder le statut d'Indien inscrit et de membre de la bande aux femmes dans leur communauté a placé bon nombre d'entre elles dans des situations précaires et a nui à leur capacité de bâtir une famille à l'image de la culture et de la communauté.

De nombreuses femmes vivent ailleurs alors qu'elles devraient être dans leur maison au sein de la réserve plutôt que se trouver dans la misère ou devoir travailler aussi dur. Elles vieillissent. Pourquoi devraient-elles frotter les planchers ou faire de l'artisanat tout le temps juste pour boucler leurs fins de mois? Et beaucoup de nos femmes... des femmes travaillent encore dans la rue en croyant que la seule façon de joindre les deux bouts est de donner une partie de leur âme au diable en échange d'un peu de monnaie pour payer le loyer, pour offrir quelque chose à leurs enfants ou pour survivre. Donc, c'était... comme, c'était difficile parce que lorsque maman regardait par la fenêtre, elle voyait la réserve des Premières Nations de Millbrook. N'est-ce pas paradoxal? Ce n'est simplement pas logique, mais c'est le gouvernement, c'est le gouvernement canadien qui essaye de faciliter une partie de l'assimilation, de la colonisation<sup>54</sup>.

« À CAUSE DE CE QUI EST ARRIVÉ À MA MÈRE, J'AI L'IMPRESSION D'UNE CERTAINE FAÇON QU'ELLE ÉTAIT PERDUE PARCE QU'ON LUI A ENLEVÉ SON IDENTITÉ CULTURELLE ET SON STATUT; ELLE A VRAIMENT ÉTÉ ARRACHÉE À SA COMMUNAUTÉ À CAUSE DES DISPOSITIONS DISCRIMINATOIRES DE LA *LOI SUR LES INDIENS*, [...] OÙ ON LUI A RETIRÉ SON STATUT. ÇA, COMME BIEN DES GENS LE SAVENT, ÇA N'EST PAS ARRIVÉ AUX HOMMES AUTOCHTONES. EN FAIT, LORSQUE LES HOMMES AUTOCHTONES MARIAIENT UNE FEMME NON INDIENNE, PEU IMPORTE SA RACE, NON SEULEMENT ILS CONSERVAIENT LEUR STATUT ET LEUR APPARTENANCE À LA BANDE, MAIS LEUR ÉPOUSE ET LEURS DESCENDANTS OBTENAIENT LE STATUT ET L'APPARTENANCE À LA BANDE. ALORS AUJOURD'HUI, VOUS AVEZ DES FAMILLES MIXTES DANS LES RÉSERVES ET HORS DES RÉSERVES OÙ UNE FEMME QUI A MARIÉ UN HOMME NON AUTOCHTONE A EN FAIT ÉTÉ EXCLUE DE SA COMMUNAUTÉ. DONC, D'UNE CERTAINE MANIÈRE, MA MÈRE ÉTAIT PERDUE PARCE QU'ON LUI A ENLEVÉ SA COMMUNAUTÉ ET SA FAMILLE, ET ÇA A EU DES CONSÉQUENCES IMPORTANTES SUR SA VIE, SON ÉDUCATION, SA SITUATION ÉCONOMIQUE ET SUR ELLE, EN TANT QUE PERSONNE. »

Wendy L.

Malgré la réputation de la mère de Natalie, qu'elle décrit comme « une vraie Mi'kmaq », celle-ci n'était pas valorisée dans sa communauté et a été obligée d'entreprendre une démarche difficile pour pouvoir être inscrite de nouveau sur la liste des membres de la bande. Comme l'a





mentionné Natalie, le déni de statut et d'appartenance à une bande représente aussi le refus – ou peut-être la peur – de voir des femmes fortes et traditionnelles prendre la place qui leur revient dans la communauté et au conseil de bande.

Je crois que le conseil de bande craignait ma mère parce qu'elle était une combattante mi'kmaw forte qui n'allait pas se contenter du laisser-faire. Elle voulait les dénoncer et je crois qu'elle voulait signaler toutes ces cartes [de statut] qui avaient été données à des femmes non autochtones. Elle voulait s'assurer que le gouvernement les... les accepte, à juste titre, et que les enfants conservent leur statut<sup>55</sup>.

Comme l'a mentionné Natalie, cette exclusion a des conséquences aussi sur les enfants et les petits-enfants. Cette dernière a expliqué que lorsqu'elle était jeune, elle et ses cousines n'ont pas eu accès aux mêmes fournitures scolaires que les autres enfants vivant dans la réserve : « Mes cousins allaient au bureau de la bande et obtenaient des fournitures scolaires et autres choses gratuitement. Nous... nous n'avions pas droit à ça<sup>56</sup>. »

Natalie a partagé ses réflexions concernant les répercussions permanentes sur les enfants et les petits-enfants des femmes qui ont perdu leur statut ou leur appartenance à une bande : « Elles font partie de la première génération; elles ont obtenu leur statut, mais leurs enfants, elles ne peuvent pas les inscrire. Ensuite, elles essayent de s'en remettre à la loi ancienne des grand-mères, mais elles éprouvent encore des difficultés à les inscrire. Ces enfants devraient être inscrits<sup>57</sup>. » Les femmes qui ont été bannies de la sorte ont souvent cherché refuge dans les grands centres urbains, des milieux souvent dangereux qui peuvent, en fin de compte, avoir causé leur disparition ou leur mort. Elles ont par ailleurs connu l'aliénation de la famille et de la culture, qui auraient pu contribuer à les garder en sécurité.

Comme l'illustrent les expériences racontées par Wendy et Natalie, les conséquences de la *Loi sur les Indiens* sur le pouvoir et sur la place des femmes au sein de la communauté et de la famille mettent les femmes autochtones en danger. Plusieurs personnes croient que la mort et la disparition de ces dernières sont directement liées à des politiques et à des pratiques comme celles-là et comme d'autres qui ont mis un terme aux mesures de protection habituellement offertes par la pratique culturelle, la famille et le sentiment d'appartenance.



*Un groupe de joueurs de tambours offrent une performance lors des audiences à Calgary, en Alberta.*



# Lutter contre l'exclusion : les contestations de la *Loi sur les Indiens* fondées sur les droits de la personne

Comme l'ont fait valoir certaines des personnes appelées à témoigner devant l'Enquête nationale, depuis 1876, la *Loi sur les Indiens* a exclu les femmes des Premières Nations dans de nombreux domaines, ce qui a eu d'importantes retombées en ce qui a trait aux instruments de protection des droits de la personne. La *Loi sur les Indiens* ne s'applique qu'aux femmes des Premières Nations et non pas aux Métis ni aux Inuits.

Dans son rapport de 2014 intitulé *Missing and Murdered Indigenous Women in British Columbia, Canada*, la Commission interaméricaine des droits de l'homme (CIDH) a statué que « les vulnérabilités existantes qui rendent les femmes autochtones plus susceptibles d'être victimes de violence » englobent le contexte de la colonisation, au sens large, de même que les lois injustes et discriminatoires, dont la *Loi sur les Indiens*, qui continuent de porter préjudice aux femmes<sup>1</sup>.

La Commission a aussi statué que « la lutte contre la violence envers les femmes demeurera insuffisante tant que les facteurs de discrimination sous-jacents qui créent et alimentent cette violence ne seront pas totalement<sup>2</sup> ».

Comme nous l'avons vu au chapitre 3, le cas de M<sup>me</sup> Jeannette Corbiere Lavell, qui a épousé un non-Indien en 1970, s'est traduit par une contestation judiciaire de l'alinéa 12(1)b) de la *Loi sur les Indiens*, étant allégué qu'il enfreignait la clause d'égalité de la *Déclaration canadienne des droits* de 1960 pour des motifs de discrimination fondée sur le sexe. Cette cause s'inspirait des travaux antérieurs de militantes des droits de la personne comme M<sup>me</sup> Mary Two-Axe Earley, une femme Kanien'kehà:ka (Mohawk) qui, en 1966, après le décès d'une sœur de clan ayant succombé à une crise cardiaque, étant persuadée que ce décès était attribuable au refus de lui accorder des droits de propriété à Kahnawà:ke en vertu de la *Loi sur les Indiens*, a mobilisé une campagne visant à

sensibiliser la population aux problèmes auxquels étaient confrontées les femmes se voyant refuser le statut d'Indienne et les droits connexes aux termes de la *Loi sur les Indiens*. En 1967, Mary Two-Axe Earley a milité au sein de l'organisation Indian Rights for Indian Women (IRIW), et elle a témoigné devant la Commission royale d'enquête sur la situation de la femme au Canada la même année. Elle a elle-même été la cible de la *Loi sur les Indiens* en 1969 après le décès de son mari, ayant été forcée de céder sa maison à sa fille, qui avait épousé un homme de Kahnawake, afin de conserver sa propriété au sein de sa propre famille et de pouvoir retourner dans la réserve<sup>3</sup>.

L'affaire Lavell, quelques années plus tard, concernait Jeannette Corbiere Lavell, une membre de la bande Wikwemikong ayant épousé un non-Indien et dont le nom avait par conséquent été supprimé du Registre des Indiens. Il était invoqué qu'il faudrait statuer que la *Loi sur les Indiens*

est inopérante parce que faisant preuve de discrimination entre les Indiens et les Indiennes et venant en conflit avec les dispositions de la *Déclaration canadienne des droits* et particulièrement de son art. 1 qui prévoit :

1. Il est par les présentes reconnu et déclaré que les droits de l'homme et les libertés fondamentales ci-après énoncés ont existé et continueront à exister pour tout individu au





Canada quels que soient sa race, son origine nationale, sa couleur, sa religion ou son sexe :

(b) le droit de l'individu à l'égalité devant la loi et à la protection de la loi<sup>iv</sup>.

L'affaire Lavell du début des années 1970 a été rejetée par la Cour du comté de York en 1971. Elle a par contre eu gain de cause après avoir été portée en appel devant la Cour d'appel fédérale plus tard cette même année. L'affaire s'est ensuite retrouvée devant la Cour suprême du Canada, où elle a été jumelée avec l'affaire Yvonne Bédard, une femme de la communauté des Six Nations à Brantford et membre de la Confédération Haudenosaunee (Iroquois) ayant perdu son statut lorsqu'elle a épousé un non-Indien en 1964. Après s'être séparée de son mari, M<sup>me</sup> Bédard a tenté de retourner dans sa réserve pour habiter une maison que lui avait léguée sa mère, mais elle a constaté qu'elle et ses enfants n'avaient plus le droit d'y vivre étant donné la perte de son statut. Craignant d'être expulsée, elle a intenté une poursuite contre sa bande et a remporté sa cause grâce au précédent jurisprudentiel ayant été établi par l'affaire Lavell.

Cependant, devant la Cour suprême du Canada, M<sup>me</sup> Bédard et M<sup>me</sup> Lavell ont toutes deux perdu leur cause. La règle du « mariage avec un non-Indien » de la *Loi sur les Indiens* a été confirmée pour le motif suivant lequel la loi avait été appliquée de manière égale, ce qui constituait l'unique garantie dans la *Déclaration canadienne des droits*. Dans son jugement, la Cour suprême a expliqué que :

L'égalité devant la loi en vertu de la *Déclaration des droits* veut dire égalité de traitement dans l'application des lois du Canada devant les fonctionnaires chargés d'appliquer la loi et devant les tribunaux ordinaires du pays, et que l'interprétation et l'application de l'al. b) du par. (1) de l'art. 12 ne comportent nécessairement aucune inégalité semblable<sup>v</sup>.

La question de l'égalité réelle que soulevaient les causes a été rejetée, même si, dans la décision, le juge Bora Laskin a qualifié l'effet de la loi comme s'apparentant à une forme d'« excommunication légale » voulant que le statut ne puisse jamais être regagné<sup>vi</sup>.

De plus, comme l'a fait remarquer Pamela Palmater, Mi'kmaw de la Première Nation d'Eel River Bar et professeure agrégée et titulaire de la Chaire en gouvernance autochtone à l'Université Ryerson, pendant très longtemps :

La *Loi sur les Indiens* avait pour effet de nier aux femmes des Premières Nations le droit de faire entendre leur voix politique. Incapables de se faire élire chef ou de siéger au conseil de bande, de vivre dans leurs Premières Nations, de voter dans des référendums liés à leurs terres de réserve, de bénéficier des traités, d'avoir accès aux Aînés et à d'autres formes de soutiens communautaires ou même d'obtenir un siège aux tables de négociation entre les Premières Nations et le Canada, les femmes des Premières Nations se voyaient en effet refuser le droit à une voix politique pour protester contre leur exclusion et les abus qui en découlaient<sup>vii</sup>.

Leah Gazan, une professeure à l'Université de Winnipeg qui s'est exprimée dans le cadre du panel sur les déterminants du bien-être des peuples autochtones lors de l'audience communautaire à Winnipeg, a expliqué comment la *Loi sur les Indiens* a miné le rôle que les femmes des Premières Nations ont joué en tant que leaders et décideuses.

Avant la colonisation, la plupart des Nations vivaient dans des sociétés matrilineaires. Nos femmes, en particulier nos grands-mères, étaient les principales décideuses au sein de nos Nations. L'égalité était de mise étant donné que notre survie dépendait du fait que tous les membres s'acquittaient de leurs rôles et responsabilités. Les femmes étaient puissantes. [...] Tout cela allait rapidement changer avec l'imposition par les colonisateurs de structures de pouvoir patriarcales. L'exclusion des femmes autochtones de la prise de décisions a fini par mener à l'aliénation culturelle, sociale, économique et politique des femmes et des filles autochtones, aliénation qui était imposée et qui continue d'être imposée par qui la *Loi sur les Indiens*<sup>viii</sup>.





Fay Blaney, qui s'est exprimée à titre de Gardienne du savoir aux audiences de Gardiens du savoir et d'experts de l'Enquête nationale tenues à Québec, lesquelles portaient sur le cadre des droits de la personne, a également commenté l'incidence de la *Loi sur les Indiens* sur la représentation politique des femmes :

Les femmes autochtones ne sont pas représentées dans l'arène politique et nous pensons souvent que... vous savez, nous nous blâmons souvent pour cela et nous négligeons bien souvent le fait que la *Loi sur les Indiens* nous a privées de ce droit. On ne nous a pas accordé le droit de vote. On ne nous a pas permis de nous présenter aux élections au sein des bandes, un privilège qui était réservé aux hommes<sup>IX</sup>.

Malgré la défaite devant les tribunaux, de nombreux groupes de femmes autochtones se sont saisis des enjeux soulevés par ces affaires et sont allés de l'avant pour tenter de s'attaquer au problème, dans des circonstances difficiles. Sandra Lovelace Nicholas a porté sa cause devant le Comité des droits de l'homme des Nations Unies (CDHNU), en alléguant que son mariage avec un Américain et le fait qu'elle ait par la suite quitté sa communauté ne devraient pas l'empêcher de retourner dans la réserve ou d'y recevoir des services, après la dissolution de ce mariage. En 1981, le CDHNU a statué que le Canada avait enfreint le *Pacte international relatif aux droits civils et politiques* (PIDCP).

L'article 15 de la *Charte canadienne des droits et libertés* est entré en vigueur trois ans après le reste de la *Charte*, ce qui a laissé le temps aux gouvernements de s'assurer que leurs lois étaient conformes aux exigences de l'article 15 qui stipule ceci : « La loi ne fait acception de personne et s'applique également à tous, et tous ont droit à la même protection et au même bénéfice de la loi, indépendamment de toute discrimination, notamment des discriminations fondées sur la race, l'origine nationale ou ethnique, la couleur, la religion, le sexe, l'âge ou les déficiences mentales ou physiques. » De plus, l'article 28, qui stipule ce qui suit : « Indépendamment des autres dispositions de la présente charte, les droits et

libertés qui y sont mentionnés sont garantis également aux personnes des deux sexes », devrait, en théorie, offrir aux femmes une protection supplémentaire. Le paragraphe 4 de l'article 35, qui garantit les droits ancestraux et issus de traités, garantit aussi ces droits de manière égale aux femmes et aux hommes<sup>X</sup>.

En partie grâce à ces nouvelles garanties de droits, et du fait de l'action concertée des femmes touchées par les mesures législatives injustes, la *Loi sur les Indiens* de 1985 a rétabli le statut pour celles à qui on l'avait retiré en raison de l'émancipation. Cette nouvelle loi venait mettre fin à la règle du « mariage avec un non-Indien » aux termes de l'alinéa 12(1)b) qui avait été soulevée dans le cadre de l'action intentée par M<sup>me</sup> Lavell, rétablissant ainsi le statut d'Indien dans le cas des femmes et de leurs enfants privés de leurs droits en vertu de cette règle. La *Loi* prévoyait aussi l'abolition du sous-alinéa 12(1)a)(iv), la règle de la « mère grand-mère » qui avait été ajoutée en 1951 et qui privait du droit à l'inscription, quand ils atteignent l'âge de 21 ans, les petits-enfants dont la mère et la grand-mère paternelle avaient acquis toutes deux le statut d'Indien par le biais du mariage à un Indien. Ces modifications ont également mis fin à l'obtention du statut d'Indien par l'intermédiaire du mariage, plutôt que par le lien de filiation. Au cours des cinq premières années suivant les modifications, de 1985 à 1990, comme l'ont fait remarquer les chercheuses Megan Furi et Jill Wherrett : « Le nombre d'Indiens inscrits a augmenté de 19 p. 100. La majorité des personnes qui ont obtenu le droit à l'inscription, particulièrement celles qui ont vu leur statut rétabli, étaient des femmes<sup>XI</sup>. »

Bien que de nombreuses personnes aient vu leur statut rétabli grâce à ces dispositions législatives, les amendements ont aussi donné lieu à un nouveau problème, du fait de l'article 6 révisé, qui prévoyait en effet deux « types » d'Indiens inscrits : ceux qui pouvaient transmettre leur statut à leurs enfants et ceux qui ne le pouvaient pas. Cela signifiait que toute femme dont le statut avait été rétabli aux termes de l'article 6 et qui avait « épousé un non-Indien » pouvait transmettre son statut au sens du paragraphe 6(2) uniquement à ses enfants. Ces enfants ne





pouvaient pas transmettre le statut à leurs propres enfants, ce qui se répercutait à la fois sur les femmes et les hommes en raison de la règle de l'exclusion après la deuxième génération. Comme l'explique l'Alliance féministe pour l'action Internationale :

Les femmes consignées au statut de catégorie 6(1)c) ont été dévalorisées, traitées comme des parents de seconde zone et privées de la légitimité et de la position sociale associées au plein statut conféré par l'alinéa 6(1)a). Au fil des ans, les femmes du projet de loi C-31 ont été traitées comme si elles n'étaient pas véritablement indiennes, ou pas assez pour avoir droit à l'ensemble des avantages et des mesures de logement, forcées de réclamer continuellement leur reconnaissance auprès des dirigeants autochtones masculins, de leurs famille, de leur communauté et de la société en général. Dans bien des communautés, l'inscription en vertu de l'alinéa 6(1)c) est perçue par les femmes comme un stigmate, une marque indiquant qu'elles sont moins indiennes que les autres membres de la communauté<sup>xii</sup>.

Pour ceux qui affirment que la *Loi sur les Indiens* constitue un outil génocidaire, tant sur papier qu'autrement, l'effet de l'article 6 consistant à retarder d'une génération la suppression du statut équivalait tout de même à une suppression de ce statut. Elle était simplement reportée dans le temps.

En l'absence de recours effectif, et vu la lenteur avec laquelle on se penchait sur ces enjeux, d'autres militantes se sont manifestées. En 1994, Sharon McIvor a intenté une contestation constitutionnelle de la discrimination fondée sur le sexe dans les dispositions relatives à l'inscription de la *Loi sur les Indiens*. Dans sa décision, la Cour suprême de la Colombie-Britannique a statué que l'article 6 de la *Loi sur les Indiens* violait l'article 15 de la *Charte*, qui garantit des droits aux femmes et aux autres groupes de manière égale en vertu des lois du Canada. Cependant, lorsque le Canada en a appelé de cette décision en 2009, la Cour d'appel de la Colombie-Britannique a statué que, même si la *Loi sur les Indiens* était discriminatoire, l'ordonnance était allée trop loin, et qu'il ne revenait pas à la Cour d'imposer une solution susceptible d'accorder le statut à un plus

vaste groupe de gens. Elle a accordé 12 mois au gouvernement pour régler le problème avant l'entrée en vigueur éventuelle de la déclaration du tribunal inférieur<sup>xiii</sup>.

Par suite de cette décision, Sharon McIvor a décidé de porter plainte devant les Nations Unies, tout comme l'avait fait Sandra Lovelace Nicholas en 1981. Elle a fait valoir que, en dépit des changements, les femmes des Premières Nations ayant le statut d'Indien ne pouvaient toujours pas transmettre ce statut de la même manière que les hommes possédant un tel statut. Sa plainte portait sur le défaut du gouvernement de fournir une solution efficace à une situation ayant été cernée, même dans le cadre d'un forum international, comme étant un facteur de discrimination ayant persisté des décennies durant.

Dans sa plainte, l'équipe de Sharon McIvor a fait valoir que la hiérarchie fondée sur le sexe établie par les amendements de 1985 viole les articles 26 et 27 du PIDCP, compte tenu du paragraphe 2(1) et de l'article 3, du fait de sa nature discriminatoire envers les descendantes de lignée matrilineaire ou les autres descendantes nées avant 1985 et envers les femmes des Premières Nations nées avant 1985 qui ont épousé un non-Indien. M<sup>me</sup> McIvor a soutenu qu'en vertu de l'alinéa 2(3)a), ces femmes et ces descendantes avaient droit à un recours effectif.

En ce qui concerne la violation de l'article 26, M<sup>me</sup> McIvor a soutenu notamment que les incidences de l'exclusion constituaient « une forme d'exclusion sociale et culturelle », y compris sa perception d'une différence de traitement des personnes dont le statut avait été rétabli par rapport à celles qui étaient toujours considérées comme étant inscrites en tant qu'Indiennes au sens de la *Loi*. Cette situation a eu des répercussions sur sa vie, y compris sur sa capacité d'accéder à des prestations de maladie et à une aide financière aux études pour ses enfants au cours de leurs années de formation.

En ce qui a trait à l'article 27 en liaison avec le paragraphe 2(1) et l'article 3, l'équipe de M<sup>me</sup> McIvor a soutenu que la capacité de transmettre la culture, comme le garantit le PIDCP, avait été violée du fait qu'on les privait de « leur capacité de transmettre leur





identité culturelle aux générations suivantes de manière égale entre les hommes et les femmes » et qu'on les privait « de la légitimité que leur conférait le plein statut<sup>xiv</sup> ».

Dans sa réponse, le Canada a soutenu que la discrimination au sens des versions successives de la *Loi* antérieures à 1985 était inadmissible et que les amendements de 2011, apportés en réponse aux jugements rendus au sujet de la *Loi* par les tribunaux canadiens, avaient permis de corriger toute forme de discrimination résiduelle. En effet, la *Loi sur les Indiens* avait été modifiée de façon à accorder le droit d'inscription aux petits-enfants nés après le 4 septembre 1951, dont l'héritage autochtone remontait à leur ascendance maternelle. Il reste que, en vertu de ces amendements, les petits-enfants nés avant 1951, ou dont les parents ne se sont pas mariés avant 1985, ne pouvaient pas nécessairement être admissibles, tandis que ceux qui pouvaient faire remonter leur héritage à leur ascendance paternelle pouvaient l'être<sup>xv</sup>. Le Canada a aussi fait valoir que certains des aspects des déclarations faites par Sharon McIvor ne pouvaient pas être imputés ni attribués avec certitude aux actions du gouvernement. Il a également déclaré qu'il continuait d'examiner ses lois afin de déterminer si d'autres recours pouvaient être appliqués, y compris les modifications apportées au projet de loi S-3 entré en vigueur en décembre 2017 par suite de la décision de la Cour supérieure du Québec dans la cause Descheneaux<sup>xvi</sup>.

Dans cette affaire, la Cour supérieure du Québec s'était prononcée sur une contestation déposée par Stéphane Descheneaux, Susan Yantha et Tammy Yantha. Les demandeurs affirmaient que les dispositions relatives à l'inscription à titre d'Indien en vertu de l'article 6 de la *Loi sur les Indiens* étaient inconstitutionnelles et contrevenaient aux droits à l'égalité prévus par la *Charte*, étant donné que les dispositions législatives perpétuaient toujours une différence dans le traitement des femmes indiennes inscrites par rapport aux hommes indiens inscrits et à leurs descendants. Dans sa décision, la Cour a déterminé que plusieurs facettes de la *Loi* violaient l'article 15 de la *Charte* et a invalidé les dispositions visées, en accordant au gouvernement une période

fixe pour apporter les modifications nécessaires. Dans son témoignage, Leah Gazan a déclaré ce qui suit à propos des répercussions actuelles du projet de loi S-3 :

Cette violence s'est manifestée par l'entremise de la *Loi sur les Indiens* où, même aujourd'hui, nous constatons que le gouvernement libéral actuel néglige d'apporter des amendements au projet de loi S-3 pour mettre un terme à la discrimination envers les femmes et les filles autochtones qui résident dans ce territoire qu'il est convenu d'appeler le Canada. Nous avons soulevé nos préoccupations auprès de gens qui ont fait la sourde oreille pendant beaucoup trop longtemps; nos voix ont souvent été étouffées par des pouvoirs bureaucratiques dont la mission consistait à nous réduire au silence tandis que nous luttions pour notre survie; une réalité devenue beaucoup trop courante, même à ce jour, alors que nous sommes en quête de moyens pour assurer notre sécurité pour l'avenir<sup>xvii</sup>.

En janvier 2019, le Comité des droits de l'homme des Nations Unies (CDHNU) s'est prononcé en faveur de Sharon McIvor, en déclarant que la hiérarchie fondée sur le sexe créée par l'article 6 de la *Loi sur les Indiens* existe toujours, et ce, en dépit des amendements de 2011 et de 2017, et que le Canada violait les articles 3 et 26, lus conjointement avec l'article 27<sup>xviii</sup>. Les amendements de 2011 et de 2017, ainsi que la *Loi sur les Indiens* elle-même, continuent de violer le droit à l'égalité des hommes et des femmes quant à la jouissance des droits garantis par le *Pacte international relatif aux droits civils et politiques*, auquel adhère le Canada depuis les années 1970. Plus précisément, le CDHNU a fait remarquer que les enfants du frère de Sharon McIvor possèdent tous un plein statut en vertu de l'alinéa 6(1)a), tandis que sa propre capacité de transmettre cette « catégorie » de statut n'est pas la même. Puisqu'ils partagent la même lignée, a fait observer le CDHNU, la différence de statut n'était attribuable qu'à la nature discriminatoire des dispositions législatives et cette discrimination était fondée sur le sexe<sup>xix</sup>. Le CDHNU a également fait remarquer que l'interdiction de la discrimination ne s'appliquait pas seulement en droit, mais aussi de facto, et que l'argument mis de l'avant par M<sup>me</sup> McIvor





quant aux répercussions de la discrimination sur sa vie, en tant que femme visée par le projet de loi C-31, revêt une grande importance<sup>xx</sup>.

Au lendemain de cette décision, de nombreuses questions persistent quant à la manière dont le gouvernement pourra venir à bout de ces enjeux historiques et contemporains compliqués entourant l'exercice de l'autorité pour ce qui est de déterminer le statut, et également quant aux raisons qui expliquent pourquoi le statut est associé à un sens d'appartenance ou d'exclusion dans bon nombre des témoignages livrés devant l'Enquête nationale. Comme Darla-Jean L. l'a souligné à propos des incidences de la *Loi sur les Indiens* sur son estime de soi et sur son sentiment d'appartenance : « Le gouvernement fédéral a fait de nous des pupilles de l'État par l'entremise de la *Loi sur les Indiens* et nous avons appris ce qu'est la détresse. Un sentiment de honte nous a envahis. Nous sommes devenus – nous avons cru ce que nous dictait la société<sup>xxi</sup>. » Lorsqu'on lui a demandé de s'exprimer quant à l'impact du lien entre l'identité et la perte du statut d'Indien par le biais de la *Loi sur les Indiens*, Sylvia M. a déclaré : « Bien, cela vous amène à vous [...] remettre en question, vous savez, non<sup>xxii</sup>? »

Comme l'affirme l'Alliance féministe pour l'action internationale :

Tant que la *Loi sur les Indiens* existera, que ce soit pendant encore un an ou vingt ans, elle devra être exempte de discrimination fondée sur le sexe. Qui plus est, si la *Loi* est remplacée avant l'élimination des iniquités fondées sur le sexe, la discrimination fondée sur le sexe et l'injustice envers les femmes indiennes et leurs descendants viendront infecter tout régime postérieur à la *Loi sur les Indiens*<sup>xxiii</sup>.

Dans son témoignage, Fay Blaney a expliqué de quelle manière la discrimination fondée sur le sexe créée par la *Loi sur les Indiens* continue d'avoir des retombées au sein des communautés.

La *Loi sur les Indiens* a conféré et continue de conférer aux hommes des tas de privilèges patriarcaux. On leur a fort bien enseigné comment exercer leur autorité patriarcale dans nos communautés. Et je crains que les hommes

ne soient pas disposés à renoncer au pouvoir patriarcal dont ils disposent. En fait, certains d'entre eux ont avancé que le patriarcat relève de la tradition, même si nous savons que la culture découle d'une tradition matriarcale. Par conséquent, ils réinventent la culture en fonction de ce que dit la *Loi sur les Indiens*, selon laquelle ils disposent actuellement de prérogatives patriarcales<sup>xxiv</sup>.

En outre, une grande question demeure : comment se fait-il, compte tenu des garanties existantes prévues par les lois du Canada, notamment la *Charte canadienne des droits et libertés*, que de telles exclusions existent encore, et comment pourrait-on mieux appliquer des recours à l'échelle nationale afin de résoudre ces exclusions? Comme certaines personnes l'ont proposé, le fait d'adopter de nouvelles lois qui intègrent de manière substantielle les garanties prévues par des conventions ou des pactes internationaux, par exemple la *Convention sur l'élimination de toutes les formes de discrimination à l'égard des femmes* et la *Déclaration des Nations Unies sur les droits des peuples autochtones*, contribuerait sans doute à renforcer ces garanties existantes et ferait en sorte que, en vertu des conventions internationales, le problème de la discrimination systémique, plutôt que la discrimination individuelle, fasse l'objet d'une solution efficace et opportune<sup>xxv</sup>. Par la même occasion, l'hypothèse persistante qui sous-tend le processus, c'est-à-dire que le gouvernement du Canada, plutôt que les Premières Nations elles-mêmes, doit en dernier ressort déterminer à qui est réservé l'accès aux droits garantis aux Premières Nations, dicte fondamentalement la voie à suivre, c'est-à-dire que la résolution de cet enjeu passera par le réexamen des fondements de l'approche.

Comme le fait valoir M<sup>me</sup> Palmater, la portée du jugement *McIvor* de 2019 « va au-delà du statut d'Indien; il est question ici de rétablir les droits politiques et les puissantes voix des femmes des Premières Nations. [...] La loi exige que le Canada mette fin à la discrimination fondée sur le sexe envers les femmes et les enfants des Premières Nations. Il reste à savoir si le Canada décidera d'agir en hors-la-loi ou de joindre l'acte à la parole en honorant son prétendu engagement envers la réconciliation<sup>xxvi</sup> ».





- I Commission interaméricaine des droits de l'homme, *Missing and Murdered Indigenous Women*, 12.
- II Ibid., 68.
- III Robinson, « Mary Two-Axe Earley. »
- IV *Procureur général du Canada c. Lavell*, [1974] R.C.S. 1349.
- V Ibid., 1373.
- VI *Procureur général du Canada c. Lavell*, [1974] S.C.R. 1349, at 1386.
- VII Palmater, « Will Ottawa heed. »
- VIII Leah Gazan (Lakota), Partie 1, Volume public 10, Winnipeg, Man., pp. 82–83.
- IX Fay Blaney (Xwémalhkwu des Coast Salish), Partie 3, Volume public 4, Québec, Qc., p. 117.
- X Les sous-sections 3 et 4 de la section 35 ont été développées en 1983 et 1984, après d'importantes campagnes de groupes de femmes autochtones qui ont affirmé qu'ils n'avaient pas été représentés par des organisations lors des discussions initiales autour de la Charte et qui se battaient toujours pour l'abrogation de la discrimination fondée sur le sexe en vertu de la Loi sur les Indiens. Pour en savoir plus, voir 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 et Wherrett, « Indian Status and Band Membership Issues. »
- XII Alliance féministe pour l'action internationale (AFAI) - Canada, « Equal Status for Women, » 4.
- XIII Pour une explication plus détaillée de ces décisions, voir Lehmann, « Summary of the Mclvor Decisions. »
- XIV Nations unies, Comité des droits de l'homme, « Views adopted by the Committee under article 5(4), » 5.
- XV Pour plus de détails et de précision par rapport aux modification de loi de 2011, voir Canada, Affaires autochtones et du Nord Canada, « Modification de la Loi sur les Indiens de 2011. »
- XVI Nations unies, Comité des droits de l'homme, « Views Adopted, » 6–7. Pour plus de détails et de précision par rapport à la loi S-3 et ses effets par rapport à l'enregistrement dans la Loi sur les Indiens, voir Canada, « Réponse du gouvernement du Canada à la décision Descheneaux. »
- XVII Leah Gazan (Lakota), Partie 1, Volume public 10, Winnipeg, Man., pp. 76–77.
- XVIII Nations unies, Comité des droits de l'homme, « Views Adopted, » 16.
- XIX Ibid., 15.
- XX Ibid., 17.
- XXI Darla-Jean L. (Première Nation), Partie 1, Volume public 1, Whitehorse, Yn., p. 31.
- XXII Sylvia M. (Mi'kmaq), Partie 1, Volume public 56, Happy-Valley Goose Bay, T.-N.-L., p. 33.
- XXIII Alliance féministe pour l'action internationale (AFAI) - Canada, « Equal Status for Women, » 13. Voir aussi Palmater, *Beyond Blood*.
- XXIV Fay Blaney (Xwémalhkwu des Coast Salish), Partie 3, Volume public 4, Québec, Qc., p. 134.
- XXV FIJ de la côte ouest, Partie 4, Soumission finale, p. 29.
- XXVI Palmater, « Will Ottawa heed. » Voir aussi James Anaya, « Report of the Special Rapporteur on the Rights of indigenous peoples, » 2014. Le rapport a été développé avec des données et de l'information de plusieurs sources, y inclus une visite au Canada du 7 au 15 octobre 2013.



## Les facteurs favorisant la violence : la marginalisation sociale et économique

La perte de la culture et les perturbations familiales provoquées par les divers systèmes coloniaux ont de graves répercussions non seulement sur le bien-être émotionnel et spirituel des Autochtones, mais aussi sur les aspects matériels (économique et social) de leur vie. Privés de la possibilité d'accéder aux modes de vie traditionnels dans les territoires ancestraux, lesquels préconisaient notamment l'entraide entre les membres de la communauté dans les moments difficiles, bien des Autochtones qui nous ont fait part de leur vérité propre ont raconté leurs luttes contre la pauvreté, l'itinérance, les toxicomanies et d'autres problèmes. Ces combats ont souvent été fortement aggravés par l'impossibilité de s'appuyer sur la famille, la communauté ou la culture ainsi que par des interventions qui visaient souvent à dresser des obstacles encore plus grands à l'obtention de ce soutien.

Des témoins ont aussi indiqué que la pauvreté, l'itinérance et les autres formes de marginalisation socioéconomique entravaient les efforts qu'ils déployaient pour établir et maintenir des liens avec la famille et la parenté ainsi que pour assurer la continuité culturelle. En particulier, de nombreux témoins ont expliqué que les organismes de protection de l'enfance invoquaient la pauvreté et les autres manifestations de la marginalisation socioéconomique pour justifier le retrait d'un enfant à sa mère, à sa famille et à sa communauté. C'est ce qu'a observé Nico Trocmé, directeur de l'École de service social de l'Université McGill et chercheur principal de l'Étude canadienne sur l'incidence des signalements de cas de violence et de négligence envers les enfants : « Je n'ai certainement jamais vu de données de recherche indiquant qu'il y a quelque chose d'endémique chez les familles des Premières Nations pour expliquer un taux élevé de placement. Le phénomène est davantage lié au taux élevé de pauvreté et aux conditions sociales et économiques difficiles qu'elles connaissent<sup>58</sup> ».

Naiomi Metallic, témoin expert et professeure adjointe à la Faculté de droit de l'Université Dalhousie, a fourni l'explication suivante :

Souvent, les systèmes et les lois des provinces ne tiennent pas compte de la pauvreté et des problèmes systémiques qui existent déjà dans les communautés des Premières Nations, et il peut donc en résulter des effets négatifs. [...] Une décision du Tribunal canadien des droits de la personne portant sur la protection de l'enfance a reconnu que l'on retirait les enfants des Premières Nations davantage pour des raisons de négligence que pour des mauvais traitements, et je pense que c'est aussi parce que les règles provinciales en matière de protection de l'enfance ne tiennent souvent pas compte précisément de la situation socioéconomique et que, encore une fois, on retire les enfants... en raison d'un fait de négligence qui échappe au contrôle des parents<sup>59</sup>.





En plus de ces circonstances, les difficultés socioéconomiques éprouvées par plusieurs familles sont aggravées par d'autres facteurs de stress. La recherche a démontré qu'un comportement de toxicomanie est « fortement inversement proportionnel au statut socioéconomique<sup>60</sup> ». De plus, comme l'explique le chercheur Mickie Jakubec, « pour bien des Autochtones, de nombreux facteurs de stress entrent en jeu : le racisme, la pauvreté, une faible scolarité, le chômage, l'instabilité familiale et l'instabilité résidentielle<sup>61</sup> ». La combinaison de tous ces facteurs peut accroître la probabilité qu'un enfant soit retiré de sa famille.

Selon l'Étude canadienne sur l'incidence des signalements de cas de violence et de négligence envers les enfants de 2003, les conditions de logement ont été jugées « dangereuses » dans 24 % (quelque 2 938) des cas de mauvais traitements corroborés par une enquête lorsque les victimes étaient des enfants des Premières Nations, et le logement a été jugé « surpeuplé » dans 21 % (quelque 2 581) des cas corroborés. Par comparaison, seulement 7 % des enquêtes où les mauvais traitements à l'égard d'enfants non autochtones ont été corroborés faisaient état de conditions de logement dangereuses ou d'un logement surpeuplé (quelque 5 948 et 5 924, respectivement).

Selon cette même étude, la catégorie « négligence » représente plus de la moitié des cas de mauvais traitements visant des enfants des Premières Nations et corroborés par une enquête, et l'incidence de violence familiale arrive au deuxième rang des catégories de mauvais traitements les plus souvent corroborés. Près de la moitié des cas corroborés par une enquête touchait des familles qui tiraient leurs revenus de l'aide sociale, de l'assurance-emploi ou d'autres prestations, contre seulement 20 % des cas corroborés visant des personnes non autochtones<sup>62</sup>.

Néanmoins, dans de nombreux cas, le cadre de vie que les familles autochtones mettent en place pour prendre soin de leurs enfants, pour les protéger et pour composer, bien souvent, avec une pauvreté extrême, l'insécurité alimentaire et d'autres problèmes est interprété ou considéré comme de la « négligence » par les travailleurs sociaux, les policiers et d'autres intervenants non autochtones. Ces personnes et ces organismes travaillent au cœur d'un système de services à l'enfance et à la famille qui s'appuie sur une définition de soins enracinée dans les prescriptions et les convictions du régime colonial dominant, perpétuant ainsi une approche qui tient rarement compte des obstacles structurels empêchant les familles autochtones de respecter les normes établies.

À propos des organismes de protection de l'enfance et des politiques qu'ils appliquent, Vanessa B. avait ceci à dire :

Oui, je comprends que vous avez un mandat et des politiques. En même temps, il faut commencer... il faut commencer à porter un regard plus humain sur ce que cette... cette famille a vécu ça et [...] ces enfants auront besoin de ça, et je ne devrais pas avoir à attendre que le gouvernement fédéral décide qu'il a 10 \$ dans ses poches et qu'il veut bien nous les balancer. Je veux savoir que ces 10 \$ sont dans ses poches maintenant et qu'il me les donne. [...] On a besoin d'efforts tangibles et honnêtes qui sont à notre portée et non de quelque chose qui a été bêtement placé hors de notre portée parce que c'est... c'est l'un des problèmes qui sont arrivés avec Tanya [sa sœur]. Toutes les attentes qu'elle trouvait raisonnable d'avoir finissaient par se révéler irréalisables. C'était tellement hors de sa portée<sup>63</sup>.



Il s'agit ici de constats importants qui peuvent aider à expliquer comment la pauvreté peut sous-tendre la violation de droits culturels et comment les désavantages socioéconomiques sont interprétés par certaines institutions comme des carences parentales de la part des Autochtones. Après le meurtre de sa fille aux mains de son conjoint de fait, Robin R. s'est fait retirer la garde de son autre fille et elle n'a pas eu le droit de la voir avant la fin du procès, lequel a duré cinq ans. Robin a raconté comment l'infection au staphylocoque de sa fille avait été utilisée contre elle comme un signe de négligence alors qu'elle l'avait contractée, en fait, dans le cadre de ses efforts inlassables pour s'assurer que sa fille avait tout ce dont elle avait besoin.

Oui, ma fille avait une infection au staphylocoque, mais elle avait une infection au staphylocoque parce que quand j'élevais mes deux enfants à 17 ans, j'avais accès à trois banques alimentaires différentes dans la ville et une des banques alimentaires où j'allais était très sale. Les gens utilisaient des seringues. Mais je m'en fichais parce que si ça signifiait pouvoir nourrir mes enfants, même en marchant dans un tel environnement, je le ferais. Et je sais que c'est là qu'on a contracté l'infection... Ça ne veut pas dire que j'étais sale. Ça veut dire que j'ai fait ce qu'il fallait pour survivre et qu'on a attrapé une infection au staphylocoque. Mais ça ne faisait pas de moi une personne sale<sup>64</sup>.

## Les facteurs favorisant la violence : le manque de volonté et les interventions insuffisantes de la part des institutions

Pour plusieurs témoins, les systèmes de protection de l'enfance déprécient les cultures et les valeurs autochtones au profit de normes et de modèles parentaux non autochtones. Dans de nombreux cas, les femmes autochtones ont vu dans le manque de volonté pour changer le système afin d'accepter et de comprendre les valeurs autochtones, ou encore dans les interventions des institutions en matière d'enquête ou de prise en charge d'enfants, un geste insuffisant et raciste témoignant d'un manque de respect à l'égard des droits culturels.

Certains témoins ont décrit le rôle que jouent dans la vie communautaire plusieurs principes culturels importants issus de leur propre éducation – des principes qui sont directement menacés lorsqu'on retire un enfant de sa famille. Anastasia N. a mentionné ce qui suit :

Moi, mon enfance, je me rappelle de ça comme le plus beau moment de ma vie. J'étais une enfant très choyée, avec beaucoup d'affection. J'étais entourée de personnes âgées. J'avais ma mère. Ma mère était une personne, une aidante naturelle qui prenait soin de deux personnes, toutes deux âgées de 80 ans. Et puis, elle s'occupait de moi. Et moi, j'avais des responsabilités envers ces deux personnes.[...] Chaque nuit, je devais me lever, m'habiller, mettre mes petits mocassins pour aider la personne âgée à sortir et la conduire pour faire ses besoins et ainsi de suite. J'ai été responsabilisée très jeune. J'ai toujours apprécié la façon dont j'ai été élevée. [...] Ça m'a permis d'être une personne très autonome et responsable toute ma vie<sup>65</sup>.



De son propre aveu, le fait d'avoir eu de telles responsabilités à un jeune âge a préparé Anastasia pour sa vie. Or, selon les normes non autochtones de protection de l'enfance, des tâches de ce genre pourraient correspondre à ce qui est considéré comme de la « négligence ». Des principes autochtones de vie familiale comme ceux-là sont menacés par un manque de volonté d'apporter des changements fondamentaux afin de redéfinir le rôle des parents et celui des enfants, en tenant compte des conceptions des Autochtones.

Ces conceptions sont mal comprises des services de protection de l'enfance, et cela peut fausser les conclusions qu'ils tirent au sujet de la situation d'un enfant, en plus de décourager les Autochtones à aller chercher de l'aide. Un témoin a mentionné ce qui suit :

Je veux pouvoir marcher dans la rue avec mes petits-enfants sans que quelqu'un appelle le travailleur social parce qu'il pense que je... oh, elle a tiré fort son enfant, là. Elle a fait quelque chose. Je veux pouvoir aller voir les policiers et je veux que les policiers puissent me dire : « Bonjour Madame M., comment allez-vous? Qu'est-ce qu'on peut faire pour vous aider? » Pas qu'ils arrivent et s'attendent déjà, vous savez, à appeler les services sociaux<sup>66</sup>.

« J'AI ÉTÉ PRISE EN TUTELLE PAR LE GOUVERNEMENT QUAND J'AVAIS 14 ANS. POUR MOI, ÇA A ÉTÉ UNE DES PÉRIODES LES PLUS HUMILIANTES DE MA VIE QUE M'A FAIT SUBIR LE GOUVERNEMENT. ILS ONT AMENÉ MA MÈRE À UN ENDROIT, AU TRIBUNAL, ET ILS L'ONT OBLIGÉE À SIGNER LES PAPIERS PENDANT QUE J'ÉTAIS LÀ DEBOUT, POUR ME METTRE EN ADOPTION, ÇA C'EST LE GOUVERNEMENT. [...] C'EST L'INSTITUTION QUI N'A PAS DE CŒUR. »

Noeline V.

D'autres témoins ont fait état de sentiments semblables concernant des obstacles auxquels ils étaient confrontés et qui n'étaient pas, selon eux, appliqués de la même façon aux personnes non autochtones. Selon Vanessa B. :

Leurs critères semblaient établis de telle façon que... Bon Dieu, il m'aurait fallu de bonnes jambes pour sauter par-dessus chacun de ces... ces obstacles et c'est... c'est constamment. C'est une entrave. On a à peine dépassé cet obstacle et là, il faut un élan pour continuellement sauter à travers les cerceaux et c'est comme ça que Tanya [la soeur de Vanessa] se sentait, comme si elle devait sauter à travers tellement de cerceaux pour ses enfants. Ce n'est pas qu'elle n'a pas essayé, mais avec la toxicomanie, le combat est bien réel, et ça vous dit combien c'était réel pour elle. « Vous me dites de me comporter d'une certaine façon. Ok, je... je vais me comporter de cette façon. Vous savez quoi? Vous ne le faites pas tout à fait comme il faut. Vous devez le faire comme ça, parce que ce n'est tout simplement pas suffisant. » Pendant ce temps, ces enfants ont été placés un jour dans un foyer qui leur a causé d'autres torts. Maintenant, ces enfants sont blessés, donc... et ça existe encore, vous savez, [de tels] obstacles existent encore maintenant, et je le sens en ce moment même<sup>67</sup>.





Dans le cas de Robin R., les démarches pour ravoir son enfant ont été tellement ardues que, lorsqu'elle a finalement eu l'autorisation de la voir, il était trop tard. Elle a raconté :

Ces cinq années ont passé, le procès a eu lieu et je suis allée au MCFD [ministère du Développement de l'enfance et de la famille de la Colombie-Britannique] et j'ai dit : « Rendez-moi mon enfant. » Non, ils... j'étais révoltée et j'étais en colère. Je suis entrée là et ils m'ont forcée à participer à un programme de gestion de la colère parce que j'ai exigé qu'ils me donnent un plan pour récupérer mon enfant. Ils ont dit : « Non, vous devez suivre le programme de gestion de la colère, obtenir votre certificat et revenir nous prouver que vous avez appris à gérer votre colère avant que nous parlions. »

J'ai suivi le premier programme de gestion de la colère. Il durait huit semaines. Je suis retournée avec mon certificat, j'ai encore hurlé après la travailleuse sociale et elle m'a envoyée suivre un autre programme de 12 semaines. Donc, pendant environ cinq mois, j'ai suivi un programme de gestion de la colère.

Puis finalement, j'ai tourné ma langue dans ma bouche et je suis retournée là-bas. Et ils m'ont laissée voir mon enfant. Mais je n'étais que Robin à cette époque. Sa mère était sa mère d'accueil. C'était la famille qu'elle avait appris à aimer. Et je me suis dit que je ne pourrais jamais arracher mon enfant à la famille qu'elle aimait, alors j'ai pris la décision à ce moment-là de la laisser aller. Il valait mieux pour son état mental qu'elle soit élevée dans une seule famille, que je cesse d'être de passage dans sa vie et de demander de la récupérer, parce qu'elle saura maintenant, elle verra le film de l'Enquête et elle apprendra la vérité quand elle sera prête<sup>68</sup>.

« LE GOUVERNEMENT TENTE ENCORE DE TUER L'INDIEN DANS L'ENFANT. ÇA NE S'ARRÊTE JAMAIS. ILS SONT TOUJOURS EN GUERRE AVEC NOTRE PEUPLE, ET JE LE SAIS. JE L'AI VU, ET C'EST MA VIE. CE N'EST PAS JUSTE QUELQUE CHOSE QUE J'AI LU DANS UN LIVRE OU QUE J'AI EU À APPRENDRE À L'UNIVERSITÉ. JE L'AI VU, JE L'AI VÉCU ET ILS ONT UTILISÉ NOTRE PEUPLE COMME BOUC ÉMISSAIRE. ILS ONT CRÉÉ TELLEMENT DE HAINE ENVERS LE PEUPLE AUTOCHTONE ET ONT CRÉÉ UNE SI GRANDE DIVISION ENTRE LES AUTOCHTONES ET LES NON-AUTOCHTONES. IL N'EXISTE AUCUN EFFORT DE SENSIBILISATION À L'ÉGARD DE L'IMPORTANCE DE NOTRE PEUPLE ET DE NOTRE CULTURE. »

**Marilyn W.**

Lorsque des enfants sont retirés de leur famille, d'autres obstacles peuvent se dresser et mettre en danger les femmes qui tentent d'échapper à une situation négative. Mealia Sheutiapik, témoin et experte inuite, a décrit son expérience de la sorte :

J'ai dû passer par les tribunaux pour ravoir mes enfants et... mon bébé. Je suis allée devant les tribunaux, mais l'Aide à l'enfance était trop dure avec moi et ils ne m'ont pas vraiment donné de chance. Ils ne m'ont même pas posé de questions, demandé si je



souhaitais aller mieux ou si j'avais besoin d'aide. [Tout] ce qui les intéressait c'était mon bébé et ils voulaient me l'enlever. Ça m'a comme poussée à bout et puis j'ai recommencé à prendre de la drogue et à m'en vouloir<sup>69</sup>.

Des Métisses nous ont aussi raconté leurs expériences liées au système de protection de l'enfance, au sein duquel de nombreux enfants ont appris à renier leur identité autochtone ou ont été amenés à croire qu'ils n'en avaient pas. Comme l'a souligné la thérapeute communautaire et professeure en service social métisse Cathy Richardson/Kinewesquao, envisager la protection de l'enfance dans un contexte métis signifie :

comprendre que, pour le peuple métis au Canada, le chemin est pavé d'obstacles et d'embûches et que les Métis prennent des décisions réfléchies sur quand et comment affirmer leur identité, sachant qu'ils sont souvent incompris des autres. Par exemple, si l'identification signifie que les familles métisses reçoivent des services de travail social adéquatement financés, axés sur la culture et respectueux, alors il est plus probable qu'elles la révèlent. Une fois, j'ai demandé à mon fils pourquoi il ne s'était pas déclaré volontairement comme Métis à son école secondaire. Il m'a dit que s'il le faisait, ils le mettraient dans une classe où il devrait fabriquer des tipis avec des bâtonnets. Une fois qu'ils ont révélé leur identité, les Métis deviennent vulnérables aux projections des autres sur qui est Métis<sup>70</sup>.

De plus, en raison des discussions continues concernant la définition de qui est Métis et des critères d'admissibilité aux avantages offerts dans le cadre des programmes destinés aux Métis, il est difficile de savoir comment répondre le mieux possible à leurs besoins et comment affirmer leurs droits culturels dans le domaine de la protection de l'enfance<sup>71</sup> ainsi que dans d'autres secteurs de services essentiels comme la santé et l'éducation.

Peu importe le résultat de ces discussions, les répercussions des régimes de protection de l'enfance sur les familles métisses est un thème récurrent qui est ressorti des témoignages, comme l'a exprimé Noeline V. :

J'ai été prise en tutelle par le gouvernement quand j'avais 14 ans. Pour moi, ça a été une des périodes les plus humiliantes de ma vie que m'a fait subir le gouvernement. Ils ont amené ma mère à un endroit, au tribunal, et ils l'ont obligée à signer les papiers pendant que j'étais là debout, pour me mettre en adoption, ça c'est le gouvernement. [...] C'est l'institution qui n'a pas de cœur<sup>72</sup>.

## **La réévaluation des services d'aide**

Plusieurs témoins ont souligné le manque de services adaptés à la culture – ou à tout le moins respectueux de cette culture – dans des secteurs clés autres que celui de la protection de l'enfance. Ces lacunes ont porté atteinte à leurs droits culturels, particulièrement dans le secteur



des services de soutien axés sur la santé. Les chercheurs en santé Malcolm King, Alexandra Smith et Michael Gracey font observer ce qui suit :

Pour bien des Autochtones, les traitements qui n'accordent aucune valeur à leurs modes de connaissance sont inefficaces, particulièrement ceux en matière de santé et de bien-être. Souvent, les Autochtones ne les suivent tout simplement pas. Cette lacune pourrait expliquer, en partie, la sous-utilisation par les Autochtones des services de santé mentale qui ne leur sont pas destinés spécifiquement même si cette population est accablée par un taux disproportionnellement élevé de maladie mentale<sup>73</sup>.

De nombreux témoins ont par ailleurs souligné, malgré tout le travail fait récemment par les organisations et les défenseurs des droits des Autochtones pour éduquer le public, l'ampleur de la méconnaissance des peuples autochtones et de leurs besoins. Selon Ann M. R. « éduquer les gens et vaincre l'ignorance semble être le travail de toute une vie<sup>74</sup>. » Le travail lié à l'éducation des gens est un fardeau supplémentaire que doivent porter ceux et celles dont les blessures ne sont pas encore guéries.

Marilyn W. résume la situation ainsi :

Le gouvernement tente encore de tuer l'Indien dans l'enfant. Ça ne s'arrête jamais. Ils sont toujours en guerre avec notre peuple, et je le sais. Je l'ai vu, et c'est ma vie. Ce n'est pas juste quelque chose que j'ai lu dans un livre ou que j'ai eu à apprendre à l'université. Je l'ai vu, je l'ai vécu et ils ont utilisé notre peuple comme bouc émissaire. Ils ont créé tellement de haine envers le peuple autochtone et ont créé une si grande division entre les Autochtones et les non-Autochtones. Il n'existe aucun effort de sensibilisation quant à l'importance de notre peuple et de notre culture<sup>75</sup>.





## RÉFLEXION APPROFONDIE

# Les médias et la représentation

### Introduction : quoi de neuf dans le monde des nouvelles?

Tout au long des témoignages présentés dans le cadre de l'Enquête nationale, les participants ont souligné les difficultés bien réelles découlant de la représentation médiatique de leurs proches, représentation qu'ils ont perçue comme étant injuste, inexacte ou dénaturée. Comme l'explique la commissaire en chef Marion Buller :

De nombreuses personnes dans l'ensemble du Canada ont affirmé avoir choisi de ne pas prendre part à l'Enquête nationale en raison de la manière dont la presse a dépeint les membres de leur famille, leurs expériences et les expériences d'autrui. Parallèlement, des participants à l'Enquête ont affirmé avoir décidé de témoigner en privé seulement, disant craindre la façon dont les services d'information allaient les présenter ou présenter leur famille<sup>A</sup>.

Joanne A., qui a témoigné relativement à ses deux tantes assassinées, a expliqué en quoi la couverture journalistique des homicides victimisait une deuxième fois la famille.

Je n'étais qu'une enfant, mais je me rappelle avoir vu ses vêtements ensanglantés, en lambeaux, diffusés au bulletin de nouvelles. Cette image me hante depuis. Cela m'a traumatisée. Je n'ai jamais compris pourquoi on avait fait ça. Dans quel but? Aucun. Or, ce n'était que le début du cirque médiatique qui allait rendre une situation déjà difficile encore plus pénible et encore plus affligeante<sup>B</sup>.

Dans ce cas-ci, la famille a fini par s'adresser par écrit aux organes de presse pour dénoncer le traitement blessant, soit le « sensationnalisme journalistique », dont leur proche faisait l'objet, ce qui a mené à la publication d'une lettre ouverte qui n'a toutefois pas eu d'effet notable. Les médias ont traité le meurtre de son autre tante quelques années plus tard avec le même sensationnalisme.

À l'opposé, certaines familles doivent composer avec un manque de couverture médiatique, ce qui s'avère tout aussi douloureux. Delores S. a raconté avoir fait appel à la presse pour l'aider à ce que justice soit faite au nom de Nadine, mais que cette démarche l'a contrainte à revivre le traumatisme qui l'avait marquée.

Au cours des deux dernières années, j'ai dû m'adresser de manière continue aux journalistes et leur raconter encore et toujours la séquence des événements survenus pour qu'on m'écoute, pour qu'on réalise qu'il s'agit d'un enjeu important, que les problèmes sont beaucoup plus graves qu'ils ne le paraissent. Ce n'est pas seulement d'une autre femme autochtone dont il est question, mais bien d'un problème croissant au Canada, où nos femmes disparaissent et sont assassinées. Et l'expérience fut bouleversante. Devoir faire subir cela à ma famille à répétition a été très traumatisant<sup>C</sup>.

Pour ces familles, il est déchirant de constater que la couverture médiatique au sujet des femmes, des filles et des personnes 2ELGBTQQIA autochtones disparues et assassinées est bien inférieure, toutes proportions gardées, à celle des non-Autochtones. L'attention limitée que portent les services d'information aux premières, et aussi la manière dont ils les dépeignent, laissent sous-entendre que, comme victimes, elles ne présentent pas d'« intérêt journalistique ». Ce faisant, la presse accentue l'inertie de la population canadienne à l'égard de la tragédie.

La présente réflexion approfondie résume les publications universitaires portant sur la représentation que font les médias des femmes, des filles et des personnes 2ELGBTQQIA autochtones. Elle intègre aussi de nouvelles connaissances sur la représentation médiatique tirées du processus de consignation de la vérité de l'Enquête nationale. Après un survol historique des représentations des femmes autochtones dans le discours canadien, nous nous penchons sur la manière dont ces représentations se manifestent dans le cadre





médiatique que leur imposent aujourd'hui les services d'information. Nous abordons le cadre, le contenu et la couverture des femmes, des filles et des personnes 2ELGBTQQIA attribuables aux formes traditionnelles et non traditionnelles de médias. Cette analyse permet d'examiner comment la représentation médiatique contribue à la violence à leur endroit en l'entérinant. Elle rend compte d'importantes constatations pouvant ouvrir la voie à une représentation fidèle des femmes, des filles et des personnes 2ELGBTQQIA autochtones au sein de la presse canadienne.

## Les représentations historiques des femmes autochtones : la reine, la princesse indienne et la squaw

Les représentations négatives, sexistes et racistes des femmes, des filles et des personnes 2ELGBTQQIA autochtones font partie intégrante de l'histoire coloniale du Canada. En effet, les premières descriptions de la femme autochtone au pays sont intimement liées au processus de colonisation<sup>D</sup>. Bien que les liens qu'entretient la femme autochtone avec le territoire se retrouvent tant dans les cadres historiques autochtones qu'occidentaux, la conception européenne de ces liens traduit l'approche occidentale selon laquelle le territoire doit être « dominé, conquis, possédé et exploité<sup>E</sup> ». En Amérique du Nord, les représentations de la femme autochtone ont émergé dans un contexte de colonisation, donnant graduellement lieu à trois stéréotypes différents : la reine, la princesse indienne et la squaw. Les premières descriptions de la femme autochtone sont toutes ouvertement sexuelles et empreintes d'ambitions et de perceptions colonialistes de la terre<sup>F</sup>.

Lorsque les colons ont rencontré pour la première fois la femme autochtone au 16<sup>e</sup> siècle, ils ont cherché à en donner une représentation qui restituait la beauté du « Nouveau Monde<sup>G</sup> ». Comme l'explique la chercheuse Joyce Green, l'archétype de la reine autochtone dépeignait une femme « exotique, forte et dangereuse<sup>H</sup> ». Cette dernière était à la fois radicale et maternelle. On la présentait « drapée de

feuilles, de plumes et de fourrures, arborant d'impressionnants bijoux; elle semblait belliqueuse et combative, armée de lances et de flèches<sup>I</sup> ». La reine était à la fois crainte et désirée.

Alors que les Européens aspiraient à conquérir davantage de territoire, cette première analogie a été remplacée par celle de la princesse indienne<sup>J</sup>. L'expansion colonialiste en Amérique du Nord ne pouvait avoir lieu que si la métaphore de la reine devenait plus accessible et moins puissante<sup>K</sup>. Les Européens ont donc commencé à représenter la femme autochtone sous la forme de la princesse indienne<sup>L</sup>; l'image de la « déesse-mère » qui la définissait a fait place à la figure d'une jeune femme sexualisée<sup>M</sup>. Le personnage de la princesse indienne ayant facilement trouvé sa place parmi les idéaux européens de la féminité, il collaborait avec les non-Autochtones à la colonisation des terres autochtones<sup>N</sup>. La femme autochtone se voulait alors une terre vierge soumise à la volonté des colons<sup>O</sup>.

Toutefois, lorsque les peuples autochtones en Amérique du Nord ont commencé à s'opposer à la colonisation, l'archétype de la féminité autochtone s'est à nouveau métamorphosé<sup>P</sup>. En effet, les Européens ont réduit cette dernière au stéréotype de la squaw pour légitimer leur mainmise foncière, adoptant le principe selon lequel seule une personne civilisée a le droit de posséder ou d'exploiter une terre<sup>Q</sup>. Littéralement, le terme « squaw » signifie souillée, immorale et indigne<sup>R</sup>; c'est l'antithèse de la femme victorienne traditionnelle<sup>S</sup>. Le fait de dépeindre ainsi la femme autochtone a subséquemment légitimé les nombreuses formes de violence à son égard<sup>T</sup>. Selon ce stéréotype, elle était, entre autres, une mère inapte<sup>U</sup>. Si la figure maternelle autochtone est présentée, selon les balises du modèle familial victorien, comme étant incapable d'élever sa progéniture, le gouvernement canadien peut donc justifier le retrait forcé de ses enfants par les services de protection de l'enfance<sup>V</sup>. En tant que « squaw », la femme autochtone paraît incapable de s'occuper des siens en raison de problèmes tels que la violence domestique et la pauvreté. Il s'agit de politiques de marginalisation ciblées, qui sont les produits de l'histoire coloniale canadienne et qui subsistent à l'heure actuelle.





La thèse de la « squaw facile » a aussi mené au catalogage de la sexualité féminine autochtone comme étant « indécente et impudique<sup>W</sup> » par les responsables gouvernementaux, les forces de l'ordre et les autres autorités coloniales. Ce stéréotype servait – et sert encore – à excuser la violence que les colons blancs de sexe masculin ont infligée aux femmes et aux filles autochtones<sup>X</sup>. Le mythe de la femme autochtone dite « facile » est né pour mettre hors de cause les activités sexuelles hors mariage des hommes blancs<sup>Y</sup>. En accolant l'étiquette de squaw à cette dernière, on pouvait lui faire porter le blâme pour les déviances sexuelles des colons blancs<sup>Z</sup>. Cependant, Janice Acoose, professeure de littérature anglaise et autochtone à l'Université des Premières Nations, soutient que peu importe la façon dont la femme autochtone est caractérisée, qu'on lui donne l'image de la princesse indienne ou de la squaw, elle demeure sexualisée et réputée accessible aux Européens de race blanche à des fins de consommation<sup>AA</sup>.

## Engendrer et taire la violence dans le cadre médiatique

Les stéréotypes historiques de la femme autochtone se manifestent dans les représentations que les médias contemporains véhiculent au sujet des femmes, des filles et des personnes 2ELGBTQQIA autochtones, qui continuent d'y être présentées sous les traits de la princesse indienne ou de la squaw. Ces représentations qu'en font les organes d'information sont bien différentes de celles qu'ils réservent aux femmes non-Autochtones, par leur contenu et leur cadre. Ici, le « contenu » fait référence à l'information que présente un article de presse, alors que le « cadrage de l'information », au sens large, consiste à privilégier certains éléments de l'information pour leur donner de l'importance<sup>BB</sup>. Le cadre médiatique qui en résulte est à la fois un outil d'analyse et un outil de persuasion, car sa nature heuristique permet de comprendre et de concevoir des notions et des problèmes complexes au moyen de raccourcis mentaux<sup>CC</sup>. Il peut façonner de manière explicite et implicite l'attitude et l'opinion du public grâce aux éléments qui le constituent et à la manière dont ceux-ci sont compris<sup>7</sup>.

La représentation que proposent les services d'information est partielle. En effet, c'est la notion de pouvoir qui est le principal déterminant de « l'intérêt

médiatique<sup>EE</sup> ». Le reflet des femmes, des filles et des personnes 2ELGBTQQIA autochtones que produisent les médias et celui de la violence dont elles sont victimes sont tributaires de ce qui est reconnu comme étant intéressant ou non d'un point de vue journalistique<sup>FF</sup>. C'est cet intérêt qui détermine « si la nouvelle est digne de mention<sup>GG</sup> ». Toutefois, il y a des disparités dans le traitement que les journalistes accordent aux femmes violentées<sup>HH</sup>. La presse, en déterminant quelles sont les victimes qui présentent un intérêt journalistique, départage souvent celles-ci selon une conception binaire, soit les « bonnes » et les « mauvaises<sup>II</sup> ». Cette généralisation dualiste s'apparente aux concepts de race et de classe qui ont cours dans la société<sup>JJ</sup>. Les femmes de race blanche, éduquées et bien nanties, sont les « bienveillantes » de ce monde, et elles méritent qu'on parle d'elles et qu'on les protège. Les femmes autochtones sont présentées comme « malveillantes » et indignes<sup>KK</sup>.

Par conséquent, la caractérisation binaire de la violence faite aux femmes par les médias a pour effet d'instaurer un cadre offrant davantage de compassion aux femmes de race blanche disparues et assassinées qu'à leurs homologues autochtones. Une étude de cas réalisée par la chercheuse Kristen Gilchrist au sujet de la représentation des femmes autochtones disparues et assassinées dans les médias – en comparaison à celle des femmes de race blanche disparues et assassinées – conclut que la presse accorde un traitement inégal aux victimes de violences sexuelles. Les six femmes de l'étude de cas avaient moins de 30 ans, travaillaient ou fréquentaient un établissement scolaire, entretenaient des liens étroits avec leurs amis et leur famille, et avaient disparu entre 2003 et 2005<sup>LL</sup>. Aucune d'entre elles ne se prostituait ou n'avait cherché à s'enfuir de sa famille<sup>MM</sup>. La presse a mis en évidence la personnalité, la vie familiale, les ambitions et les passe-temps des femmes non autochtones<sup>NN</sup>. En revanche, il n'y eut que peu de détails concernant la vie des femmes autochtones<sup>OO</sup>. Les articles consacrés à ces dernières étant sensiblement plus courts que ceux qui portaient sur les femmes non autochtones: ils ne s'intéressaient ni à qui étaient ces femmes autochtones, ni à la valeur que leur accordaient leurs familles et leurs communautés<sup>PP</sup>.





Le plus souvent, les organes de presse mettent l'accent sur le comportement délinquant des femmes et des filles autochtones. Les femmes autochtones sont surtout présentées comme des travailleuses du sexe et des criminelles. Une étude intitulée *Never Innocent Victims: Street Sex Workers in Canadian Print Media*, qui porte sur la représentation des travailleuses du sexe autochtones dans les médias entre 2006 et 2009, conclut que deux discours dominants se dégagent de la couverture médiatique<sup>QQ</sup>. Le premier discours que les services d'information perpétuent consiste à déplorer une situation de « vermine-victime<sup>RR</sup> ». On y dépeint les travailleuses du sexe autochtones comme étant sales et nuisibles à la société canadienne<sup>SS</sup>. La prostitution est alors décrite comme étant un fléau à éradiquer<sup>TT</sup>. Selon le second discours, les femmes autochtones sont responsables de la violence qui les afflige, car elles adoptent des modes de vie « à risque élevé ». Les médias définissent continuellement le travail du sexe comme un « mode de vie », laissant entendre que la personne l'a choisi, et ce, malgré le fait que de nombreuses femmes sont contraintes de s'y adonner faute de perspectives d'emploi. En posant la prostitution comme un choix personnel, les organes de presse donnent à penser que les femmes autochtones qui se livrent à cette activité et qui sont victimes de violence doivent en être tenues responsables. En d'autres mots, les travailleuses du sexe autochtones, en optant pour un mode de vie « à risque élevé », doivent en accepter les conséquences<sup>UU</sup>.

L'Enquête nationale a aussi été l'occasion de dénoncer ces portraits volontairement incriminants. Elora S. a déclaré à ce propos :

Je suis certaine que cela s'applique à un grand nombre de familles, mais la manière dont les journalistes dépeignent nos sœurs, nos tantes et nos filles n'est pas très flatteuse. [...] Le profil qu'ils dressent des victimes ne correspond pas au souvenir que nous voulons conserver. [...] La [photo] publiée dans tous les journaux provenait de la police, et ce n'est pas l'image que nous voulons garder d'elle<sup>VV</sup>.

Comme Jamie Lee Hamilton l'a indiqué : « Une personne ne peut être réduite à cela. Force est d'admettre qu'on la dépouille de son humanité en l'étiquetant de la sorte. Il n'y a pas lieu d'agir ainsi<sup>WW</sup>. »

Le fait de braquer constamment les projecteurs sur les femmes autochtones ayant un mode de vie « à risque élevé » normalise la violence à leur égard<sup>XX</sup>. Quand les médias insistent sur les activités criminelles des femmes autochtones, ils passent sous silence l'histoire coloniale du Canada, qui a pourtant une incidence et une influence directes sur les expériences et les perspectives d'avenir de certaines femmes, filles et personnes 2ELGBTQQIA autochtones<sup>YY</sup>. En présentant les choses de la sorte, la presse blâme les femmes et les filles autochtones pour la violence dont elles sont victimes et ne tient pas compte des inégalités sociales qui poussent certaines d'entre elles vers la prostitution ou la pauvreté<sup>ZZ</sup>.

Comme Jamie Lee Hamilton l'a souligné lors d'une table ronde tenue dans le cadre de l'Enquête nationale, la couverture médiatique des personnes 2ELGBTQQIA n'est pas toujours facile, et ce, pour diverses raisons.

Lorsqu'une personne trans ou bispirituelle est assassinée, les policiers dévoilent fréquemment aux journalistes l'identité de genre de la victime. Ils n'ont aucun droit d'agir de la sorte, puisque cela ouvre la voie à cette idée de « panique homosexuelle », ou « homosexual panic defense ». On défend l'auteur du crime en arguant qu'il a été pris de panique en raison de l'homosexualité de la victime, ce qui explique son geste. Or, dans les faits, ce sont des crimes haineux. Il y a bel et bien des personnes qui ciblent leur victime et passent à l'action<sup>AAA</sup>.

Comme Kim M. l'a exprimé en parlant du portrait que les médias ont dressé de sa sœur :

On doit informer et sensibiliser les journalistes quant à la manière de parler des filles et des femmes autochtones disparues et assassinées. Ces derniers doivent agir de manière respectueuse et honorable. [...] Les photos que les organes de presse ont diffusées n'étaient pas vraiment représentatives de ma sœur. J'ai alors contacté un certain nombre d'entre eux leur disant : « Nous vous envoyons nos propres clichés. Servez-vous-en. » C'est sans parler de la manière dont ils ont décrit ma sœur lorsque son meurtre a été annoncé pour la première fois : ils en ont parlé comme étant une travailleuse du sexe. Je les ai joints par téléphone pour leur demander : « Comment pouvez-vous faire cela?





Et pourquoi? » Les journalistes doivent valider l'information qu'ils publient tout en nous traitant avec honneur et respect<sup>BBB</sup>.

Comme le démontrent ces exemples, bon nombre d'organes de presse perpétuent l'idée que la violence envers les femmes autochtones résulte d'un choix personnel et non d'inégalités sociales et structurelles<sup>CCC</sup>. Ce faisant, la maltraitance à l'égard des femmes, des filles et des personnes 2ELGBTQQIA autochtones est « justifiée », car le cadre médiatique indique à la population canadienne que les agressions qu'elles subissent ne sont pas importantes<sup>DDD</sup>. La violence dont elles sont victimes est encore davantage occultée en raison de l'importance du cadre empathique que les services d'information réservent aux femmes de race blanche<sup>EEE</sup>.

## Un étrange silence

En plus du cadre et du contenu négatifs que les services d'information attribuent aux femmes, aux filles et aux personnes 2ELGBTQQIA en les présentant, la couverture médiatique qui leur est consacrée est constamment inférieure, de façon disproportionnée, à celle que l'on accorde aux non-Autochtones. Dans ce contexte, la couverture médiatique renvoie à la fréquence de représentation dans les médias, soit le nombre d'articles consacrés à un sujet, et à la façon dont ils sont positionnés.

Ainsi, sur les plans de la fréquence et du positionnement, on constate qu'il y a davantage d'articles de presse qui traitent de femmes non autochtones que de femmes autochtones et que ces articles apparaissent à des endroits qui leur confèrent plus de visibilité dans les journaux. En moyenne, les femmes de race blanche disparues ou assassinées bénéficient d'une couverture trois fois plus importante que les femmes autochtones<sup>FFF</sup>. L'étude de cas comparative mentionnée précédemment conclut que les articles portant sur des femmes de race blanche comptent en moyenne 1,4 fois plus de mots que ceux consacrés aux femmes autochtones, et que 37 % des articles relatifs aux femmes de race blanche font la première page des journaux, contre 25 % des articles traitant de femmes autochtones<sup>GGG</sup>. De plus, les articles portant sur ces dernières sont souvent accolés à des publicités et à de l'information

présentant peu d'intérêt<sup>HHH</sup>. En outre, des textes moins pertinents jouissent souvent d'un espace plus vaste que les articles adjacents traitant de femmes autochtones disparues ou assassinées<sup>III</sup>. Le positionnement discutable de ceux-ci signale au lecteur que les faits qui y sont relatés n'ont pas un caractère urgent et sont dépourvus d'importance sur le plan social<sup>JJJ</sup>. En étant placés en retrait dans les journaux, les articles de presse traitant des femmes autochtones disparues et assassinées indiquent au public que ces dernières ne présentent aucun intérêt journalistique.

Qui plus est, une étude menée en 2008 démontre que même les femmes autochtones qui n'ont pas un mode de vie « à risque élevé » obtiennent une couverture médiatique restreinte. En 2004, Daleen Kay Bosse, une mère crie de 25 ans étudiant à l'université et membre de la Première Nation d'Onion Lake, a été portée disparue à Saskatoon. En tout, seulement 51 articles faisant mention de sa disparition et de son décès ont paru sur une période de quatre ans dans le *Saskatoon StarPhoenix* et le *Regina Leader-Post*, deux quotidiens couvrant ces régions respectives<sup>KKK</sup>. Durant les deux premières semaines suivant la disparition de Daleen, une période critique, aucun organe de presse n'a couvert l'événement, et ce, en dépit du fait que le service de police avait été avisé de la situation par la famille de la victime dans les 24 premières heures<sup>LLL</sup>. La couverture médiatique s'est intensifiée une fois l'identité du meurtrier confirmée, mais l'attention s'est concentrée sur l'assassin plutôt que sur la jeune femme<sup>MMM</sup>. Ce manque d'intérêt de la part des médias a eu pour effet d'étouffer et de museler toute discussion à propos de sa disparition et de son meurtre. La quantité d'articles de presse et le moment de leur publication laissent entendre que la disparition de Daleen, tout comme son décès, sont anodins<sup>NNN</sup>.

Marilou S. a raconté l'incidence que le silence des médias a eue sur l'une de ses amies, offrant un contraste avec le cas d'une victime non autochtone.

Nous avons rencontré une famille dont la petite fille a été découpée en morceaux, puis jetée dans une rivière du Manitoba. L'événement est survenu en même temps que le meurtre d'une fillette de race blanche à Toronto, qui a été démembrée et entassée dans une valise trouvée à Centre Island. Le meurtre de la fillette manitobaine n'a obtenu aucune couverture.





Alors, pourquoi celui de la fillette de race blanche, pour sa part, a-t-il résonné partout dans le monde<sup>OOO</sup>?

Dans le même esprit, Rachelle W., dont le témoignage portait sur l'insuffisance de couverture médiatique entourant le meurtre de sa cousine, a affirmé :

C'était comme si on n'avait aucun soutien. Juste réussir à parler aux médias, ne serait-ce que la chaîne de télévision communautaire, *Interior News*, ou la station de radio locale, a été excessivement difficile. On a dû les harceler pour pouvoir leur dire : « Ça suffit. Écoutez ce qu'on a à dire; une de nos proches manque à l'appel. » C'est comme si tout ce qu'on faisait pour retrouver Ramona ne menait à rien<sup>PPP</sup>.

Cette couverture se caractérise aussi par le fait que les articles concernant des femmes et des filles autochtones disparues et assassinées avant 1980 sont presque inexistantes. Selon les propos de Tanya Talaga, auteure et journaliste anishinaabe, les dossiers de disparition qui remontent « aux années 1950, 1960 et 1970 [...] ont été balayés sous le tapis. [...] Un grand nombre de femmes sont disparues; pourtant, nous avons peu ou pas de renseignements à propos de ces cas [...] il importe de ne pas laisser ces femmes sombrer dans l'oubli<sup>QQQ</sup>. » L'insuffisance d'information à propos des femmes et des filles autochtones assassinées et disparues avant 1980 empêche de bien cerner la gravité de la violence à leur égard et le rôle que les médias ont joué pour alimenter et taire cette violence. Dans le but de pallier certaines de ces lacunes, Tanya Talaga et une équipe de journalistes du *Toronto Star* ont créé la série « Gone ». L'objectif est d'étudier les disparitions et les décès de femmes et de filles autochtones afin de relater leur histoire de manière plus juste et plus précise, et aussi de constituer une banque de données.

Lorsqu'on a demandé à Trudy S. si les médias avaient prêté attention à l'histoire de sa sœur, elle a répondu : « Non. Il n'y a rien eu. C'était comme si ma sœur était invisible, que tout le monde s'en balançait, que j'étais la seule à me soucier d'elle. Je suis la seule personne à demander à ce que justice soit faite au nom de Pauline<sup>RRR</sup>. »

## Cinéma, sports et culture populaire

La représentation des femmes et des filles autochtones est aussi dénaturée dans la culture populaire. Sur le plan cinématographique, elles sont déshumanisées et hypersexualisées, et leur rôle est purement passif. On retrouve encore aujourd'hui des images érotiques assimilant la femme autochtone au stéréotype historique de la princesse indienne. Cet archétype, par exemple, est manifeste dans les représentations occidentales de Pocahontas<sup>SSS</sup>. Dans l'analyse qu'il a faite du film *Pocahontas* de Disney, Jesse Wenthe, qui est Anishinaabe et directeur du Bureau des productions audiovisuelles autochtones, a mis en lumière la sursexualisation de ce personnage. Il a souligné que la production de Disney véhicule « une maturation conceptualisée voulant que les femmes autochtones soient, en quelque sorte, mûres ou actives sexuellement à un âge très précoce comparativement au reste de la population<sup>TTT</sup> ». Il rappelle que « le film donne naissance au mythe entourant l'origine de Pocahontas, dont le nom même a été fabriqué de toutes pièces, et voulant qu'elle eût été une enfant lorsqu'elle fit la connaissance de John Smith<sup>UUU</sup> ». Il affirme : « *Pocahontas*, de Disney, est probablement le film de divertissement portant sur les peuples autochtones le plus regardé. La protagoniste est très légèrement vêtue pendant presque toute l'histoire. Et ce clivage, à mon avis, est apparent dans l'ensemble des médias, mais il se manifeste encore plus au moment de représenter la femme autochtone<sup>VVV</sup>. »

Le film *The Searchers*, que l'on doit à John Ford et qui remonte à 1956, dépeint cette dernière de façon un peu plus nuancée, mais l'image qu'il projette d'elle n'en est pas moins déshumanisante. Tout au long du film, des plaisanteries sont faites sur l'apparence des femmes autochtones, et on s'échange ces dernières comme de la marchandise<sup>WWW</sup>. Par ailleurs, *Wind River*, une production de 2017 traitant spécifiquement des femmes autochtones disparues et assassinées, leur attribue un caractère passif<sup>XXX</sup>. Elles y sont présentées uniquement comme des victimes de viol; elles n'interviennent d'aucune autre manière dans le





film<sup>YYY</sup>. Parallèlement, celles qui sont dépeintes dans *The Revenant*, produit en 2015 et oscarisé, sont réduites à des victimes d'agression sexuelle et à des objets sexuels<sup>ZZZ</sup>. Leur viol ne sert qu'à situer l'intrigue au lieu d'être mis au premier plan du récit<sup>AAA</sup>.

Les mascottes d'équipes sportives sont d'autres exemples courants de représentations déformées des peuples autochtones. Jesse Wenté a affirmé dans le cadre de l'Enquête que le recours à des mascottes censées incarner la figure autochtone ne fait que perpétuer le racisme.

Les Autochtones sont les seuls êtres humains à faire office de mascottes et à servir de porte-noms à des équipes sportives; aucun autre peuple n'a droit à un traitement de la sorte. Ce sont surtout des noms d'animaux qui sont retenus. Il importe de rappeler que la plupart des effets négatifs qu'entraîne la majorité de ces fausses représentations dans les médias, tout comme les motivations douteuses à leur origine, sont de déshumaniser les peuples autochtones. Dans cette optique, il apparaît soudainement acceptable, aux yeux de la population en général, qu'on utilise ces derniers pour nommer des mascottes. En fait, ces équipes racontent des histoires pour expliquer comment elles en sont venues à cela, et elles les croient. Habituellement, elles motivent leur choix en affirmant que c'est pour rendre honneur aux peuples autochtones qu'elles ont opté pour de telles désignations. Cependant, lorsqu'on tient compte de ce que les peuples autochtones subissaient au moment où ces noms ont été choisis, on perçoit, je crois, une fracture majeure, que les médias ont accentuée à l'époque et continuent d'accentuer à l'heure où on se parle<sup>BBB</sup>.

## Un nouveau far-west : les médias sociaux et la représentation

Même si les médias sociaux peuvent favoriser les représentations racistes et sexistes des femmes, des filles et des personnes 2ELGBTQQIA autochtones, ils peuvent aussi servir de tribune pour que les peuples autochtones fassent entendre leur voix<sup>CCC</sup>. Contrairement aux canaux informatifs traditionnels, tout peut être publié sur les réseaux sociaux, le message pouvant circuler librement plutôt que d'être contrôlé par les moyens de communication traditionnels<sup>DDD</sup>. À certains égards, les médias sociaux peuvent permettre de réduire l'omniprésence des stéréotypes sexistes et racistes qui affligent les femmes, les filles et les personnes 2ELGBTQQIA en permettant aux peuples autochtones de faire connaître leur version des faits. Par exemple, le mot-clic #MMIW (sigle anglais) propre à Twitter a été utilisé par de nombreux groupes autochtones pour attirer l'attention des médias sur les récits des femmes autochtones et sur l'Enquête nationale plutôt que sur une vision sexiste et raciste des femmes disparues et assassinées<sup>EEE</sup>.

Les ouvrages universitaires sont particulièrement muets quant à la manière dont les personnes 2ELGBTQQIA sont représentées ou largement sous-représentées dans les médias. Fallon Andy, artiste anishinaabe de genre non conforme qui se désigne en anglais au moyen de pronoms épiciens comme « they/them » et qui donne des conseils en matière de justice des arts médiatiques au Native Youth Sexual Health Network (réseau de santé sexuelle des jeunes autochtones), a abordé dans le cadre de l'Enquête la question de l'usage qui est fait des mêmes et des fichiers GIF pour sensibiliser les gens à la violence faite aux personnes 2ELGBTQQIA. « L'hétérosexualité est en quelque sorte la catégorie sexuelle dominante, et elle est très normalisée et mise en évidence partout dans les médias<sup>FFF</sup> », explique Fallon Andy tout en insistant sur l'importance d'avoir des mêmes adaptés à la culture des personnes 2ELGBTQQIA autochtones.





Concernant ces mèmes, Andy précise : « Nous les transmettons souvent à de multiples destinataires et communautés, et les gens me demandent de leur envoyer les fichiers PDF pour qu'ils puissent les imprimer et les afficher au mur. [...] C'est plus conforme à la culture<sup>GGG</sup>. »

## La violence découlant de la représentation, de la représentation erronée et de la sous-représentation dans les médias

Tout comme les conceptions historiques de la femme autochtone légitimaient la violence au début de la colonisation, la représentation erronée et la sous-représentation médiatiques contemporaines des femmes, des filles et des personnes 2ELGBTQQIA autochtones alimentent et excusent l'ampleur disproportionnée et alarmante des actes de violence dont elles font l'objet. La couverture limitée qui leur est réservée envoie le message que, bien que victimes, elles ne présentent pas un intérêt journalistique; la violence qu'elles subissent est accessoire. En laissant entendre que les femmes autochtones s'investissent dans des activités qui augmentent leur risque d'être victimes d'un crime violent, le cadre médiatique leur attribue la responsabilité et la faute de ce qu'elles subissent plutôt que de susciter la sympathie et de favoriser la défense de leurs droits auprès de la population canadienne<sup>HHH</sup>.

La couverture insuffisante et les représentations erronées permettent également de justifier le laxisme du gouvernement canadien de même que les enquêtes policières bâclées. Robyn Bourgeois, professeure crie à l'Université Brock, a affirmé ce qui suit dans le cadre de l'Enquête nationale :

L'hypersexualisation des femmes et des filles autochtones, tout comme l'idée voulant que nous soyons par nature sexuellement disponibles, [...] font que la violence qui meurtrit notre corps ne compte pas. Pour reprendre des expressions très vulgaires qu'on retrouve dans la

culture populaire et des phrases qu'on a déjà dites en ma présence, « on a ce qu'on mérite », « on a couru après »; comme si, comment dire, le simple fait d'exister nous soumettait à cette fatalité. Cela a donc pour effet d'excuser cette forme de violence. On en revient à cette croyance inhérente au système colonial, soit l'assise même de notre État-nation canadien actuel, voulant que les femmes et les filles autochtones soient inférieures, déviantes, dysfonctionnelles, qu'elles doivent être éliminées de cet État-nation; ce faisant, il devient acceptable d'abuser d'elles et de les violenter<sup>III</sup>.

La sous-représentation et la représentation erronée des femmes, des filles et des personnes 2ELGBTQQIA autochtones permettent au gouvernement canadien, tout comme au public, de demeurer apathiques quant à la tragédie en cours.

En conséquence, l'attitude de la population de notre pays à l'égard des femmes autochtones accroît la vulnérabilité de ces dernières à la violence exercée par les non-Autochtones. Publié en 2004, le rapport d'Amnistie internationale intitulé *On a volé la vie de nos sœurs : discrimination et violence contre les femmes autochtones* démontre que la violence perpétrée par les Canadiens non autochtones à l'endroit des filles et des femmes autochtones est motivée par le sexisme et le racisme. L'ouvrage constate aussi que la violence attribuable aux hommes non autochtones qui est commise à l'endroit des femmes autochtones s'explique en partie par l'indifférence de la population canadienne envers la mort et la disparition de ces dernières. Les conclusions du rapport font réfléchir si on considère la façon dont les services d'information alimentent l'opinion publique canadienne à propos des femmes et des filles autochtones disparues et assassinées.

Une étude réalisée en 2018 sur la réponse des femmes inuites à l'égard de divers médias occidentaux appuie les constatations formulées dans *On a volé la vie de nos sœurs*. Intitulée *We don't kiss like that: Inuit women respond to music video representations*, l'étude note que les Inuites estiment que l'image des femmes autochtones reflétée dans la presse légitime la violence physique dont elles font l'objet<sup>JJJ</sup>. Celles qui ont pris part à l'étude sont d'avis que les représentations des femmes assassinées et





disparues en tant que victimes de violence mettent de l'avant leur indignité plutôt que les facteurs structurels et socioéconomiques à l'origine de cette violence<sup>KKKK</sup>. L'une des participantes a déclaré que les organes de presse dépeignent les femmes autochtones comme « illettrées [...] et stupides, donc faciles à violer et à agresser sexuellement<sup>LLLL</sup>. »

La manière dont les médias représentent les femmes et les filles autochtones appelle au maintien de la violence coloniale qui accable ces dernières. À l'évidence, ces stéréotypes, tout comme l'insuffisance de couverture médiatique des crimes commis à l'endroit des femmes, des filles et des personnes 2ELGBTQQIA autochtones, laissent croire à certains agresseurs que leurs pulsions sont moins « à risque » d'être punies. Outre le fait que les médias légitiment la violence commise par des assaillants non autochtones, les hommes autochtones, de l'avis de certains témoins, ont intégré les stéréotypes qui y sont véhiculés; ils considèrent que personne ne se soucie des victimes ou croient que leurs gestes ne les exposent à aucune forme de réprimande ni de condamnation.

Sans représentation adéquate des peuples autochtones dans la presse, le reflet trompeur de ces derniers devient la « vérité » reconnue<sup>MMMM</sup>. Le portrait des femmes, des filles et des personnes 2ELGBTQQIA autochtones que dressent les journalistes influence la vision qu'ont les peuples autochtones d'eux-mêmes et de leurs cultures. Comme l'explique la chercheuse Janice Acoose : « Les stéréotypes que sont la princesse indienne, la squaw ménagère, la victime souffrante et impuissante, l'aguicheuse à la peau foncée ou la femme de mœurs légères travestissent les faits et communiquent de manière subliminale que ces images représentent réellement les [peuples autochtones]<sup>NNNN</sup>. »

Sandra L. a déclaré : « Avant, je détestais mon peuple, je me demandais pourquoi nous étions cette bande de nuls, mais j'étais loin de savoir [...] Je croyais que la description que l'on me fournissait des miens ne pouvait être autre chose que la vérité. Ce n'est pas le cas, n'est-ce pas<sup>OOOO</sup>? »

## Aller de l'avant : raconter nos expériences

La vérité au sujet des femmes et des filles autochtones disparues et assassinées doit être présentée par les médias. Les femmes, les filles et les personnes 2ELGBTQQIA ont toutes un esprit : ce sont des mères, des filles, des sœurs, des tantes, des épouses et des membres respectées de la communauté. Elles sont importantes, et ce qui leur est arrivé l'est tout autant. Il y a beaucoup de travail à faire pour les représenter de façon honnête, mais les services d'information peuvent d'ores et déjà mettre en œuvre plusieurs mesures à cette fin et, au bout du compte, contribuer au changement. Comme l'a déclaré Sandra L. lors de son témoignage dans le cadre de l'Enquête nationale : « Si la vérité libère, le chemin qui mène à elle peut être une véritable descente aux enfers<sup>PPPP</sup>. »

Les ouvrages universitaires et les témoignages préconisent notamment que la représentation juste et honnête des femmes, des filles et des personnes 2ELGBTQQIA autochtones dans la presse passe par la capacité de leurs peuples à raconter eux-mêmes leurs récits. Ce sont les spécialistes de leur propre existence, et leur savoir doit trouver écho dans les organes d'information. Connie Greyeyes, membre de la Première Nation des Cris de Bigstone et défenseure des femmes et des filles autochtones disparues et assassinées, a souligné lors de l'Enquête nationale l'importance pour les familles de ces dernières de pouvoir raconter leur histoire comme elles l'entendent.

Un stéréotype est bien souvent accolé au récit de la disparition ou du meurtre d'une femme et lorsque sa famille a la possibilité de présenter sa version, il est d'une importance capitale pour elle de relayer la vérité à propos de la victime, car la manière dont la presse nous décrit est souvent erronée. Après tout, nous sommes des mères, des grands-mères, des tantes et des sœurs. Les cérémonies sont essentielles à nos yeux. Vous savez, on a parlé de bon nombre de mes amies intimes dans les médias au fil des ans et j'ai été dégoûtée de voir comment on les a décrites<sup>QQQQ</sup>.





Elora S., dont le témoignage portait sur l'une de ses proches, a supplié les journalistes de consulter les familles.

Avant de publier quoi que ce soit, même si vous accordez la priorité aux cotes d'écoute ou à je ne sais quoi, parlez avec la famille. Nous sommes là pour vous aider, autant que nous sommes. Nous voulons véhiculer une image positive; pas seulement ce que vous décidez de diffuser et de publier. Et, je sais de quoi je parle. Démontrez donc un peu plus de... compassion. C'est possible? Parce que le portrait cru qu'on a présenté de ma tante était tout simplement horrible. Et c'est tout ce que le public a su à son sujet. Je ne veux même pas... je ne vais même pas relater ce qui a été écrit sur le sujet, ce qui a été dit, mais je peux affirmer que c'était déshumanisant<sup>†RRRR</sup>.

Dans certains cas, il importe également de comprendre et de respecter les traditions culturelles et les processus de deuil. Comme l'a souligné Micah A., la presse a interprété le silence de sa famille comme une manifestation de soutien à l'agresseur.

Ma famille a jugé qu'il était préférable pour elle de ne pas parler en mon nom à titre de mère de l'enfant, et elle ne voulait pas avoir à répondre aux questions des journalistes. Au départ, je ne souhaitais pas commenter l'affaire, mais la question suivante m'a été adressée : « Est-ce que les membres de [la famille de A.] cautionnent le meurtre, alors? Votre mutisme semble indiquer que c'est le cas. » C'est l'une des questions qui m'ont été posées.

Lors de son témoignage, elle a indiqué s'être sentie contrainte de consentir à une entrevue. Lorsqu'elle a accepté, elle a fait valoir que les organes d'information doivent respecter la culture inuite, « selon laquelle on accorde à la personne endeuillée trois jours de répit avant de la solliciter pour prendre part à une discussion ou pour répondre à des questions<sup>SSSS</sup> ».

Fallon Andy a fait remarquer que les médias sociaux représentent pour les peuples autochtones l'un des moyens de raconter leur histoire, car ils sont alors en mesure d'exprimer une vision plus juste de leur réalité<sup>TTTT</sup>. Il ne faut pas sous-estimer la capacité qu'ont ces réseaux à transformer les paysages politique et social.

Le fait que les organes d'information canadiens soient dominés par des colons blancs explique en partie pourquoi la violence à l'égard des femmes, des filles et des personnes 2ELGBTQQIA autochtones est sous-représentée ou représentée de façon erronée dans les médias<sup>UUUU</sup>. Jesse Wenté explique que « la majorité des récits et des histoires rapportés à l'écran et dans la presse concernant les Autochtones sont habituellement produits par de non-Autochtones<sup>VVVV</sup> ». La sous-représentation autochtone au sein des services d'information du Canada pose problème, puisque ce sont eux qui diffusent auprès des Canadiens la plus grande partie de l'information sur lesquels ces derniers se fonderont pour se forger une opinion au sujet des peuples autochtones et des enjeux qui les touchent<sup>WWWW</sup>. Lorsque ceux-ci ont une connaissance modeste des communautés autochtones, qu'ils sont peu en contact avec leurs membres et que les interactions personnelles avec ces derniers sont limitées, la presse joue un rôle déterminant dans le façonnement des perceptions à l'égard de ces peuples<sup>XXXX</sup>. Dorénavant, les médias devraient faire appel aux peuples autochtones lors de la création des récits et du processus de narration, notamment aux équipes de production, aux acteurs, aux rédacteurs et écrivains, aux journalistes et aux réalisateurs autochtones.

C'est parfois ce qui se passe. À titre d'exemple, Jeffrey McNeil-Seymour, professeur adjoint bispirituel à l'Université Ryerson et membre de la Première Nation Tk'emlúps te Secwepemc, a produit une pièce d'art vidéo dans laquelle on peut voir des personnes 2ELGBTQQIA à l'occasion d'une cérémonie. Lors de son témoignage, il a décrit son travail ainsi : « Un outil de documentation visuelle d'une cérémonie à l'intention des personnes bispirituelles de ma Nation Secwepemcul'ecw dont elles pourront s'inspirer et qui leur permettra, je l'espère, d'éprouver un sentiment d'appartenance et un attachement envers tout cela, car ces émotions ne nous habitent pas tous aussi intensément lorsque nous grandissons<sup>YYYY</sup>. »

De plus, le travail acharné des militants a permis de modifier en partie la manière dont les femmes, les filles et les personnes 2ELGBTQQIA autochtones au Manitoba sont présentées dans les médias. À titre de députée à l'Assemblée législative de cette province, Nahanni Fontaine a précisé que la persévérance des familles de Winnipeg a finalement convaincu les





représentants du Service de police de Winnipeg (SPW) et de la Gendarmerie royale du Canada (GRC) de cesser de recourir à des photos d'identité prises par les services de police, les fameuses « mug shots », pour représenter les femmes et les filles autochtones assassinées et disparues à Winnipeg. Elle donne ces précisions lors d'une entrevue :

À Winnipeg, un groupe formé principalement de femmes autochtones issues de différents organismes a fait pression et lutté pour que le SPW et la GRC cessent d'utiliser de telles photos, car leur diffusion, intrinsèquement, n'incite nullement le public à manifester de l'empathie à leur égard. C'est une bonne chose, puisque nous avons notre propre code, disons, pour savoir si cette personne est une criminelle et si ce qu'on dit d'elle est vrai. Nous avons tout mis en œuvre pour parvenir à ce résultat. Le SPW et la GRC ont désormais mis fin à cette pratique<sup>zzzz</sup>.

L'appel à l'action 84 de la Commission de vérité et réconciliation du Canada (CVR), sous la rubrique « Les médias et la réconciliation », suggère une autre manière d'assurer la juste représentation dans les médias des femmes, des filles et des personnes 2ELGBTQQIA autochtones. La CVR indique :

Nous demandons au gouvernement fédéral de rétablir puis d'augmenter le financement accordé à Radio-Canada/CBC afin de permettre au diffuseur public national du Canada d'appuyer la réconciliation et de refléter adéquatement la diversité des cultures, des langues et des points de vue des peuples autochtones; plus particulièrement, nous demandons ce qui suit : (iii) continuer d'offrir au public des bulletins de nouvelles et des ressources d'information en ligne qui sont consacrés aux questions d'intérêt pour les peuples autochtones et tous les Canadiens, y compris en ce qui touche l'histoire et les séquelles des pensionnats ainsi que le processus de réconciliation.<sup>AAAAA</sup>

Une multitude de témoins entendus dans le cadre de l'Enquête nationale ont fait état de l'importance d'augmenter le financement de contenu médiatique autochtone. On pourrait ainsi favoriser la

participation des Autochtones à la création et au contenu médiatiques, ce qui se traduirait par des représentations plus fidèles des femmes, des filles et des personnes 2ELGBTQQIA autochtones.

## Conclusion

La réflexion approfondie que nous concluons a permis de comprendre comment les images de la femme autochtone du début de la colonisation se manifestent dans la représentation inexacte et la sous-représentation des femmes, des filles et des personnes 2ELGBTQQIA autochtones d'aujourd'hui. À l'heure actuelle, la manière dont la presse dépeint ces dernières, tant par sa couverture que par son contenu, peut servir à légitimer la violence et contribuer à faire d'elles des cibles en étouffant leurs expériences.

Comme Jesse Wentz l'a souligné, les services d'information peuvent et devraient jouer un rôle décisif dans l'amélioration des perspectives plutôt que de contribuer à les assombrir. Réagissant au fait que certaines familles aient eu peur de témoigner, craignant d'être présentées de façon peu élogieuse par les médias, il a déclaré : « C'est un véritable fléau et c'est un constat honteux, car cela va à l'encontre même du journalisme<sup>BBBBB</sup>. » Tanya Talaga a fait remarquer que, dans certains cas, ces mauvaises expériences brouillent la perception des peuples autochtones, qui concluent que les médias servent tous le même maître.

C'est très difficile, car si une famille a une mauvaise expérience avec un journaliste, inévitablement quelqu'un en entendra parler. Et peu à peu, l'histoire prend de l'ampleur, alors que les journalistes ne sont pas tous malveillants ou insensibles; certains sont déterminés à faire preuve de délicatesse. C'est problématique parce que, quand un tel événement survient, on met tout le monde dans le même panier, ce qui est plutôt injuste<sup>CCCCC</sup>.

Les témoins entendus ont rappelé, dans bien des cas, les différends qui les opposent aux médias, mais ils ont aussi proposé des pistes de solution mettant en lumière le rôle prépondérant que jouent les organes





de presse dans la formation de l'opinion publique canadienne. Même si les services d'information ont, jusqu'à maintenant, contribué au détachement du public à l'égard de la tragédie qui frappe les femmes et les filles autochtones disparues et assassinées en plus de légitimer l'intervention inadéquate du gouvernement canadien, ils peuvent renverser la tendance et jeter des bases complètement différentes. Donner aux peuples autochtones les moyens de raconter leurs histoires à leur guise fait partie de cette solution, qui assurerait une représentation équitable et véridique des femmes, des filles et des personnes 2ELGBTQQIA autochtones.



*Jesse Wenté a livré un témoignage à propos des médias et de la représentation lors de l'audience sur le racisme de l'Enquête nationale tenue à Toronto, en Ontario.*

---

## Conclusions :

- Les médias ne dépeignent pas correctement les femmes et les filles inuites, métisses et des Premières Nations, ni les personnes 2ELGBTQQIA en particulier. Par conséquent, ils entretiennent des stéréotypes négatifs à leur sujet. Ces stéréotypes perpétuent le racisme, le sexisme, l'homophobie, la transphobie et la misogynie à l'égard des femmes, des filles et des personnes 2ELGBTQQIA autochtones dans la population canadienne en général.
- L'image créée par les médias a déshumanisé les peuples autochtones, ce qui perpétue l'idée que les femmes, les filles et les personnes 2ELGBTQQIA autochtones sont de moindre valeur que les non-Autochtones; qu'elles ne méritent pas des droits et des protections équivalents à ceux dont bénéficient les non-Autochtones; et qu'elles sont des fardeaux pour la société canadienne.





A	Tanya Talaga (Anishinaabe/Polonaise), <i>Partie 3, Volume public 10, Toronto, Ont.</i> , p. 171.	HH	Gilchrist, « <i>Newsworthy Victims</i> , » 3; Jiwani et Young, « <i>Missing and Murdered Women</i> , » 901.
B	Joanne A. (Première Nation English River, Traité 10), <i>Partie 1, Volume public 24, Edmonton, Alb.</i> , pp. 78-79.	II	Gilchrist, « <i>Newsworthy Victims</i> , » 3; Gilchrist, « <i>Multiple Disadvantages</i> . »
C	Delores S. (Saulteaux, Première Nation Yellow Quill), <i>Partie 1, Volume public 26, Saskatoon, Sask.</i> , pp. 25-26.	JJ	Ibid.
D	Jiwani, « <i>Symbolic and Discursive Violence</i> , » 3.	KK	Acoose, <i>Neither Indian Princesses nor Easy Squaws</i> , 43; Gilchrist, « <i>Newsworthy Victims</i> , » 3; Gilchrist, « <i>Multiple Disadvantages</i> . »
E	Anderson, <i>A Recognition of Being</i> , 101.	LL	Gilchrist, « <i>Newsworthy Victims</i> , » 11.
F	Jiwani, « <i>Symbolic and Discursive Violence</i> , » 3.	MM	Ibid.
G	Anderson, <i>A Recognition of Being</i> , 101; Green, « <i>The Pocahontas Perplex</i> , » 702.	NN	Ibid.
H	Green, « <i>The Pocahontas Perplex</i> , » 703.	OO	Ibid.
I	Ibid., 702.	PP	Ibid.
J	Anderson, <i>A Recognition of Being</i> , 101; Green, « <i>The Pocahontas Perplex</i> , » 702.	QQ	Strega et al., « <i>Never Innocent Victims</i> , » 12.
K	Anderson, <i>A Recognition of Being</i> , 101.	RR	Ibid.; Longstaffe, « <i>Indigenous Women as Newspaper Representations</i> , » 239.
L	Anderson, <i>A Recognition of Being</i> ; Carter, <i>Capturing Women</i> , 161; Green, « <i>The Pocahontas Perplex</i> , » 702.	SS	Ibid.
M	Anderson, <i>A Recognition of Being</i> , 101.	TT	Strega et al., « <i>Never Innocent Victims</i> , » 13.
N	Burnett, « <i>Aboriginal and White Women</i> , » 105; Dean, « <i>Moving Beyond 'Stock Narratives.'</i> »	UU	Ibid.
O	Anderson, <i>A Recognition of Being</i> , 101.	VV	Elora S., <i>Partie 1, Volume public 10, Winnipeg, Man.</i> , p. 155.
P	Ibid., 103.	WW	Jamie Lee Hamilton (Autochtone/Irlandaise), <i>Partie 1, Volume public 104, Vancouver, C.-B.</i> , p. 54.
Q	Ibid., 103.	XX	Strega et al., « <i>Never Innocent Victims</i> , » 21.
R	Burnett, « <i>Aboriginal and White Women</i> , » 105.	YY	García-Del Moral, « <i>Representations as a Technology of Violence</i> , » 46; Strega et al., « <i>Never Innocent Victims</i> , » 20.
S	Anderson, <i>A Recognition of Being</i> , 103; Bourgeois, « <i>A Perpetual State of Violence</i> »; Burnett, « <i>Aboriginal and White Women</i> , » 105; Carter, <i>Capturing Women</i> , 161; Razack, « <i>Gendered Racial Violence</i> , » 99-100.	ZZ	García-Del Moral, « <i>Representations as a Technology of Violence</i> , » 46; Gilchrist, « <i>Newsworthy Victims</i> . »
T	Bourgeois, « <i>A Perpetual State of Violence</i> , » 260; de Finney, « <i>Playing Indian</i> , » 172; Razack, « <i>Gendered Racial Violence</i> , » 99.	AAA	Jamie Lee Hamilton (Autochtone/Irlandaise), <i>Partie 1, Volume public 104, Vancouver, C.-B.</i> , p. 53.
U	Anderson, <i>A Recognition of Being</i> , 103.	BBB	Kim M., <i>Partie 1, Volume public 10, Winnipeg, Man.</i> , pp. 173-174.
V	Ibid.	CCC	García-Del Moral, « <i>Representations as a Technology of Violence</i> , » 46.
W	Ibid., 104.	DDD	Gilchrist, « <i>Newsworthy Victims</i> , » 14.
X	Ibid.; Razack, « <i>Gendered Racial Violence</i> , » 105.	EEE	Ibid.
Y	Anderson, <i>A Recognition of Being</i> , 104.	FFF	Ibid., 7.
Z	Ibid.; Pierce, « <i>Christian Stereotypes and Violence</i> , » 9.	GGG	Ibid.
AA	Acoose, <i>Neither Indian Princesses nor Easy Squaws</i> , 45.	HHH	Gilchrist, « <i>Newsworthy Victims</i> , » 9.
BB	Entman, « <i>Framing</i> , » 51.	III	Ibid.
CC	Hallahan, « <i>Seven Models of Framing</i> , » 207.	JJJ	Ibid., 10.
DD	Ibid.	KKK	McKenzie, « <i>She was not into drugs and partying</i> , » 148.
EE	García-Del Moral, « <i>Representations as a Technology of Violence</i> , » 35.	LLL	Ibid.
FF	Gilchrist, « <i>Newsworthy Victims</i> , » 2; Gilchrist, « <i>Invisible Victims</i> »; Jiwani, <i>Discourses of Denial</i> , 38.	MMM	Ibid.
GG	Gilchrist, « <i>Newsworthy Victims</i> , » 3; Gilchrist, « <i>Invisible Victims</i> »; Gilchrist, « <i>Multiple Disadvantages</i> . »	NNN	Ibid., 148-49.
		OOO	Marilou S. (Clan de l'ours, Anishinaabe), <i>Partie 1, Statement Volume 563, London, Ont.</i> , p. 18.
		PPP	Rachelle W. (Clan du loup, Gitxsan Nation), <i>Partie 1, Volume public 7, Smithers, C.-B.</i> , p. 77.





QQQ	Tanya Talaga (Anishinaabe/Polonaise), Partie 3, Volume public 10, Toronto, Ont., pp. 85-86.	JJJJ	Glennie, « We don't kiss like that, » 109.
RRR	Trudy S. (Mowachaht/Première Nation Muchalaht), Partie 1, Volume public 95, Vancouver, C.-B., p. 11.	KKKK	Ibid., 110.
SSS	Green, « The Pocahontas Perplex, » 704.	LLLL	Ibid.
TTT	Jesse Wente (Anishinaabe, Première Nation Serpent River), Partie 3, Volume public 10, Toronto, Ont., p. 17.	MMMM	Jesse Wente (Anishinaabe, Première Nation Serpent River), Partie 3, Volume public 10, Toronto, ON p. 21.
UUU	Jesse Wente (Anishinaabe, Première Nation Serpent River), Partie 3, Volume public 10, Toronto, Ont., pp. 16-17.	NNNN	Acoose, <i>Neither Indian Princesses nor Easy Squaws</i> , 44.
VVV	Jesse Wente (Anishinaabe, Première Nation Serpent River), Partie 3, Volume public 10, Toronto, Ont., pp. 16, 17.	OOOO	Sandra L. (Crie/Dakota), Partie 1, Volume public 41, Yellowknife, T.N.-O., p. 187.
WWW	Jesse Wente (Anishinaabe, Première Nation Serpent River), Partie 3, Volume public 10, Toronto, Ont., p. 26.	PPPP	Sandra L. (Crie/Dakota), Partie 1, Volume public 41, Yellowknife, T.N.-O., p. 187.
XXX	Jesse Wente (Anishinaabe, Première Nation Serpent River), Partie 3, Volume public 10, Toronto, Ont., p. 17.	QQQQ	Connie Greyeyes (Première Nation Crie Bigstone), Parties II et III mixtes, Volume public 6, Québec, Qc., pp. 29-30.
YYY	Jesse Wente (Anishinaabe, Première Nation Serpent River), Partie 3, Volume public 10, Toronto, Ont., p. 17.	RRRR	Elora S., Partie 1, Volume public 10, Winnipeg, Man., p. 156.
ZZZ	Jesse Wente (Anishinaabe, Première Nation Serpent River), Partie 3, Volume public 10, Toronto, Ont., p. 17.	SSSS	Micah A. (Inuite, Talurjuaq), Partie 1, Volume public 46(b), Rankin Inlet, Nun., p. 13.
AAAA	Jesse Wente (Anishinaabe, Première Nation Serpent River), Partie 3, Volume public 10, Toronto, Ont., p. 17.	TTTT	Moeke-Pickering et al., « Understanding the Ways, » 55; Fallon Andy (Anishinaabe, Première Nation Couchiching), Partie 3, Volume public 8, Toronto Ont., p. 131.
BBBB	Jesse Wente (Anishinaabe, Première Nation Serpent River), Partie 3, Volume public 10, Toronto, Ont., pp. 15-16.	UUUU	McKenzie, « She Was Not into Drugs and Partying, » 144.
CCCC	Moeke-Pickering et al., « Understanding the Ways, » 55.	VVVV	Jesse Wente (Anishinaabe, Première Nation Serpent River), Partie 3, Volume public 10, Toronto, Ont., p. 20.
DDDD	Ibid., 58.	WWWW	Harding, « Historical Representations of Aboriginal People, » 224.
EEEE	Ibid., 58.	XXXX	Anderson et Robertson, <i>Seeing Red</i> , 6; Harding, « Historical Representations of Aboriginal People, » 224.
FFFF	Fallon Andy (Anishinaabe, Première Nation Couchiching), Partie 3, Volume public 8, Toronto Ont., p. 236.	YYYY	Jeffrey McNeil-Seymour (Tk'emlups te Secwepemc/Anglais), Parts 2 & 3, Volume public 3, Iqaluit, Nun., p. 193.
GGGG	Fallon Andy (Anishinaabe, Première Nation Couchiching), Partie 3, Volume public 8, Toronto Ont., pp. 260-261.	ZZZZ	CBC Radio, <i>The Current</i> , « MMIWG Winnipeg public forum. »
HHHH	Jiwani, « Symbolic and Discursive Violence, » 2.	AAAAA	Commission de vérité et réconciliation du Canada, <i>Appels à l'action</i> , 9-10.
IIII	Robyn Bourgeois (Crie), Parties II et III mixtes, Volume public 17, Regina, Sask., pp. 36-37.	BBBBB	Jesse Wente (Anishinaabe, Première Nation Serpent River), Partie 3, Volume public 10, Toronto, Ont., p. 172.
		CCCCC	Tanya Talaga (Anishinaabe/Polonaise), Partie 3, Volume public 10, Toronto, Ont., p. 174.



## Les facteurs favorisant la violence : le déni de la capacité d’agir et de l’expertise dans le rétablissement de la culture

Les témoins ont été nombreux à exprimer leur opinion sur les solutions possibles, souvent en insistant sur le fait que les réponses doivent provenir des peuples autochtones. Le droit à la culture et les conceptions autochtones de la culture sont profondément enracinés dans leurs identités, leurs langues, leurs histoires et leurs modes de vie, y compris leurs territoires, et ces modes de connaissance doivent reprendre leur place centrale et être adoptés comme des moyens de progresser. Comme l’a affirmé Patrick S., cela ne veut pas dire qu’il faut séparer les cultures, mais plutôt apprendre à respecter l’« autre ».

On peut apprendre beaucoup en tant que cultures et grandir ensemble en tant que cultures, se renforcer les unes les autres en tant que cultures. Mais, si une culture pense qu’elle a toutes les réponses pour l’autre, ça ne va jamais fonctionner. On n’a pas toutes les réponses pour vous, mais vous n’avez certainement pas toutes les réponses pour nous. Les réponses sont ici... ici<sup>76</sup>.



*Les Aînés Thelma Morrisseau et Stan LaPierre s’adressent au groupe réuni dans le cadre des audiences de Gardiens du savoir et d’experts à Winnipeg, au Manitoba.*

### **Améliorer les programmes et les services sous l’angle de la culture**

Bien des témoins ont fait part de leurs idées pour améliorer les systèmes et les services d’une manière pouvant soutenir la culture et les familles – un élément essentiel pour préserver la culture selon les instruments internationaux relatifs aux droits de la personne et selon de nombreuses visions du monde autochtones. Paula P. a suggéré ce qui suit :

Si vous donniez une aide financière aux jeunes mères qui vont à l’école sans les obliger à la rembourser, vous aideriez notre Nation autochtone. Si vous leur donniez une aide financière pour qu’elles fassent des sorties avec leurs enfants, si elles présentaient leurs





reçus pour leurs costumes traditionnels et qu'elles étaient remboursées. C'est ça que vous devriez faire. Donner de l'argent aux mères pour qu'elles puissent emmener leurs enfants aux pow-wow et aux cérémonies extérieures. Faire cela, c'est ça la nouvelle réunification pour moi. Vous saisissez? La réconciliation, pour moi, c'est ça<sup>77</sup>.

Ann M. R. a suggéré de simplifier le processus de demandes d'admission aux programmes et d'octroyer aux organisations qui offrent des programmes des fonds adéquats au moyen d'un financement de base et non d'un financement par projet, tout en concevant le processus sous l'angle de la culture.

Je pense que le gouvernement se doit de financer des programmes culturels sans toute cette paperasse administrative. Ma vie a été consacrée à remplir des formulaires. Je veux dire, tout est tellement bureaucratique. Il n'y a pas de sensibilité culturelle dans leur processus de demande. C'est très difficile, très long, et vous avez des organisations qui n'ont pas d'argent, mais qui doivent répondre à énormément d'attentes. On est sur le terrain, il y a beaucoup de travail qui doit être fait, et on n'a pas le temps de suivre leurs processus bureaucratiques. C'est très difficile. Ils doivent changer leurs processus. En quelque sorte, oubliez les demandes, ils doivent fournir un financement de base<sup>78</sup>.

Une partie de ce travail, comme les témoins l'ont souligné, consiste à aller vers les peuples et les communautés autochtones en souhaitant réellement faciliter les choses ou aider en fonction des modalités qu'ils auront définies et établies eux-mêmes. Comme l'a déclaré Patrick S. :

Vous savez [...] un vrai leader dirige en arrière-plan. Donc, si les gens au pouvoir peuvent... peuvent croire que c'est le plus vulnérable, c'est alors qu'on doit mettre en lumière le principe de l'équité. On ne peut pas juger nos gens qui sont aux prises avec le fardeau du colonialisme, des pensionnats indiens, des placements en familles d'accueil, des pertes innombrables. Vous ne pouvez pas les juger parce qu'ils font tout leur possible pour survivre au jour le jour, peu importe l'impression que ça peut donner<sup>79</sup>.

Dans le même ordre d'idée, Jackie Anderson, une femme métisse qui travaille auprès des jeunes survivantes de la traite de personnes et de l'exploitation au centre Ma Mawi Wi Chi Itata de Winnipeg, au Manitoba, affirme qu'il doit y avoir de nouveaux systèmes pour financer ces services. Par exemple, la seule option spécialisée pour les enfants et les jeunes exploités sexuellement au Manitoba exige actuellement que cet enfant soit pris en charge par les services à l'enfant et à la famille avant de pouvoir être dirigé vers ce service. Cela a forcé les parents à prendre la décision déchirante de placer volontairement leurs enfants afin que ceux-ci puissent recevoir les services dont ils ont besoin. Elle a mentionné le cas suivant :

On avait cette mère incroyable et forte qui, vous voyez... voulait désespérément aider sa fille et lui trouver le soutien dont elle avait besoin. Malheureusement, à part dans les centres de traitement des toxicomanies, pour qu'elle puisse suivre un programme spécialisé destiné aux jeunes victimes de l'exploitation, il fallait, lui a-t-on dit, qu'elle



signe un contrat de placement volontaire pour son enfant sans quoi elle ne pouvait pas avoir accès au service. Et même si vous signez un placement volontaire, vous devez aussi prouver votre revenu, parce que vous devez peut-être participer aux coûts des soins donnés à votre enfant. Ça a été une épreuve très difficile pour elle<sup>80</sup>.

## Les systèmes axés sur l'autodétermination et la décolonisation

Plusieurs personnes qui ont témoigné devant l'Enquête nationale ont mentionné qu'il était important qu'elles accèdent à la sécurité culturelle pour reprendre leur pouvoir et pour regagner leur place. Cet accès est par ailleurs lié aux systèmes patriarcaux qui ont été imposés, puis fixés dans la loi et dans certaines structures de gouvernance autochtones. Ces systèmes ont fait en sorte que les instances dirigeantes sont aujourd'hui largement dominées par les hommes dans les communautés autochtones partout au pays. Comme l'a expliqué Shelley J. :

À cause de la *Loi sur les Indiens*, des pensionnats indiens et du système patriarcal qui en découle, les femmes sont considérées et traitées comme des moins que rien. Nos rôles ont été réduits, voire même complètement effacés. Je pense que tout ça explique pourquoi on est ici, pourquoi tant de nos femmes et de nos filles ont disparu et ont été assassinées<sup>81</sup>.

« NOUS DEVONS RENOUEUR AVEC NOTRE CULTURE ET NOUS DEVONS PARLER À NOUVEAU NOTRE LANGUE. NOUS DEVONS RECOMMENCER À MARCHER DOUCEMENT SUR CETTE TERRE, SANS NOUS APPROPRIER LES CHOSSES COMME DES RESSOURCES ET SANS LEUR MANQUER DE RESPECT. C'EST VRAIMENT IMPORTANT PARCE QUE NOUS AVONS BESOIN D'EAU FRAÎCHE. NOUS AVONS BESOIN DE NOS REMÈDES TRADITIONNELS. NOUS AVONS BESOIN DE CE LIEN AVEC LA TERRE PARCE QU'IL NOUS REND PLUS FORTS. NOUS AVONS BESOIN DE CE LIEN AVEC NOTRE LANGUE PARCE QU'IL NOUS REND PLUS FORTS. NOUS AVONS BESOIN DE CES LIENS AVEC NOS FAMILLES PARCE QU'ILS NOUS RENDENT PLUS FORTS. NOS FEMMES DOIVENT ÊTRE VALORISÉES. NOS ENFANTS DOIVENT SAVOIR QU'ILS SONT PRÉCIEUX, QU'ILS SONT IMPORTANTS. »

Rhonda M.

Viola Thomas a discuté du déséquilibre des pouvoirs dans les communautés en faisant observer ce qui suit : « Beaucoup de nos concitoyens agissent dans le silence en raison de ce déséquilibre des pouvoirs au sein de nos communautés et de la façon dont le sexisme se manifeste. Nous devons réfléchir aux stratégies qui pourraient [...] rappeler à nos hommes qu'ils sont nés d'une mère, qu'ils sont nés de notre mère la Terre<sup>82</sup>. »

Gina G. a émis un point de vue semblable : « J'entre dans ma communauté, dans les bureaux de ma bande, et ce n'est pas toujours très accueillant. Il y a des gens très négatifs là-bas, mais malgré ça, je me présente, je garde la tête haute, je travaille avec eux, je les respecte et je suis très professionnelle<sup>83</sup>. »



À propos du sexisme dans sa famille, Gail C. a évoqué ce qui suit :

Quand il était question de l'égalité des sexes ou d'équité dans la maison, il n'y avait rien de ça. Les garçons avaient tout et moi... j'avais les miettes, les petites miettes à la fin. Alors il y a beaucoup d'inégalité dans ce qui se passait. Qu'on soit le plus vieux ou le plus jeune importait peu. J'étais en plein milieu. Je n'ai pas reçu de bicyclette, pas ceci. Mes vêtements étaient d'occasion et ils étaient si grands que quand elle [ma mère] les cousait à la taille pour tenter de les ajuster, ça gonflait. Tout le tissu des pantalons se gonflait sur mes hanches et mes fesses et tout. Alors... et, bien sûr, j'avais vraiment honte. Ma belle-sœur m'a amenée chez... la femme du frère de mon père, qui a fait beaucoup de couture. Elle m'a cousu des vêtements pour que je puisse aller à école sans être humiliée, gênée et sans avoir envie de mourir<sup>84</sup>.

« BEAUCOUP DE NOS CONCITOYENS AGISSENT DANS LE SILENCE EN RAISON DE CE DÉSÉQUILIBRE DES POUVOIRS AU SEIN DE NOS COMMUNAUTÉS ET DE LA FAÇON DONT LE SEXISME SE MANIFESTE. NOUS DEVONS RÉFLÉCHIR AUX STRATÉGIES QUI POURRAIENT [...] RAPPELER À NOS HOMMES QU'ILS SONT NÉS D'UNE MÈRE, QU'ILS SONT NÉS DE NOTRE MÈRE LA TERRE. »

Viola Thomas

Mais, comme de nombreux témoins l'ont mentionné, les solutions existent encore au sein des communautés et de chacun de nous. Comme Ann M. R. l'a expliqué : « Nous sommes des Dena. Nous avons beaucoup. Chacun de nous est imprégné de notre culture. C'est quelque chose qu'on ne va jamais oublier. Si vous nous fournissez un environnement, nous lui donnerons vie. [...] C'est impossible d'oublier. C'est pour ça qu'on ne pourra jamais être assimilés : notre culture est imprégnée dans notre ADN<sup>85</sup>. »

Rhonda M. a défendu cette idée :

Nous devons renouer avec notre culture et nous devons parler à nouveau notre langue. Nous devons recommencer à marcher doucement sur cette terre, sans nous approprier les choses comme des ressources et sans leur manquer de respect. C'est vraiment important parce que nous avons besoin d'eau fraîche. Nous avons besoin de nos remèdes traditionnels. Nous avons besoin de ce lien avec la terre parce qu'il nous rend plus forts. Nous avons besoin de ce lien avec notre langue parce qu'il nous rend plus forts. Nous avons besoin de ces liens avec nos familles parce qu'ils nous rendent plus forts. Nos femmes doivent être valorisées. Nos enfants doivent savoir qu'ils sont précieux, qu'ils sont importants<sup>86</sup>.

Au niveau le plus élémentaire, respecter les droits culturels signifie, comme l'a dit Viola, « rendre hommage à nouveau à nos mères et à nos grands-mères parce qu'elles sont le centre de notre existence<sup>87</sup> ». Cela signifie célébrer et accueillir les femmes, les filles et les personnes 2ELGBTQQIA, qui sont sacrées et précieuses, et enseigner et communiquer ces valeurs aux personnes, aux communautés et au monde non autochtone.

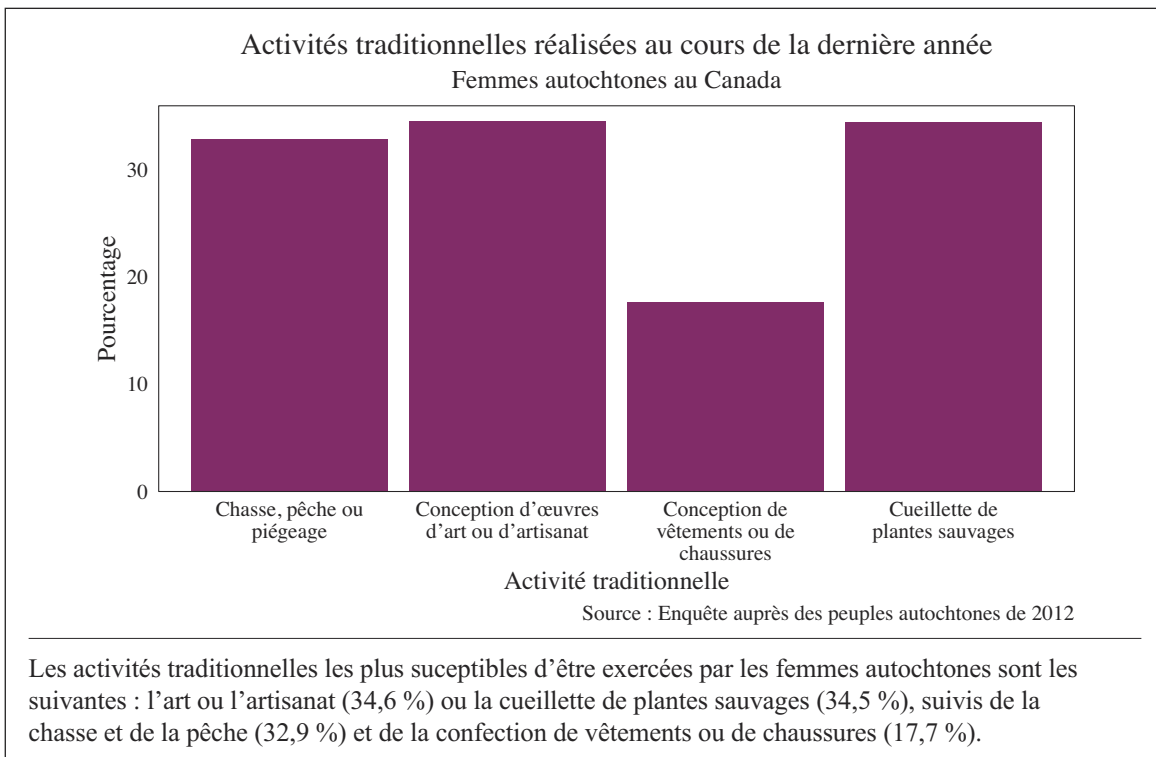




La quête des droits culturels et de la sécurité culturelle est un important facteur de guérison, selon plusieurs témoins. Dans bien des cas, les témoins ont souligné le caractère névralgique de la revitalisation de la langue et des traditions pour asseoir la définition de ce à quoi pourrait ressembler le droit à la culture dans certaines communautés ou Premières Nations. Shara L. s'est exprimée en ces termes :

Je veux que nos générations futures assument leur histoire. Tout ce qui est arrivé à nos parents, à nos ancêtres. Je veux retrouver ma langue. Je me suis battue pour la garder. Aujourd'hui, j'ai... je peux parler ma langue. [...] Je veux que mes enfants parlent couramment ma langue. Je veux ravoir ma terre natale, sur le bord de la rivière où mes grands-parents m'ont élevée. Je veux retourner à la maison. Je ne veux pas vivre dans la communauté. Je veux être là, sur la terre. Je veux être là où je devrais être. Près de mon père... mon père est enterré là-bas. Je veux une maison là-bas. Je veux que mes enfants aient des racines. Oui. C'est là que ma mère, mon père et mes grands-parents vivent. Ma place est là-bas. Je veux qu'ils soient forts. Je ne veux pas qu'ils soient assassinés. Je ne veux pas qu'ils soient portés disparus<sup>88</sup>.

Renouer avec la culture pour créer un sentiment d'appartenance et pour, ultimement, réduire la violence est l'une des vérités fondamentales qui ont été exprimées devant l'Enquête nationale. Comme l'a expliqué Darla-Jean L. : « Nous avons besoin que notre langue soit plus présente. Il nous faut se concentrer [...] sur la roue de la vie, sur les cérémonies de la naissance à la mort, sur les cérémonies de passage à l'âge adulte que ma famille a pratiquées, il nous faut apprendre nos chansons et nos légendes<sup>89</sup>. »





L'une des idées fondamentales qui est ressortie des témoignages est celle de créer ou de se réapproprier un espace, en ce sens que les concepts culturels, les histoires et les valeurs, comme ceux que nous avons explorés au chapitre 2, peuvent aussi servir de base à la création d'un espace d'autonomisation pour les femmes. L'une des membres du groupe de discussion sur les perspectives des femmes Heiltsuk, la chef Marilyn Slett, a affirmé ce qui suit :

Nous avons besoin d'un espace où les femmes... les femmes qui assument des rôles de leadership peuvent se réunir et discuter. Parce que nous... nous le faisons avant [...] dans les salles de caucus. Nous discutons pendant le dîner, pendant certaines séances régionales ou pendant les pauses, de façon très informelle, mais organique. Mais [...] nous savions que nous devions créer cet espace nous-mêmes<sup>90</sup>.

Comme l'ont fait valoir Bryan J. et plusieurs autres témoins, les femmes, les filles et les personnes 2ELGBTQQIA autochtones ont un rôle important à jouer pour regagner leur place et pour reprendre leur pouvoir : « Lorsque nous parlons de nos femmes, nous parlons de notre territoire. Lorsque nous parlons de notre territoire, nous parlons de nos esprits. Nous parlons de nos traditions, de notre peuple, de nos Aînés, de nos enfants<sup>91</sup>. »

Dans certains cas, il s'agit aussi d'un processus pour apprendre à s'aimer. Voici le souvenir évoqué par Carol M. :

Je suis allée à une suerie avec un Aîné, deux Aînés. L'un d'eux est parti dans le monde des esprits. Ma grand-mère avait toujours l'habitude de dire qu'elle attendait que je revienne à la maison. Je suis allée à la suerie. Évidemment, les Aînés, ils veulent aller manger, alors on est allé au restaurant. Et je me suis étirée pour prendre quelque chose. Et j'ai regardé mes mains et j'ai dit « wow ». Je leur ai dit de regarder... et ils étaient tous les deux assis là, et j'ai dit : « Wow, regardez mes mains. Elles sont brunes. Regardez-les. » Et j'ai entendu l'Aîné murmurer à l'autre. Il a dit : « On dirait qu'elle est revenue à la maison. » Et à ce moment-là, j'ai compris ce à quoi ma grand-mère faisait allusion. J'ai réalisé que j'étais une personne brune. C'est si beau et si joli. Alors maintenant, je sais ce que ma grand-mère voulait dire, vous savez, lorsqu'elle disait qu'elle attendait que je revienne à la maison<sup>92</sup>.

Comme l'illustrent ces exemples, et comme le démontrera le lien entre la culture et les instruments internationaux des droits de la personne, il est primordial de comprendre que pour traiter un certain nombre de problèmes liés aux traumatismes intergénérationnels, à la marginalisation, au maintien du statu quo et au manque de volonté de la part des institutions, il est nécessaire d'aborder la protection et la promotion de la culture selon une perspective autochtone d'autodétermination.



## Lier la culture aux instruments internationaux des droits de la personne

Les personnes qui ont témoigné devant l'Enquête nationale ont fait état de situations et de moments marquants où leurs droits à la culture et aux protections afférentes pour les familles avaient été compromis. Souvent, de telles rencontres font intervenir des institutions gouvernementales et des fournisseurs de services tenus au respect de la législation provinciale, territoriale et nationale en matière de droits de la personne. De plus, la violation des droits culturels est expressément liée à un certain nombre d'obligations de droit public et international qui incombent au Canada en matière de droits de la personne. Les instruments internationaux relatifs aux droits de la personne visent de nombreuses situations citées par les témoins pour montrer que leurs droits à la culture avaient été compromis en raison de la perturbation de la relation avec le territoire, de la séparation des familles, de l'appauvrissement des communautés ainsi que de l'accès restreint aux langues, aux pratiques et au savoir traditionnels propices à l'établissement d'un sentiment de sécurité culturelle.

La *Convention internationale sur l'élimination de toutes les formes de discrimination raciale* (CIEDR) demande aux gouvernements qu'ils « condamnent la discrimination raciale et s'engagent à poursuivre par tous les moyens appropriés et sans retard une politique tendant à éliminer toute forme de discrimination raciale » (article 2). Cela comprend par ailleurs l'idée que les gouvernements ne se livreront à aucun acte de discrimination raciale contre des personnes, des groupes de personnes ou des institutions – ou contre tout aspect de leur identité culturelle. L'article 2 énonce également que les gouvernements doivent prendre des mesures pour revoir les politiques et pour annuler les lois qui permettent la discrimination raciale, et qu'ils doivent en outre interdire toute discrimination raciale pratiquée par d'autres personnes ou groupes.

S'agissant du Canada, on peut penser que cet article pourrait s'interpréter de manière à conclure qu'il s'applique aux politiques comme celles prévues dans la *Loi sur les Indiens* ainsi qu'aux formes contemporaines de ces politiques qui continuent d'avoir une incidence directe sur l'identité autochtone et l'affiliation à une communauté. Interprété au sens large, le libellé de

« IL FAUT QUE LE CANADA ÉCOUTE ET COMMENCE À RESPECTER [...] LES PREMIERS HABITANTS DE CE TERRITOIRE, LES PEUPLES AUTOCHTONES. ON NE CORRESPOND PAS AU STÉRÉOTYPE QUE VOUS AVEZ VU À LA TÉLÉ, QUI DIT QU'ON SCALPE LES GENS ET QU'ON SE PROMÈNE AVEC... AVEC DES ARCS ET DES FLÈCHES ET QU'ON MET LE FEU AUX CHARIOTS. ÇA, C'EST HOLLYWOOD, VOYEZ-VOUS. CE N'EST PAS LA VRAIE VIE. NOUS, NOUS SOMMES CEUX À QUI ON A PRIS LES ENFANTS. CEUX DONT LA CULTURE A PRESQUE ÉTÉ ANÉANTIE. C'EST NOUS QUI NOUS NOUS SOMMES FAIT INTERDIRE NOS CÉRÉMONIES. C'EST NOUS QU'ON A BLESSÉS. ON NE VOUS A PAS FAIT DE MAL. ON A PASSÉ UN ACCORD POUR QUE VOUS PARTAGIEZ CES TERRES AVEC NOUS. TOUT CE QU'ON DEMANDE, C'EST QUE VOUS RESPECTIEZ VOTRE PART DU MARCHÉ. »

Blu W.





l'article laisse également entendre que les gouvernements devraient s'efforcer de prévenir toutes les formes de discrimination raciale, y compris dans leurs propres systèmes et les systèmes qu'ils financent, notamment celui de la protection de l'enfance.

La CIEDR n'est pas le seul instrument qui confirme les droits culturels ou qui lie les droits culturels à l'identité. Comme l'a souligné témoin expert Brenda Gunn : « Mais aujourd'hui, nous parlons vraiment d'interdépendance et de l'interrelation et vous ne pouvez exercer vos droits civils et politiques si vous n'avez pas de droits économiques, sociaux et culturels. Ils interagissent tous ensemble<sup>93</sup>. » Le *Pacte international relatif aux droits civils et politiques* (PIDCP) confirme le droit des parents d'« assurer l'éducation religieuse et morale de leurs enfants conformément à leurs propres convictions », y compris leurs convictions politiques et civiles (article 18). De plus, il définit la famille comme « l'élément naturel et fondamental de la société » en raison de son importance dans la transmission de l'éducation, de la morale et des valeurs. En ce qui concerne les groupes fonctionnant à l'intérieur de grands États, le Pacte est clair : toutes les communautés ont le droit « d'avoir [...] leur propre vie culturelle, de professer et de pratiquer leur propre religion, ou d'employer leur propre langue » (article 27).

Le *Pacte international relatif aux droits économiques, sociaux et culturels* (PIDESC) mentionne expressément les droits culturels et affirme ce qui suit : « Tous les peuples ont le droit de disposer d'eux-mêmes. En vertu de ce droit, ils déterminent librement leur statut politique et assurent librement leur développement économique, social et culturel » (article premier). En outre, le PIDESC garantit aux hommes et aux femmes l'accès égal à ces droits (article 3) et souligne l'importance de la famille pour l'éducation des enfants, conjointement avec l'exercice des droits économiques, politiques et culturels (article 10). Les États signataires du Pacte ont par ailleurs reconnu à chacun le droit de participer à la vie culturelle et s'engagent à prendre toutes les mesures nécessaires pour « assurer le plein exercice de ce droit », y compris « celles qui sont nécessaires pour assurer le maintien, le développement et la diffusion de la science et de la culture ».

Comme l'a mentionné Brenda Gunn, le comité qui supervise le PIDCP a attiré l'attention sur l'interaction entre l'accès aux droits économiques, sociaux et culturels et la violence fondée sur le genre, et elle a fait remarquer que « la violence fondée sur le genre est une forme de discrimination qui empêche les survivantes de jouir en toute égalité de leurs droits et libertés, notamment de leurs droits économiques, sociaux et culturels<sup>94</sup> ».

La *Convention sur l'élimination de toutes les formes de discrimination à l'égard des femmes* (CEDAW), laquelle condamne la discrimination à l'égard des femmes, a une portée considérable en ce qui a trait à la protection des droits culturels des femmes, des filles et des personnes 2ELGBTQQIA autochtones. Par exemple, les États signataires de la Convention conviennent « de poursuivre par tous les moyens appropriés et sans retard une politique tendant à éliminer la discrimination à l'égard des femmes » (article 2). Cela suppose notamment de prendre des mesures afin de *prévenir* la violence contre les femmes, les filles et les personnes 2ELGBTQQIA, dans la mesure nécessaire et dans tous les secteurs indispensables pour provoquer des changements.



La *Convention relative aux droits de l'enfant des Nations Unies* (CDE) contient aussi des articles qui touchent aux droits à la culture et à l'identité. En particulier, elle explique que toute décision concernant les enfants, qu'elle relève des services de protection de l'enfance, des tribunaux ou d'autres organes administratifs ou législatifs, doit être prise dans l'intérêt supérieur de l'enfant (article 3). Dans de tels contextes, les États signataires se sont engagés à respecter le droit de l'enfant de « préserver son identité, y compris sa nationalité, son nom et ses relations familiales » (article 8). Selon l'article 9, l'enfant ne doit pas être séparé de ses parents contre leur gré, à moins qu'il ne soit déterminé par les tribunaux que cette séparation est dans l'intérêt supérieur de l'enfant, dont il est permis de douter dans les cas, nombreux, où la décision rendue a porté atteinte à la famille autochtone. Enfin, en ce qui concerne les groupes autochtones, la Convention confirme qu'un enfant qui appartient à un tel groupe « ne peut être privé du droit d'avoir sa propre vie culturelle, de professer et de pratiquer sa propre religion ou d'employer sa propre langue » (article 30).

Si on applique une interprétation libérale, ces protections exigent des États qu'ils examinent d'abord comment sont transmises la culture et l'identité et qu'ils prennent ensuite des mesures pour préserver et renforcer ces modes de transmission. L'importance des traditions orales et de l'apprentissage au sein des familles et communautés autochtones étant connue, on peut aussi considérer que ce droit ne peut être exercé qu'au moyen de politiques économiques, stratégiques et culturelles conçues pour respecter et soutenir l'autodétermination, de concert avec des politiques visant à maintenir l'unité des familles et des communautés.



## CONVENTIONS CLÉS : LE DROIT À LA CULTURE

L'Enquête nationale considère que les conventions associées au génocide sont des instruments fondamentaux pour aborder la question des violations des droits de la personne et des peuples autochtones. Dans le domaine de la culture, ces conventions traitent spécifiquement de l'atteinte grave à l'intégrité mentale et du transfert forcé des enfants du groupe qui est le titulaire de droits.

Pour référence, la Convention pour la prévention et la répression du crime de génocide définit comme suit le génocide à son article II : « Dans la présente Convention, le génocide s'entend de l'un des actes ci-après commis dans l'intention de détruire, en tout ou en partie, un groupe national, ethnique, racial ou religieux :

- a) Meurtre de membres du groupe;
- b) Atteinte grave à l'intégrité physique ou mentale de membres du groupe;
- c) Soumission intentionnelle du groupe à des conditions de vie devant entraîner sa destruction physique totale ou partielle;
- d) Mesures visant à entraver les naissances au sein du groupe;
- e) Transfert forcé d'enfants du groupe vers un autre groupe. »

<b>PIDESC :</b> <ul style="list-style-type: none"><li>- droit à l'auto-détermination</li><li>- égalité des droits des hommes et des femmes</li><li>- protection la plus élargie possible de la famille</li><li>- droit à l'éducation</li><li>- droit à une vie culturelle</li></ul>	<b>PIDCP :</b> <ul style="list-style-type: none"><li>- respect de la liberté des parents de faire assurer l'éducation religieuse et morale de leurs enfants</li><li>- la famille est l'unité naturelle et fondamentale de la société</li><li>- chaque enfant a le droit d'être protégé sans discrimination</li></ul>	<b>CEDAW :</b> <ul style="list-style-type: none"><li>- condamne la discrimination sous toutes ses formes</li><li>- inclut l'égalité en vertu de la loi</li><li>- crée des obligations politiques, sociales, économiques et culturelles pour les États envers les femmes</li></ul>	<b>CIEDR :</b> <ul style="list-style-type: none"><li>- condamne la discrimination raciale</li><li>- s'engage à prévenir et à interdire toutes les formes d'apartheid et de discrimination</li></ul>	<b>CDE :</b> <ul style="list-style-type: none"><li>- l'intérêt supérieur de l'enfant prime</li><li>- tout enfant a le droit de préserver sa nationalité, son nom et ses relations familiales sans ingérence illégale</li><li>- il ne doit pas être privé du droit de jouir de sa propre culture et d'utiliser sa propre langue</li></ul>
-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

PIDESC : Pacte international relatif aux droits économiques, sociaux et culturels

PIDCP : Pacte international relatif aux droits civils et politiques

CEDAW : Convention sur l'élimination de toutes les formes de discrimination à l'égard des femmes

CIEDR : Convention internationale sur l'élimination de toutes les formes de discrimination raciale

CDE : Convention relative aux droits de l'enfant





## DÉCLARATIONS CLÉS : LE DROIT À LA CULTURE

<p><b>DEVEF :</b></p> <ul style="list-style-type: none"><li>- les femmes jouissent des mêmes droits de la personne et de la même protection de ces droits que les hommes</li></ul>	<p><b>DNUDPA :</b></p> <ul style="list-style-type: none"><li>- les peuples autochtones ont le droit de maintenir des institutions distinctes</li><li>- droit de ne pas subir d'assimilation</li><li>- droit de transmettre leur langue, leur histoire et toute autre forme de connaissances aux générations futures</li><li>- droit d'établir un système d'éducation et des établissements pour offrir une éducation adaptée à la culture</li><li>- toutes les libertés prévues par la DNUDPA sont garanties également aux hommes et aux femmes</li></ul>	<p><b>DPAV :</b></p> <ul style="list-style-type: none"><li>- droit à l'auto-détermination et au développement économique, social et culturel</li><li>- les droits des femmes et des fillettes font inaliénablement, intégralement et indissociablement partie des droits universels de la personne</li></ul>	<p><b>BEIJING :</b></p> <ul style="list-style-type: none"><li>- l'émancipation des femmes est une condition essentielle à l'égalité des sexes, au développement et à la paix</li><li>- les droits des femmes sont des droits de la personne</li><li>- nécessité de relations et de partenariats harmonieux entre les femmes et les hommes</li><li>- nécessité de prévenir la violence</li><li>- nécessité d'éradiquer la pauvreté</li></ul>
------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

DEVEF : Déclaration sur l'élimination de la violence à l'égard des femmes

DNUDPA : Déclaration des Nations Unies sur les droits des peuples autochtones

DPAV : Déclaration et programme d'action de Vienne

Beijing : Déclaration de Beijing

## Conclusion : « Cessez de faire de moi une industrie »

Le présent chapitre a porté sur la façon dont les quatre facteurs qui favorisent la violence coloniale privent les femmes, les filles et les personnes 2ELGBTQQIA autochtones de la possibilité d'exercer et de jouir de leurs droits culturels, perçus de façon générale comme des droits liés au « mode de vie », de même que de leurs droits liés à la famille, à la langue, à la santé et à de nombreux autres aspects de la sécurisation culturelle. Ces droits ont le pouvoir d'améliorer la réalité des femmes, des filles et des personnes 2ELGBTQQIA autochtones s'ils sont mis en œuvre selon les perspectives autochtones et dans le but d'améliorer les services et les programmes pour aider réellement les gens plutôt que de continuer à leur nuire. Plus précisément, ce chapitre a traité des violations des droits culturels et des répercussions continues



de ces violations survenues dans le contexte des pensionnats indiens, de la rafle des années 1960 et de la protection de l'enfance, dans l'optique de démontrer que la sécurisation culturelle est tributaire de l'interrelation entre les droits culturels et les droits sociaux, économiques et politiques.

Pour assurer le respect de ces droits, il est inutile d'en concevoir d'autres et de créer de nouveaux mécanismes qui n'existent pas déjà. Comme nous a dit Sandra L. :

Je n'ai rien perdu de mon pouvoir. Je me suis aidée de ce pouvoir lorsque j'ai formulé mes recommandations. Je veux simplement dire à Justin [Trudeau] que je possède réellement ce pouvoir qui est mien. Vous devez juste enlever cette chape [dans laquelle l'État m'a enveloppée]. Cela comprend les politiques de l'État et ses lois, qui s'infiltrent jusque dans les organisations. Cessez de faire de moi une industrie<sup>95</sup>.

Ultimement, et comme plusieurs témoins l'ont mentionné, les relations et le respect sont les conditions essentielles pour permettre aux femmes, aux filles et aux personnes 2ELGBTQQIA de reprendre le pouvoir, de regagner leur place et d'affirmer leur droit à la culture. Blu W. l'a clairement expliqué :

Il faut que le Canada écoute et commence à respecter [...] les premiers habitants de ce territoire, les peuples autochtones. On ne correspond pas au stéréotype que vous avez vu à la télé, qui dit qu'on scalpe les gens et qu'on se promène avec... avec des arcs et des flèches et qu'on met le feu aux chariots. Ça, c'est Hollywood, voyez-vous. Ce n'est pas la vraie vie. Nous, nous sommes ceux à qui on a pris les enfants. Ceux dont la culture a presque été anéantie. C'est nous qui nous sommes fait interdire nos cérémonies. C'est nous qu'on a blessés. On ne vous a pas fait de mal. On a passé un accord pour que vous partagiez ces terres avec nous. Tout ce qu'on demande, c'est que vous respectiez votre part du marché<sup>96</sup>.

Il est du devoir de l'État envers ses concitoyens de rétablir le respect à l'égard des droits culturels en protégeant les familles et en préservant les langues, les modes de vie et les autres éléments culturels. Les droits culturels sont intégrés à des instruments internationaux relatifs aux droits de la personne et au droit national. Leur protection n'est pas facultative et elle n'est pas un simple atout. Comme l'indiquent clairement ces instruments et les témoins entendus par l'Enquête nationale, il est primordial que les femmes, les filles et les personnes 2ELGBTQQIA autochtones puissent reprendre leur pouvoir et regagner leur place dans un cadre qui, depuis si longtemps, cherche à les effacer et à les éliminer.

Le respect et la promotion de la culture au moyen de solutions émanant des Autochtones sont essentiels à la concrétisation d'autres droits. Ils constituent également un thème récurrent qui est ressorti des témoignages que nous avons entendus en matière de santé, de sécurité et de justice, et que nous aborderons dans le prochain chapitre.



## Conclusions : le droit à la culture

- Les taux élevés de violence envers les femmes, les filles et les personnes 2ELGBTQQIA autochtones sont directement attribuables aux lois et aux politiques gouvernementales assimilatrices et génocidaires en matière d'expression et d'exercice des droits culturels autochtones.
- Le colonialisme, le racisme, le sexisme, la transphobie, l'homophobie et la misogynie privent les femmes, les filles et les personnes 2ELGBTQQIA autochtones de leur droit d'apprendre et de pratiquer leur propre culture ainsi que de participer à son développement.
- La transmission intergénérationnelle des connaissances culturelles a été interrompue ou profondément fragmentée par les politiques persistantes de l'État canadien conçues pour opprimer et pour éliminer les Autochtones par l'assimilation. Il s'agit d'une politique de génocide culturel.
- La *Loi sur les Indiens* provoque la marginalisation, l'aliénation, le déplacement et l'isolement des Autochtones. Il s'agit d'un outil permanent d'oppression et de génocide qui vise clairement leur élimination. Cet instrument juridique inscrit dans la loi les hypothèses erronées, les pratiques discriminatoires et les politiques coloniales et génocidaires que le gouvernement canadien a traditionnellement utilisées pour contrôler et pour éliminer les Autochtones et leurs cultures, et pour les chasser de leurs terres. Maintenir cette loi en vigueur perpétue la violence raciale et sexospécifique. Peu importe les modifications ou les améliorations apportées aux politiques et aux lois « indiennes », l'existence même de la *Loi sur les Indiens* témoigne du racisme, du sexisme et du refus de progresser vers l'autodétermination des Autochtones. Par conséquent, la *Loi sur les Indiens* entretient la violence et expose les femmes, les filles et les personnes 2ELGBTQQIA des Premières Nations à une violence accrue.
- Le rôle des gouvernements dans la détermination de l'appartenance culturelle au moyen des exigences prescrites pour l'octroi ou pour le refus du statut ou de l'appartenance aux communautés des Premières Nations, des Inuits, et des Métis porte atteinte aux droits inhérents des Premières Nations, des Inuits et des Métis. De plus, il s'agit d'une violation de l'article 33 de la *Déclaration des Nations Unies sur les droits des peuples autochtones*. En particulier, les dispositions de la *Loi sur les Indiens* concernant le statut d'Indien usurpent le droit inhérent et la capacité des Premières Nations de définir et d'appliquer leurs propres règles en matière de citoyenneté. Le déni du droit à l'autodétermination et de la compétence des Autochtones est une forme de violence systémique qui a une incidence sur la personne, sur la famille, sur la communauté et sur la Nation.
- Les dispositions de la *Loi sur les Indiens* concernant l'inscription ne reflètent pas fidèlement les concepts de citoyenneté et d'appartenance des peuples des Premières Nations relativement à leurs communautés. Fait important, les dispositions de la *Loi sur les Indiens* concernant l'inscription sont discriminatoires à l'égard des femmes et de leurs descendants. Les tentatives faites pour éliminer la discrimination, à ce jour, n'ont pas été suffisantes. Par ailleurs, en 1985, le projet de loi C-31 a entraîné l'adoption de nouvelles dispositions, les





paragraphe 6(1) et 6(2), qui permettent l'assimilation de tous les membres des Premières Nations – femmes, hommes et personnes de diverses identités de genre. Pendant des décennies, la discrimination fondée sur le sexe a privé les femmes de leurs droits dans leur communauté, a désuni les familles et a créé une grande disparité de droits et d'avantages entre les femmes et les hommes des Premières Nations. Les lois et les politiques qui ont empêché les femmes autochtones d'obtenir la citoyenneté dans leur Nation ou dans leur communauté du fait de leur mariage ou de leur sexe ont grandement favorisé la perte de la culture et les piètres résultats socioéconomiques des femmes autochtones. Par conséquent, ces facteurs contribuent à la violence que subissent les femmes, les filles et les personnes 2ELGBTQQIA inuites, métisses et des Premières Nations.

- En plus de la *Loi sur les Indiens*, les lois ou politiques qui privent les femmes, les filles et les personnes 2ELGBTQQIA inuites, métisses et des Premières Nations de leur identité autochtone entraînent leur exclusion de la communauté, ce qui contribue grandement à la perte de leur culture et à leur marginalisation socioéconomique.
- La création des bandes indiennes et le maintien d'un pouvoir sur les membres des Premières Nations en vertu de l'article 74 de la *Loi sur les Indiens* constituent des moyens supplémentaires de contrôle de ces peuples ainsi que des cultures, des modes de gouvernance et des organisations distinctes de leur société. L'approche universelle qui a été adoptée au départ en vertu de la *Loi sur les Indiens* a entraîné des répercussions durables. Elle a anéanti l'autodétermination et la capacité des communautés autochtones de faire respecter leurs lois, leurs règles et leurs organisations de droit coutumier. En outre, elle a servi à opprimer les femmes des Premières Nations, à les empêcher de jouer leur rôle de leadership traditionnel et à contrer l'exercice de leurs droits politiques.
- Le rétablissement des liens familiaux et communautaires est essentiel à la revitalisation de la culture et à l'instauration de la sécurité. La culture et le sentiment d'appartenance sont essentiels à la sécurité en raison du rôle de la culture dans l'établissement de bonnes relations. Renouer avec les langues, les cultures, les territoires et les modes de connaissance distincts représente une solution importante pour guérir, pour reconstruire une Nation et pour assurer la sécurité.
- De nombreux obstacles empêchent les enfants et les jeunes autochtones d'accéder à l'éducation, en particulier au savoir culturel. Ils ont droit à une éducation, et à ce que cette éducation soit ancrée dans leur culture et dans leur langue. La plupart des enfants autochtones continuent d'être éduqués dans le système d'éducation général qui exclu les cultures, les langues, l'histoire et les réalités contemporaines autochtones. Il est pourtant impératif de leur donner accès à une éducation de haute qualité et adaptée à la culture pour rompre les cycles de traumatisme, de violence et d'abus.



## Notes

- 1 Organisation mondiale de la Santé, « Rapport mondial », 5.
- 2 Government of Newfoundland and Labrador, « Defining Violence and Abuse. »
- 3 Holmes et Hunt, « Indigenous Communities and Family Violence, » 11, 15-16.
- 4 Sarah Clark, Parties II et III mixtes, Volume public 10, Winnipeg, Man., p. 105. Dans ce chapitre, comme dans tous nos chapitres, la citation est tirée de la transcription officielle de la langue dans laquelle la personne a témoigné, même si la citation a été traduite.
- 5 Pour plus de détails, voir chapitre 1.
- 6 Ellen Gabriel (Clan de la tortue, Nation Kanien'kehá:ka), Parties II et III mixtes, Volume public 9, Québec, Qc, pp. 7-8.
- 7 Xanthaki, « Cultural Rights. »
- 8 Xanthaki, « Indigenous Cultural Rights, » 355.
- 9 Xanthaki, « Indigenous Cultural Rights, » 356.
- 10 Nations unies, Conseil économique et social, cité dans Xanthaki, « Cultural Rights, » 17.
- 11 Nations unies, Assemblée générale, « Rapport du Rapporteur spécial. »
- 12 Nations unies Population Information Network, « The Family. »
- 13 Patrick S. (Kwagu'ł, Fort Rupert, Qualicum), Partie 1, Volume public 102, Vancouver, C.-B., p. 30.
- 14 Nations unies, Haut-commissariat, « Droits culturels ».
- 15 Nations unies, Haut-commissariat, « A Manual for National Human Rights Institutions, » 14.
- 16 Ibid., 13.
- 17 Nations unies, Haut-commissariat, « Fact Sheet No. 33. »
- 18 Oster, et al., « Cultural Continuity. »
- 19 Patrick S. (Kwagu'ł, Fort Rupert, Qualicum), Partie 1, Volume public 102, Vancouver, C.-B., pp. 26-27.
- 20 Coombe, « The Properties of Culture, » 272.
- 21 Ann M. R. (Kaska Dena), Partie 1, Volume public 3, Whitehorse, Yn, p. 38.
- 22 Moses M. (Nuu-chah-nulth), Partie 1, Volume public 82, Vancouver, C.-B., pp. 4-5.
- 23 Michele G. (Musqueam), Partie 1, Volume public 84, Vancouver, C.-B., p. 17.
- 24 Carol B. (Nation Crie Ermineskin), Partie 1, Volume public 20, Edmonton, Alb., pp. 75-76.
- 25 Gail C., Partie 1, Volume public 43, Yellowknife, T.N.-O., pp. 102-103.
- 26 D<sup>re</sup> Amy Bombay (Ojibway, Premières Nations Rainy River), Parties II et III mixtes, Volume public 10, Winnipeg, Man., pp. 151-152.
- 27 First Nations Information Governance Centre, « National Report, » 151.
- 28 Ibid.
- 29 D<sup>re</sup> Amy Bombay (Ojibway, Premières Nations Rainy River), Parties II et III mixtes, Volume public 10, Winnipeg, Man., p. 139.
- 30 Robin R. (Nakota Sioux), Partie 1, Volume public 92, Vancouver, C.-B., pp. 3-5.
- 31 Verna W. (Cape Mudge), Partie 1, Volume public 88, Vancouver, C.-B., p. 20.
- 32 Chrystal S. (Musqueam), Partie 1, Déclaration publique 385, Richmond, C.-B., pp. 27-28.
- 33 D<sup>re</sup> Amy Bombay (Ojibway, Premières Nations Rainy River), Parties II et III mixtes, Volume public 10, Winnipeg, Man., p. 139.
- 34 Shara L. (Dénée), Partie 1, Déclaration publique 101, Edmonton, Alb., p. 49.
- 35 Ann M. R. (Kaska Dena), Partie 1, Volume public 3, Whitehorse, Yn, p. 31.
- 36 Elder Jal Tun, Partie 1, Volume public 3, Whitehorse, Yn, p. 68.
- 37 Moses M. (Nuu-chah-nulth), Partie 1, Volume public 82, Vancouver, C.-B., p. 6.
- 38 Muriel D. (Crie), Partie 1, Déclaration publique 98, Edmonton, Alb., p. 2.
- 39 Carol B. (Nation Crie Ermineskin), Partie 1, Volume public 20, Edmonton, Alb., p. 79.
- 40 Corey O'Soup (Métis/Première Nation de Key), Partie 3, Volume public 6, Québec, Qc, p. 123.
- 41 Carol B. (Nation Crie Ermineskin), Partie 1, Volume public 20, Edmonton, Alb., p. 88.
- 42 D<sup>re</sup> Amy Bombay (Ojibway, Premières Nations Rainy River), Parties 2 & 3, Volume public 10, Winnipeg, Man., p. 178.
- 43 Juanita D. (Dénée), Partie 1, Volume public 87, Vancouver, C.-B., pp. 8-9.
- 44 Juanita D. (Dénée), Partie 1, Volume public 87, Vancouver, C.-B., p. 9.
- 45 Darlene S. (Kingcome Inlet), Partie 1, Déclaration publique 353, Richmond, C.-B., pp. 51-52.89



- 46 Carol B. (Nation Crie Ermineskin), Partie 1, Volume public 20, Edmonton, Alb., pp. 76-77.
- 47 Danielle E. (Première Nation Kawacatoose), Partie 1, Volume public 31, Saskatoon, Sask., p. 86.
- 48 Carol M. (Nisga'a Gitanyow), Partie 1, Déclaration publique 357, Richmond, C.-B., p. 74.
- 49 Carla M. (Nuu-chah-nulth), Partie 1, Volume public 82, Vancouver, C.-B., p. 8.
- 50 Wendy L. (Nation Squamish), Partie 1, Déclaration publique 370, Richmond, C.-B., pp. 4-5.
- 51 Wendy L. (Nation Squamish), Partie 1, Déclaration publique 370, Richmond, C.-B., p. 8.
- 52 Wendy L. (Nation Squamish), Partie 1, Déclaration publique 370, Richmond, C.-B., 26. Comme le souligne Morellato, il est « important de distinguer le droit au statut d'Indien qui, dans certaines circonstances, ne sont disponibles que pour les membres de la bande, et plus généralement pour les droits des peuples autochtones, droits qui s'appliquent à tous les membres de la bande, peu importe leur statut au regard de la Loi sur les Indiens et qui sont garantis par la Constitution canadienne. Pour en savoir d'avantage, voir Morellato, « Memorandum on Indian Status, » 7.
- 53 Wendy L. (Nation Squamish), Partie 1, Déclaration publique 370, Richmond, C.-B., pp 22-23.
- 54 Natalie G. (Mi'kmaq), Partie 1, Volume public 18, Membertou, N.-É., pp. 83-84.
- 55 Natalie G. (Mi'kmaq), Partie 1, Volume public 18, Membertou, N.-É., pp. 91-92.
- 56 Natalie G. (Mi'kmaq), Partie 1, Volume public 18, Membertou, N.-É., p. 86.
- 57 Natalie G. (Mi'kmaq), Partie 1, Volume public 18, Membertou, N.-É., p. 91.
- 58 Hyslop, « How poverty. »
- 59 Naomi Metallic (Première Nation Listuguj Mi'gmaq), Partie 3, Volume public 4, Québec, Qc, pp. 188-189.
- 60 Currie, « Exploring Risk and Protective Factors, » tel que cité dans King, et al., « Indigenous Health, » 79.
- 61 Jakubec, « AIDS-Related Stigma » tel que cité dans King, et al., « Indigenous Health, » 79.
- 62 Trocmé, « Understanding the Overrepresentation. »
- 63 Vanessa B. (Première Nation Millbrook), Partie 1, Volume public 19, Membertou, N.-É., pp. 96-97.
- 64 Robin R. (Nakota Sioux), Partie 1, Volume public 92, Vancouver, C.-B., pp. 15-16.
- 65 Anastasia N. (Natashquan), Volume public 35(a), Maliotenam, Qc, pp. 16-17.
- 66 Carol M. (Nisga'a Gitanyow), Partie 1, Déclaration publique 357, Richmond, C.-B., pp. 95-96.
- 67 Vanessa B. (Première Nation Millbrook), Partie 1, Volume public 19, Membertou, N.-É., pp. 95-96.
- 68 Robin R. (Nakota Sioux), Partie 1, Volume public 92, Vancouver, C.-B., pp. 19-20.
- 69 Mealia Sheutiapik (Inuite, Frobisher Bay), Parties II et III mixtes, Volume public 16, St. John's, T.-N.-L., p. 16.
- 70 Richardson, « Métis-Astute Social Work. »
- 71 Pour en savoir d'avantage, voir Carrière et Richardson, *Calling Our Families Home*.
- 72 Noeline V. (Dénée/Métis), Partie 1, Volume public 40, Yellowknife, T.N.-O., pp. 125-126.
- 73 King et al., « Indigenous Health, » 78.
- 74 Ann M. R. (Kaska Dena), Partie 1, Volume public 3, Whitehorse, Yn, p. 32.
- 75 Marilyn W. (Crie), Partie 1, Volume public 30, Saskatoon, Sask., p. 25.
- 76 Patrick S. (Kwagu'ł, Fort Rupert, Qualicum), Partie 1, Volume public 102, Vancouver, C.-B., p. 30.
- 77 Paula P. (Crie/Lakota/Écossaise), Partie 1, Déclaration publique 374, Richmond, C.-B., p. 43.
- 78 Ann M. R. (Kaska Dena), Partie 1, Volume public 3, Whitehorse, Yn, p. 39.
- 79 Patrick S. (Kwagu'ł, Fort Rupert, Qualicum), Partie 1, Volume public 102, Vancouver, C.-B., p. 28.
- 80 Jackie Anderson (Métisse), Partie 2, Volume public 3, Calgary, Alb., pp. 95-96.
- 81 Shelley J. (Première Nation Musgamagw Dzawada'enuxw), Partie 1, Volume public 114, Vancouver, C.-B., p. 26.
- 82 Viola Thomas (Kamloops Tk'emlúps te Secwepemc), Partie 1, Volume public 104, Vancouver, C.-B., p. 14.
- 83 Gina G. (Première Nation Selkirk), Partie 1, Volume public 3, Whitehorse, Yn, p. 88.
- 84 Gail C., Partie 1, Volume public 43, Yellowknife, T.N.-O., p. 99.
- 85 Ann M. R. (Kaska Dena), Partie 1, Volume public 3, Whitehorse, Yn, p. 40.
- 86 Rhonda M. (Anishinaabe), Partie 1, Volume public 7, Smithers, C.-B., p. 30.
- 87 Viola Thomas (Kamloops Tk'emlúps te Secwepemc), Partie 1, Volume public 104, Vancouver, C.-B., p. 35.
- 88 Shara L. (Dénée), Partie 1, Déclaration publique 101, Edmonton, Alb., pp. 62-63.





- 89 Darla-Jean L. (Premières Nations), Partie 1, Volume public 1, Whitehorse, Yn, p. 31.
- 90 Chef Marilyn Slett (Nation Heiltsuk), Partie 1, Volume public 90, Vancouver, C.-B., p. 50.
- 91 Bryan J. (Clan du loup de Taku River, Première Nation Tlingit), Partie 1, Volume public 3, Whitehorse, Yn, p. 63.
- 92 Carol M. (Nisga'a Gitanyow), Partie 1, Déclaration publique 357, Richmond, C.-B., pp. 74-75.
- 93 Brenda Gunn (Métisse), Partie 3, Volume public 6, Québec, Qc, p. 52.
- 94 Brenda Gunn (Métisse), Partie 3, Volume public 6, Québec, Qc, p. 38.
- 95 Sandra L. (Crie/Dakota), Partie 1, Volume public 41, Yellowknife, T.N.-O., p. 212.
- 96 Blu W. (Crie/Mi'kmaq/Métisse), Partie 1, Volume public 117, Vancouver, C.-B., p. 60.









Ensuite, nous présentons des témoignages qui démontrent comment la violence coloniale infligée à la culture traditionnelle, la famille et la communauté, ainsi que la perturbation incessante de la continuité culturelle par le biais des déclinaisons modernes de politiques coloniales comme la prise en charge d'enfants par les services de protection de l'enfance, la destruction de l'environnement ou la discrimination fondée sur le genre inscrite dans la *Loi sur les Indiens*, ont des répercussions considérables sur la santé pour les Autochtones, souvent sous la forme de traumatismes multigénérationnels et intergénérationnels. Par la suite, nous examinons comment la marginalisation socioéconomique des Autochtones et de leurs communautés compromet encore davantage leur santé physique, émotionnelle, mentale et spirituelle, surtout en créant des conditions qui encouragent la violence et aggravent les traumatismes. Nous examinons comment, malgré la reconnaissance générale des problèmes de santé importants qui touchent les Autochtones – et des conséquences considérables sur la santé qu'ont toutes les formes de violence interpersonnelle sur les femmes, les filles et les personnes 2ELGBTQQIA autochtones en particulier – les systèmes et institutions auxquels les peuples autochtones font appel pour obtenir des soins de santé faillissent souvent à la tâche et par conséquent aggravent les problèmes. Nous démontrons en quoi cette incapacité des systèmes de santé à rétablir la santé et à réparer les torts semble témoigner d'une ignorance délibérée de nombreux modèles autochtones de soins de santé et de guérison qui, étant axés sur la culture et la continuité culturelle, agissent favorablement sur la santé physique, émotionnelle, mentale et spirituelle. Nous concluons le chapitre par l'examen d'un exemple qui illustre combien il est important, pour combattre toutes les formes de violence à l'endroit des femmes, des filles et des personnes 2ELGBTQQIA autochtones, de respecter les connaissances et la capacité d'agir des peuples autochtones quant à leurs propres besoins en matière de santé physique, mentale et spirituelle, ainsi que d'adopter les mesures qui créeront les conditions leur permettant de répondre à ces besoins.

En dernière analyse, voici ce que nous avons entendu : quand le droit à la santé est compromis, la sécurité est elle-même en péril. L'amélioration des services de santé et des mécanismes de prestation peut contribuer concrètement et favorablement à la santé, la sécurité et la guérison des personnes et des communautés. C'est particulièrement vrai lorsqu'on applique des solutions efficaces qui sont déterminées de manière autonome par les intéressés et que ces règles s'opposent aux préjugés racistes, sexistes, homophobes et transphobes, lesquels continuent trop souvent de teinter la perception que l'on a de l'importance de la santé des peuples autochtones, et surtout des femmes, des filles et des personnes 2ELGBTQQIA autochtones.

## Définir la « santé »

En 1948, l'Organisation mondiale de la santé (OMS), une agence du système des Nations Unies, a défini la « santé » comme un « état de complet bien-être physique, mental et social » qui « ne consiste pas seulement en une absence de maladie ou d'infirmité<sup>1</sup> ». Même si cette définition n'a pas été modifiée depuis 1948, les Nations Unies et d'autres organisations internationales de la santé ont depuis les années 1990 reconnu qu'il était particulièrement important de concevoir la notion de santé dans un contexte global et d'une manière qui inclut les visions du monde



autochtones. Comme le fait valoir la chercheuse en santé Odette Mazel, cette reconnaissance a ouvert la voie à de nouvelles façons de penser la santé comme un droit et de la considérer comme un enjeu de justice sociale ayant des causes sociétales<sup>2</sup>.

Aujourd'hui, l'OMS reconnaît que « cette définition va au-delà du paradigme biomédical occidental traditionnel, qui traite le corps, l'esprit et la société comme des entités séparées, en reflétant une conception plus holistique de la santé ». Cette conception affirme que « le bien-être est affaire d'harmonie entre les individus, les communautés et l'univers<sup>3</sup> ». Les systèmes de santé traditionnels, tels qu'ils sont définis par l'Organisation panaméricaine de la santé et l'OMS, « comprennent l'ensemble des idées, concepts, croyances, mythes, procédures et rituels (explicables ou non) liés au maintien de la santé ou au rétablissement de la santé par le traitement des maladies physiques et mentales ou des déséquilibres sociaux chez une personne, une communauté ou un peuple en particulier<sup>4</sup> ». En termes simples, le contexte de vie d'une personne a des effets bénéfiques ou néfastes directs sur sa santé et son bien-être, et c'est l'interaction de tous ces facteurs, dont plusieurs correspondent à des thèmes abordés dans les témoignages recueillis, qui peut déterminer l'état de santé, bon ou mauvais.

Dans ce chapitre, nous définissons la « santé » comme un état global de bien-être, qui inclut la sécurité physique, psychologique, émotionnelle, spirituelle et sociale et qui ne s'entend pas simplement de l'absence de maladie. Le droit à la santé est également un droit au bien-être<sup>5</sup>, et il est lié à d'autres droits fondamentaux de la personne comme l'accès à de l'eau propre ou à des infrastructures adéquates dans les communautés autochtones, ainsi que le droit au logement et à la sécurité alimentaire, qui touchent toutes les communautés autochtones, mais qui revêtent une importance particulière dans le Nord. Ces services de base, qui incluent également la possibilité d'accéder à des soins médicaux sans avoir à parcourir de grandes distances, sont essentiels à la sécurité des femmes, des filles et des personnes 2ELGBTQQIA autochtones. Le droit à la santé concerne également la prévention des dangers et des préjudices pour le bien d'autrui, la santé des enfants et des familles et tous les aspects du bien-être physique et mental.

Les personnes qui ont témoigné devant l'Enquête nationale ont également expliqué que certains groupes rencontraient des défis particuliers en matière de santé. Par exemple, Timothy Argetsinger a précisé que les déterminants sociaux de la santé des Inuits comprennent la sécurité alimentaire, le logement, le bien-être émotionnel, la disponibilité des services de santé, la sécurité, la répartition des revenus, l'éducation, les moyens de subsistance, la culture et la langue, la qualité du développement de l'enfant en bas âge, et enfin, englobant tous ces facteurs : l'environnement. Comme il l'a expliqué :

Il y a donc quelques aspects de cette vision qui font qu'elle diffère des autres représentations [...]. Par conséquent, le facteur principal est l'environnement et le rôle qu'il joue dans la culture et la société inuites ainsi que dans tous les aspects de notre vie. C'est pourquoi il encadre les autres déterminants<sup>6</sup>.



## LA RÉGIE DE LA SANTÉ DES PREMIÈRES NATIONS (C.-B.) : LE DROIT À LA SANTÉ DES PREMIÈRES NATIONS

La perspective sur la santé et le bien-être présentée ci-dessous (et disponible en anglais seulement) propose un point de départ pour les discussions des communautés des Premières Nations au sujet de leur conception du bien-être pour elles-mêmes et pour la Régie de la santé des Premières Nations (RSPN) en Colombie-Britannique.

Le cercle central représente l'être humain considéré dans son individualité. Le mieux-être commence par la prise en charge individuelle de sa santé et de son mieux-être (que l'on soit membre des Premières Nations ou non).

Le deuxième cercle illustre l'importance des dimensions mentale, émotionnelle, spirituelle et physique d'une vie saine et équilibrée. Il est essentiel de trouver un équilibre entre ces aspects du bien-être et de les développer à l'unisson pour atteindre un niveau de bien-être global dans lequel les quatre domaines sont solidement et favorablement établis.

Le troisième cercle représente les valeurs fondamentales qui portent et préservent le bien-être : respect, sagesse, responsabilité et relations.

Le quatrième cercle symbolise les personnes qui nous entourent et nos origines : les Nations, la famille, la communauté et la terre sont tous des composantes essentielles d'une expérience humaine positive.

Le cinquième cercle présente les déterminants sociaux, culturels, économiques et environnementaux de notre santé et de notre bien-être.

Les personnes qui composent le cercle extérieur représentent des communautés – enfants, familles, aînés – en santé : ils incarnent la vision de la RSPN. Toutes ces personnes se tiennent pour affirmer leur solidarité, leur respect mutuel et leurs liens; ainsi liés, ils forment, pour reprendre les mots d'un Aîné respecté de la Colombie-Britannique, « un seul cœur, un seul esprit ». Une place est faite aux enfants dans l'image, car ceux-ci sont le noyau de nos communautés et ils nous connectent à qui nous sommes et à notre santé.



Source : Adaptée de la Régie de la santé des Premières Nations (C.-B.), [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). Image disponible en anglais seulement.





Le lien entre la santé et la violence à l'endroit des femmes, des filles et des personnes 2ELGBTQQIA autochtones est important, car les circonstances dans lesquelles de nombreuses proches ont disparu ou ont été assassinées ont été autant de façons de les cibler en raison de leur état de santé physique, émotionnel, mental et spirituel et de leur mal-être. De plus, les témoignages qui ont traité des problèmes de suicide et de déplacement sur de grandes distances pour obtenir des soins de santé ont illustré clairement que le droit à la santé est lié au problème de la violence, au-delà de l'idée de la préservation de la santé comme moyen de préserver la vie. À cela s'ajoute un phénomène relevé par l'Instance permanente sur les questions autochtones des Nations Unies :

### INUIT TAPIIRIT KANATAMI (ITK) : DÉTERMINANTS SOCIAUX DE LA SANTÉ DES INUITS



Source : ITK, *Social Determinants of Inuit Health in Canada*, 2014.

### LE RALLIEMENT NATIONAL DES MÉTIS : INITIATIVES DES MÉTIS EN MATIÈRE DE SANTÉ ET DE BIEN-ÊTRE

En août 2018, la séance sur la politique en matière de santé concernant la Nation métisse s'est conclue par la signature d'un protocole d'entente (PE) entre le gouvernement du Canada et la Nation métisse, en vue de l'élaboration d'un accord décennal destiné à répondre aux besoins particuliers des Métis en matière de santé.

Voici les éléments sur lesquels doit porter l'accord :

- Le renforcement de la capacité de la Nation métisse à participer de façon efficace aux systèmes de soins de santé;
- Des activités de recherche, de surveillance, d'évaluation métisses et des savoirs métis;
- Des prestations supplémentaires en santé pour la Nation métisse;
- Des modalités de participation de la Nation métisse à la prestation de soins de santé primaires et spécialisés;
- L'adoption de modèles métis de soins palliatifs, soins à domicile, soins dans la communauté et soins de longue durée;
- Des carrefours communautaires et de bien-être des métis (c.-à-d., les centres d'accès au bien-être et aux services);
- La présence de Métis dans le secteur des ressources humaines en santé;
- Le renforcement de la capacité de la Nation métisse dans les efforts de promotion de la santé et d'un mode de vie sains ainsi que dans la prévention des maladies;
- Le respect de la culture métisse dans le système de soins de santé;
- Des mécanismes de coordination intergouvernementale permettant d'adapter et d'améliorer les systèmes de soins de santé afin de refléter le rôle accru de la Nation métisse;
- Des mesures d'atténuation des risques liés aux changements climatiques et de leur effet sur la santé, ainsi que la gestion des données s'y rapportant;
- L'accès à des services de soutien en santé mentale.

Source : Métis Nation, « Métis Nation Presses Health and Wellness, Family and Child Care Priorities at Policy Sessions in Ottawa, » le 6 septembre 2018. <http://www.metisnation.ca/index.php/news/metis-nation-presses-health-and-wellness-family-and-child-care-priorities-at-policy-sessions-in-ottawa>



Les enfants nés dans des familles autochtones vivent souvent dans des régions éloignées où les gouvernements n'investissent pas dans les services sociaux de base. Par conséquent, les jeunes et les enfants autochtones n'ont qu'un accès limité, voire aucun accès, aux soins de santé, à une éducation de qualité, à la justice et aux mécanismes de participation à la société. Ils courent particulièrement le risque de ne pas être enregistrés à la naissance et de se voir refuser des documents d'identité<sup>7</sup>.

Ce sentiment de séparation et d'isolement, alimenté par des politiques et des procédures de santé insuffisantes ou inadéquates, aggrave les problèmes auxquels font face les communautés autochtones, surtout dans un contexte d'éloignement.

Par ailleurs, le Groupe d'appui interorganisations sur les questions autochtones souligne que, au niveau mondial, les peuples autochtones sont en moins bonne santé que les populations non autochtones et que « les femmes autochtones connaissent des problèmes de santé particulièrement graves, car elles [...] se voient souvent refuser l'accès à l'éducation, à la propriété foncière et à d'autres ressources économiques ». De plus, le Groupe d'appui affirme que « les jeunes et les adolescents autochtones se heurtent, dans la réalisation de leur droit à la santé, à des difficultés particulières qui, souvent, ne sont pas adéquatement prises en compte, notamment en ce qui touche la santé mentale ainsi que la santé et les droits en matière de sexualité et de reproduction<sup>8</sup> ». Les conditions suivantes favorisent l'exercice du droit à la santé :

- accessibilité physique et géographique;
- accessibilité économique;
- accessibilité de l'information;
- accès non discriminatoire aux services<sup>9</sup>.

Les témoignages entendus dans le cadre de l'Enquête nationale montrent que ces conditions font défaut. Dans les sections qui suivent, nous examinons de plus près comment l'absence d'un grand nombre de ces conditions se manifeste pour les femmes, les filles et les personnes 2ELGBTQQIA autochtones qui souhaitent fuir la violence et obtenir de l'aide, du soutien et des espaces sûrs.

## Les approches actuelles en matière de santé au Canada

Un des témoins de l'Enquête nationale a présenté des renseignements importants concernant l'approche fédérale actuelle en matière de programmes et de services de santé. Comme nous l'avons vu brièvement dans notre examen des « hôpitaux indiens », le gouvernement fédéral assume officiellement la responsabilité des questions de santé eu égard aux Premières Nations dès 1904, quand le ministère des Affaires indiennes nomme un surintendant médical général chargé de mettre sur pied des programmes médicaux et de construire des établissements de santé. Les Services de santé des Indiens passent sous la direction du ministère de la Santé nationale et du Bien-être social en 1945 et, en 1962, ils fusionnent avec les Services de santé du Nord pour former la Direction générale des services médicaux. En 1974, le ministre de la Santé nationale et



du Bien-être social dépose la politique du gouvernement fédéral sur les services de santé aux Autochtones, qui reprend la formule de la Direction générale des services médicaux selon laquelle aucune loi ni aucun traité ne prévoit la prestation obligatoire de services de santé aux Indiens inscrits. Pourtant, le gouvernement fédéral affirme vouloir veiller à ce que des services soient disponibles « en les offrant directement là où des services normalement fournis par les provinces ne sont pas offerts et en aidant financièrement les Autochtones démunis à payer les services nécessaires lorsqu'aucune autre aide n'est offerte<sup>10</sup> ».

Comme l'a mentionné un témoin expert, la D<sup>re</sup> Valérie Gideon, le mandat de la Direction générale de la santé des Premières Nations et des Inuits (DGSPNI) est fondé, encore aujourd'hui, sur la Politique de 1979 sur la santé des Indiens découlant du document de 1974. Ce dernier énonce les trois piliers qui servent de fondement à la DGSPNI : le développement communautaire, la reconnaissance d'une relation spéciale entre la Couronne et les peuples autochtones, et les relations entre les systèmes des divers ordres de gouvernement, qui visent tous à promouvoir la santé des Autochtones. Comme D<sup>re</sup> Gideon l'a admis : « C'est un document désuet. Néanmoins, ces trois piliers continuent de guider le mandat de la direction générale<sup>11</sup>. » Même si la mise à jour de la politique, en 2012, a abouti à un libellé plus général et plus pertinent, les principaux fondements de l'approche de la DGSPNI demeurent les mêmes.

## POLITIQUE DE 1979 SUR LA SANTÉ DES INDIENS

D'après la Direction générale de la santé des Premières nations et des Inuits, « La Politique fédérale sur la santé des Indiens est fondée sur la relation particulière qui existe entre les Indiens et le gouvernement fédéral, une relation que les deux parties ont à cœur de maintenir. Cette politique reconnaît que les conditions dans lesquelles vivent de nombreuses communautés indiennes ont placé les Indiens dans une position très défavorisée par rapport à la plupart des autres Canadiens, tant sur le plan de la santé que sous d'autres rapports. »



**Développement communautaire :** tant sur le plan socioéconomique que sur les plans culturel et spirituel, il permettra d'éliminer les conditions de pauvreté et d'apathie qui empêchent les membres des communautés d'atteindre un état de bien-être physique, mental et social.



**La reconnaissance de l'importance des relations Couronne-Autochtones :** elle souligne l'importance de ces relations en ouvrant la communication avec les Indiens et en les encourageant à participer davantage à la planification et à l'exécution des programmes de santé, ainsi qu'à l'établissement du budget qui sera affecté à ces programmes.



**Le système de santé Canadien :** le partage des compétences a une portée superficielle lorsqu'on considère le système de santé dans son ensemble. Les fonctions les plus importantes du fédéral dans ce système sont liées aux activités touchant la santé publique dans les réserves, à la promotion de la santé, ainsi qu'à la détection et à la réduction des dangers pour la santé qui proviennent de l'environnement.

Source : Adapté à partir de la Politique de 1979 sur la santé des indiens, <https://www.canada.ca/fr/services-autochtones-canada/organisation/direction-generale-sante-premieres-nations-inuits/politique-1979-sante-indiens.html>.





D<sup>re</sup> Gideon estime qu'il en est ainsi parce que, fondamentalement, le principal souci de la DGSPNI demeure de compléter l'offre de services des systèmes de santé territoriaux et provinciaux et d'établir des partenariats en santé avec les dirigeants des Premières Nations et des Métis au niveau communautaire ou régional<sup>12</sup>.

Selon D<sup>re</sup> Gideon, les plus grands obstacles à la santé sont attribuables à la façon dont les systèmes de santé provinciaux et territoriaux coordonnent leurs services, plutôt qu'à l'organisme fédéral à qui l'on doit la reconnaissance de la relation directe qui existe entre les peuples autochtones et la Couronne ou les relations entre les différents systèmes et ordres de gouvernement.

Il est absolument essentiel de collaborer avec les systèmes de santé provinciaux et territoriaux afin d'avoir accès à des services tels que des médecins, des spécialistes, la technologie de diagnostic, des services de laboratoire et de pharmacie qui, dans le contexte de la DGSPNI, ne relèvent pas directement de notre budget et de notre responsabilité. Il s'agit donc de créer des liens avec les systèmes de santé provinciaux et territoriaux. Ceci est extrêmement important pour développer l'accès aux services et aux communautés<sup>13</sup>.

La DGSPNI fournit des programmes et des services aux Premières Nations et aux Inuits. Le financement destiné aux Inuits est axé sur la santé mentale et le développement sain des enfants. D<sup>re</sup> Gideon a expliqué que cette approche, qui a été élaborée avec l'Inuit Tapiriit Kanatami (ITK) et le Comité inuit national de la santé en 2014, est axée sur la collaboration avec les organisations de revendication territoriale, au Nunavut, par exemple, où un partenariat tripartite s'affaire à répondre aux besoins des Inuits<sup>14</sup>. Cependant, les services comportent encore des lacunes considérables, dont l'absence d'un hôpital au Nunavik<sup>15</sup>.

En parlant du processus d'attribution des fonds et de détermination des priorités, D<sup>re</sup> Gideon a décrit les tables de partenariats réunissant des représentants de Premières Nations désignés par les dirigeants, ces représentants pouvant être « des chefs de communautés, des organismes territoriaux politiques [...] en plus des cadres régionaux de la DGSPNI, bien entendu<sup>16</sup> ». Quand on lui a demandé si des organismes communautaires avaient une place à la table, ou si des organisations urbaines pouvaient y participer, D<sup>re</sup> Gideon a répondu : « Eh bien, n'importe qui peut nous contacter pour nous faire part des besoins qui existent dans le contexte et quelles sont les priorités, et nous pouvons apporter cette information [...] et inviter des gens à faire une présentation aux membres des tables du comité de partenariat<sup>17</sup>. »

La DGSPNI, comme de nombreux organismes gouvernementaux, travaille avec les structures de gouvernance établies, telles que l'Assemblée des Premières Nations et les chefs élus des différentes communautés pour déterminer ces priorités; pour certaines femmes, qui témoignent d'un point de vue communautaire, cela équivaut à une exclusion complète.

En ce qui concerne les Métis en particulier, D<sup>re</sup> Gideon a expliqué que la Nation métisse avait présenté à la DGSPNI un projet de protocole d'entente portant sur une éventuelle collaboration en vue d'examiner plus particulièrement les priorités en matière de santé et de conclure un accord de dix ans sur la santé de la Nation métisse<sup>18</sup>. Questionnée au sujet de l'application du



principe de Jordan aux Inuits, aux Métis et aux Indiens non inscrits, D<sup>re</sup> Gideon a fait remarquer que « la position du Ministère n'est pas confirmée pour le moment<sup>19</sup> ».

Bien que la DGSPNI indique que la responsabilité d'agir lui incombe afin de combler les lacunes tout en respectant les rôles des autres administrations, comme les provinces et les territoires, les gouvernements des Premières Nations et les accords sur les revendications territoriales<sup>20</sup>, D<sup>re</sup> Gideon a également fait remarquer que ces programmes et services ne sont pas fondés sur des droits, mais sur un mandat stratégique qui comprend la reconnaissance d'instruments en matière de droits sans se baser sur ces instruments<sup>21</sup>.

## Les facteurs favorisant la violence : le traumatisme intergénérationnel et multigénérationnel

Dans son témoignage, Sharna S. a utilisé la métaphore de l'arbre malade pour décrire les nombreux facteurs qui nuisent à la santé physique, émotionnelle, mentale et spirituelle des peuples autochtones.

La façon dont je perçois l'Enquête nationale et toutes les atrocités qui sont arrivées à mon peuple, à mes yeux, c'est comme un arbre qui est malade. Et les branches se ramifient.

L'une [de ces branches] concerne les survivants des pensionnats indiens, une autre les personnes assassinées et disparues; une autre est pour la santé mentale, les toxicomanies et la crise du fentanyl. Vous voyez, les autres correspondent à la façon dont les bandes traitent leurs propres membres. La discrimination et le racisme qui existent, la perte de notre culture, la commission de vérité et réconciliation, toutes ces choses<sup>22</sup>.

Dans cette description, Sharna relève de nombreux facteurs historiques et contemporains qui influent sur la santé des peuples autochtones : la fréquentation des pensionnats indiens, la violence interpersonnelle, la dépendance à la drogue et à l'alcool, la violence latérale<sup>23</sup>, la discrimination, le racisme et la perte de la culture. Elle reconnaît également que chaque branche de cet arbre « a des ramifications » – c'est-à-dire que les répercussions sur la santé physique, émotionnelle, mentale et spirituelle de chacune de ces expériences sont transmises aux autres générations d'une façon qui crée et entretient des traumatismes intergénérationnels.

Tout comme Sharna, de nombreux témoins ont décrit comment ces actes de violence culturelle, institutionnelle et interpersonnelle ont une incidence considérable, entre autres, sur la santé des peuples autochtones, et provoquent notamment des traumatismes, de la souffrance et de la douleur généralisés qui peuvent, à leur tour, provoquer de nouvelles violences. Pour les femmes, les filles et les personnes 2ELGBTQQIA autochtones, qui sont plus fréquemment la cible de ces actes de violence, les conséquences sur la santé sont graves et durables.

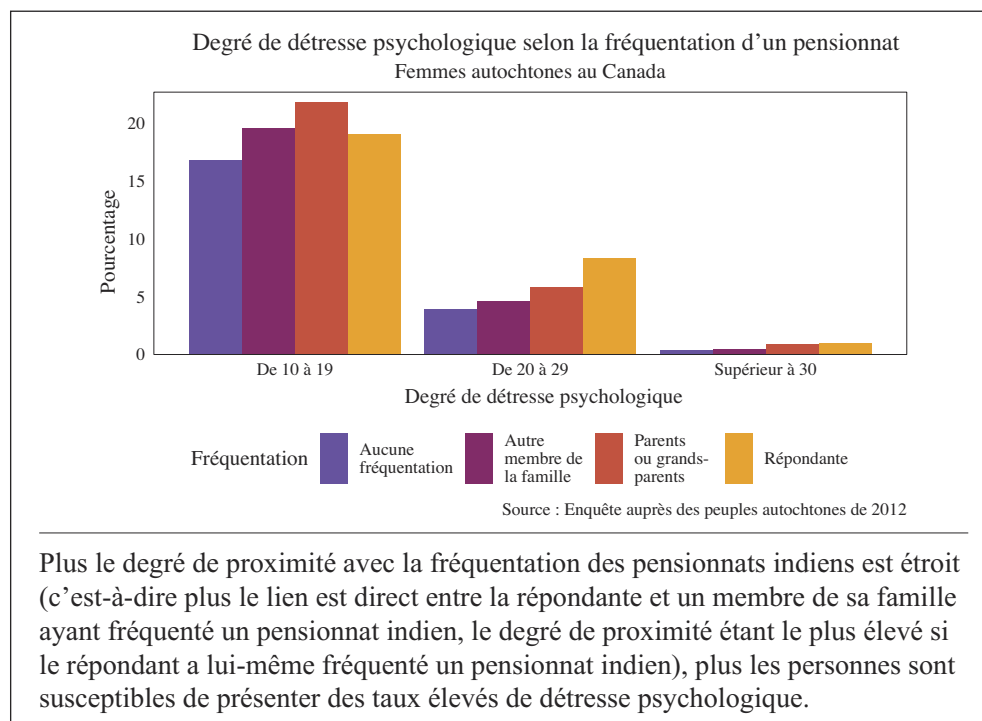
Dans la section suivante, nous examinons plus attentivement les propos des familles des femmes, filles et personnes 2ELGBTQQIA autochtones disparues et assassinées, et ceux d'autres personnes qui ont présenté leur vérité propre, au sujet de leur état de santé et de bien-être ainsi que de celui de leurs proches.



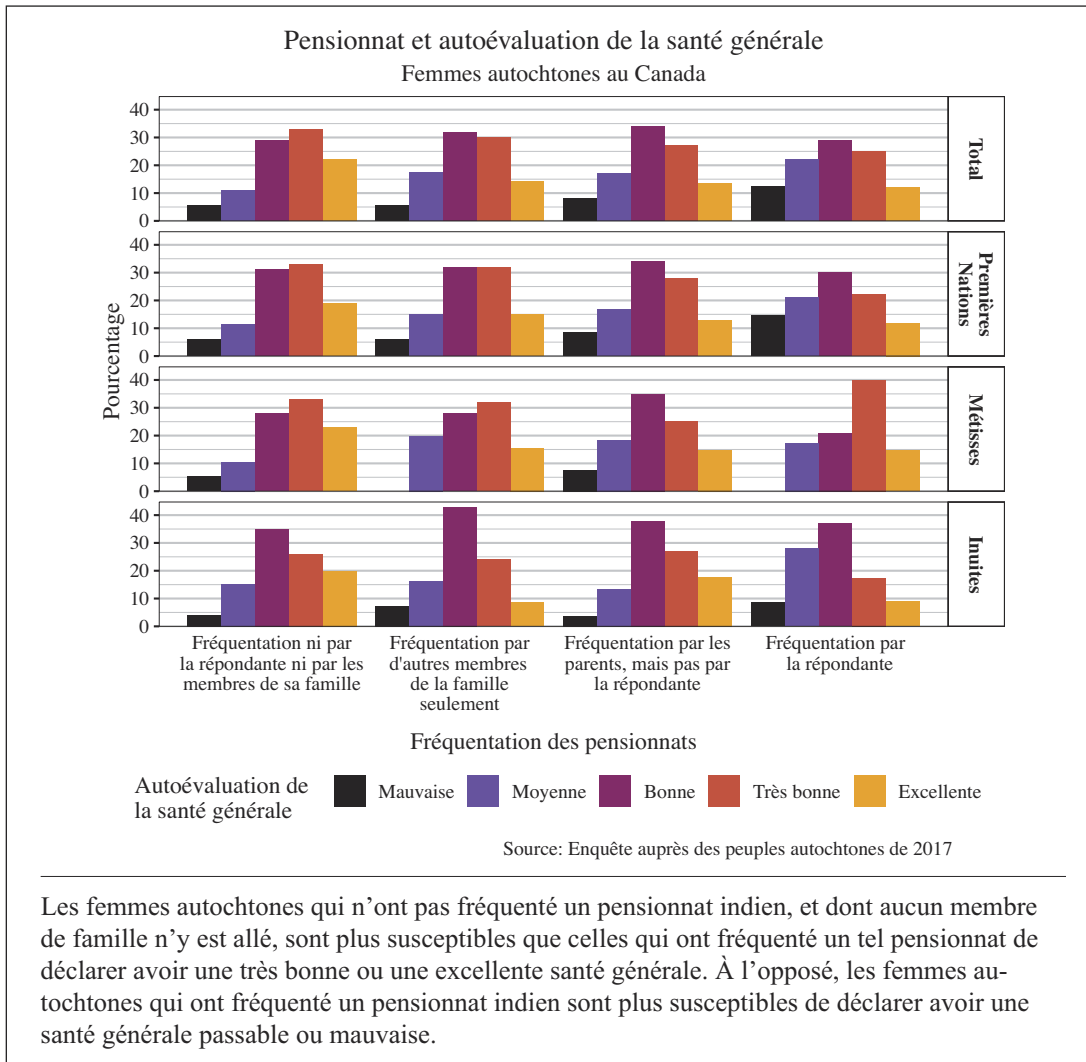
## Les indices d'une mauvaise santé à long terme : un aperçu des questions de santé et de bien-être

Dans la description de leurs expériences relatives à la santé et au bien-être, les familles de femmes, de filles et de personnes 2ELGBTQQIA autochtones disparues et assassinées ainsi que les survivantes et les autres personnes qui ont parlé des répercussions de la violence ont raconté des histoires témoignant de la résilience et de la force que les peuples et les communautés autochtones développent face aux nombreux obstacles qui compromettent leur bien-être. Néanmoins, dans de nombreux cas, leurs histoires illustraient également les inégalités considérables et largement reconnues en matière de santé entre Autochtones et non-Autochtones au Canada<sup>24</sup>. Pour bien des témoins, les répercussions à long terme de la dépossession, des déplacements, des torts infligés dans les pensionnats indiens et des nombreuses formes de perturbation sociale et culturelle sont les principales raisons de ces disparités en matière de santé. Comme l'explique le Centre de gouvernance de l'information des Premières Nations en mettant en contexte les constatations de sa dernière Enquête régionale sur la santé des Premières Nations (2015-2016) :

Les taux élevés de maladies chroniques ne sont pas un phénomène isolé; les inégalités en matière de santé sont plutôt le produit de la relation indissociable entre la santé et les politiques coloniales racistes qui se sont perpétuées sur des générations. Les effets de la colonisation se sont traduits par une dépossession de l'environnement, une dégradation des terres, des conditions de vie inférieures au niveau normal, un accès inadéquat aux services de santé, l'exclusion sociale et une rupture avec la communauté, la langue, le territoire et la culture. Il a été clairement établi que ces politiques ont des conséquences néfastes sur la santé des personnes et de la communauté<sup>25</sup>.

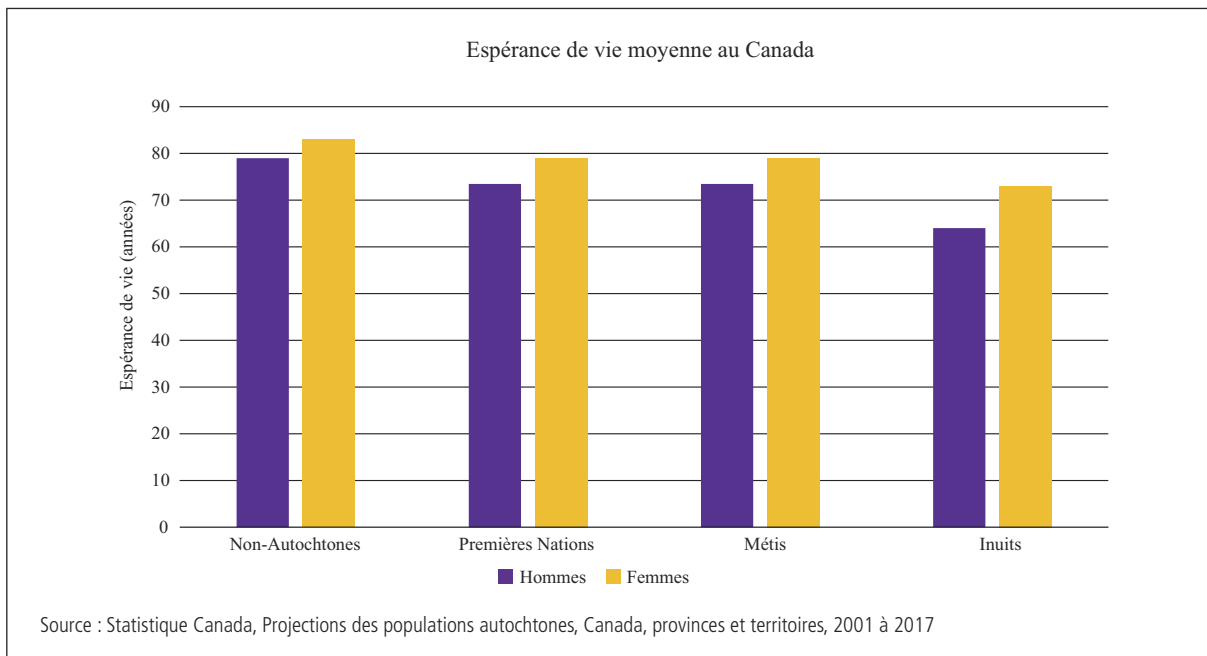






Pour André Picard, chroniqueur en santé pour le *Globe and Mail*, il n'est pas étonnant, compte tenu de ce contexte, que les populations autochtones –Premières Nations, Inuits et Métis – sont toutes en moins bonne santé que la population non autochtone.

La communauté autochtone est jeune et connaît la croissance la plus rapide, et de loin – plus de 50 % des Autochtones du Canada ont moins de 15 ans. C'est le moment d'enrayer les catastrophes, la pauvreté, l'isolement, la toxicomanie et le problème du suicide qui surviennent génération après génération – nous avons créé tout cela. Nous avons un système d'apartheid conçu pour opprimer les gens et il a donné exactement les résultats pour lesquels il a été conçu. Nous leur avons enlevé leur culture, leur langue, leur capacité de gagner de l'argent, leur capacité d'avoir des terres, puis nous nous étonnons que ce soient eux qui, dans tout le pays, ont la plus mauvaise santé? Ce n'est pas une surprise du tout<sup>26</sup>.



En général, les Premières Nations, les Inuits et les Métis ont une espérance de vie inférieure à celle de la population canadienne non autochtone. Selon les données les plus récentes de Statistique Canada, en 2017, l'espérance de vie prévue pour la population canadienne était de 79 ans pour les hommes et de 83 ans pour les femmes. Dans le cas des Métis et des Premières Nations, elle était réduite d'environ cinq ans pour les hommes (73 à 74 ans) comme pour les femmes (78 à 80 ans) par rapport à la population canadienne non autochtone. Les Inuits avaient la plus faible espérance de vie, soit 64 ans pour les hommes et 73 ans pour les femmes<sup>27</sup>.

Les peuples autochtones représentent la population qui croît le plus rapidement au Canada. Elle est aussi la plus jeune<sup>28</sup>, ce qui explique en partie que chez les Premières Nations, les Inuits et les Métis, les mères soient également plus jeunes que les mères non autochtones. Par exemple, de 2003 à 2007, 34,3 % des mères des Premières Nations étaient âgées de moins de 24 ans et 29,3 % de plus étaient âgées de moins de 29 ans<sup>29</sup>. Les données les plus récentes sur les taux de mortalité infantile montrent également que des écarts considérables existent entre les populations autochtones et non autochtones, avec des taux plus de deux fois plus élevés chez les Premières Nations, les Métis et les Inuits que chez les non-Autochtones. De plus, les taux de décès dus au syndrome de mort subite du nourrisson (SMSN) étaient plus de sept fois supérieurs chez les Premières Nations et les Inuits que chez les non-Autochtones<sup>30</sup>.

Les recherches sur la mortalité infantile démontrent que quand celle-ci se produit durant la période post-néonatale (de 28 jours à un an après la naissance), il est plus probable qu'elle soit attribuable à des facteurs sociaux et environnementaux qu'à des facteurs associés à l'accès à des soins obstétricaux et néonataux, lesquels sont plus susceptibles d'intervenir durant la période néonatale (de la naissance à moins de 28 jours). Alors que les décès post-néonataux représentent environ le quart de tous les décès de nourrissons chez les non-Autochtones, ils comptent pour près de la moitié des



décès de nourrissons autochtones<sup>31</sup>. Cette réalité illustre le besoin urgent de gérer ces facteurs sociaux et environnementaux qui influent sur la santé – comme l’ont mentionné un grand nombre des témoins qui ont décrit leur expérience de mère – même dans les premiers jours de la vie<sup>32</sup>.

## **Les problèmes de santé chroniques**

Les enfants, les jeunes et les adultes autochtones ont plus fréquemment des problèmes de santé chroniques. Selon l’Enquête régionale sur la santé des Premières Nations (2015-2016), « près des deux tiers (59,8 %) des adultes des Premières Nations, un tiers (33,2 %) des jeunes des Premières Nations et plus du quart (28,5 %) des enfants des Premières Nations ont déclaré avoir au moins un problème de santé chronique » comme le diabète, l’arthrite, l’hypertension artérielle, des allergies, et des douleurs chroniques au dos<sup>33</sup>. Plus de femmes (46,5 %) que d’hommes (36,4 %) des Premières Nations déclarent souffrir de comorbidité (coexistence d’au moins deux problèmes de santé chroniques). Ce constat souligne les besoins en matière de soins de santé et le fait que les femmes des Premières Nations sont nettement désavantagées lorsque les soins de santé manquent, puisque la présence de plusieurs problèmes chroniques « introduit souvent une dimension de complexité sur le plan de la gestion clinique, des besoins en soins de santé et des effets sur la santé<sup>34</sup> ». Pour les jeunes des Premières Nations, les problèmes de santé chroniques les plus courants sont ceux qui sont liés à la santé mentale, dont l’anxiété (8,3 %) et les troubles de l’humeur (6,6 %)<sup>35</sup>.

De plus, les taux d’obésité adulte des populations autochtones sont supérieurs à ceux de la population non autochtone : 26 % chez les Premières Nations et les Inuits, 22 % chez les Métis et 16 % chez les non-Autochtones<sup>36</sup>.

En ce qui concerne les Inuits, environ 43 % de la population affichaient en 2012 des troubles chroniques comme l’hypertension artérielle, l’arthrite, l’asthme, la dépression et le diabète; signalons au passage qu’un grand nombre de ces problèmes peuvent être reliés directement au changement du mode de vie. La tuberculose, un enjeu de la politique coloniale dans les décennies précédentes, est elle aussi beaucoup plus fréquente chez les Inuits : selon l’ITK, en 2018 au Canada, alors que la population en général affichait un taux de tuberculose de 0,6 par 100 000 habitants, ce taux grimpeait à 181 par 100 000 habitants chez les Inuits<sup>37</sup>.

Tout comme les Inuits et les Premières Nations, les Métis présentent un taux élevé de troubles chroniques tels que l’arthrite, l’hypertension, l’asthme, les ulcères intestinaux et le diabète : selon les données de l’Enquête auprès des peuples autochtones de 2016 (la plus récente), seulement 54 % des Métis âgés de 12 ans et plus ont déclaré avoir un bon état de santé général.

Pour les personnes 2ELGBTQQIA, les résultats en matière de santé ne sont pas mesurés et étudiés de façon aussi constante. Néanmoins, d’après les recherches disponibles, ces personnes connaîtraient des taux plus élevés de problèmes de santé chroniques, de troubles de santé mentale, de toxicomanie, de suicide et de violence que les autres Autochtones et les non-Autochtones<sup>38</sup>.





## La santé mentale

En plus des problèmes de santé physique chroniques, les Premières Nations, les Inuits et les Métis risquent davantage de souffrir de problèmes de santé mentale que la population non autochtone. Par exemple, les données de 2012 de l'Enquête auprès des peuples autochtones montrent que plus d'un Autochtone sur cinq a déclaré avoir des pensées suicidaires. Chez les Premières Nations, tous les groupes d'âge jusqu'à 65 ans présentent un risque plus élevé par rapport à la population canadienne; par ailleurs, les hommes sont plus à risque que les femmes. Le taux de suicide chez les Inuits est dix fois plus élevé que dans la population en général, et la plus grande différence entre Inuits et non-Autochtones est observée chez les jeunes femmes et les femmes d'âge moyen<sup>39</sup>. Globalement, chez les Inuites de 15 à 24 ans, le taux de suicide est multiplié par huit par rapport à celui des non-Autochtones; chez les Inuites de 25 à 39 ans, il est multiplié par cinq<sup>40</sup>. En 2016, l'Enquête auprès des peuples autochtones a également révélé que les jeunes Autochtones sont particulièrement à risque de présenter un mauvais état de santé mentale : un peu plus de 1 % des jeunes des Premières Nations vivant à l'extérieur des réserves et 7,8 % des jeunes Métis ont déclaré souffrir de troubles de l'humeur. De plus, « les taux d'hospitalisation de soins de courte durée pour des lésions auto-infligées sont élevés chez les jeunes autochtones de 10 à 19 ans », le plus haut taux ayant été recensé dans l'Inuit Nunangat<sup>41</sup>.

L'accès difficile aux services de santé aggrave les problèmes de santé et demeure un obstacle à la santé et au bien-être. Selon les données de Santé Canada pour la période de 2006 à 2010, 39 % des adultes des Premières Nations ont déclaré avoir moins facilement accès aux services de santé que le reste de la population canadienne, les listes d'attente étant le principal obstacle<sup>42</sup>.

Selon de nombreux Inuits et plusieurs témoins que nous avons entendus, l'accès aux soins de santé au sein de la population inuite constitue un important déterminant de la santé, et bien des personnes nécessitant des traitements, y compris les femmes enceintes, sont forcées de quitter leur communauté pendant de longues périodes. Les difficultés d'accès aux services sont exacerbées par les problèmes de recrutement et de maintien en poste de professionnels de la santé dans les communautés inuites. Par exemple, en 2012, 59 % des Inuits avaient parlé à un médecin ou en avaient consulté un, comparativement à 79 % pour la population canadienne<sup>43</sup>. Seulement 32 % des Métis avaient accès à des pratiques de mieux-être ou à la médecine traditionnelle dans leur communauté, les données indiquant par ailleurs que les grands centres urbains offrent de meilleurs services, et en plus grand nombre<sup>44</sup>. En raison du suivi relativement récent de données désagrégées concernant les Métis, l'information dont on dispose ne permet pas de procéder à des comparaisons à long terme<sup>45</sup>.



« LA COMMUNAUTÉ AUTOCHTONE EST JEUNE ET CONNAÎT LA CROISSANCE LA PLUS RAPIDE, ET DE LOIN – PLUS DE 50 % DES AUTOCHTONES DU CANADA ONT MOINS DE 15 ANS. C'EST LE MOMENT D'ENRAYER LES CATASTROPHES, LA PAUVRETÉ, L'ISOLEMENT, LA TOXICOMANIE ET LE PROBLÈME DU SUICIDE QUI SURVIENNENT GÉNÉRATION APRÈS GÉNÉRATION – NOUS AVONS CRÉÉ TOUT CELA. NOUS AVONS UN SYSTÈME D'APARTHEID CONÇU POUR OPPRIMER LES GENS ET IL A DONNÉ EXACTEMENT LES RÉSULTATS POUR LESQUELS IL A ÉTÉ CONÇU. NOUS LEUR AVONS ENLEVÉ LEUR CULTURE, LEUR LANGUE, LEUR CAPACITÉ DE GAGNER DE L'ARGENT, LEUR CAPACITÉ D'AVOIR DES TERRES, PUIS NOUS NOUS ÉTONNONS QUE CE SOIENT EUX QUI, DANS TOUT LE PAYS, ONT LA PLUS MAUVAISE SANTÉ? CE N'EST PAS UNE SURPRISE DU TOUT. »

André Picard

### **Aborder les questions de santé et de bien-être sous l'angle du colonialisme**

Comme c'est le cas pour bien d'autres défis qu'affrontent les communautés et les peuples autochtones, les Autochtones sont souvent blâmés pour leur mauvaise santé, surtout au regard des modèles médicaux et de promotion de la santé dominants qui mettent l'accent sur le comportement et les choix individuels comme moyen d'assurer la santé et le bien-être<sup>46</sup>.

Cependant, comme l'ont expliqué des chercheurs en santé comme Amy Bombay, dont les recherches portent sur les traumatismes intergénérationnels et multigénérationnels, la question de la santé des peuples autochtones doit être examinée dans son contexte en tenant compte des facteurs historiques, sociaux et économiques liés aux effets cumulatifs de la colonisation, ainsi que des politiques préjudiciables et persistantes qui causent du tort aux communautés et aux personnes.

Par exemple, les chercheurs ont déterminé que, par rapport aux personnes qui n'ont pas fréquenté les pensionnats indiens, les survivants de ces établissements ont davantage tendance à souffrir de divers problèmes de santé physique et mentale<sup>47</sup>. D'après Bombay, la dernière Enquête régionale sur la santé des Premières Nations révèle également que les élèves des pensionnats indiens sont « plus susceptibles de faire état de niveaux élevés de détresse psychologique, de se dire en moins bonne santé et [...] de recevoir un diagnostic de troubles de santé chroniques divers<sup>48</sup> ».

Dans leurs descriptions des questions de santé, les témoins ont établi des liens entre la violence coloniale et le bien-être physique, émotionnel, psychologique et spirituel. La chef Wet'suwet'en Vivian T., par exemple, qui a présenté un témoignage concernant sa fille, a expliqué avoir des problèmes de santé récurrents du fait de la pneumonie dont elle a souffert lorsqu'elle était bébé et de la tuberculose contractée à sept ou huit ans. Sa mère « ne savait pas trop » si les médecins avaient bien soigné sa maladie<sup>49</sup>.



# Le suicide chez les jeunes

Dans le cadre de l'Enquête nationale, bon nombre de témoins ont parlé des enjeux associés à la santé mentale, aux obstacles importants que ces enjeux peuvent créer, particulièrement pour les jeunes, lorsqu'il est question de faire valoir leurs droits. L'épidémie de suicides, surtout chez les jeunes, est un phénomène causé par de nombreux facteurs soulignés dans ce rapport, y compris les traumatismes intergénérationnels et multigénérationnels, le pourcentage d'enfants pris en charge par les services de protection de l'enfance, et de façon plus générale, la marginalisation sociale et économique des Autochtones.

## La mise en contexte de la vague de suicides dans les communautés éloignées

En Saskatchewan, la province d'origine de Corey O'Soup, intervenant en faveur des enfants et des jeunes, le suicide chez les jeunes atteint des proportions épidémiques. O'Soup s'exprime ainsi : « Le suicide des jeunes autochtones est un phénomène endémique dans notre province. Je sais que cela n'arrive pas qu'en Saskatchewan, et je sais que cela ne touche pas seulement les enfants autochtones. On le retrouve à l'échelle du pays et ses causes découlent de divers aspects de la vie, mais nous avons choisi de concentrer nos efforts sur les enfants autochtones et leur santé mentale! » En Saskatchewan, les filles autochtones sont 26 fois plus susceptibles de mourir par suicide que les filles non autochtones<sup>11</sup>.

Tanya Talaga, journaliste et auteure primée pour son travail portant sur le suicide chez les jeunes, a abordé le sujet avec l'animatrice Anna-Maria Tremonti dans le cadre d'une entrevue à l'émission *The Current* de CBC. D'après elle, la fréquence élevée du suicide chez les jeunes s'explique en partie par sa normalisation : « Ce qui est si difficile à comprendre pour quelqu'un qui n'habite pas dans ces communautés et qui n'est pas constamment confronté à de nouveaux cas de suicide, c'est que ceux-ci en viennent à faire partie du quotidien. » Elle mentionne ensuite des personnes de

son entourage qui se sont enlevé la vie, comme son oncle, l'amie de sa mère et son amie.

Dans la même entrevue, Talaga explique que les inégalités sont un facteur sous-jacent à tous ces suicides et qu'il est possible de s'y attaquer.

Ce n'est pas si compliqué d'aider un enfant à grandir en santé. Il a besoin d'un logement sécuritaire, d'une famille qui l'aime, de quelqu'un qui le borde dans son lit le soir en lui disant « tu es à ta place, ici ». Il a besoin d'aliments nourrissants, d'accès à l'éducation et aux soins de santé. Mais lorsque des enfants grandissent dans une communauté qui ne peut leur offrir toutes ces choses, ces choses auxquelles tous les autres, les Canadiens non autochtones ont droit, dans les milieux urbains comme dans les campagnes, le suicide se répand, le suicide devient normal<sup>11</sup>.

Dans le cadre d'une recherche visant à analyser les tendances qui se dégagent de 23 études différentes sur le suicide chez les jeunes autochtones, les chercheurs D<sup>r</sup> Henry G. Harder, Josh Rash, D<sup>r</sup> Travis Holyk, Eduardo Jovel et Kari Harder ont trouvé que certains des facteurs mentionnés par Talaga se manifestent dans les problèmes de santé mentale, et plus particulièrement dans les cas de dépression. Après avoir examiné la littérature, ils ont pu déterminer que la dépression ou le suicide d'un ami ou d'un proche sont les facteurs de risque les plus importants incitant les jeunes autochtones à





suicide<sup>V</sup>. Cela explique en partie pourquoi, dans les communautés autochtones, le suicide chez les jeunes tend à se produire par vague plutôt que par des incidents isolés, particulièrement lorsque la communauté est unie ou petite. Les facteurs de risque importants qui arrivent au second rang comprennent les troubles du comportement, qui se définissent par « un comportement violent, de l'agressivité, une idéation violente, de la colère, la délinquance, un comportement antisocial » et la consommation abusive d'alcool ou d'autres drogues. Le troisième facteur de risque le plus probable est l'existence de troubles mentaux autres que la dépression et le fait d'avoir subi des abus pendant l'enfance ou des traumatismes<sup>V</sup>.

Plus important encore, la même analyse a aussi démontré que la meilleure protection contre le suicide chez les jeunes autochtones est « un soutien solide prodigué par l'entourage social ou familial. [...] Certains traits de personnalité comme une bonne estime de soi et le fait d'avoir une source de contrôle interne contribuent à réduire encore davantage les risques de suicide<sup>VI</sup>. » Comme les chercheurs l'expliquent, « Les individus sont plus susceptibles d'être à la recherche de leur identité pendant les crises développementales, alors que le développement psychologique peut être déclenché par l'expérience d'événements stressants. [...] Si les individus ne trouvent pas de sens à leur vie et n'arrivent pas à définir leur identité, une période de désespoir et de dépression s'ensuit<sup>VII</sup>. » Le défaut de se découvrir un sentiment de cohérence ou d'appartenance peut inciter les jeunes à adopter des modes de vie centrés sur les dépendances ou à se former des images malsaines d'eux-mêmes qui donnent lieu à des pensées suicidaires ou à des tentatives de suicide.

Ce qui vient encore aggraver ces problèmes est l'impression d'isolement perçue dans certaines communautés, et le manque d'accès à des services de soutien dans les situations de crise. Comme en témoigne O'Soup, les difficultés sont particulièrement importantes lorsqu'il est question de traiter les problèmes de santé mentale dans les collectivités du Nord et les communautés éloignées : « En Saskatchewan, par exemple, nous avons 15 psychiatres pour enfants. Aux deux semaines, l'un

d'entre eux se rend dans nos collectivités du Nord, le temps d'une journée. J'en conclus donc que la liste d'attente réelle pour ces communautés est de plus de deux ans<sup>VIII</sup>. » Dans son témoignage, Tanya Talaga souligne un problème semblable en citant le cas de la communauté de Wapekeka, dans le nord-ouest de l'Ontario. Dans cette communauté d'environ 400 personnes, les jeunes qui vivent des situations de détresse psychologique et qui ont besoin de consulter un professionnel « doivent être transportés par avion, séparés de leur famille, coupés de tout ce qu'ils connaissent et être logés dans un hôtel ou admis à l'établissement Sioux Lookout Hospital [...]. Ils sont laissés à eux-mêmes, vous comprenez, sans aucun soutien. Et ce sont des enfants en situation de crise<sup>IX</sup>. » Comme nous l'avons entendu dans de nombreux témoignages, une amélioration de cet état de fait dépend en partie de l'accès à des ressources adéquates en matière de soins de santé, y compris des services en santé mentale, afin de réduire ce type d'obstacles au bien-être des enfants et des jeunes.

Selon O'Soup, une partie du problème réside aussi dans la manière dont les problèmes de santé mentale sont traités au Canada actuellement. Voici ce qu'il souligne :

Si vous vous cassez une jambe ou si vous avez la grippe, ou lorsque vous vivez une situation du genre, que faites-vous? Vous allez consulter un médecin. Vous vous rendez à l'urgence si votre état est grave. Le médecin vous examine. Il vous donne des médicaments. Il rédige une ordonnance. Si votre jambe est fracturée, il la remplace. Il installe un plâtre. Ensuite, vous rentrez chez vous avec l'impression d'avoir reçu de l'aide, avec la sensation que vous êtes en voie de guérison. Mais lorsque l'on examine notre système de soins en santé mentale, les problèmes sont manifestes. Ils sont réels, pour nos enfants et nos jeunes [...]. Imaginez un enfant qui souffre de problèmes psychologiques, peu importe de quoi il s'agit, d'un TDAH, d'anxiété, d'un TOC ou d'un TOP; il existe un si grand nombre de ces diagnostics chez les jeunes. Imaginez que vous emmenez cet enfant dans la même salle d'urgence ou dans la même clinique, et l'enfant doit patienter pendant 10, 12, 14, 16 heures. Ensuite, que se passe-t-il? Quelqu'un au





téléphone dit : renvoyez-le à la maison. Et cet enfant retourne chez lui. Je vous l'affirme, lorsque cela se produit, c'est une question de vie ou de mort que nous devons gérer<sup>x</sup>.

## Le suicide chez les jeunes inuits

Lorsque le mode de vie était basé sur la terre et la mobilité géographique, des décennies avant de se transformer en une vie plus sédentaire dans des établissements centralisés sous l'effet de la colonisation, le suicide chez les Inuits n'était observé que très rarement et ne touchait que les Inuits plus âgés. À l'époque, un Inuit qui souffrait de maladie, de famine ou de vieillesse pouvait choisir le moment où il souhaitait mettre fin à ses jours. Ce choix qu'un individu pouvait faire de mourir par suicide était cohérent avec le respect des Inuits pour l'autonomie de l'autre et sa capacité de prendre ses propres décisions<sup>xi</sup>. Cependant, au fil des changements sociétaux apportés par la colonisation et les établissements, les décès de jeunes inuits par le suicide ont commencé à se produire. Partout au Canada, les Autochtones ont vu des taux de suicide accrus chez les jeunes, mais ce sont les Inuits qui comptent les taux de suicide les plus élevés. Le phénomène du suicide chez les jeunes inuits est apparu dans les années 1970. Les suicides ont connu une hausse importante dans les années 1980 et leur nombre n'a cessé de croître depuis. En inuktitut, une personne qui choisit de mettre fin aux jours de quelqu'un est *qivittuq*, et un terme plus fréquent de nos jours est *imminiartuq*, c'est-à-dire une personne qui s'enlève la vie.

Selon l'étude « *Learning From Lives That Have Been Lived* », *Nunavut Suicide Follow-Back Study: Identifying the Risk factors for Inuit Suicide in Nunavut*, le taux de suicide au Nunavut, comme dans les trois autres régions inuites au Canada, est actuellement dix fois plus élevé que le taux de suicide au Canada. Les taux de suicide au Nunatsiavut et au Nunavik sont semblables à celui du Nunavut.

Voici quelques faits : les études réalisées au cours des cinq dernières décennies révèlent de façon constante qu'un plus grand nombre de jeunes hommes inuits que de jeunes femmes meurent par suicide. L'étude précédemment citée a analysé 120 cas de personnes mortes par suicide entre 2005 et 2010. Ils ont été comparés à 120 cas de personnes décédées d'une autre cause. Parmi les 120 personnes mortes par suicide, 99 (82,5 %) sont des hommes et 21 (17,5 %) sont des femmes. Leur âge moyen est 23,6 ans et ils sont 3,6 fois plus nombreux à avoir complété moins de 7 ans de scolarité. Le décrochage peut donc être lié à des conditions de vie plus difficiles qui entraînent potentiellement un comportement suicidaire<sup>xii</sup>. Ils sont également plus susceptibles d'éprouver des problèmes avec la justice. Le surpeuplement des logements, un enjeu qui touche de nombreuses familles de l'Inuit Nunangat, ne semble pas être un facteur lié au suicide. Aucune différence importante n'a été notée quant à l'impact de liens de parenté avec la famille d'adoption entre le groupe d'individus décédés par suicide et le groupe de référence.

L'étude démontre en outre le lien étroit entre les comportements suicidaires et les problèmes de santé mentale comme l'anxiété, la dépression, la consommation abusive de drogues ou d'alcool, ou les problèmes de dépendance<sup>xiii</sup>. Le problème le plus important soulevé par l'étude regroupe les mauvais traitements subis pendant l'enfance, dont la violence physique, les sévices sexuels, la violence psychologique et la négligence<sup>xiv</sup>. Les données indiquent sans conteste que les personnes ayant subi des abus pendant l'enfance sont plus nombreuses à faire une tentative de suicide ou à mourir par suicide que les personnes qui n'ont pas subi de mauvais traitements pendant leur enfance. De même, la maltraitance subie pendant l'enfance peut entraîner des problèmes graves ayant des répercussions sur la santé mentale et physique et sur le comportement suicidaire. L'étude a révélé que près de la moitié des personnes décédées par suicide avaient été victimes de violences physiques ou d'abus sexuels pendant leur enfance, comparativement à un tiers du groupe de référence<sup>xv</sup>. Un autre facteur important est l'état de la santé mentale : 61 % des personnes qui se sont suicidées et 24 % des membres du groupe de référence





souffraient de dépression grave dans les six mois précédant l'événement, et ces taux sont supérieurs à la moyenne nationale de 8 %<sup>XVI</sup>. La dépendance à l'alcool ou l'abus est un indicateur d'un risque de suicide plus élevé; les données ont en effet révélé que 37,5 % des personnes qui se sont suicidées avaient consommé une quantité excessive d'alcool ou y étaient dépendantes pendant les six derniers mois de leur vie<sup>XVII</sup>.

Comme le note le chercheur en santé mentale Eduardo Chachamovich en conclusion de son étude sur le Nunavut :

L'augmentation rapide des comportements suicidaires au cours des récentes décennies, particulièrement chez les jeunes, est probablement le résultat d'un changement dans l'intensité des déterminants sociaux, dont la transmission intergénérationnelle du traumatisme historique et de ses conséquences (taux accrus de violence physique et psychologique, d'abus sexuels, d'actes de violence, de toxicomanie, etc.). Puisque les expériences de vie difficiles sont associées à l'apparition de troubles mentaux (particulièrement si la toxicomanie est comprise dans la définition des « troubles mentaux »), il est raisonnable de déduire qu'il existe des taux élevés de troubles mentaux dans la population du Nunavut<sup>XVIII</sup>.

Les régions inuites sont pleinement conscientes de la crise qui sévit parmi les jeunes et elles élaborent des stratégies de prévention du suicide. *National Inuit Suicide Prevention Strategy*, la stratégie mise au point par l'Inuit Tapiriit Kanatami (ITK), l'organisation inuite nationale, vise à soutenir les familles et les jeunes et les inciter à faire preuve de force et de résilience comme leurs ancêtres inuits l'ont fait avant eux. Cette stratégie a pour objectif d'enrayer les inégalités sociales, d'assurer la sécurité au sein de la communauté et de favoriser la pérennité de la culture afin de veiller au bien-être des collectivités inuites. Sa vision de la prévention du suicide implique des efforts partagés à l'échelle nationale, régionale et au sein de la communauté, et précise que des politiques et des programmes collaboratifs et soutenus adéquatement peuvent contribuer à faire changer les choses. La stratégie définit des axes d'intervention

prioritaires, comme assurer l'équité sociale et la pérennité culturelle, prendre soin des enfants inuits afin qu'ils soient en bonne santé dès leur naissance, donner accès aux Inuits à des services complets en santé mentale, soigner les traumatismes et les souffrances qui persistent et mobiliser le savoir des Inuits en matière de résilience et de prévention du suicide. Par ailleurs, ces thèmes ont été mentionnés invariablement par les Inuits qui ont témoigné dans le cadre de l'Enquête nationale. La stratégie de prévention du suicide de l'ITK accorde la plus grande importance aux perspectives et aux connaissances des Inuits afin d'adopter et de mettre en place des mesures au sein même des communautés. Il s'agit d'une démonstration d'autodétermination et de collaboration entre les communautés inuites et les régions inuites visant à faire reconnaître la crise des suicides chez les jeunes inuits et à favoriser la guérison des communautés inuites.

## Mobiliser les enfants et les jeunes pour la recherche de solutions

Pour aller de l'avant, il faut d'abord être prêt à écouter. Comme O'Soup le prétend, les enfants et les jeunes doivent prendre part aux discussions sur l'orientation à privilégier : « Ils ont le droit d'être présents lorsque des décisions sont prises à leur sujet, lorsqu'on parle d'eux. Ils doivent avoir une voix. Et cette voix ne peut être la mienne [...]. Je crois que nous ne pourrions pas entendre cette voix sans discuter avec nos enfants et nos jeunes<sup>XIX</sup>. » De plus, comme il le souligne, les enfants et les jeunes abordent déjà le sujet « dans les salons de clavardage, sur les réseaux sociaux, en se servant de leurs téléphones, pendant les fêtes qui se déroulent dans les sous-sols. Simplement, ils ne nous en parlent pas. Et les données que nous avons montrent qu'il s'agit déjà d'un sujet de conversation pour eux<sup>XX</sup>. »

Cette crise n'est pas insurmontable. La D<sup>re</sup> Cindy Blackstock affirme ceci : « Lorsque je vois les taux de suicide, je suis horrifiée par la perte de tous ces enfants, mais je crois que c'est une issue parfaitement





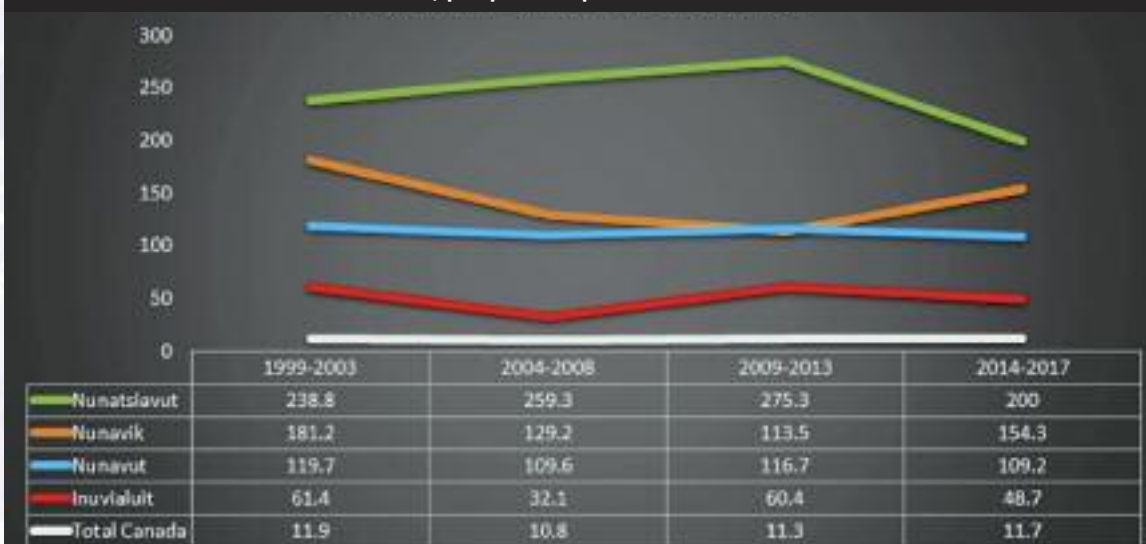
prévisible lorsqu'un pays traite ses enfants de la sorte<sup>xxi</sup>. » Les chercheurs qui ont analysé la documentation existante déclarent dans leurs conclusions que les décideurs devraient se pencher sérieusement sur les effets positifs de la culture et de la formation de liens affectifs sur ces phénomènes d'autodestruction :

La pérennité de la culture et la mise en place de diverses formes de soutien social et familial sont des facteurs qui pourraient diminuer le nombre de suicides chez les jeunes Inuits. Le soutien du réseau social et de la famille contribue de manière positive au développement de l'identité relationnelle, professionnelle et personnelle [...] et s'est révélé, dans toutes les études consultées, comme le meilleur facteur de protection contre les risques de suicide<sup>xxii</sup>.

Finalement, en référence au rapport intitulé *Shhh... Listen!! We Have Something to Say! Youth Voices from the North*, O'Soup rapporte des conclusions importantes ayant pour effet la diminution du nombre de suicides chez les jeunes dans toutes les communautés autochtones. Comme il l'explique, « Nos jeunes [...] nous disent que pour éviter de penser au suicide, ils ont besoin de vivre dans une communauté plus sécuritaire. Ils ne veulent pas avoir peur d'arpenter les rues. Ils veulent se sentir protégés et en sécurité<sup>xxiv</sup>. »

Assurer la sécurisation culturelle et favoriser le sentiment d'appartenance ainsi que la sécurité physique, tout en offrant des services de soutien suffisants et en appuyant le droit aux jeunes d'être entendus sont des composantes de bases grâce auxquelles nous pouvons œuvrer pour améliorer la situation des jeunes en faisant appel aux plus touchés et en leur demandant de participer à la recherche de solutions.

Taux de suicide, nombre d'Inuits dans les régions inuites, et population totale du Canada, 1999-2017, par période pour 100 000 habitants.



Source : Régie régionale de la santé et des services sociaux du Nunavik. Utilisé avec permission.



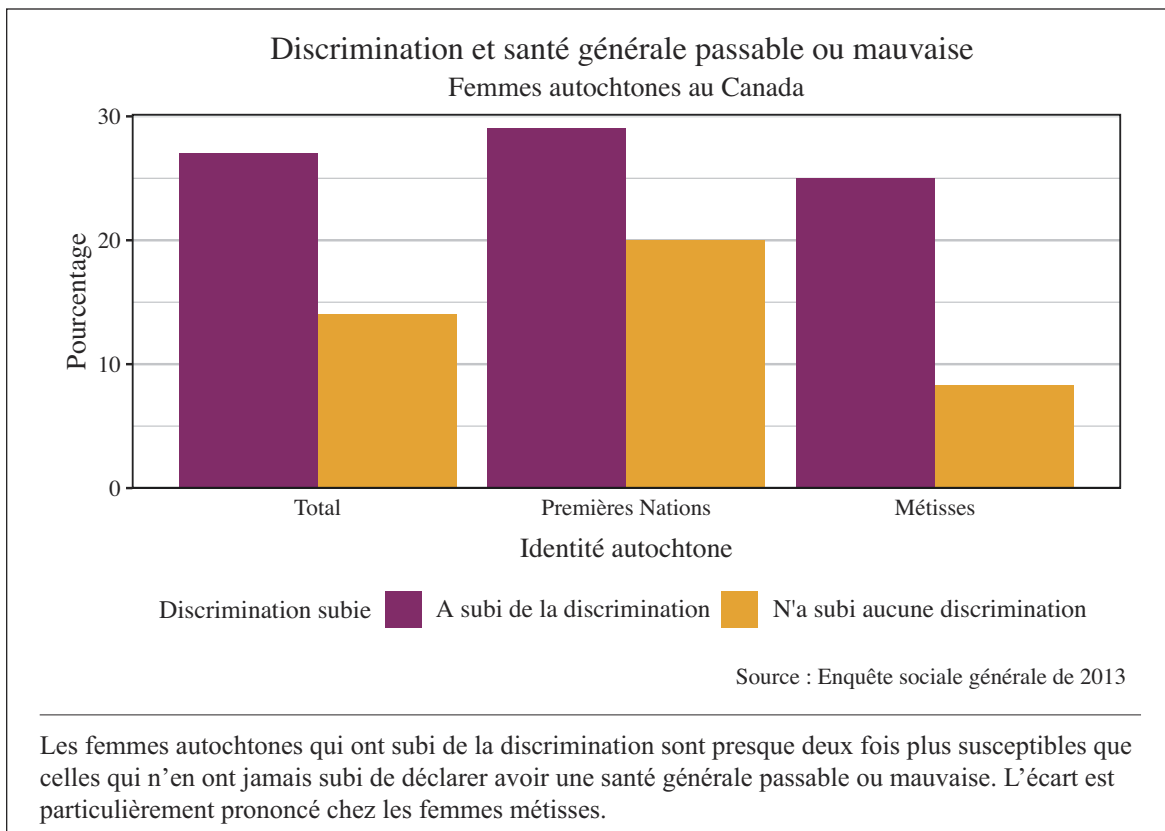


- I Corey O'Soup (Métis/Première Nation from the Première Nation Key), Partie 3, Volume public 6, Québec, Qc, p. 97.
- II Corey O'Soup (Métis/Première Nation from the Première Nation Key), Partie 3, Volume public 6, Québec, Qc, p. 109.
- III CBC Radio, The Current, « Suicide shouldn't be 'normal.' »
- IV Harder, Rash, et al., « Indigenous Youth Suicide, » 134.
- V Ibid.
- VI Ibid., 134-135.
- VII Ibid., 138.
- VIII Corey O'Soup (Métis/Première Nation from the Première Nation Key), Partie 3, Volume public 6, Québec, Qc, p. 99.
- IX Tanya Talaga (Anishinaabe/Polish), Partie 3, Volume public 10, Toronto, Ont., p. 91-92.
- X Corey O'Soup (Métis/Première Nation from the Première Nation Key), Partie 3, Volume public 6, Québec, 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. Voir aussi Inuit Tapitit Kanatami « 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/Première Nation from the Première Nation Key), Partie 3, Volume public 6, Québec City, Qc, pp. 99-100.
- XX Corey O'Soup (Métis/Première Nation from the Première Nation Key), Partie 3, Volume public 6, Québec City, Qc, p. 103.
- XXI Dr. Cindy Blackstock (Gitksan), Partie 3, Volume public 10, Toronto, Ont., p. 232.
- XXII Harder, Rash, et al., « Indigenous Youth Suicide, » 138.
- XXIII Voir 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), Partie 3, Volume public 6, Québec, Qc, p. 99.
- XXIV Corey O'Soup (Métis/Première Nation from the Première Nation Key), Partie 3, Volume public 6, Québec, Qc, p. 99.



Viola Thomas a établi un lien entre le taux élevé de problèmes de santé chroniques chez les Autochtones et le déplacement forcé des populations autochtones à l'extérieur de leurs communautés.

Et il y a aussi l'autre aspect de ce déplacement [...], ce que j'appellerais un déplacement forcé. En raison des préjudices historiques et irréparables qui ont été infligés à notre peuple, nous avons un grand nombre de personnes déplacées, qui doivent parcourir de longues distances pour recevoir des services de santé, par exemple. Nous avons un taux élevé de maladies chroniques dans nos communautés<sup>50</sup>.



Dans son témoignage, Shara L., une survivante des pensionnats indiens, a décrit comment elle continue de vivre avec les souvenirs traumatisants des sévices qu'elle y a subis et comment, malgré ses efforts pour guérir, ses souvenirs peuvent facilement refaire surface, surtout en l'absence de soutien adéquat. Shara, qui logeait à l'hôtel pour être près de son petit-fils hospitalisé, a raconté comment l'odeur du rideau de douche en vinyle dans la salle de bains a ravivé ses souvenirs des pensionnats indiens. Comme elle l'a expliqué, cela lui a rappelé ce qu'elle avait vécu là-bas :

La salle des douches du pensionnat, et c'est là qu'ils vous agressaient sexuellement [...]. Ils vous faisaient souffrir là-dedans. Ils frotaient votre peau avec une [...] avec une lime,





vous savez, ces grosses brosses très dures. Et si vous aviez des croûtes sur la peau, on les grattait comme s'ils essayaient de vous arracher la peau [...] parce que vous êtes sale. Un sale petit Indien<sup>51</sup>.

Shara s'est effondrée sur le sol de la salle de bains de sa chambre d'hôtel, paralysée par la peur. Elle se souvient de ceci :

Je me suis effondrée et je n'arrivais pas à me lever, ni à sortir de la salle de bains. J'ai commencé à sangloter. Cela avait une telle emprise que je me sentais comme un enfant. Et je criais. Je voulais sortir de là. Je ne sais pas pourquoi je ne pouvais pas bouger. Je ne pouvais tout simplement pas sortir de là [...]. J'ai été dans cette pièce pendant un certain temps, je ne pouvais tout simplement pas bouger. Je me suis effondrée sur le lit et je suis restée allongée là. Je ne faisais que pleurer<sup>52</sup>.

« ET IL Y A AUSSI L'AUTRE ASPECT DE CE DÉPLACEMENT [...], CE QUE J'APPELLERAI UN DÉPLACEMENT FORCÉ. EN RAISON DES PRÉJUDICES HISTORIQUES ET IRRÉPARABLES QUI ONT ÉTÉ INFLIGÉS À NOTRE PEUPLE, NOUS AVONS UN GRAND NOMBRE DE PERSONNES DÉPLACÉES, QUI DOIVENT PARCOURIR DE LONGUES DISTANCES POUR RECEVOIR DES SERVICES DE SANTÉ, PAR EXEMPLE. NOUS AVONS UN TAUX ÉLEVÉ DE MALADIES CHRONIQUES DANS NOS COMMUNAUTÉS. »

Viola Thomas

Comme l'a suggéré Carol M., les répercussions de la violence coloniale sur la santé – surtout en l'absence de services de santé adéquats – continuent de menacer la santé et le bien-être des Autochtones et de leurs communautés. Elle a fait cette observation : « J'ai fait un gros travail sur moi-même et j'ai pensé, est-ce que la guérison ne s'arrête jamais? Ça ne s'arrête jamais. On pense qu'on gère la situation, et d'un coup quelque chose d'autre apparaît, juste là devant soi<sup>53</sup>. »

Il est clair que les répercussions à long terme sur la santé associées à la fréquentation des pensionnats indiens et des externats, aux réinstallations et à d'autres formes de violence coloniale et d'abus – lesquels, comme l'affirme Carol, ne semblent jamais s'arrêter – continuent d'être ressenties par la famille des personnes aux prises avec des traumatismes liés à ces expériences, notamment leurs enfants et petits-enfants. La recherche présentée par Amy Bombay démontre que les conséquences des pensionnats indiens sur la santé « ont des ramifications » – pour reprendre les mots de Sharna S. – qui s'étendent aux générations suivantes. Par exemple, comparativement à leurs pairs vivant hors réserve, les adultes des Premières Nations vivant dans les réserves et dont au moins un parent ou un grand-parent a fréquenté un pensionnat indien sont plus susceptibles d'éprouver de la détresse psychologique que ceux dont la famille ne compte pas de survivant des pensionnats indiens, soit 54 % contre 40 %<sup>54</sup>.

De nombreux témoins ont parlé de la façon dont des politiques coloniales passées continuent d'exercer une influence sur la santé des enfants et des petits-enfants des personnes touchées directement par ces politiques. Chrystal S. a raconté que le fait que ses ancêtres ont été enlevés



de force de leurs terres a eu sur leur santé spirituelle et émotionnelle des effets qui ont été « transmis » à la génération suivante et qui peuvent contribuer aux facteurs de stress à l'origine de problèmes de santé.

Je crois que c'est tellement vrai pour nos populations des Premières Nations que notre corps, notre esprit, notre sang ont été séparés de notre foyer, de notre nourriture, de notre lieu d'appartenance. Et je crois que c'est l'une des nombreuses causes du stress, de la dépression et du désir [...] de rentrer chez soi tout en ne sachant pas vraiment où aller.

J'imagine que cela s'est produit bien avant les pensionnats parce que nous avons d'abord été déplacés, avant les pensionnats, et que nous avons été tués, beaucoup d'entre nous, par les maladies, la variole et la tuberculose. Donc, avant même que nous soyons déplacés, beaucoup d'entre nous ont été tués, mais je crois que les 10 % qui ont survécu avaient ce désir ardent de retrouver leur foyer, et je crois que cela nous a depuis ce moment été transmis dans nos gènes et notre sang, car dans les faits, nous n'avons plus de foyer. Nous n'avons pas ce havre de paix, ce lieu d'appartenance, ce lieu sûr, parce que nous avons été déplacés vers une partie du territoire où nous n'avons pas grandi<sup>55</sup>.

Stephanie H. a décrit l'incidence de la détérioration de la santé de sa mère sur sa famille. Selon Stephanie, sa mère Ruby avait des problèmes de santé mentale qui découlaient de son éducation. Les médecins qu'elle a consultés lui donnaient des pilules et des traitements aux électrochocs. Stephanie a déclaré que sa mère n'a jamais été la même après les électrochocs et qu'elle a développé une dépendance aux pilules. Elle a déclaré que les électrochocs ont « ruiné leur vie », ajoutant qu'elle aussi avait une dépendance lorsqu'elle était jeune<sup>56</sup>.

Kim C.-M. a raconté comment les traumatismes liés aux réinstallations et aux pensionnats indiens continuent de toucher les communautés et les femmes, en particulier celles dont les parents ou les grands-parents ont été déplacés ou sont des survivants des pensionnats, et comment cette expérience « à son tour a contribué à l'apparition de facteurs négatifs dans leurs vies, comme la toxicomanie, l'alcool, les drogues. Nous connaissons ça. La violence familiale, la violence sexuelle, nous connaissons ça; la violence sexuelle envers les enfants, nous connaissons ça<sup>57</sup>. »

Comme l'a signalé Kim C.-M., une des répercussions les plus importantes de la violence coloniale sur la santé des femmes, des filles et des personnes 2ELGBTQQIA autochtones est le caractère généralisé de la violence interpersonnelle, dont la violence familiale, la violence sexuelle et toutes les formes de mauvais traitements durant l'enfance. Encore une fois, en l'absence d'un soutien adéquat pour les personnes qui en souffrent, les expériences de violence interpersonnelle ont des répercussions considérables sur la santé des Autochtones, y compris la toxicomanie, l'automutilation et le suicide.

Dans la prochaine section, nous examinons de plus près certaines des répercussions les plus importantes sur la santé des Autochtones, qui découlent de la violence coloniale et de la perte de culture associée à cette violence.



## La violence en tant que problème de santé

La violence interpersonnelle à l'endroit des femmes, des filles et des personnes 2ELGBTQQIA autochtones est l'une des conséquences de la violence coloniale associée aux pensionnats indiens, à la séparation et au déplacement des familles, à la dépossession de terres et à la *Loi sur les Indiens*, qui a la plus grande incidence sur la santé. Même si la violence interpersonnelle n'est pas toujours considérée comme un enjeu de santé publique, les effets de la violence sur la santé sont d'une grande portée. Outre ses effets psychologiques, la violence que subissent souvent les femmes autochtones peut entraîner, en raison de sa gravité, de nombreux autres problèmes de santé, tels que divers types de blessures, comme les fractures, des douleurs chroniques, des problèmes gastro-intestinaux, des infections transmissibles sexuellement, dont le VIH, des grossesses non planifiées et d'autres complications gynécologiques<sup>58</sup>.

Tout au long de l'Enquête nationale, les témoins nous ont courageusement expliqué l'incidence sur leur santé des actes de violence physique, des agressions sexuelles ainsi que des mauvais traitements physiques, sexuels et psychologiques subis durant l'enfance. Dans bien des cas, les efforts que déploient les survivantes pour faire face aux effets traumatisants de cette violence (souvent en l'absence d'autres mesures de soutien adaptées à la culture) peuvent créer des problèmes de santé supplémentaires. L'isolement, la toxicomanie, l'automutilation et le suicide sont autant d'épreuves auxquelles sont couramment confrontées les femmes et les filles autochtones à la suite d'actes de violence; ce sont par ailleurs ces facteurs qui accroissent le risque de nouvelles violences.

Dans son témoignage, Nikki K. a décrit comment les sévices sexuels et physiques graves subis durant l'enfance par sa cousine lui ont causé des problèmes de santé mentale, dont la toxicomanie, et l'ont menée au suicide. Parlant au nom de sa cousine, Nikki a déclaré :

Elle travaillait dans la rue pour gagner de l'argent. Elle avait une dépendance au crack.  
À 14 ans, c'est fou, vous savez, et je crois que si nous avions eu de la famille ou quelqu'un avec nous, elle n'aurait pas vécu cette situation. Mais nous n'avions personne<sup>59</sup>.

Comme l'a expliqué Nikki, les répercussions de ces mauvais traitements sur Jessica ont été aggravées par la prise en charge de Nikki et Jessica par les services de protection de l'enfance et leur séparation subséquente de leur famille et de leur culture inuite. En l'absence de sa famille et de mesures de soutien en santé mentale adaptées à sa culture, Jessica est décédée à l'âge de 17 ans à la suite de ce qui semble être un suicide.

Sonia B. a décrit comment les mauvais traitements subis durant l'enfance l'ont amenée à consommer de l'alcool et des drogues pour endurer la douleur qu'elle ressentait. Comme elle l'a expliqué, elle a commencé à boire de l'alcool et à fumer quand elle avait 10 ans. Elle a vécu dans la rue de l'âge de 10 ans à 15 ans. Elle a grandi dans une maison très dysfonctionnelle, et sa grand-mère maternelle la battait et lui disait que c'était elle qui aurait dû mourir, et pas sa mère. À deux reprises, elle a été presque battue à mort.





En parlant de la raison pour laquelle elle buvait, elle a expliqué ce qui suit :

Il m'a fallu beaucoup d'années pour me rendre compte que je buvais pour engourdir la douleur, la colère et le ressentiment [...]. Mais grâce au centre de traitement et en apprenant à me comprendre, en apprenant à gérer toute la colère, je ne veux pas dire que cela m'a rendu la vie plus facile, mais ça l'a fait d'une certaine façon, ce qui m'a permis de reconnaître mes défauts, mes blessures. À cause de la façon dont j'ai été élevée, il était tellement logique pour moi d'être engourdie, d'avoir de la haine, d'être en colère. Je ne comprenais pas ce qu'était la colère. Je pensais que c'était naturel [...] je pensais que c'était normal d'être comme ça<sup>60</sup>.

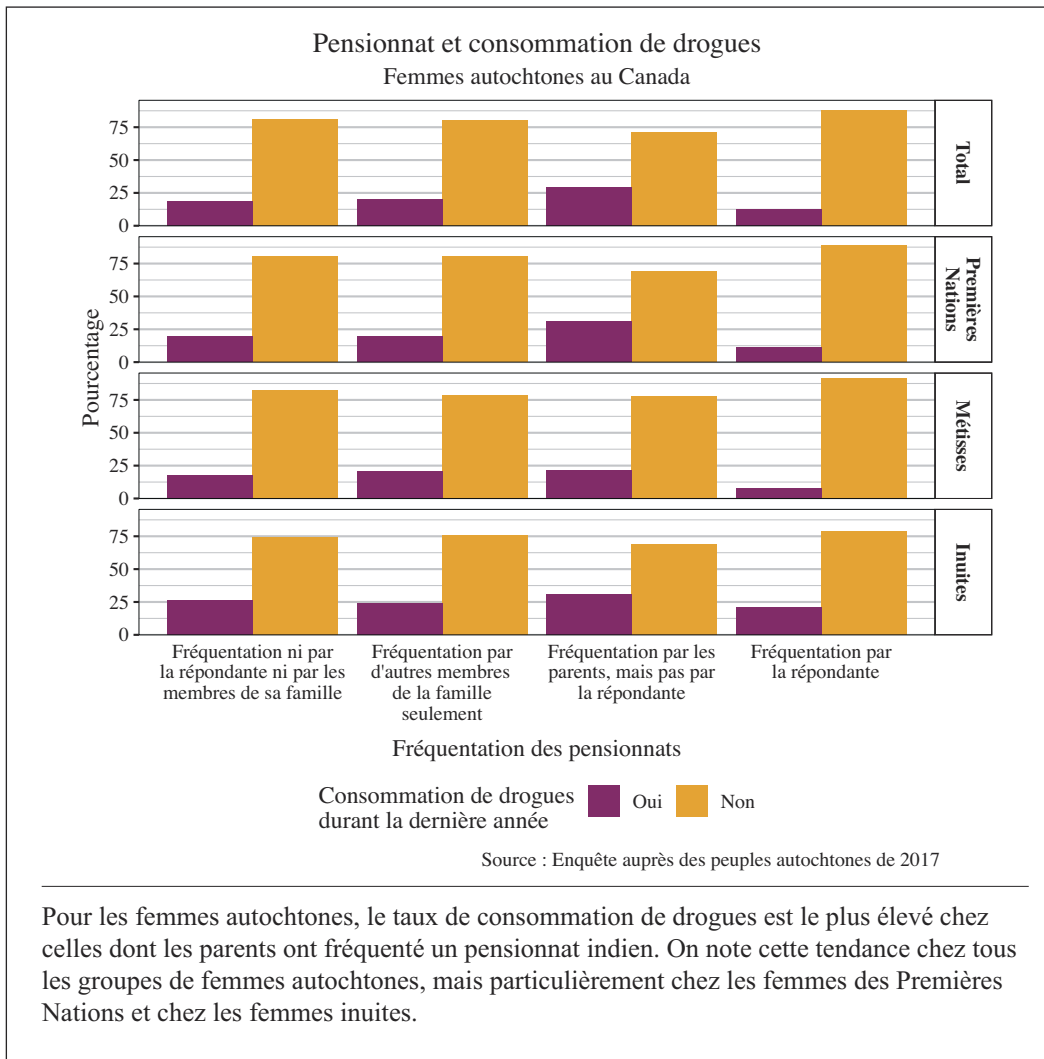
Comme elle l'a mentionné : « Certains jours, la sobriété était l'état dans lequel je me sentais le plus seule<sup>61</sup>. »

Aux prises avec sa toxicomanie et son désespoir, Sonia a dit qu'elle voulait tout simplement en finir, et estimait que rien ni personne ne pouvait la sauver. Elle a expliqué ce qui l'avait motivée, étendue dans un lit d'hôpital, à continuer de se battre : « Je ne savais pas qui pourrait aimer mes enfants comme je l'ai fait en tant que mère. J'ai fait de mon mieux avec eux en tant qu'alcoolique. » Sonia est allée dans un centre de traitement pour son alcoolisme il y a 27 ans et poursuit son cheminement vers la guérison depuis<sup>62</sup>.

Bien que la guérison soit possible, les souvenirs de la souffrance ne s'estompent pas facilement. Comme l'a déclaré Paula P. : « C'est vraiment difficile de devenir sobre, puis de regarder toute la douleur que vous avez endurée et à quel point elle a touché vos enfants et vos petits-enfants, et de regarder les choses en face et d'essayer de les changer. Et c'est pour ça que je suis ici. Je veux changer les choses pour tous nos enfants<sup>63</sup>. »

Le témoin expert Allan Wade estime que les expériences de violence ou d'observation d'actes de violence en bas âge décrites par des femmes comme Jessica et Sonia sont liées directement à leur combat contre la toxicomanie et le suicide plus tard dans leur vie. Il s'explique :

De 70 à 80 % des personnes qui reçoivent un diagnostic de maladie mentale grave disent avoir vécu des épisodes de violence et des traumatismes importants. [...] La meilleure façon de prédire si un enfant recevra ou non un diagnostic de maladie mentale à l'âge adulte est de savoir s'il a été ou non victime de violence. Il ne fait donc aucun doute que le principal problème auquel nous sommes confrontés parmi tous ces problèmes sociaux est la violence interpersonnelle. Par conséquent, si nous pouvons améliorer notre capacité de contrer la violence, nous nous améliorerons dans tous les domaines<sup>64</sup>.



Comme le démontrent les expériences des témoins, l'amélioration de « la capacité de contrer la violence » dans la vie des femmes, des filles et des personnes 2ELGBTQQIA autochtones doit se faire dans un contexte qui reconnaît les conséquences historiques et persistantes de la violence coloniale sur la santé physique, émotionnelle, mentale et spirituelle des peuples autochtones. Cela implique de reconnaître que la marginalisation sociale et économique des peuples autochtones qui découle du colonialisme contribue également aux nombreux obstacles qu'ils doivent surmonter en matière de santé. C'est cette question que nous explorons dans la section suivante.



# L'incidence disproportionnée des opioïdes sur les Autochtones au Canada

Pendant le processus de consignation de la vérité de l'Enquête nationale, les familles, les survivantes et ceux qui travaillent dans le domaine des soins de santé, de la santé mentale et d'autres services sociaux ont abordé les problèmes que causent la consommation de drogue et la toxicomanie pour les individus, les familles et les communautés. Comme l'ont expliqué les personnes qui ont partagé leur vérité propre avec l'Enquête nationale, pour de nombreux Autochtones ayant subi des traumatismes et de la violence, la consommation d'alcool et de drogue est l'un des seuls moyens de gérer la douleur, les souffrances, la honte et le désespoir considérables qu'ils ressentent quand, de façon générale, les systèmes et les institutions ne sont pas en mesure de leur offrir d'autres formes de soutien significatif et adéquat. Les familles des femmes, des filles et des personnes 2ELGBTQQIA autochtones, de même que les survivantes de la violence, ont raconté comment la consommation de drogue fait partie du récit de violence qui les a touchées ou qui a touché leurs proches. Il arrive en effet que les femmes, les filles et les personnes 2ELGBTQQIA se tournent vers la consommation de drogue pour faire face à la violence et aux autres difficultés qu'elles éprouvent, comme la pauvreté ou l'itinérance. Cependant, la drogue devient souvent un facteur qui accroît leur vulnérabilité à davantage de violence sous toutes ses formes.

Au cours des dernières années, l'importante augmentation de la prévalence des opioïdes parmi les drogues consommées dans la rue ou les médicaments vendus sans ordonnance, en particulier le fentanyl et le carfentanil, a fait que la consommation de médicaments vendus sans ordonnance est devenue de plus en plus dangereuse. Vu la surreprésentation des Autochtones parmi les personnes qui sont victimes ou qui meurent d'une surdose d'opioïdes ou de fentanyl<sup>i</sup>, cette crise de santé publique constitue également un facteur dans la tragédie entourant les femmes, les filles et les personnes 2ELGBTQQIA autochtones disparues et assassinées.

## Une vue d'ensemble de la crise des opioïdes

La crise des opioïdes qui touche l'ensemble du Canada est loin de s'atténuer; elle continue au contraire de s'aggraver (on emploie le terme « crise » en raison de l'augmentation importante des hospitalisations et des décès associés à l'utilisation des opioïdes)<sup>ii</sup>. Les données les plus récentes sur le sujet, publiées par l'Agence de la santé publique du Canada, montrent qu'entre janvier 2016 et juin 2018, plus de 9 000 personnes sont mortes au Canada des suites d'une surdose apparente d'opioïdes, et que plus de 2 000 de ces décès ont eu lieu au cours des six premiers mois de 2018<sup>iii</sup>. L'augmentation rapide du nombre d'hospitalisations associées à des intoxications aux opioïdes ou à des surdoses non mortelles est tout aussi troublante. En effet, de récentes





conclusions de l'Institut canadien d'information sur la santé indiquent une augmentation de 27 % du taux d'hospitalisations associées à une intoxication aux opioïdes au cours des cinq dernières années. Selon les données de 2016-2017, on compte en moyenne 17 hospitalisations liées à une intoxication aux opioïdes par jour au Canada<sup>IV</sup>.

L'une des tendances les plus inquiétantes de la crise des opioïdes est l'augmentation du nombre de substances apparentées au fentanyl et responsables de décès et d'hospitalisations. Bien que le fentanyl soit un opioïde parfois prescrit par les médecins pour soulager la douleur, il est de plus en plus fréquemment produit illégalement et on le retrouve de plus en plus souvent mélangé à d'autres substances comme l'oxycodone et l'héroïne. Environ 50 à 80 fois plus puissant que la morphine, le fentanyl est plus fort que les autres opioïdes; les risques de surdose accidentelle associés à sa consommation sont donc beaucoup plus élevés<sup>V</sup>. Par exemple, près des trois quarts (72 %) des décès liés aux opioïdes survenus entre janvier et juin 2018 des suites de surdoses accidentelles mettaient en cause des substances apparentées au fentanyl<sup>VI</sup>. L'Agence de la santé publique du Canada signale que le fentanyl a désormais été détecté dans le trafic de drogues illégales dans toutes les provinces et tous les territoires canadiens<sup>VII</sup>. Plus récemment, le carfentanil, une drogue près de 100 fois plus puissante que le fentanyl et qui peut être mortelle même à petites doses, a vu son utilisation émerger dans différentes régions du pays<sup>VIII</sup>.

Même si la crise des opioïdes se manifeste dans toutes les provinces et tous les territoires au Canada et touche toutes les couches de la société, les données disponibles montrent que certaines régions, dont la Colombie-Britannique, l'Alberta, le Yukon et les Territoires du Nord-Ouest, sont plus largement touchées que d'autres<sup>IX</sup>. Par exemple, de janvier à juin 2018, le taux national de décès liés aux opioïdes était de 11,2 par 100 000 habitants (2 066 décès apparemment liés à la consommation d'opioïdes). Toutefois, en Colombie-Britannique, le taux de décès liés aux drogues illicites (sans se limiter aux opioïdes) était de 30,2 par 100 000 habitants (ou 754) et, en Alberta, le taux de décès apparemment liés aux opioïdes était de 17,6 par 100 000 habitants, ou 379<sup>X</sup>.

Même si l'existence d'une crise est largement admise, le taux de décès et d'hospitalisations dans ces provinces et territoires ne cesse d'augmenter.

## Des répercussions disproportionnées sur les Autochtones

Une autre tendance importante qui se dégage des données relatives à la crise des opioïdes est son incidence disproportionnée sur les Autochtones<sup>XI</sup>. Les études disponibles axées sur les hospitalisations et les décès liés aux opioïdes en Colombie-Britannique et en Alberta démontrent que les membres des Premières Nations sont plus susceptibles de mourir d'une surdose d'opioïdes que les autres Canadiens<sup>XII</sup>. En effet, selon la Régie de la santé des Premières Nations de la Colombie-Britannique, les membres des Premières Nations sont cinq fois plus susceptibles que les autres Canadiens d'être victimes d'une surdose liée aux opioïdes et trois fois plus susceptibles d'en mourir<sup>XIII</sup>.

En ce qui concerne la répartition par genre, les hommes et les femmes des Premières Nations sont presque également susceptibles d'être victimes d'une surdose d'opioïdes ou d'en mourir. Cependant, lorsque l'on compare le taux de surdoses et de décès des femmes des Premières Nations et celui des autres Canadiennes, des différences considérables apparaissent, puisque les femmes autochtones sont huit fois plus susceptibles d'être victimes d'une surdose non mortelle et cinq fois plus susceptibles d'être victimes d'une surdose mortelle que les femmes non autochtones<sup>XIV</sup>. Actuellement, il n'existe aucune donnée relativement à l'incidence de la crise des opioïdes sur les personnes 2ELGBTQQIA autochtones.

Il est difficile d'évaluer de manière nuancée les répercussions distinctives de la crise des opioïdes sur les Autochtones en raison de l'absence de données désagrégées. Cette contrainte signifie que les chiffres les plus récents qui ont été obtenus sont une sous-représentation de l'ampleur réelle de la crise. L'absence de données désagrégées complique également l'analyse de l'étendue du problème chez les Inuits et les Métis<sup>XV</sup>.





## Les facteurs sous-jacents

La surreprésentation des Autochtones parmi les personnes victimes de surdose mortelle ou non mortelle d'opioïdes constitue un autre phénomène récurrent qui illustre l'héritage de la violence coloniale et des traumatismes intergénérationnels qui en découlent, la marginalisation socioéconomique qui limite l'accès aux ressources favorisant la santé et le bien-être, et le racisme institutionnel qui continue de créer des obstacles à l'accès aux traitements visant à soigner non seulement les problèmes de toxicomanie, mais aussi les autres torts causés par le colonialisme et les traumatismes intergénérationnels<sup>xvi</sup>. Bon nombre des indicateurs socioéconomiques associés aux Autochtones comme la pauvreté, l'itinérance et l'incarcération sont en outre associés à des risques accrus de méfaits liés aux opioïdes<sup>xvii</sup>. Dans son rapport, la Régie de la santé des Premières Nations de la Colombie-Britannique énumère un certain nombre de facteurs qui contribuent à la surreprésentation des Autochtones dans la crise des opioïdes, y compris les suivants : 1) des obstacles entravant l'accès aux soins de santé en raison du racisme et de traumatismes intergénérationnels; 2) les répercussions continues des traumatismes intergénérationnels; 3) l'accès restreint aux traitements en matière de santé mentale et de toxicomanie<sup>xviii</sup>. Certes, comme les témoins l'ont expliqué au cours du processus de consignation de la vérité, l'absence de services adaptés à la culture, particulièrement dans les domaines des soins de santé et de la santé mentale, complique encore davantage les choses pour les personnes qui cherchent à obtenir du soutien. Dans le cadre d'une étude récente effectuée par le Centre canadien sur les dépendances et l'usage de substances, les chercheurs ont déterminé que l'une des principales raisons citées par les utilisateurs autochtones et non autochtones pour ne pas composer le 911 en cas de surdose ou d'administration de naloxone était la crainte d'une intervention de la police<sup>xix</sup>.

## Des pistes de solutions

Afin d'enrayer les conséquences de la crise des opioïdes chez les Autochtones, des solutions adaptées à ces derniers sont nécessaires. Les intervenants soulignent l'importance de privilégier des mesures qui favorisent la réduction des dommages, comme les programmes d'échange de seringues, l'accès à des médicaments qui ne contiennent pas de substances nocives et la distribution de naloxone, mais ils soutiennent également que les mesures mises en place doivent être fondées sur les valeurs autochtones et doivent être proposées dans un contexte et des conditions adaptés à la culture<sup>xx</sup>. Parmi les témoins qui, à l'occasion du processus de consignation de la vérité, ont fait état de leurs démarches pour obtenir une forme ou l'autre de soutien, plusieurs ont expliqué comment, en tant que femme, fille ou personne 2ELGBTQQIA autochtone, il peut s'avérer risqué, tout particulièrement pour les personnes qui consomment de la drogue ou qui participent au trafic de drogue, de faire appel aux services de soins de santé, aux intervenants d'urgence ou aux policiers, en raison du racisme institutionnel auquel les Autochtones sont souvent confrontés dans ce type de situation. Afin de veiller à ce que les personnes aillent chercher de l'aide dans ces situations où elles sont particulièrement vulnérables, des services adaptés à la culture et des interventions qui ne génèrent pas de torts ou de difficultés supplémentaires, par exemple en criminalisant un individu et en l'accusant de possession de drogue au moment où il est victime d'une surdose, sont essentiels<sup>xxi</sup>.

Cependant, au-delà des interventions visant à endiguer la crise actuelle, les personnes qui défendent les droits des Autochtones en matière de santé et d'autres intervenants soulignent la nécessité de corriger les inégalités structurelles et institutionnelles qui continuent de désavantager les Autochtones et amplifient la crise à la base. Cela implique





de se pencher sur les nombreux facteurs socio-économiques, comme la pauvreté et la pénurie de logements, qui continuent d'exposer les Autochtones à différents risques. Cela implique aussi de fournir des services de soutien en santé mentale et en toxicomanie adaptés à la culture et accessibles pour les Autochtones, de telle sorte qu'ils réalisent que ces services les aideront à surmonter les traumatismes, la douleur et la souffrance qui les habitent. Ainsi, la consommation de drogues ne sera plus la seule solution à leur portée pour survivre<sup>XXII</sup>.

- I Belzak et 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 et Halverson, « Evidence Synthesis – The Opioid Crisis. »
- VIII Alberta Health Services, « Carfentanyl – Backgrounder. »
- IX Belzak et 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*. » Voir aussi Public Health Agency of Canada, « Evidence Synthesis – The Opioid Crisis. »
- XII Belzak et 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, et McNeil, « Reconciliation and Canada's Overdose Crisis. »
- XVI First Nations Health Authority, *Overdose Data and First Nations*, 6.
- XVII Lavalley, Kastor, Valleriani, et McNeil, « Reconciliation and Canada's Overdose Crisis. »
- XVIII First Nations Health Authority, *Overdose Data and First Nations*, 2–3.
- XIX Cité dans Belzak et Halverson, « Evidence Synthesis – The Opioid Crisis, » 228.
- XX Lavalley, Kastor, Valleriani, et McNeil, « Reconciliation and Canada's Overdose Crisis. »
- XXI First Nations Health Authority, *Overdose Data and First Nations*, 4-5.
- XXII Ibid.





## Les facteurs favorisant la violence : la marginalisation sociale et économique

Les facteurs sociaux et économiques, notamment l'emploi, l'éducation, le logement, le revenu, l'alimentation et les ressources durables, influent sur la santé des peuples autochtones et sur leurs rapports avec le système canadien de soins de santé<sup>65</sup>. Il est largement reconnu que la pauvreté, le manque de logement sûr, l'insécurité alimentaire et d'autres réalités socioéconomiques compromettent la santé physique, émotionnelle, mentale et spirituelle des peuples autochtones, plus particulièrement celle des femmes, des filles et des personnes 2ELGBTQQIA autochtones. De plus, la marginalisation des peuples autochtones et des approches autochtones en matière de santé et de bien-être dans les systèmes de soins de santé dominants, et ce, malgré le besoin généralisé de tels services, crée des obstacles supplémentaires qui maintiennent les inégalités en matière de santé au lieu de les faire reculer<sup>66</sup>.

### **La pauvreté, la santé et le bien-être**

Comme l'a fait remarquer Fred Wiens, du Centre de collaboration nationale de la santé autochtone, les dimensions économiques de la pauvreté sont réputées figurer parmi les déterminants de la santé les plus importants<sup>67</sup>. Les Autochtones qui vivent dans la pauvreté sont plus susceptibles de se heurter à des situations qui nuisent à leur santé physique, mentale, émotionnelle et spirituelle que les personnes qui ne connaissent pas la pauvreté. En 2016 au Canada, le revenu médian des Autochtones après impôts variait selon les groupes. Les Premières Nations avaient un revenu médian total de 21 875 \$, les Inuits de 24 502 \$ et les Métis de 31 916 \$<sup>68</sup>. Selon des données plus récentes issues de l'Enquête régionale sur la santé des Premières Nations (2015-2016), près de 30 % des adultes des Premières Nations interrogés avaient un revenu familial de moins de 20 000 \$<sup>69</sup>. Il n'est donc pas surprenant que de nombreux membres des Premières Nations aient de la difficulté à subvenir à leurs besoins de base. Par exemple, seulement 67,2 % des adultes des Premières Nations ayant pris part à l'Enquête régionale sur la santé des Premières Nations (2015-2016) ont déclaré ne jamais avoir de difficulté à payer leurs dépenses liées à la nourriture<sup>70</sup>.

### **Le logement, la santé et le bien-être**

Pour de nombreuses familles autochtones, la pauvreté agit comme un obstacle à l'obtention d'un logement sûr et abordable. Or, selon les chercheurs Yale Belanger, Gabrielle Weasel Head et Olu Awosoga, le fait d'habiter « un logement de taille et de qualité convenables à prix abordable contribue directement à améliorer la santé et le bien-être » et est « lié directement à la capacité d'une personne de participer à l'économie et à la société en général »<sup>71</sup>. Le problème du logement inabordable est lié, sans en être l'équivalent, à la conception de l'itinérance chez les Autochtones. Comme l'explique le chercheur Jesse Thistle : « L'itinérance chez les Autochtones est une condition humaine décrivant le manque de logement stable, permanent et adéquat des



individus, des familles ou des communautés des Premières Nations, des Métis et des Inuits, ou le manque de possibilité immédiate, de moyens ou de la capacité d'acquérir un tel logement<sup>72</sup>. » Il cite un rapport de l'Aboriginal Standing Committee on Housing and Homelessness (comité permanent autochtone sur le logement et l'itinérance) qui traite de la question :

[L'itinérance chez les Autochtones] ne se définit pas par un manque de structures ou de logement, mais se décrit plutôt et se comprend pleinement à travers une lentille composite de visions du monde autochtone. [...] Qui plus est, les Autochtones vivant ces types d'itinérance ne peuvent pas se reconnecter culturellement, spirituellement, émotionnellement ou physiquement avec leur identité autochtone ou leurs relations perdues<sup>73</sup>.

Selon Statistique Canada, en 2016, un membre des Premières Nations sur cinq vivait dans un logement qui avait besoin de réparations majeures. Bien que la proportion de membres des Premières Nations, de Métis et d'Inuits habitant un tel logement ait diminué entre 2011 et 2016, chez les Autochtones vivant dans des réserves, cette proportion a en fait augmenté de 0,8 %. Toujours en 2016, 18,3 % des Autochtones habitaient un logement considéré comme « surpeuplé<sup>74</sup> ». Pour les adultes des Premières Nations vivant en régions éloignées, les difficultés associées à l'obtention d'un logement sûr sont considérables, plus d'un adulte sur trois (37,9 %) habitant un logement nécessitant des réparations majeures et 31,8 %, un logement surpeuplé<sup>75</sup>.

Pour de nombreux témoins, de telles conditions de vie peuvent contribuer à la dégradation de l'état de santé. En 2016, 26,2 % des Inuits, 24,2 % des membres des Premières Nations et 11,3 % des Métis vivaient dans une habitation « nécessitant des réparations majeures ». Les taux les plus élevés ont été enregistrés chez les Inuits de l'Inuit Nunangat (31,5 %) et les membres des Premières Nations vivant dans une réserve (44,2 %). À titre de comparaison, seulement 6 % de la population non autochtone vivaient dans un logement nécessitant des réparations majeures<sup>76</sup>. Dans son témoignage, par exemple, Sandra L. a expliqué que le mauvais état de la maison de sa petite-fille cause d'importants problèmes de santé à elle-même et à sa famille :

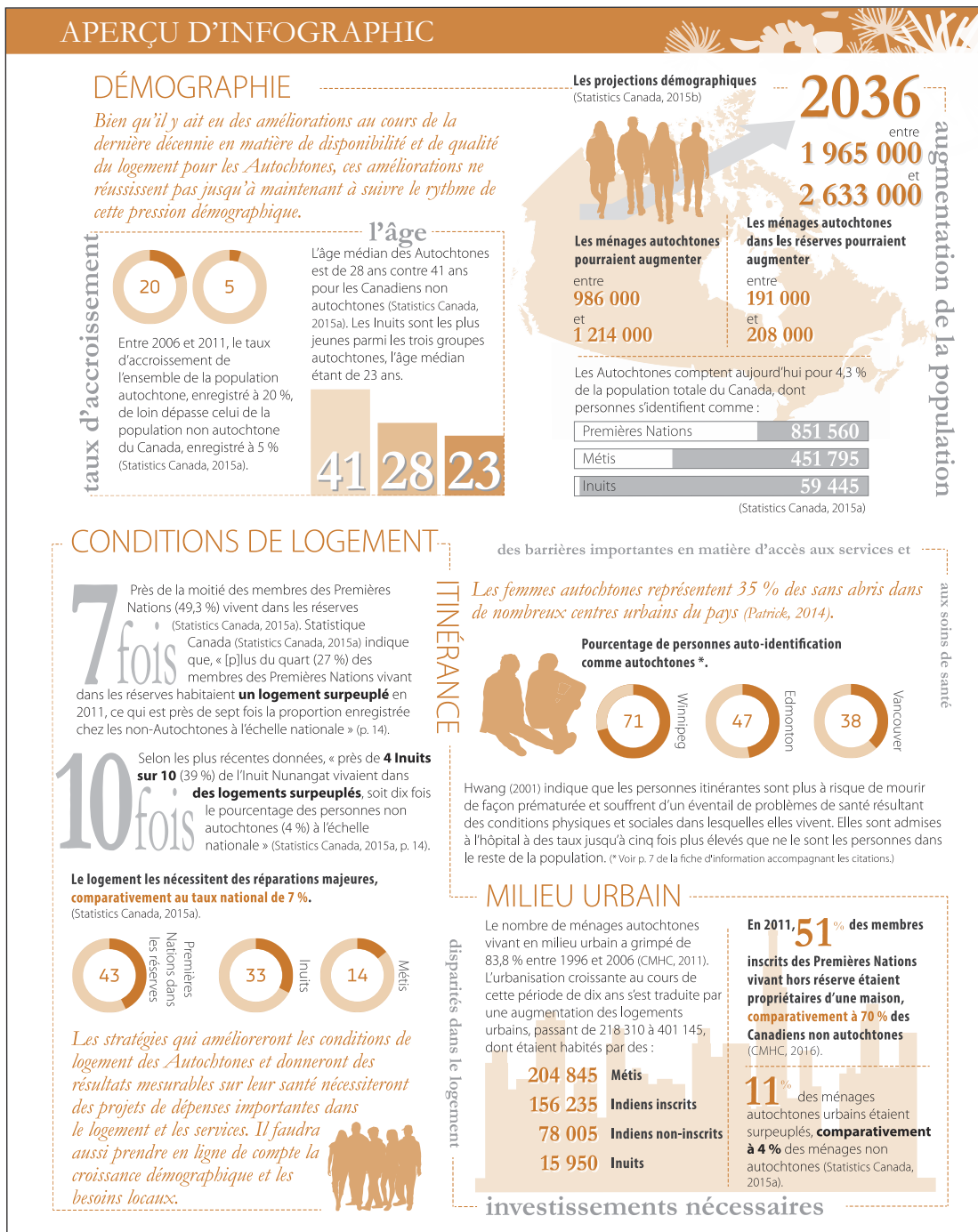
Quand je suis entrée dans la maison de ma petite-fille [pour Noël], elle était pleine de moisissures. Et j'ai trois générations de mes enfants qui vivent sous le même toit. Et j'ai dit : « Oh mon Dieu, oh mon Dieu. » J'étais leur voix. [...] Donc, je suis revenue chez moi après les Fêtes et j'ai été malade à cause des moisissures et après, j'ai eu la grippe parce que mes poumons sont affaiblis. Et j'ai commencé à penser, mes petits-enfants respirent ça tous les jours<sup>77</sup>.

Elle a également expliqué que sa famille doit acheter de l'eau parce que l'eau dans sa maison n'est pas potable, une réalité qui pose également des risques pour la santé de tous les membres de la famille. Plus d'un adulte des Premières Nations sur quatre (27,5 %) n'a pas accès à une source d'eau potable toute l'année<sup>78</sup>.

L'histoire de Sandra reflète également les résultats d'une recherche de 2018 qui indiquent que les problèmes de moisissures touchent 39,7 % des logements occupés par des membres de Premières



Nations, soit un taux trois fois plus élevé que dans la population générale (13 %) <sup>79</sup>, une réalité corrélée à des revenus inférieurs, au surpeuplement et à une mauvaise santé. Par exemple, l'Enquête régionale sur la santé des Premières Nations (2015-2016) a révélé qu'un pourcentage plus élevé d'adultes des Premières Nations atteints de maladies chroniques a déclaré vivre dans des maisons où il y avait de la moisissure, comparativement à ceux qui n'en sont pas atteints <sup>80</sup>.



Source : Centre de collaboration nationale de la santé autochtone, « Le logement : un déterminant social de la santé des Premières Nations, des Inuits et des Métis, » 14.





De même, les problèmes de logement persistent pour les Autochtones qui vivent dans des centres urbains. Certaines initiatives ont été réalisées dans les années 1960 et 1970, parallèlement aux efforts d'après-guerre pour réinstaller les Autochtones dans des centres urbains, tel que nous l'avons vu au chapitre 4. À la fin des années 1980 et en raison de compressions budgétaires, un grand nombre de ces programmes ont été abandonnés. Cela s'est traduit par un transfert général des rôles permettant à « un petit groupe d'acteurs des secteurs privé, public et tiers [de combler] le vide laissé par le gouvernement avec une gamme complexe de programmes encore en vigueur parmi lesquels il est difficile de se retrouver »<sup>81</sup>. Les membres des Premières Nations à faible revenu et vivant hors réserves peuvent présenter une demande en vertu des programmes de la Société canadienne d'hypothèques et de logement (SCHL) offerts à tous les Canadiens et d'une foule d'autres programmes financés par le gouvernement fédéral, comme la subvention des logements publiques, les logements à but non lucratif, les programmes de suppléments au loyer, les programmes de logement pour les habitants ruraux et les Autochtones, les programmes d'habitation urbaines à but non lucratif pour les Autochtones et les logements coopératifs. Il y a relativement peu de programmes de logement qui concernent précisément les Autochtones en milieu urbain. Cela signifie que peu d'argent est disponible pour améliorer les conditions d'habitation qui, dans bien des cas, contribuent à une mauvaise santé.

Pour de nombreux témoins, sans les ressources et les mesures de soutien nécessaires, il y a peu d'options pour améliorer ces situations.

Dans son témoignage, Verna W. a décrit comment le mode de vie traditionnel pratiqué par ses parents quand elle était enfant leur a permis de nourrir, de loger et de garder en santé une grande famille, ainsi que d'autres membres de la communauté.

On était une famille très heureuse de 10 enfants, et ma mère et mon père. Maman nous emmenait cueillir des baies l'été, et papa nous emmenait pêcher [...]. Quand on avait fini de cueillir des baies, on aidait maman à les laver et elle nous montrait comment en faire des conserves. Ma sœur [...] et moi, parce que mes autres sœurs étaient trop jeunes, quoique [...] on était jeunes aussi, mais on devait apprendre très jeunes. Quand mon père partait à la pêche pour nous nourrir, on devait donner aux Aînés d'abord, mais mon père s'assurait toujours que tout le monde en avait assez pour l'hiver<sup>82</sup>.

Pour la famille de Verna comme pour de nombreuses autres familles autochtones, cette façon de maintenir la bonne santé des familles et des communautés au moyen des pratiques traditionnelles a été compromise quand Verna et ses frères et sœurs ont été emmenés dans un pensionnat indien.

Dans d'autres situations, la destruction de l'environnement et des territoires traditionnels a également mis un terme à la capacité des peuples autochtones de subvenir à leurs besoins de base au sein de leurs propres communautés. De plus, de nombreuses communautés des Premières Nations ont été menacées directement par l'exploitation du territoire et la pollution. Les membres de la Première Nation de Grassy Narrows, par exemple, exposés à l'empoisonnement au mercure depuis les années 1960 en raison du déversement de produits chimiques dans le réseau



hydrographique, sont aujourd'hui six fois plus susceptibles de souffrir d'un large éventail de problèmes de santé débilissants que ceux qui ne vivent pas dans la communauté. Ceux qui ont reçu un diagnostic d'empoisonnement au mercure parce qu'ils ont vécu dans la communauté sont :

- près de six fois plus susceptibles d'être atteints d'un trouble neuropsychologique;
- cinq fois plus susceptibles d'avoir des problèmes gastriques ou intestinaux;
- quatre fois plus susceptibles de souffrir d'un éventail de problèmes, dont une perte auditive et des douleurs articulaires chez les plus de 30 ans;
- trois fois plus susceptibles de souffrir de cécité ou de problèmes de vision<sup>83</sup>.

### **La migration, la santé et le bien-être en milieu urbain**

Comme bien des témoins l'ont raconté tout au long du processus de consignation de la vérité, de nombreux membres des Premières Nations, Inuits et Métis décident de migrer dans les centres urbains pour accéder à de meilleurs services, y compris en matière de santé. Les raisons les plus courantes pour lesquelles les adultes des Premières Nations quittent leur communauté sont l'éducation (45,3 %) et l'emploi (44,8 %). Cependant, le logement (16,9 %), les problèmes conjugaux/familiaux (3,6 %), les autres besoins médicaux (1,5 %) et les mesures de soutien en cas d'invalidité (0,9 %) sont également des facteurs susceptibles d'entraîner la migration dans un centre urbain<sup>84</sup>. En 2011, 62,4 % des membres des Premières Nations vivaient à l'extérieur d'une réserve, et le quart des Métis au Canada habitait Winnipeg, Edmonton, Vancouver et Calgary, tandis que des populations métisses appréciables étaient installées à Saskatoon et à Toronto<sup>85</sup>. Bien que, selon l'Enquête nationale auprès des ménages de 2011 de Statistique Canada, la plupart des Inuits résident dans l'Inuit Nunangat, un peu plus du quart vivait à l'extérieur, dont 37,5 % dans de grands centres urbains comme Edmonton, Montréal, Ottawa-Gatineau, Yellowknife et St. John's<sup>86</sup>. Encore une fois cependant, malgré leurs tentatives d'améliorer leur vie dans une grande ville, les Autochtones qui vivent dans les centres urbains font face à des inégalités en matière de santé plus importantes que ceux vivant dans les réserves<sup>87</sup>. Comme la chercheuse en santé Ashley Goodman et ses collaborateurs le mentionnent dans leurs travaux de recherches axés sur les expériences vécues dans le réseau de la santé par les Autochtones vivant au centre-ville de Vancouver, « parce qu'ils présentent des taux comparativement plus élevés d'itinérance, de suicide, de tuberculose, de VIH/sida et de diabète, et sont exposés à un risque accru de consommation d'alcool et de drogue, les Autochtones vivant en milieu urbain sont extrêmement vulnérables à tout ce qui a des effectifs nocifs pour la santé <sup>88</sup> ».

Les problèmes de santé des Autochtones sont souvent aggravés par le fait que la pauvreté, l'itinérance et les autres obstacles reliés nuisent à leur capacité d'accéder à des soins de santé. Malgré les éloges que le Canada reçoit souvent pour son système de soins de santé universel, comme l'observe l'équipe de chercheurs dirigée par Goodman, les recherches sur l'accès aux soins des peuples autochtones démontrent que le système de santé canadien « ne répond pas aux besoins en matière de soins de santé d'un grand nombre de ses citoyens les plus vulnérables<sup>89</sup> ». Doris G. a donné un exemple de cette inégalité lorsqu'elle a décrit les difficultés financières qu'elle a dû surmonter après avoir reçu un diagnostic de cancer du col de l'utérus.



Maintenant, mon fils s'occupe de moi et je reçois 600 \$ d'Alberta Works, mais je pense que ce n'est tout simplement pas suffisant. Ils ont aussi réduit mes prestations de maladie parce que ... parce que je suis devenue membre des Premières Nations. Avant, j'avais les deux : celles des Premières Nations étaient ma couverture principale, puis celles de la province, ma couverture secondaire, mais ils refusent si vous avez les deux couvertures, vous ne pouvez avoir qu'une seule couverture. Alors maintenant, je n'en ai qu'une, mais la couverture des Premières Nations paie certaines choses que la province ne paie pas, alors je voudrais les ravoir toutes les deux<sup>90</sup>.

Les besoins en soins de santé des femmes, des filles et des personnes 2ELGBTQQIA autochtones sont considérables en raison de la violence subie. Néanmoins, il est souvent compliqué d'accéder aux soins de santé pour répondre à ces besoins dans les milieux où il existe peu de ressources en santé, mais également peu de mesures d'aide, telles qu'un logement sûr et des aliments sains en quantités suffisantes, lesquelles sont nécessaires pour guérir de telles blessures.

Par conséquent, et comme nous l'avons entendu dans le cadre de l'Enquête nationale, le problème de la pauvreté est inextricablement lié aux questions de santé et de bien-être, au problème de la violence et des mauvais traitements, et à la violation du droit fondamental à la santé et au bien-être.





## RÉFLEXION APPROFONDIE

# Comprendre la réalité de la violence coloniale distinctive dans la vie des personnes 2ELGBTQQIA

Dans le cadre du processus de consignation de la vérité, les expériences de personnes autochtones qui se définissent comme bispirituelles, transgenres, lesbiennes, bisexuelles, queer, en questionnement, intersexuées, asexuées, de diverses identités de genre ou non binaires (2ELGBTQQIA) ont été recueillies. Dans certains cas, ces témoignages ont été livrés par les membres des familles de personnes 2ELGBTQQIA autochtones disparues ou assassinées. Dans d'autres cas, des Autochtones qui font partie de la communauté 2ELGBTQQIA nous ont fait connaître leurs propres expériences comme survivantes d'actes de violence. Chacune de ces vérités présente de façon unique la manière dont l'identité et l'expression de genre et l'orientation sexuelle s'articulent autour de la race, du statut socioéconomique, de la situation géographique, des habiletés et d'autres facteurs relatifs à l'identité, pour modeler les expériences individuelles des personnes 2ELGBTQQIA autochtones évoluant au sein de systèmes dominants qui sont racistes, sexistes, homophobes et transphobes. Le point commun de ces vérités, cependant, est la nécessité de s'occuper en priorité des communautés 2ELGBTQQIA et de se pencher immédiatement sur les conséquences de la violence coloniale pour les membres de ces communautés et leurs proches, conséquences qui sont semblables aux expériences vécues par les femmes et les filles cisgenres autochtones, mais présentent néanmoins des caractéristiques propres<sup>A</sup>.

De nombreux témoins ont également soutenu qu'il est rarement fait mention des victimes 2ELGBTQQIA dans le cadre des discussions sur la violence. Jasmine Redfern, ancienne directrice adjointe de Développement social et culturel pour Nunavut Tunngavik, le souligne ainsi :

Je crois que bien souvent, lorsqu'il est question de violence envers les femmes autochtones, les gens imaginent des hommes qui blessent des femmes, et cela fait l'impasse sur certains types de violence latérale qui se produisent entre femmes, mais

aussi, plus particulièrement, sur la violence au sein de couples LGBTQ, ou envers des individus transgenres, ou des personnes qui ne s'identifient pas au modèle binaire des genres<sup>B</sup>.

Dans le cadre de cette réflexion approfondie, nous examinons de plus près ces témoignages qui ont mis en lumière la violence présente dans la vie des personnes 2ELGBTQQIA autochtones. Nous présentons l'histoire de certaines personnes 2ELGBTQQIA disparues ou assassinées dont les expériences ont été relatées au cours du processus de consignation de la vérité, tout en reconnaissant les personnes dont les histoires sont inconnues ou passées sous silence. Nous reprenons en outre ici certains enseignements qui nous ont été communiqués par des membres de familles, des Gardiens du savoir, des experts et des militants concernant les difficultés particulières rencontrées par les membres autochtones des communautés 2ELGBTQQIA pour répondre à leurs besoins en matière de culture, d'identité, de santé, de sécurité et de justice, alors qu'ils sont confrontés à la discrimination et à la violence. La conception binaire des genres, l'homophobie et la transphobie conditionnées par le colonialisme sont des symptômes et des effets de la colonisation et de l'assimilation. Elles se manifestent tant à l'extérieur des communautés autochtones qu'au sein de celles-ci. Les témoignages entendus dans le cadre de l'Enquête nationale renforcent en effet l'idée que lorsque les communautés autochtones font preuve d'homophobie ou de transphobie, elles participent à la consolidation de mesures colonialistes. Nous examinons comment, en dépit de ces difficultés, de nombreuses personnes 2ELGBTQQIA autochtones résistent aux rôles marginalisés auxquels l'État colonial les destine en se réappropriant leurs rôles traditionnels dans la communauté et la culture, et en se positionnant en véritables défenseurs des minorités de genres et minorités sexuelles, avec pour mission de mettre fin à la violence coloniale et à ses conséquences distinctes pour ces minorités.





## Reconnaître ce qui était et ce qui est

Le terme « bispirituel » est relativement nouveau, même si la diversité sexuelle existe dans différentes communautés depuis des temps immémoriaux. Le témoin expert Albert McLeod explique comment le fait de remettre en question ces identités pouvait, historiquement, être perçu comme une remise en question de la vie en elle-même.

Ainsi, il était entendu que les animaux étaient créés par la nature selon un procédé particulier, que les plantes suivaient également ce procédé et que les humains en suivaient un qui leur était propre. D'après les croyances des Ojibway, chaque enfant nouveau-né a un but, un rôle et une destinée et les humains possèdent un don divin. L'expression de l'identité de genre et de sexe et l'orientation sexuelle sont donc prédéterminées par une force vitale du royaume spirituel. Le principe éthique important de non-intervention faisait obstacle à l'homophobie et à la transphobie. Il n'était pas approprié de mettre en doute l'identité ou les dons divins d'une autre personne, puisque cela impliquait de remettre en question la vie elle-même. L'attribution d'un nom spirituel est un rite important qui relie les humains au monde des Esprits. C'est dans le cadre de ce type de cérémonie que le nom « bispirituel » a été introduit en 1990, à l'occasion d'un rassemblement au Manitoba. Essentiellement, ce nom affirme que les personnes LGBTQIA sont des êtres spirituels<sup>c</sup>.

L'État canadien a mis en place, au moyen des pensionnats indiens et d'autres pratiques, une politique qui a forcé la modification des normes de genres autochtones en s'attachant à effacer et exclure les identités et le rôle culturel des personnes 2ELGBTQQIA. Cette politique d'effacement et d'exclusion se poursuit encore de nos jours.

L'imposition des normes de genres coloniales aux Autochtones partout dans le monde a entraîné l'essor des types ou rôles ultra masculins ou ultra féminins dans les États coloniaux. Les systèmes sociaux responsables de la santé, de la justice, de l'éducation et de la politique prônent ces identités de genres binaires qu'ils considèrent comme idéales, tout en écartant ou en effaçant les valeurs autochtones d'inclusion et de non-intervention<sup>p</sup>.

## Partir de chez soi : confrontations avec la violence latérale homophobe et transphobe

L'étendue de la perturbation des genres, des identités sexuelles et des rôles culturels autochtones traditionnels causée par le système de genres colonial est particulièrement évidente, pour certains, lorsqu'on observe la façon dont les croyances sexistes, homophobes, transphobes et patriarcales sur lesquelles le système de genres colonial repose ont été internalisées et admises au sein des communautés autochtones. L'omniprésence de ces croyances a forcé bon nombre de personnes 2ELGBTQQIA autochtones à quitter leurs communautés et territoires traditionnels, parfois pour fuir la menace de violence dirigée vers elles en raison de leur identité de genre ou de leur orientation sexuelle, d'autres fois pour partir à la recherche d'un sentiment d'acceptation et d'appartenance qu'elles ne trouvaient pas au sein de leur communauté.

Comme Albert McLeod l'a exprimé à l'Enquête nationale, l'oppression intersectionnelle vécue par les personnes bispirituelles autochtones peut avoir pour effet de les exclure à la fois des communautés autochtones et 2ELGBTQQIA, particulièrement pendant les périodes de transition.

Vous savez, en 1986 [...] dans notre petit groupe de gais et lesbiennes autochtones, de l'époque, à Winnipeg, nous étions en quelque sorte isolés de la plus grande communauté LGBT, et il n'existait pas vraiment de lieu commun à tous. Il y avait un centre d'amitié à Winnipeg, mais nous ne sentions pas vraiment de liens avec les organisations autochtones à ce moment-là. De plus, comme il y avait eu deux suicides de jeunes en deux mois, cela nous a vraiment poussés à réfléchir aux moyens de venir en aide à ces jeunes, pour qu'ils arrivent à gérer tout ce que leur venue en ville impliquait; surtout que la ville n'est vraiment pas un lieu accueillant pour les Autochtones [...]. De fait, si vous êtes un jeune, membre d'une Première Nation, Inuit ou Métis et que vous migrez en ville, vous serez confronté au racisme, mais aussi à l'homophobie et à la transphobie<sup>e</sup>.





Anni P., une femme bispirituelle qui a quitté sa communauté à 18 ans pour vivre à Edmonton, décrit les émotions difficiles et contradictoires suscitées par son départ.

Lorsque j'avais 18 ans, après la mort de mon père, j'ai quitté Saskatoon et j'ai déménagé à Edmonton, parce que comme j'avais découvert ma bispiritualité, j'avais besoin de trouver d'autres personnes bispirituelles et je savais qu'il y en avait à Edmonton. Je suis donc allée à Edmonton à la recherche d'autres membres de ma tribu. Vous savez, je cherchais simplement d'autres parties de moi-même, mais cette période était très triste pour moi, vous comprenez? Je me remémore cette période, j'avais 18 ans à ce moment-là, mais je n'ai commencé mon parcours de guérison qu'à 25 ans [...]. Alors ce qui est triste dans cette histoire, c'est que pour guérir, je devais quitter ma famille autochtone et me rendre à Edmonton, vous voyez? C'était vraiment trop difficile<sup>f</sup>.

Albert McLeod raconte comment il a décidé de quitter sa communauté :

J'ai quitté The Pas lorsque j'avais 19 ans. J'ai annoncé que j'étais un homme gai quand j'étais au secondaire, j'avais environ 17 ans. De façon générale, je cherchais une communauté sécuritaire. The Pas était un environnement très homophobe, transphobe et raciste, et les gens ne disposaient pas vraiment des compétences ou des connaissances nécessaires pour aborder l'identité de genre ou l'orientation sexuelle<sup>g</sup>.

Viola Thomas explique comment la douleur et l'isolement prolongés que provoque le fait d'être rejetée par sa famille et sa communauté accentuent l'importance de se pencher sur l'homophobie et la transphobie au sein des communautés autochtones.

Nous devons aussi lutter contre l'homophobie au sein des communautés autochtones. J'ai vu tant de mes chers amis bispirituels, qui habitent dans le quartier Downtown Eastside, me dire à quel point ils refusaient absolument qu'au moment de leur mort, leur corps soit ramené dans leur communauté d'origine pour y être enterré. Ils me répétaient toujours qu'ils le refusaient à cause de la manière dont ils avaient été traités, en raison de qui ils étaient<sup>h</sup>.

Comme Viola, Grand-mère Blu du Cercle des Aînés et des Grands-mères de l'Enquête nationale souligne l'importance d'accueillir de nouveau les personnes bispirituelles dans leurs communautés.

Nous les avons chassées de nos communautés parce que nous avons accepté la conception binaire des genres, et nos jeunes en souffrent. Les personnes bispirituelles n'ont plus le droit d'être elles-mêmes, leur participation aux cérémonies n'est plus acceptée, pas plus que leur participation en dehors des cérémonies; dans leurs propres réserves, on les rejette, et leur présence n'est pas plus acceptée en ville, puisque les Aînés qui vivent en ville ont subi l'influence du christianisme et de la colonisation. Il est temps de ramener les personnes bispirituelles dans notre cercle parce qu'elles apportent l'équilibre. J'irai partout, j'irai où il faudra pour les aider, parce que j'ai eu la chance d'être qui je suis!

## Les obstacles à la découverte d'une communauté d'accueil

Pour ceux qui quittent leur communauté, le déménagement dans un centre urbain peut offrir de nouvelles possibilités et favoriser les liens et le développement d'un sentiment d'appartenance. Cela s'explique en partie par le fait que les communautés 2ELGBTQQIA cherchent souvent à soutenir les personnes isolées, comme Albert McLeod l'explique.

Par conséquent, ce que nous avons fait dans les communautés bispirituelles partout au Canada, c'est que nous avons créé, en quelque sorte, des familles « d'adoption », où des personnes issues de différents groupes d'âge, de différentes générations, agissent à titre de parents, de grands-parents, de frères ou de sœurs de remplacement. Comme je le mentionnais ce matin, vous savez que je porte plusieurs noms, comme mamie Albert, et maman. Dans ce sens, je remplace un membre de famille absent.





Quelquefois, cette absence s'explique par l'isolement géographique, par la difficulté de rentrer à la maison, ou quelquefois une personne est rejetée par sa communauté, ou encore il est trop risqué pour elle d'y retourner. Ses parents l'aiment encore, mais en raison de son exclusion ou de la distance, ils ne sont pas en mesure de lui offrir cette sécurité. En tant que membres de famille de remplacement, nous jouons ce rôle, alors nous adoptons en quelque sorte nos pairs au sein de notre sous-culture, dans un contexte rural ou urbain. Il y a beaucoup de mamans dans le coin<sup>L</sup>.

Pour plusieurs personnes 2ELGBTQQIA autochtones, cependant, la nécessité de changer d'endroit pour retrouver un sentiment de communauté et d'appartenance et se sentir enfin en sécurité s'accompagne souvent de nombreuses difficultés semblables à celles rencontrées dans leur région d'origine, en plus de défis de nouvel ordre. La pauvreté, l'itinérance et différents obstacles qui entravent l'accès à l'éducation, à la formation, à l'emploi, aux services de garde d'enfants, aux soins médicaux et psychologiques et au transport sont des facteurs qui touchent bon nombre d'Autochtones lorsqu'ils cherchent un environnement où ils se sentiront en sécurité<sup>K</sup>. Pour les personnes 2ELGBTQQIA autochtones, ces difficultés peuvent être exacerbées par la discrimination liée à leur identité de genre et à leur orientation sexuelle.

Par exemple, dans son témoignage, Jamie Lee Hamilton raconte que parce qu'elle souhaite vivre dans un logement abordable, elle doit supporter les commentaires racistes et dénigrants des autres locataires de l'immeuble concernant son identité comme femme transgenre : « En ce moment, j'ai un logement abordable au centre-ville, mais même dans mon immeuble, je suis confrontée à la transphobie. On s'adresse à moi sans respecter mon genre. Les gens font tout pour être désagréables envers moi<sup>L</sup>. »

D'autres soulignent que le manque d'accès à des soins de santé d'affirmation de genre, à du counseling en santé mentale et à des services de lutte contre la violence marginalise encore davantage les personnes 2ELGBTQQIA autochtones et rend difficile l'obtention du soutien dont elles ont besoin. Jasmine Redfern explique le phénomène ainsi :

Beaucoup de personnes 2ELGBTQQIA sont confrontées à des degrés élevés de violence sexualisée qui peuvent nécessiter un plus grand nombre d'interactions avec les institutions. Elles essaient ensuite d'avoir accès à des services de santé et à des services juridiques pour les aider à gérer ces interactions, ce qui, potentiellement, les expose à des atteintes supplémentaires qui sont le fait de ces mêmes institutions.<sup>M</sup>

Cela fait en sorte que bien des gens ne reçoivent pas l'aide dont ils ont besoin. Par exemple, dans le cadre d'un projet de recherche sur les expériences des personnes autochtones qui se définissent comme bispirituelles, lesbiennes, gaies, bisexuelles, transgenres ou queer et qui vivent à Winnipeg ou à Vancouver, les chercheurs J. Ristock, A. Zoccole, L. Passante et J. Potskin ont déterminé que la majorité des personnes sondées ne cherchaient pas à obtenir des services de lutte contre la violence lorsqu'elles en étaient victimes en raison d'un manque de ressources spécialisées dans leur culture et de fournisseurs de services outillés pour tenir compte de leur identité sexuelle, culturelle et de genre<sup>N</sup>.

Jasmine Redfern remarque que ces difficultés touchent toutes les personnes 2ELGBTQQIA, mais qu'elles peuvent être plus marquées dans certaines régions ou parmi certains groupes. L'exemple suivant lui permet d'illustrer à quoi ces difficultés peuvent ressembler.

Je vais utiliser un exemple que l'on retrouve ici, à Iqaluit. Nous avons une maison d'hébergement pour victimes de violence familiale, et cette maison accueille en effet les femmes qui fuient la violence. Cependant, le lieu ne dispose pas nécessairement de politiques pour aider les victimes de violences perpétrées par une femme, ni pour gérer les relations entre les clientes hébergées<sup>O</sup>.

T. J. Lightfoot, une personne bispirituelle et Mi'kmaw ayant une expérience des services de première ligne et de la recherche dans les domaines de la santé mentale, de la santé sexuelle, des dépendances et de l'intervention en situation de crise, présente également l'observation suivante relativement aux difficultés vécues par les personnes 2ELGBTQQIA pour s'orienter dans le système de soins de santé et dans d'autres systèmes.





Les personnes 2ELGBTQ vivent souvent des traumatismes intergénérationnels complexes qui peuvent être aggravés par ces systèmes. Nous devons donc reconnaître que le racisme joue effectivement un rôle dans les expériences vécues par ces personnes alors qu'elles tentent d'obtenir de l'aide et des soins de santé, ou même lorsqu'elles demandent d'obtenir justice, mais aussi qu'elles portent un double fardeau par rapport au reste des Autochtones. Ainsi, nous nous retrouvons à devoir soit affirmer notre identité ou orientation sexuelle plusieurs fois, à expliquer notre réalité, soit à prendre la décision de taire qui nous sommes momentanément afin d'obtenir les services dont nous avons besoin sans courir le risque de s'exposer<sup>p</sup>.

Dans son témoignage, Fallon Andy<sup>q</sup> décrit comment le manque d'accès à des soins de santé appropriés et à d'autres services de soutien pose problème pour les jeunes 2ELGBTQQIA autochtones, particulièrement ceux qui habitent dans des communautés éloignées ou dans des collectivités du Nord.

Plusieurs d'entre eux [les jeunes qui vivent dans les collectivités du Nord] n'ont vraiment pas accès à des soins de santé adéquats. Les jeunes bispirituels ou transgenres, par exemple [...] ils ne pourraient pas avoir accès à une thérapie hormonale réparatrice, s'ils sont victimes de violence sexuelle, par exemple, puisque les jeunes bispirituels ou transgenres présentent un risque accru de subir ce type de violence [...]. Et comment peuvent-ils gérer ces expériences-là, sachant qu'elles sont causées par leur identité de genre ou leur orientation sexuelle?

De plus, ils n'auraient tout simplement pas accès à des articles de base dont les jeunes bispirituels ou transgenres ont besoin, comme des bandes thoraciques, ou d'autres types d'accessoires vestimentaires nécessaires. C'est cela. Je crois qu'il serait possible de trouver ce genre de chose sur Internet. Mais pour ce qui est d'y avoir accès immédiatement, cela ne serait pas possible pour les communautés du Nord<sup>r</sup>.

Dans le même ordre d'idées, T. J. Lightfoot explique ceci : « Souvent, les Inuits 2ELGBTQQIA doivent travailler sans relâche pour être reconnus et visibles dans leur vie quotidienne. Par conséquent, lorsqu'ils accèdent à ces services, mais qu'ils redeviennent de nouveau invisibles, cela constitue une autre forme de violence<sup>s</sup>. »

Néanmoins, lorsqu'ils déménagent en ville avec l'espoir de se trouver une communauté d'appartenance ou une meilleure vie, les jeunes 2ELGBTQQIA vivent souvent une instabilité économique importante et ont du mal à trouver un refuge, ce qui les rend plus susceptibles que les jeunes Autochtones cisgenres de vivre dans la rue<sup>t</sup>. Dans le sondage *Homeless and Street-Involved Youth Survey* réalisé en Colombie-Britannique en 2014, les chercheurs ont déterminé qu'environ un jeune 2ELGBTQQIA autochtone sur trois qui était sans-abri ou vivait dans la rue avait été exploité sexuellement, comparativement à 15 % des jeunes Autochtones hétérosexuels cisgenres<sup>u</sup>.

Dans chacun de ces exemples, la pauvreté et les autres formes de marginalisation socioéconomique qui se manifestent dans des systèmes racistes, sexistes, homophobes et transphobes augmentent les risques de violence pour toutes les personnes 2ELGBTQQIA. De plus, les personnes qui cherchent à obtenir de l'aide, particulièrement au sein du système de santé, peuvent être confrontées aux mêmes difficultés que celles qu'elles tentaient d'éviter dans leur communauté d'origine. Comme Jasmine Redfern l'explique, le fait d'avoir besoin d'affirmer son identité de genre ou son orientation sexuelle au fournisseur de services, et quelquefois même d'avoir à renseigner cette personne, peut s'avérer pénible pour les personnes 2ELGBTQQIA.

Quelquefois, lorsque vous requérez ces services, particulièrement si vous êtes en situation de crise, cela peut être encore plus difficile si vous devez mettre de côté vos besoins immédiats pour prendre le temps de renseigner le fournisseur de services. Et si cette même situation se produit non pas une, mais toutes les fois, cela peut devenir épuisant émotionnellement, spirituellement et physiquement pour les personnes visées<sup>v</sup>.





Par ailleurs, M<sup>me</sup> Redfern ajoute que les conséquences de ces types de difficultés peuvent être marquantes et entraîner ce qu'elle définit comme « un épuisement causé par le système, où la charge associée à l'accès au système devient si lourde que l'avantage que l'on s'attend à retirer en obtenant les services semble moindre que la charge elle-même. Ainsi, certaines personnes choisissent de laisser tomber complètement<sup>w</sup> ».

En outre, les phénomènes de pauvreté et de marginalisation au sein de systèmes racistes, sexistes, homophobes et transphobes sont également exacerbés par le fait qu'il existe peu d'options pour se protéger de cette violence.

Par exemple, dans son témoignage livré à Vancouver, Jamie L. H. décrit une rencontre qu'elle a eue avec les policiers alors qu'elle était détenue pour des accusations qui ont plus tard été abandonnées. Sa description du traitement qui lui a été réservé au moment de son arrestation démontre l'utilisation de tactiques violentes, transphobes et discriminatoires par les policiers pour renforcer plutôt que dénoncer les systèmes qui l'exposent à la violence<sup>x</sup>.

L'acte intentionnel consistant à ne pas respecter le genre d'une personne représente un type de violence psychologique et d'abus émotionnel grave. Comme il s'agissait pour elle de l'une de ses premières rencontres avec la police en tant que jeune femme transgenre autochtone, le manque de considération et même le mépris total de sa sécurité physique et émotionnelle envoient un message clair : les personnes 2ELGBTQQIA autochtones impliquées dans l'industrie du sexe ne peuvent pas s'attendre à ce que leurs droits à la sécurité, à la justice ou à l'identité et à l'expression de genre soient protégés lorsqu'elles sont en détention policière. En outre, cela indique que d'autres violations de ces droits sont possibles, du fait de ces nouvelles violences, menaces et humiliations.

Dans son témoignage, Alaya M. relate une histoire semblable, soit celle de sa rencontre avec des policiers qui l'ont arrêtée, elle aussi, pour des accusations abandonnées ultérieurement.

Cela s'est produit en 2007. Encore une fois, c'était un des moments charnières pour moi en 2007. J'ai eu une confrontation avec le service de police de Winnipeg. Les policiers m'ont emmenée au district 3, ici au Manitoba, et ils m'ont interrogée et m'ont ridiculisée à cause de mon genre, parce que je suis une femme transgenre autochtone. Ils m'ont dénigrée et m'ont lancé des injures atroces, et les termes étaient vraiment grossiers quand on pense qu'ils venaient de représentants de l'autorité. Ils se sont vraiment servis de leur pouvoir, vous savez, et l'ont utilisé pour dénigrer une personne qui était très marginalisée. Mais je leur ai dit une chose. Je les ai regardés, lorsque tout le district était là à se moquer de moi, et je leur ai bien fait comprendre que j'avais deux onces de cocaïne sur moi, je leur ai dit et répété qu'ils n'allaient pas s'en tirer impunément, que je ne les laisserais jamais s'en tirer à bon compte<sup>y</sup>.

L'expérience commune de harcèlement et de non-respect de l'identité de genre de ces deux femmes trans n'est pas le produit de l'insouciance ou de l'ignorance; c'est une véritable attaque ciblée. Bon nombre des personnes qui ont raconté ces pénibles expériences sont par la suite devenues de farouches défenseurs des travailleuses du sexe 2ELGBTQQIA autochtones et travaillent de concert avec les policiers pour bâtir des liens qui remettent en question les attitudes discriminatoires envers ces travailleuses. Cela démontre sans contredit la force des femmes transgenres et bispirituelles autochtones et leur capacité à inspirer le changement, même lorsqu'elles sont ciblées par des systèmes qui cherchent à les rendre invisibles.

## Lever le voile sur la violence

Les chercheurs, les militantes, les survivantes et les familles des personnes disparues et assassinées ont noté que la situation des Autochtones 2ELGBTQQIA qui ont subi de la violence ou qui ont perdu la vie à cause d'elle est souvent passée sous silence dans les débats publics, par le militantisme populaire ou dans le cadre des discussions plus vastes sur les femmes et les filles autochtones disparues et assassinées<sup>z</sup>. Cette lacune était particulièrement évidente dans le mandat initialement établi pour l'Enquête nationale,





qui abordait uniquement les questions intéressant les femmes et les filles autochtones. Ces paramètres, en renvoyant à la terminologie du gouvernement fédéral et à sa compréhension de ce qui définit une femme ou une fille autochtone, maintiennent une perspective coloniale binaire des genres<sup>AA</sup>. Les propos de Fallon Andy nous rappellent qu'il était important d'étendre le mandat de l'Enquête afin de s'ouvrir à une conception plus inclusive de l'identité de genre.

Je crois en effet que l'Enquête devrait élargir son mandat afin d'inclure les femmes transgenres et les personnes de genre non conforme, simplement parce que je crois qu'il est foncièrement discriminatoire que des personnes soient exclues, qu'elles ne soient pas prises en considération ici, même si elles se définissent comme des femmes. Je crois aussi qu'il s'agit d'un sous-investissement systémique de temps, de travail et d'argent. Je crois que cela (élargir le mandat) pourrait signaler un changement plus vaste au Canada, indiquant que ces personnes sont en fait essentielles dans nos communautés, qu'elles ont beaucoup à apporter, que leur apport est unique et que nous avons besoin d'elles dans notre société<sup>BB</sup>.

Pour ces raisons, l'Enquête nationale s'est efforcée d'inclure les voix des défenseurs des intérêts des personnes 2ELGBTQQIA, des survivantes et des familles des personnes 2ELGBTQQIA disparues et assassinées. Il s'agit d'une étape vers la reconnaissance de la violence coloniale, des manières dont celle-ci transgresse les droits des membres des communautés 2ELGBTQQIA et des répercussions de cette violence. Dans un même ordre d'idées, cette démarche tient compte du conseil de Jasmine Redfern concernant l'importance de se remémorer les personnes dont les histoires n'ont pas été entendues. D'ailleurs, à ce titre, la tâche est loin d'être terminée. M<sup>me</sup> Redfern commente ainsi ce qui est en jeu : « Lorsque nous sommes en position de guider le discours, [il est important de] toujours regarder autour de nous et prendre note des personnes qui sont là, mais surtout, de tenir compte de celles qui n'y sont pas<sup>CC</sup>. »

Les chercheurs ont déterminé que l'un des obstacles à la reconnaissance de la violence dans la vie des personnes 2ELGBTQQIA relève en partie d'un manque d'information sur la nature et la portée de cette violence. Par exemple, les chercheurs ont

remarqué que des données nationales sont recueillies sur la violence à l'encontre des femmes et des hommes autochtones, mais que les personnes qui s'identifient à un autre genre sont ignorées<sup>DD</sup>. Il est difficile de trouver des données précises sur la violence présente dans la vie des Autochtones en général, parce que les méthodes utilisées pour la collecte de données ne permettent pas de subdiviser l'information reçue en fonction du genre, du sexe, de la race ou de l'identité autochtone<sup>EE</sup>. En outre, la plupart des données statistiques relatives à la violence sont recueillies lorsqu'un crime est signalé aux autorités policières. Or, le système de justice pénale a historiquement causé du tort aux peuples autochtones et continue de leur nuire plutôt que de les aider, ce qui inspire à de nombreux Autochtones une profonde méfiance qui les rend peu susceptibles de signaler des incidents de violence<sup>FF</sup>. Tous ces facteurs ont une incidence sur ce que nous savons du nombre et de la nature des actes de violence perpétrés contre les personnes 2ELGBTQQIA autochtones.

Pour bon nombre de chercheurs, de défenseurs des droits des communautés 2ELGBTQQIA autochtones et d'organisations communautaires qui œuvrent pour soutenir ces communautés, il est important de redéfinir les méthodes de collecte des données afin de recueillir des renseignements plus précis relatifs à l'identité de genre et à son expression. Ainsi, la violence fondée sur le genre que subissent les personnes transgenres, bispirituelles ou de genre non conforme sera rendue visible. Dans son témoignage, Shaun L., homme transgenre et Kaska Dena qui réside au Yukon, démontre qu'il est possible d'effectuer de tels changements. Avec d'autres défenseurs de cette cause, Shaun L. travaille actuellement sur un projet de loi territorial visant à modifier la *Loi sur les statistiques de l'état civil* afin que tout natif du Yukon ait la possibilité d'indiquer l'identité de genre de son choix sur son certificat de naissance<sup>GG</sup>.

En dépit du manque de données statistiques nationales, les études, les évaluations des besoins et les recherches menées à plus petite échelle par des organisations communautaires qui s'intéressent de façon générale aux expériences et aux besoins des personnes 2ELGBTQQIA autochtones désignent systématiquement la violence homophobe, transphobe et raciste comme étant une réalité importante, répandue et préoccupante. Par exemple,





dans une étude intitulée *An Introduction to the Health of Two-spirit People*, l'une des rares consacrées à la relation entre la santé et la violence parmi les Autochtones au Canada qui se définissent comme personnes bispirituelles, lesbiennes, gais, bisexuelles, transgenres ou queer, les chercheurs ont déterminé que les expériences de violence interpersonnelle ou conjugale sont fréquentes et ont souvent lieu en combinaison avec d'autres formes de violence, ou sont liées à la vulnérabilité découlant de la transition d'une communauté à une autre<sup>HH</sup>. Les femmes autochtones subissent des actes de violence physique et sexuelle plus fréquents et plus graves que les femmes non autochtones<sup>I</sup>, mais les femmes bispirituelles sont souvent ciblées en outre en raison de leur identité de genre ou de leur orientation sexuelle, phénomène que l'un des chercheurs décrit comme une « triple vulnérabilité » les exposant à diverses formes de violence interpersonnelle et institutionnelle<sup>J</sup>.

Les chercheurs qui se penchent sur les expériences vécues par les personnes 2ELGBTQQIA signalent aussi que plusieurs d'entre elles sont confrontées à des actes de violence qui visent l'identité et l'expression de genre. Dans le cadre d'une étude sur les personnes transgenres vivant au Manitoba, par exemple, les chercheurs ont déterminé que les personnes transgenres et celles de genre non conforme sont plus susceptibles d'être confrontées à la violence dans des situations quotidiennes, comme en utilisant des toilettes publiques, des vestiaires ou divers modes de transport, ou en remplissant des formulaires où ils doivent préciser leur genre ou leur sexe<sup>KK</sup>. T. J. Lightfoot donne un exemple de ce que cela signifie au quotidien.

Dans le cadre du processus d'accueil dans les cliniques, les bureaux de médecins ou les hôpitaux, on demande souvent aux gens, dès leur arrivée, de fournir certains renseignements comme leur nom, leur date de naissance et leur genre. Par contre, pour les personnes transgenres, bispirituelles ou à identité de genre changeante, il arrive souvent que les cases indiquées sur ces formulaires ne correspondent pas à leur identité. Le manque d'espace dans les formulaires pour indiquer ces différentes identités peut entraîner, pour ces personnes, l'impression d'être invisibles ou ignorées, et de ne pas être traitées avec dignité ou respect<sup>LL</sup>.

L'existence de violences quotidiennes ciblant les personnes bispirituelles et transgenres a également été soulignée dans l'étude de Ristock, Zoccolle, Passante et Potskin, qui ont démontré que ces personnes subissent souvent de la violence raciste, homophobe ou transphobe simplement en déambulant dans les rues de leur quartier<sup>MM</sup>. Fallon Andy a décrit d'autres exemples de ces actes de violence pouvant se produire « tous les jours » dans la vie des jeunes transgenres et bispirituelles autochtones.

Je dirais même que certains jeunes vivent différents types de traumatismes en raison de la discrimination dont ils sont victimes, particulièrement lorsqu'elle est liée à des crimes haineux. Certains se font agresser, par exemple, d'autres reçoivent des coups ou se font insulter. Ces types de violence sont réels; certaines personnes les subissent véritablement. Des gens passent en voiture et leur lancent des choses, simplement parce qu'ils sont gais, ou transgenres, ou de genre non conforme, et je crois que cela peut causer une douleur et des traumatismes réels et miner l'estime de soi<sup>NN</sup>.

Pour les survivantes 2ELGBTQQIA qui nous ont fait partager leurs histoires personnelles, les expériences de violence ont fréquemment commencé pendant l'enfance, pour se poursuivre pendant l'adolescence et la vie adulte. Dans son témoignage, Bernie, Grand-mère de la commissaire Audette, de l'Enquête nationale, raconte les abus physiques et sexuels qu'elle a subis lorsqu'elle était enfant, tant dans sa famille qu'en famille d'accueil. Bernie a également été vendue à un trafiquant qui travaillait dans un hôtel lorsqu'elle était jeune fille. Pour assurer sa survie et pour fuir le système de placement en famille d'accueil après y avoir subi de la maltraitance à plusieurs reprises, Bernie a expliqué qu'elle a décidé de se marier avec un homme, même si, comme elle le dit : « J'ai toujours su, toute ma vie, que j'étais très différente. » Malgré tout, elle croyait trouver une sorte de sécurité au sein du mariage, même si cela signifiait qu'elle devait réprimer son identité de femme bispirituelle : « Je n'en pouvais plus d'être une cible, de fuir. » Ce sacrifice, cependant, ne lui a servi qu'à subir encore plus de violence lorsque son ancien mari est devenu, comme elle l'a décrit, « l'homme le plus violent que j'ai rencontré dans ma vie<sup>OO</sup> ».





Comme Bernie, d'autres survivantes et membres de familles ont relaté différentes histoires d'abus physiques et sexuels souvent graves subis pendant l'enfance, d'exploitation sexuelle, de violence interpersonnelle et d'agressions sexuelles. Outre ces expériences de violence, cependant, les témoins ont également décrit comment la violence subie au sein de leur famille, de leur communauté et des institutions parce qu'ils étaient ciblés en raison de leur identité bispirituelle, transgenre ou lesbienne, comme dans les exemples suivants, a encore davantage compromis leur sécurité et leur bien-être.

En parlant de sa fille décédée, Deanna, une femme bispirituelle des Premières Nation, Ruth M., explique que celle-ci a souvent été la cible de violences à partir de 13 ans, lorsqu'elle a été « brutalement violée ».

Cet événement a eu des répercussions importantes dans sa vie, et j'ignore si cela a un lien avec le fait qu'elle est bispirituelle. Elle ne voulait jamais être avec un homme. Elle voulait toujours fréquenter une femme. Et j'avais l'impression qu'elle était un peu, oh, je ne sais pas trop, en tant que femme, que jeune fille autochtone, elle avait le teint très foncé. C'était un autre point contre elle, il y avait tant de démonstrations de racisme. Puis elle a affirmé son identité de femme bispirituelle. Et c'était un autre motif pour recevoir des coups. Elle ne faisait que déambuler dans la rue, et les gens lui assenaient des coups sans prévenir<sup>PP</sup>.

Dans son témoignage, Anni P., une femme lesbienne des Premières Nations, décrit la violence qu'elle a subie, sous forme de menaces proférées par des membres de sa famille qui n'acceptaient pas son orientation sexuelle. Elle a dû limiter ses interactions avec sa famille parce qu'elle craignait pour sa sécurité, ce qu'elle raconte avec beaucoup de tristesse.

J'ai donc rompu les liens avec la famille d'Eve. Je n'avais pas le choix. C'était trop douloureux. Et ma famille [...], mes frères essayaient de prendre contact avec moi, vous savez, mais j'avais peur d'eux. J'avais peur d'eux parce que je ne faisais pas confiance aux Autochtones. Mes frères, si vous m'entendez, je suis désolée. Je suis désolée de prononcer ces mots. Je ne souhaite pas vous

blessier, mais le fait est que j'avais peur de vous. Vous vouliez que l'on se retrouve, vous vouliez apprendre à me connaître, mais j'avais peur de vous et je vous tenais à bonne distance<sup>QQ</sup>.

Jamie L. H., une femme transgenre et ancienne travailleuse du sexe, raconte avoir vécu de la violence dès son jeune âge, lorsqu'elle a été agressée sexuellement par un policier comme adolescente.

Je rentrais chez moi à pied par Granville Street lorsqu'une voiture de police s'est arrêtée près de moi et qu'un agent m'a demandé d'y entrer. Il y avait un chien à l'arrière. Le policier m'a demandé une preuve d'identité, que je lui ai montrée. Il a ensuite insisté pour me reconduire chez moi. Je ne voulais pas, parce que je n'étais qu'à deux rues de ma maison, qui se trouvait au coin de Hemlock et Seymour.

Mais il a insisté et je ne savais pas quoi faire, j'étais si jeune. Ce que je me rappelle ensuite, c'est qu'on était au milieu de Stanley Park, dans la voiture de police, et évidemment, j'ai été forcée de faire une fellation au policier. C'était un moment absolument terrifiant. Je ne savais pas si j'allais m'en sortir vivante. Je me disais qu'il pouvait bien me tuer, car je savais que les policiers portent des armes. C'était une nuit vraiment, vraiment pénible pour moi.

Je me rappelle qu'à un moment, quelque chose s'est passé dans sa tête, et il a imaginé qu'une autre voiture de police arrivait derrière. Donc il a dit : « Je vais repartir rapidement, et toi, tu sortiras du véhicule. Je vais prétendre être en train de te parler. S'ils s'arrêtent, on dira que tu me fournis simplement des renseignements. » Il a donc immobilisé le véhicule. Nous étions en plein centre du parc, tout au fond, et il était environ trois heures du matin. Je suis sortie et il est reparti, en emportant ma carte d'identité, que je n'ai finalement retrouvée que beaucoup plus tard.

Mais c'était une expérience vraiment terrorisante; tout d'abord, j'avais vécu un traumatisme, un événement que je qualifie d'agression sexuelle, mais en plus, je devais retrouver mon chemin pour sortir du parc et j'avais très peur, il était très tard et j'étais si jeune<sup>RR</sup>.





Dans son témoignage, Jamie souligne un autre type de violence qui n'était pas, cette fois, dirigé particulièrement vers les personnes 2ELGBTQQIA, mais plutôt vers les organisations qui s'efforcent de leur venir en aide. Elle raconte comment, malgré ses efforts pour créer un centre d'hébergement et de dépannage destiné aux travailleuses du sexe 2ELGBTQQIA autochtones dans le quartier Downtown Eastside de Vancouver, alors que la demande pour ce centre était réelle, son organisation a été ciblée par la police parce qu'elle ne respectait pas les règles de zonage et elle a été forcée de relocaliser ses activités<sup>SS</sup>.

## **Se souvenir des personnes 2ELGBTQQIA disparues et assassinées**

En plus de raconter leurs propres expériences de violence, les survivantes ont parlé des personnes 2ELGBTQQIA autochtones qui sont disparues ou qui ont perdu la vie en raison de la violence. Comme les femmes et les filles, les Autochtones transgenres, bispirituels ou de genre non conforme sont également victimes des formes les plus graves de violence. Cependant, leurs histoires sont rarement transmises et leurs vies sont rarement reconnues.

En racontant ses propres expériences de violence comme jeune femme bispirituelle, Alaya M. a rendu hommage à sa meilleure amie, Divas Boulanger. Divas était une femme transgenre originaire de la Première Nation de Berens River et partie vivre à Winnipeg pour poursuivre ses études<sup>TT</sup>. En 2004, son corps a été découvert à l'extérieur d'une halte routière de Portage la Prairie. Divas est morte des suites d'un traumatisme crânien dont l'auteur, Theodore Herntier, a été condamné à la prison à vie. Alaya parle du choc causé par la mort de Divas en ces termes :

Elle a disparu le 29 septembre 2004. Le 3 ou le 4 novembre de cette même année, son corps a été retrouvé près d'une halte routière, à huit kilomètres de Portage la Prairie. Elle s'appelait Divas Boulanger. Elle venait d'une communauté du Nord, la Première Nation de Berens River. Elle était une femme transgenre. Je l'ai perdue, elle était ma meilleure amie. C'était extrêmement

traumatisant. C'était si traumatisant que chaque fois qu'un client venait me chercher, je lui demandais s'il allait m'assassiner parce que si c'était le cas, je préférerais qu'il le fasse tout de suite parce que ... excusez-moi. Parce que la société avait tellement de préjugés qu'elle préférerait nous juger au lieu d'essayer de nous comprendre. Vous savez, nous n'arrivions pas à obtenir un soutien approprié auprès de la population en général, pas comme nous le pouvons aujourd'hui<sup>UU</sup>.

Dans son témoignage, Alaya demande également que l'on se souvienne des autres femmes transgenres et bispirituelles autochtones disparues et assassinées, y compris celles dont le nom et l'histoire demeurent inconnus. En particulier, Alaya attire l'attention sur la mort d'une personne bispirituelle qui avait été ligotée à un arbre et assassinée dans sa communauté<sup>VV</sup>.

Dans son témoignage, Albert McLeod fait la lumière sur le meurtre de Rose Osborne, une femme transgenre qui a été assassinée en 2008 à Winnipeg. Le fait que la sœur de Rose, Helen Betty Osborne, avait également été assassinée près de 40 ans plus tôt en 1971 illustre, comme Albert McLeod l'observe, « l'omniprésence de la violence, même après 30 ans. Sa sœur a été assassinée par des meurtriers racistes, en raison d'idéaux racistes, et elle-même [Rose] a été assassinée des décennies plus tard parce qu'elle était transgenre. Et [cela démontre] la réelle omniprésence de la violence dans notre société<sup>WW</sup> ».

Des membres de familles, amis et familles du cœur ont aussi nommé d'autres personnes 2ELGBTQQIA autochtones disparues ou assassinées. Muriel D. a fait part de l'histoire de sa sœur Judy D., une femme lesbienne des Premières Nations disparue depuis plus d'une décennie. Muriel observe ce qui suit :

Je crois que c'est pour ça que ma sœur a disparu, parce qu'elle ne savait pas comment gérer les aléas de la vie, comment parler aux autres, comment s'ouvrir. Et moi, je me sentais comme une étrangère. J'avais toujours l'impression que je devais me rendre invisible, ne pas me faire remarquer, parce que je ne me sentais pas bien dans ma peau. Et je crois que c'était la même chose pour ma sœur. Aussi, elle était lesbienne, et je crois que c'était un autre facteur. Traditionnellement, dans notre famille, c'est très mal vu. Et mes frères ne l'acceptaient pas pour cette raison<sup>XX</sup>.





Leona W. attire l'attention sur l'histoire de sa nièce, Brandy, une femme transgenre des Premières Nations également disparue. Leona se souvient de Brandy en disant qu'elle était « douce, aimable et amusante ... et qu'elle aussi avait été enlevée, et que sa vie à elle aussi comptait<sup>YY</sup> ».

Dans chacune de ces histoires, des membres de famille ont raconté comment la transphobie, l'homophobie, le sexisme et le racisme ont traversé la vie de leurs proches de façon à susciter d'importants problèmes sur le plan de la culture, de la santé, de la sécurité et de la justice. Bon nombre d'entre elles vivaient dans la pauvreté au moment de leur disparition ou de leur mort, plusieurs n'arrivaient pas à trouver un logement sûr et abordable et devaient vivre dans la rue, plusieurs n'avaient pas accès aux soins de santé, au soutien psychologique ou aux services d'affirmation de genre dont elles avaient besoin pour traiter leurs traumatismes.

Ces vérités nous permettent de commencer à entendre les histoires des personnes 2ELGBTQQIA disparues et assassinées, mais ce n'est que le début. Comme les témoins l'ont dit, bon nombre de chapitres de ces histoires sont inconnus, certains ont été complètement oubliés. Il est impératif de consentir des efforts importants pour tenir compte de la valeur de chaque vie, mettre fin à la violence et redonner aux personnes bispirituelles la place qui leur revient au sein de leur communauté. Dans son témoignage, Fallon Andy souligne l'existence d'une base de données sur un site Web communautaire dirigé par des Autochtones et nommée « It starts with us » (ça commence avec nous), dont l'objectif est de bâtir un registre pour rendre hommage à ceux et celles qui ont subi les conséquences de la violence, et en particulier les personnes 2ELGBTQQIA; il s'agit d'une des mesures visant à faire connaître les personnes disparues ou assassinées<sup>ZZ</sup>. La liste consacrée aux personnes bispirituelles et transgenres comprend des personnes disparues, comme Colten Pratt, et des personnes assassinées, comme Edward Denecheze, Divas Boulanger, Rose (Kelvin) Osborne, Charlene Two Hearts, Derek Boubard et (Edgar) Gordon Badger. Ce projet de base de données communautaire a besoin de financement et d'appuis stables pour poursuivre son travail et en élargir la portée.

## La résilience et le changement

En nous faisant partager leur vérité propre, les personnes transgenres et bispirituelles autochtones ont démontré que malgré la violence systémique qui cherche à effacer leurs expériences et à ignorer la violence qu'elles subissent, nombre d'entre elles s'efforcent de résister aux politiques, aux structures et au récit coloniaux qui nient les identités et les cultures des communautés 2ELGBTQQIA. Comme Albert McLeod l'observe, « [m]algré ces 400 ans [de colonisation], les personnes bispirituelles sont maintenant à un stade de résurgence dans la société canadienne en général, mais également au sein des peuples autochtones et de leurs cultures, ainsi que des familles et des communautés<sup>AAA</sup> ».

Les témoins ont donné quantité d'exemples de cette résurgence en parlant d'efforts individuels et collectifs visant à restaurer la culture, la santé, la sécurité et la justice au sein des communautés 2ELGBTQQIA.

Jeffrey McNeil-Seymour, un artiste et professeur associé de l'Université Ryerson, explique qu'il a créé une œuvre d'art pour pousser plus loin le concept du « REDress Project » de Jaime Black, en faisant remarquer que « toutes les personnes ne portent pas nécessairement de robe rouge<sup>BBB</sup> ». Il explique que son œuvre fait « référence au fait de rendre invisible la présence des personnes bispirituelles et agit comme un gardien, en quelque sorte ». Il raconte à quel point l'exposition, où des œuvres des artistes reconnus Kent Monkman, Dayna Danger et Preston Buffalo étaient également présentées, était magnifique et touchante<sup>CCC</sup>.

Bon nombre des personnes 2ELGBTQQIA qui ont pris la parole dans le cadre de l'Enquête nationale contribuent au processus de changement et occupent des fonctions importantes au sein d'organisations qui œuvrent pour protéger les droits des minorités sexuelles et de genre. Pour Albert McLeod, des changements positifs ont déjà eu lieu, comme le démontre notamment l'acceptation grandissante des personnes bispirituelles dans les cérémonies traditionnelles comme les pow-wow et les danses du soleil, des cérémonies dont elles étaient auparavant exclues<sup>DDD</sup>. Dans le même ordre d'idées,





Fallon Andy décrit des moyens novateurs d'utiliser les médias sociaux pour mettre en contact les jeunes Autochtones transgenres et bispirituels avec leur communauté et le savoir traditionnel.

Donc, les jeunes bispirituels et transgenres, par exemple, peuvent ne pas avoir accès à beaucoup de cérémonies et n'ont pas l'occasion de parler souvent avec des Aînés, comme je l'ai mentionné plus tôt, ou ils n'ont pas beaucoup de membres de famille sur qui ils peuvent compter, qui les respectent et les aiment comme ils sont. Un moyen de communiquer des valeurs à ces jeunes est d'utiliser des mêmes dans les réseaux sociaux, sur Instagram et sur Twitter, par exemple, pour leur faire comprendre qu'ils ne sont pas seuls pour lutter contre ou avec ces mouvements antiviolence, qu'ils ne sont jamais seuls lorsqu'ils croient en quelque chose<sup>EEE</sup>.

À d'autres moments, des témoins comme Shaun L. ont démontré comment des actes individuels de bravoure et d'honnêteté inspirent le changement au sein de communautés éloignées, où l'on accueille de plus en plus les personnes bispirituelles ou transgenres. Shaun raconte ce qui lui est arrivé lorsqu'un article a été publié dans le *Yukon News* au sujet de sa transition de personne à qui le sexe féminin avait été assigné à la naissance à homme transgenre.

J'avais déjà affirmé mon identité transgenre vis-à-vis de ma famille, et certains amis de ma famille m'avaient encouragé à raconter mon histoire aux médias, puisqu'il y avait certainement d'autres personnes transgenres au Yukon qui éprouvaient des difficultés en raison de leur identité. Un article a donc été écrit à mon sujet dans le *Yukon News*, sous le titre « Becoming a man » (devenir un homme). Cet article a ensuite été publié. L'histoire était bien racontée et ma photo était bonne. C'était très bien fait. Je suis ensuite retourné chez moi, et Ross River peut parfois être une ville assez rude. C'est-à-dire que si vous êtes un peu différent, vous ne serez pas nécessairement accepté et cela me préoccupait un peu, pour tout vous dire. Puis j'ai remarqué que quelqu'un avait découpé l'article de journal et l'avait fixé sur le tableau d'affichage communautaire. Il n'y avait aucun commentaire inscrit sur l'article. Il était affiché là, tout

simplement. J'ai pensé à cet instant-là que si les durs de la ville le voyaient, ils pourraient bien avoir envie de me battre, par hétérophobie, homophobie, ou ce genre de choses.

Je suis ensuite sorti et juste à l'extérieur, se trouvaient environ cinq ou six de ces durs, des hommes qui se retrouvent devant le juge aux deux mois, et ils étaient en train de boire, et je me suis dit : « Je ne peux pas courir assez vite et je ne suis pas venu en camion. » Puis je les ai entendu dire : « Shaun, Shaun, viens ici. Viens ici. » Je me suis lentement approché d'eux en les saluant. Ils ont alors commencé à me dire : « C'est bien fait pour toi. C'est bien, tu es toi-même. » Ils ont ajouté : « Nous te respectons de l'avoir fait. » L'un des hommes, petit mais très dur, m'a regardé et a dit : « Si quelqu'un te dérange, viens nous le dire, nous nous en occuperons pour toi. » D'accord. C'est le genre de respect que les gens peuvent nous manifester lorsqu'ils reconnaissent qui l'on est réellement, et c'est une merveilleuse sensation, vous savez<sup>FFF</sup>.

## La guérison par le savoir et les relations interpersonnelles

Pour toutes les personnes qui ont exprimé leur vérité propre, trouver des moyens de souligner et d'honorer les expériences diverses des personnes 2ELGBTQQIA autochtones est essentiel afin d'assurer une guérison sécuritaire et adaptée aux traditions des communautés. Violet Thomas parle de l'importance de restaurer les concepts traditionnels autochtones de compréhension des genres.

Je crois qu'il est essentiel que la communauté 2ELGBTQQIA prenne conscience des liens profonds entre les membres de notre peuple, et avec la terre sur laquelle nous sommes nés. Toutes nos traditions et nos cérémonies, tous nos chants et toutes nos danses rappellent notre identité, du moment de la naissance au jour où l'on retourne à la Terre mère. Les pronoms il et elle n'existent pas dans notre langue, la langue Tk'emlúps te. Il n'y a donc pas, d'après moi, de distinctions de genre dans nos cérémonies, nos chants et nos danses. Nous célébrons et honorons nos diversités dans nos traditions. Et je crois que c'est extrêmement important de le faire<sup>GGG</sup>.





Shaun L. raconte qu'en se sentant accepté en tant qu'homme transgenre dans sa communauté, il a pu reprendre contact avec sa culture traditionnelle et tirer parti des expériences personnelles qui lui ont permis d'être qui il est aujourd'hui. Son message nous montre une vision de la guérison qui est possible lorsque les liens entre les personnes leur permettent d'accepter qui elles sont réellement et de l'exprimer.

Et pendant mon enfance, c'étaient mes seules perspectives, c'est-à-dire que j'étais perçu comme un enfant blanc original, puisque j'ai grandi dans une famille blanche de classe moyenne, et aussi comme une fille. Puis j'ai effectué ma transition et je suis retourné chez moi pour vivre sur mes territoires traditionnels. J'ai appris comment chasser, comment entretenir le feu dans le poêle à bois tout l'hiver lorsqu'il fait moins 40 degrés et comment construire ma propre maison, et ce genre de choses. Beaucoup de gens sont venus me voir et m'ont dit : « Depuis ton changement, tu as changé. » Je crois que ce qu'ils essayaient de dire est que depuis ma transition, je suis en paix avec moi-même, avec qui je suis. Il n'y a plus de lutte. Je suis un homme Kaska Dena, et c'est tout<sup>HHH</sup>.

De plus, comme T. J. Lightfoot le mentionne, les solutions n'ont rien à voir avec l'argent : « Il n'existe pas de solution magique comme telle, vous ne pouvez pas mettre de l'argent dans un projet et penser que cela règlera tous nos problèmes, ce n'est pas réaliste. Mais ce qui est vraiment important, c'est d'inclure les différentes personnes, c'est de leur donner une voix, des espaces sûrs un peu partout où elles peuvent être elles-mêmes librement<sup>II</sup>. » De même, Jeffrey Mcneil-Seymour souligne l'importance de ramener ces « espaces d'acceptation, de forcer les ruptures » et de confronter « l'hétéropatriarcat enchâssé dans nos structures de gouvernance et nos espaces de cérémonie<sup>JJ</sup> ». Finalement, des prises de parole comme celles de Shaun, de Jasmine et de Jeffrey renforcent les idées exprimées par de nombreux témoins dans le cadre de l'Enquête nationale, c'est-à-dire que l'acceptation, la protection et l'amour peuvent contribuer à assurer la sécurité des personnes 2ELGBTQQIA, et doivent venir des familles, des communautés et de tous les ordres de gouvernement.





## Conclusions :

- Les personnes 2ELGBTQQIA subissent la violence coloniale sous des formes à la fois semblables et distinctes de celles qui touchent les femmes et filles cisgenres.
- En raison de la discrimination et de la violence, les personnes 2ELGBTQQIA rencontrent des difficultés distinctes quand elles essaient de répondre à leurs besoins en matière de culture, d'identité, de santé, de sécurité et de justice, à l'intérieur comme à l'extérieur des communautés autochtones (c'est-à-dire la transphobie et l'homophobie dans les communautés autochtones et non autochtones, ainsi que le racisme à l'extérieur des communautés autochtones, notamment le racisme des organisations et des fournisseurs de services qui s'adressent à la population en général). En raison de cette situation, les personnes 2ELGBTQQIA peuvent se retrouver exclues à la fois de la communauté autochtone et de la communauté 2ELGBTQQIA.
- Une place honorable était réservée aux personnes 2ELGBTQQIA dans plusieurs cultures autochtones traditionnelles. Elle a été anéantie par les politiques coloniales cisnormatives et hétéronormatives qui visaient à supprimer et à exclure les identités et les rôles culturels des personnes 2ELGBTQQIA. Par conséquent, les rôles distincts des personnes 2ELGBTQQIA dans la culture et les cérémonies autochtones sont méconnus.
- De plus, la colonisation a créé des tensions au sein des Premières Nations, des Inuits et des Métis au sujet des points de vue divergents sur l'identité de genre et sur l'orientation sexuelle. La colonisation a également dressé des obstacles bloquant l'accès à la culture et aux cérémonies.
- Si certaines personnes 2ELGBTQQIA sont adoptées et soutenues par leur communauté, qui leur permet de participer aux cérémonies d'une manière qui est en harmonie avec leur identité de genre, d'autres sont sujettes à la discrimination, à la marginalisation et au harcèlement. Certaines sont autorisées à jouer un rôle qui correspond à leur sexe biologique, plutôt qu'à leur identité de genre, dans les cérémonies.
- Malgré les difficultés, un grand nombre de personnes 2ELGBTQQIA résistent et reprennent leur rôle traditionnel dans leur communauté et leur culture. Elles deviennent des porte-paroles efficaces cherchant à mettre un terme à la violence coloniale.
- Même si un grand nombre de personnes 2ELGBTQQIA reprennent leur rôle traditionnel, elles sont souvent forcées de quitter leur territoire ou leur communauté, et il n'est pas rare que ce soit parce qu'elles ont reçu des menaces de violence en raison de leur identité de genre ou de leur orientation sexuelle. Pour plusieurs personnes 2ELGBTQQIA, la recherche d'une autre communauté, d'un milieu sûr et d'un sentiment d'appartenance présente souvent les mêmes difficultés que celles éprouvées dans la communauté d'origine, ainsi que de nombreux autres obstacles.
- Par exemple, les personnes 2ELGBTQQIA rencontrent des obstacles et subissent une discrimination lorsqu'elles veulent accéder à une vaste gamme de services, dont des services qui répondent à leurs besoins, par exemple en matière de logement (refuge d'urgence et logement sûr de longue durée), de santé, de santé mentale, de traitement des toxicomanies, de protection de l'enfance, de soins aux Aînés, de police, d'établissements correctionnels, de justice pénale et de soutien, entre autres aux victimes.
- Dans toutes les communautés, les maisons d'hébergement, les refuges d'urgence et les logements adéquats et sûrs, en particulier, sont insuffisants pour répondre aux besoins des personnes 2ELGBTQQIA. Par conséquent, elles sont forcées de vivre dans l'insécurité.
- Il y a également un manque de soins de santé adéquats pour répondre précisément aux besoins des personnes 2ELGBTQQIA, surtout dans les régions éloignées et du Nord.
- La marginalisation des personnes 2ELGBTQQIA se manifeste par leur pauvreté, par leur éducation restreinte et par les occasions d'emploi limitées qui se présentent à elles. En raison de cette marginalisation, certaines d'entre elles sont contraintes de se tourner vers l'industrie du sexe. Les personnes 2ELGBTQQIA doivent alors composer avec une violence accrue. De plus, l'attitude raciste, homophobe et transphobe des policiers fait qu'il est difficile pour les personnes 2ELGBTQQIA d'obtenir la protection de la police.





- Les jeunes 2ELGBTQQIA autochtones se heurtent à des obstacles particuliers et à la discrimination au sein des systèmes de protection de l'enfance.
- Les personnes 2ELGBTQQIA autochtones, en particulier les personnes transgenres, doivent contrer les obstacles et la discrimination dans les systèmes correctionnels fédéraux et provinciaux.
- Les méthodes et les pratiques employées actuellement pour recueillir des renseignements produisent des données inexactes ou incomplètes sur la violence envers les personnes 2ELGBTQQIA, ce qui contribue à effacer ou à rendre invisibles les personnes 2ELGBTQQIA et leurs expériences.

- 
- A Le terme « cis-genre » désigne une personne dont le sens de l'identité personnelle et du sexe correspond à son sexe à la naissance.
- B Jasmine Redfern (Inuite), Parties II et III mixtes, Volume public 3, Iqaluit, Nun., p. 143.
- C Albert McLeod (Nation Crie Nisichawayasihk/Communauté Métis de Norway House), Partie 3, Volume public 8, Toronto, Ont., pp. 54–55.
- D Albert McLeod (Nation Crie Nisichawayasihk/Communauté Métis de Norway House), Partie 3, Volume public 8, Toronto, Ont., p. 64.
- E Albert McLeod (Nation Crie Nisichawayasihk/Communauté Métis de Norway House), Partie 3, Volume public 8, Toronto, Ont., pp. 47–48.
- F Anni P. (Crie), Partie 1, Volume public 80, Vancouver, C.-B., p. 14.
- G Albert McLeod (Nation Crie Nisichawayasihk/Communauté Métis de Norway House), Partie 3, Volume public 8, Toronto, Ont., p. 44.
- H Viola Thomas (Kamloops Tk'emlúps te Secwepemc), Partie 1, Volume public 104, Vancouver, C.-B., p. 13.
- I Blu W. (Crie/Mi'kmaq/Métisse), Partie 1, Volume public 117, Vancouver, C.-B., pp. 43-44.
- J Albert McLeod (Nation Crie Nisichawayasihk/Communauté Métis de Norway House), Partie 3, Volume public 8, Toronto, Ont., 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 (Autochtone/irlandaise), Partie 1, Volume public 104, Vancouver, C.-B., pp. 20–21.
- M Jasmine Redfern (Inuite), Parties II et III mixtes, Volume Public 3, Iqaluit, Nun., p. 140.
- N Ristock et al., « Impacts of Colonization. »
- O Jasmine Redfern (Inuite), Parties II et III mixtes, Volume public 3, Iqaluit, Nun., p. 143.
- P T.J. Lightfoot (Mi'kmaq), Parties II et III mixtes, Volume public 3, Iqaluit, Nun., p. 140.
- Q Fallon Andy a indiqué que leur pronom préféré est eux / eux. Les témoins déposant dans le cadre de communautés 2ELGBTQQIA souligné l'importance de respecter et d'utiliser leurs préférences pronom.
- R Fallon Andy (Anishinaabe, Première Nation Couchiching), Partie 3, Volume public 8, Toronto, Ont., p. 190.
- S T.J. Lightfoot (Mi'kmaq), Parties II et III mixtes, Volume public 3, Iqaluit, Nun., 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 (Inuite), Parties II et III mixtes, Volume public 3, Iqaluit, Nun., p. 142.
- W Jasmine Redfern (Inuite), Parties II et III mixtes, Volume public 3, Iqaluit, Nun., p. 142.
- X Voir, par exemple, l'expérience que Jamie a racontée au sujet d'une fouille à nu par la police, documentée au chapitre 1. Jamie L. H. (Autochtone/irlandaise), Partie 1, Volume public 78, Vancouver, C.-B., pp. 12–13.
- Y Alaya M. (Première Nation Sandy Bay Ojibway), Partie 1, Volume public 13, Winnipeg, Man., pp. 23–24.
- Z Jasmine Redfern (Inuite), Parties II et III mixtes, Volume public 3, Iqaluit, NU; T.J. Lightfoot. (Mi'kmaq), Parties II et III mixtes, Volume public 3, Iqaluit, Nun.; Hunt, « An Introduction to the Health of Two-Spirit People, » pp. 15–16.
- AA Albert McLeod (Nation Crie Nisichawayasihk/Communauté Métis de Norway House), Partie 3, Volume public 8, Toronto, Ont., p. 53.
- BB Fallon Andy (Anishinaabe, Première Nation Couchiching), Partie 3, Volume public 8, Toronto, Ont., p. 263.
- CC Jasmine Redfern (Inuite), Parties II et III mixtes, Volume public 3, Iqaluit, Nun., p. 174.
- DD Hunt, « An Introduction to the Health of Two-Spirit People, » 15.
- EE Canada, Ministère de la justice, « Sources de données sur la victimisation des Autochtones. »
- FF Cassandra Churcher, Parties II et III mixtes, Volume public 7, Québec, Qc, pp. 239–240.
- GG Shaun L. (Kaska Dena, Clan du corbeau), Partie 1, Volume public 3, Whitehorse, Yn, p. 23.
- HH Ristock et al., « Impacts of Colonization. »





- II Sinha, « Measuring Violence against Women, » 19.
- JJ Lehavot et al. cité dans Hunt, « An Introduction to the Health of Two-Spirit People, » 15.
- KK Taylor, « Health and Safety Issues. »
- LL T.J. Lightfoot (Mi'kmaq), Parties II et III mixtes, Volume public 3, Iqaluit, Nun., p. 81.
- MM Ristock et al., « Impacts of Colonization. »
- NN Fallon Andy (Anishinaabe, Première Nation Couchiching), Partie 3, Volume public 8, Toronto, Ont., pp. 189–190.
- OO Bernie W. (Haida/Nuu-chah-nulth/Coast Salish), Partie 1, Volume public 115, Vancouver, C.-B., pp. 17, 18.
- PP Ruth M. (Denée), Partie 1, Déclaration publique 214, Yellowknife, T.N.-O., pp. 3–4.
- QQ Anni P. (Crie), Partie 1, Volume public 80, Vancouver, C.-B., pp. 14–15.
- RR Jamie L. H. (Autochtone/irlandaise), Partie 1, Volume public 78, Vancouver, C.-B., pp. 5–6, 48.
- SS Jamie L. H. (Autochtone/irlandaise), Partie 1, Volume public 78, Vancouver, C.-B., pp. 26–31.
- TT Alaya M. (Première Nation Sandy Bay Ojibway), Partie 1, Volume public 13, Winnipeg, Man., p. 18.
- UU Alaya M. (Première Nation Sandy Bay Ojibway), Partie 1, Volume public 13, Winnipeg, Man., pp. 18–19.
- VV Alaya M. (Première Nation Sandy Bay Ojibway), Partie 1, Volume public 10, Winnipeg, Man., p. 36.
- WW Albert McLeod (Nation Crie Nisichawayasihk/Communauté Métis de Norway House), Partie 3, Volume public 8, Toronto, Ont., pp. 64–65.
- XX Muriel D. (Crie), Partie 1, Déclaration publique 98, Edmonton, Alb., p. 2.
- YY Leona W. (Première Nation Nakaneet), Partie 1, Déclaration publique 127, Saskatoon, Sask., p. 51.
- ZZ Fallon Andy (Anishinaabe, Première Nation Couchiching), Partie 3, Volume public 8, Toronto, Ont., pp. 109–110. Pour accéder à la base de données, voir <http://itstartswithus-mmiw.com/communitylists/#1485456734282-51068426-c39f>.
- AAA Albert McLeod (Nation Crie Nisichawayasihk/Communauté Métis de Norway House), Partie 3, Volume public 8, Toronto, Ont., p. 50.
- BBB Jeffrey McNeil-Seymour (Tk'emlups te Secwepemc/Anglais), Parties II et III mixtes, Volume public 3, Iqaluit, Nun., p. 191.
- CCC Jeffrey McNeil-Seymour (Tk'emlups te Secwepemc/Anglais), Parties II et III mixtes, Volume public 3, Iqaluit, Nun., p. 192.
- DDD Albert McLeod (Nation Crie Nisichawayasihk/Communauté Métis de Norway House), Partie 3, Volume public 8, Toronto, Ont., p. 51.
- EEE Fallon Andy (Anishinaabe, Première Nation Couchiching), Partie 3, Volume public 8, Toronto, Ont., p. 131.
- FFF Shaun L. (Kaska Dena, Clan du corbeau), Partie 1, Volume public 3, Whitehorse, Yn, pp. 22–23.
- GGG Viola Thomas (Kamloops Tk'emlups te Secwepemc), Partie 1, Volume public 104, Vancouver, C.-B., p. 6.
- HHH Shaun L. (Kaska Dena, Clan du corbeau), Partie 1, Volume public 3, Whitehorse, Yn, p. 16.
- III T.J. Lightfoot (Mi'kmaq), Parties II et III mixtes, Volume public 3, Iqaluit, Nun., p. 149.
- JJJ Jeffrey McNeil-Seymour (Tk'emlups te Secwepemc/Anglais), Parties II et III mixtes, Volume public 3, Iqaluit, Nun., p. 195.



## Les facteurs favorisant la violence : le manque de volonté et de réaction des institutions

Les problèmes de santé que connaissent les peuples autochtones ainsi que les conséquences considérables qu'ont toutes les formes de violence interpersonnelle, en particulier sur la santé des femmes, des filles et des personnes 2ELGBTQQIA autochtones, sont largement reconnus. Toutefois, les systèmes et les institutions auxquels les Autochtones peuvent s'adresser pour obtenir des services liés à la santé n'offrent pas, dans bien des cas, le soutien requis et concourent ainsi à l'aggravation des problèmes de santé. Lorsqu'ils ont décrit leurs efforts pour recevoir les soins de santé dont ils ont réellement besoin, y compris dans des situations liées aux expériences de mauvais traitements et de violence physique et sexuelle, les familles et amis des femmes, des filles et des personnes 2ELGBTQQIA autochtones disparues et assassinées et les survivantes ont attiré l'attention sur les réactions insuffisantes de la part des institutions et l'absence marquée de volonté de changer.

Ces réactions et les rapports qu'elles supposent sont attribuables à la fois aux structures et aux individus, et concernent les attitudes des fournisseurs de soins de santé, des intervenants en cas d'urgence, des premiers répondants et des policiers. De plus, certains témoins ont signalé que les difficultés liées aux réinstallations et à la séparation des familles pour des raisons d'ordre médical ajoutent à la violence, puisqu'elles compromettent leur capacité de voir leurs besoins de soins de santé satisfaits. La présente section se penche sur la question des décès associés à la négligence dans le contexte des services de santé, ainsi qu'au racisme et aux lacunes des services de santé mentale qui contribuent à cibler les femmes, les filles et les personnes 2ELGBTQQIA autochtones en créant des situations dangereuses ou en les poussant vers ce genre de situations.

« JE VISITAIS UN COUSIN DANS LA PARTIE NORD-OUEST DE LA VILLE. ON ÉTAIT JUSTE DEUX, ET ON REGARDAIT UNE PARTIE DE HOCKEY. UNE FEMME EST ARRIVÉE ET ELLE M'A DONNÉ DE LA MARIJUANA QUI AVAIT ÉTÉ MÉLANGÉE AVEC QUELQUE CHOSE, ET JE NE LE SAVAIS PAS. J'AI FAIT UNE SURDOSE. J'AI ARRÊTÉ DE RESPIRER. J'AI FAIT UNE GROSSE CRISE D'ÉPILEPSIE, ET J'AI ÉTÉ TRANSPORTÉE À L'HÔPITAL. MALGRÉ LE FAIT QUE JE N'AVAIS PAS DE MANTEAU, PAS DE SOULIERS, PAS D'ARGENT, ON M'A DEMANDÉ DE PARTIR À 6 H 30 PAR CE MATIN... FROID D'AUTOMNE. IL FAISAIT NOIR ET IL FAISAIT FROID ET J'ÉTAIS SEULE. PERSONNE NE SAVAIT OÙ J'ÉTAIS. ET J'AI TRAÎNÉ À L'ENTRÉE PARCE QUE QUAND JE SUIS ALLÉE DEHORS, J'AVAIS TELLEMENT FROID, ET JE N'AVAIS PAS DE SOULIERS, ET JE NE SAVAIS PAS CE QUE J'ÉTAIS CENSÉE FAIRE NI OÙ J'ÉTAIS CENSÉE ALLER [...]. LE MOIS SUIVANT, ILS ONT TROUVÉ UN CORPS JUSTE À L'ENDROIT OÙ J'ÉTAIS, LÀ OÙ J'ÉTAIS CENSÉE PASSER [...]. ET ILS M'ONT DIT QUE JE DEVAIS MARCHER SANS SOULIERS ET SANS ARGENT. »

Melissa C.



## Le traitement négligent de la part des fournisseurs de soins de santé

En décrivant leurs interactions avec divers volets du système de soins de santé, les familles des femmes, des filles et des personnes 2ELGBTQQIA autochtones disparues et assassinées ainsi que des survivantes, des Gardiens du savoir et d'autres chercheurs ont souligné que le racisme que subissent les Autochtones au sein de ces systèmes contribue directement à la prestation de soins de moindre qualité, ou même à une absence de soins. Dans certains des cas rapportés, cette absence de soins a entraîné la disparition ou le décès d'une proche. Le Dr Barry Lavalée, ancien directeur du soutien aux étudiants et de l'éducation au Centre for Aboriginal Health Education de l'Université du Manitoba, a donné un exemple de racisme observé dans le système de soins de santé canadien qui pourrait s'appliquer à tous les peuples autochtones.

[Une personne] vue comme étant autochtone – soit par sa peau brune, soit par son nom, ou parce qu'elle se présente comme tel – ne peut pas entrer dans un système de soins de santé sans être victime de stéréotypes. [...] Ça veut dire que si vous êtes un homme autochtone à la peau brune et qu'il se trouve que, sans être alcoolique, vous avez pris une bière à un barbecue, et que vous allez à l'urgence, il est possible qu'on vous colle le stéréotype de l'Indien saoul. Et [qu'on se dise] que la douleur que vous ressentez dans la poitrine n'a rien à voir avec votre cœur, que c'est une gastrite alcoolique. C'est pour cette raison que l'inégalité d'accès à des traitements particuliers et à des examens découlent de stéréotypes<sup>91</sup>.

Beaucoup de témoins ont raconté que le fait qu'ils avaient eu recours à des mécanismes d'adaptation, comme les drogues et l'alcool, pour gérer des problèmes de santé et notamment des traumatismes qui avaient été ignorés, était utilisé contre les Autochtones de façons qui, parfois, nuisent encore davantage à leur santé. Comme nous l'avons entendu, pour les femmes, les filles et les personnes 2ELGBTQQIA autochtones qui ont subi ou subissent de la violence et ont peut-être recours aux drogues ou à l'alcool pour faire face à cette violence, la négligence dont elles font l'objet au sein du système de soins de santé peut avoir de graves conséquences.

« EN RAISON DE MES ANTÉCÉDENTS DE TOXICOMANIE ET DE CEUX DE MA SŒUR, NOUS AVONS TOUTES LES DEUX ÉTÉ VICTIMES DE DISCRIMINATION DANS LE SYSTÈME DE SOINS DE SANTÉ. J'AI EU LA CHANCE DE COMPRENDRE CE QUI SE PASSAIT ET D'OBTENIR LES SOINS DE SANTÉ APPROPRIÉS, MAIS PAS ELLE. C'EST POUR CELA QU'ELLE EST DÉCÉDÉE. SI ELLE N'AVAIT PAS ÉTÉ VICTIME DE DISCRIMINATION ET S'ILS L'AVAIENT AIDÉE ET NE L'AVAIENT PAS TRAITÉE COMME UNE TOXICOMANE, ELLE SERAIT PEUT-ÊTRE ENCORE ICI AUJOURD'HUI. »

Jaylene D.

Melissa C. a décrit ce qui est arrivé lorsqu'elle a reçu son congé de l'hôpital après une surdose de drogue et comment elle a été placée dans une situation extrêmement dangereuse qui aurait pu lui faire subir des torts ou de la violence supplémentaires si elle ne s'était pas affirmée.





Je visitais un cousin dans la partie nord-ouest de la ville. On était juste deux, et on regardait une partie de hockey. Une femme est arrivée et elle m'a donné de la marijuana qui avait été mélangée avec quelque chose, et je ne le savais pas. J'ai fait une surdose. J'ai arrêté de respirer. J'ai fait une grosse crise d'épilepsie, et j'ai été transportée à l'hôpital. Malgré le fait que je n'avais pas de manteau, pas de souliers, pas d'argent, on m'a demandé de partir à 6 h 30 par ce matin... froid d'automne. Il faisait noir et il faisait froid et j'étais seule. Personne ne savait où j'étais. Et j'ai traîné à l'entrée parce que quand je suis allée dehors, j'avais tellement froid, et je n'avais pas de souliers, et je ne savais pas ce que j'étais censée faire ni où j'étais censée aller. Alors, je suis retournée à l'intérieur et je les ai suppliés de m'aider. Et l'employé à ce moment-là s'est juste énervé contre moi, mais j'ai insisté, parce que je ne voulais pas marcher toute seule. J'avais encore les collants du moniteur cardiaque accrochés sur moi. Après avoir supplié et demandé longtemps, on m'a donné un bon de taxi [...].

Le mois suivant, ils ont trouvé un corps juste à l'endroit où j'étais, où j'étais censée passer [...]. Et ils m'ont dit que je devais marcher sans souliers et sans argent<sup>92</sup>.

Pour d'autres témoins, les stéréotypes au sujet des Autochtones et des toxicomanies, comme ceux décrits par le D<sup>r</sup> Lavalée, peuvent influencer sur le type de traitement qu'ils pourront recevoir. Par exemple, Doris G., qui a survécu à des mauvais traitements durant son enfance et à de la violence familiale, a été forcée de se prostituer lorsqu'elle était adolescente et elle a développé une dépendance au crack et à l'alcool. Comme elle l'a mentionné : « J'ai commencé à être malade. Ma sœur travaillait à l'hôpital et elle a signalé mon nom, alors quand je suis venue chercher de l'aide, ils m'ont traitée comme une toxicomane et m'ont juste donné une forte dose de médicaments puis m'ont renvoyée chez moi. » En fin de compte, les médecins ont pratiqué une intervention chirurgicale d'urgence pour lui enlever la vésicule biliaire et ont découvert un type de cancer du col de l'utérus qui aurait pu être évité grâce à une vaccination appropriée<sup>93</sup>.

Dans le cas de Jaylene D., ces suppositions ont également influencé le niveau des services offerts à sa sœur, ce qui a fini par l'entraîner à nouveau dans une situation dangereuse. Jaylene mentionne que sa sœur – qui a par la suite fait une surdose – avait des lésions aux pieds aux débuts de la trentaine et qu'elle utilisait une marchette parce qu'elle ne pouvait pas marcher par elle-même. Elle est allée à l'hôpital pour soulager la douleur et guérir ses pieds.

Mais en raison de ses antécédents de toxicomanie, elle n'obtenait pas l'aide dont elle avait besoin. Ils ne lui ont pas donné les médicaments adéquats pour soulager sa douleur. À cause de cela, elle a eu recours à des drogues. [...] Lors d'un de ses voyages à Edmonton, son dernier voyage, elle s'est mise en contact avec une de ses amies d'école, et elle a fini par acheter de la méthamphétamine en cristaux. Cette méthamphétamine en cristaux l'a tuée. Elle a fait sept arrêts cardiaques en moins d'une demi-heure, et à son arrivée à l'hôpital, elle était morte, je crois<sup>94</sup>.

Jaylene a elle-même vécu une expérience semblable lorsqu'elle a tenté d'obtenir des soins médicaux adéquats.

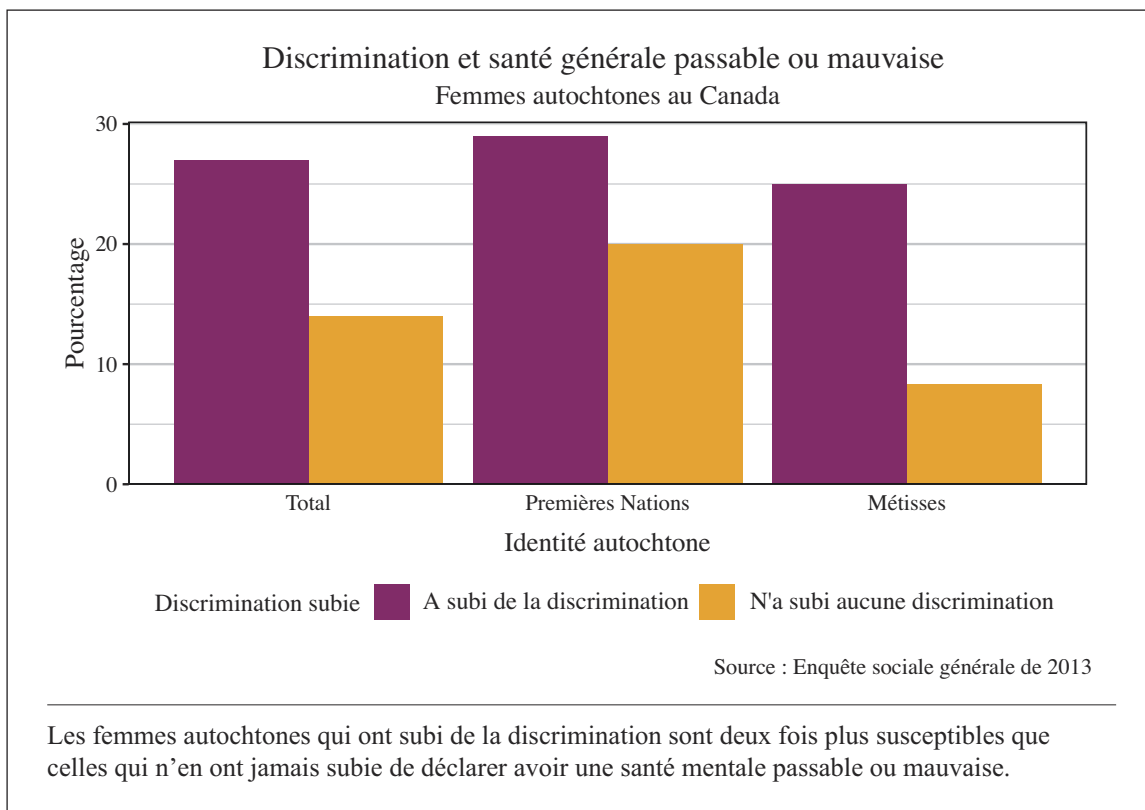


J'étais à l'hôpital à un moment donné. [...] J'avais tellement mal que je ne pouvais pas le supporter. Moi aussi, j'ai des antécédents de toxicomanie. Lorsque j'ai demandé aux médecins de me donner les médicaments appropriés – et il y a aussi dans mon dossier les antécédents de toxicomanie – un des médecins m'a dit qu'il ne me donnerait rien juste pour que je puisse me geler<sup>95</sup>.

Jaylene a établi un lien entre l'expérience discriminatoire de sa sœur au sein du système et la violence qu'elle a connue par la suite.

En raison de mes antécédents en matière de toxicomanie et de ceux de ma sœur, nous avons toutes les deux été victimes de discrimination dans le système de soins de santé. J'ai eu la chance de comprendre ce qui se passait et d'obtenir les soins de santé appropriés, mais pas elle. C'est pour cela qu'elle est décédée. Si elle n'avait pas été victime de discrimination et s'ils l'avaient aidée et ne l'avaient pas traitée comme une toxicomane, elle serait peut-être encore ici aujourd'hui<sup>96</sup>.

Comme le montrent ces témoignages, quand les femmes, les filles et les personnes 2ELGBTQQIA autochtones ont des besoins de santé qui sont interprétés au moyen d'un système de croyances racistes qui comporte des stéréotypes inexacts au sujet des peuples autochtones, leur santé est davantage compromise.

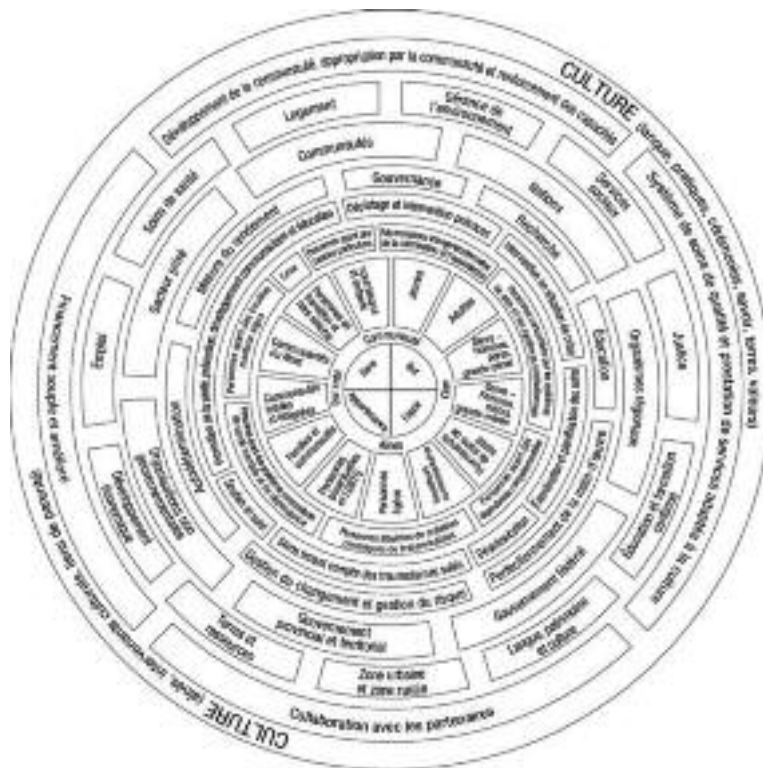




## Souligner les lacunes des services de santé mentale

À propos de leurs interactions avec des fournisseurs de services de santé mentale, certains témoins ont décrit des expériences également troublantes qui, souvent, ont aggravé plutôt qu'atténué leurs problèmes de santé mentale. Comme l'explique un rapport du Centre de gouvernance de l'information sur les Premières Nations :

Il est difficile de comparer les troubles de santé mentale des populations des Premières Nations et ceux de la population générale vu les différences culturelles dans la façon de concevoir le bien-être psychologique. Chez les Premières Nations, le bien-être psychologique est fortement rattaché à une bonne santé physique, spirituelle et émotionnelle; à la langue, à la terre, aux êtres de la création et aux origines; au soutien de proches aimants et du milieu; et à l'interdépendance enrichie par l'espoir, l'appartenance, les buts et le sens. En revanche, les modèles biomédicaux occidentaux décrivent le bien-être psychologique comme l'absence de troubles psychologiques<sup>97</sup>.



Source : «Le bien-être mental est soutenu par la culture, la langue, les aînés, les familles et la création. Il est nécessaire à la santé individuelle, communautaire et sociale. vie de famille. » Cadre du continuum du mieux-être mental des Premières Nations, <https://www.canada.ca/fr/services-autochtones-canada/services/sante-premieres-nations-inuits/rapports-publications/promotion-sante/cadre-continuum-mieux-etre-mental-premieres-nations-rapport-sommaire.html>.

Le témoin expert Allan Wade affirme que le piètre soutien reçu par beaucoup d'Autochtones en matière de santé mentale n'est pas surprenant compte tenu des racines coloniales des principales approches utilisées dans ce domaine et dans celui des soins psychiatriques.





Donc, vous savez, les cultures qui nous ont donné ces camps de prisonniers que l'on appelle des pensionnats indiens nous ont aussi donné la thérapie par la parole et la psychiatrie. Il serait donc, d'une certaine façon, surprenant, n'est-ce pas, qu'il n'y ait aucun lien entre les discours et les concepts des professions d'aide et les pratiques coloniales d'hier et d'aujourd'hui. Les professions d'aide et le système professionnel font partie du projet colonial. Le colonialisme est inscrit dans le code génétique de l'industrie de la santé mentale.

« C'EST UNE DÉFAILLANCE ÉNORME DES SERVICES DE SANTÉ MENTALE. FAITES-MOI CONFIANCE, JE L'AI VÉCU. J'AI VU DES THÉRAPEUTES QUI REGARDAIENT LEURS CLIENTS ET... ET LE PIRE, UN ENFANT, ET LES FAIRE SE SENTIR SI MAL QU'ILS NE VEULENT PAS PARLER. ET MA THÉORIE, C'EST QUE SI VOUS N'ÊTES PAS LÀ POUR FAIRE VOTRE TRAVAIL, SI VOUS NE VOULEZ PAS VOUS RÉVEILLER ET FAIRE CE QUE VOUS CROYEZ QUE VOUS ESSAYEZ DE FAIRE ET AIDER QUELQU'UN, IL EST SACRÉMENT TEMPS QUE VOUS CHANGIEZ DE TRAVAIL, PARCE QUE VOUS NUISEZ PLUS QUE VOUS AIDEZ. »

Vanessa B.

Allan Wade poursuit en expliquant que le système de soins de santé mentale dominant est fondé sur des valeurs coloniales.

Donc, penser à ce qu'est le colonialisme, à son essence, aux liens entre le colonialisme et les professions d'aide, pourrait fournir des explications. On pourrait dire qu'il s'agit d'un [...] message : vous avez une déficience. Vous êtes troublé, malade, païen, autochtone, allosexuel, sauvage, non blanc, femme, pauvre, non instruit, souffrant, toxicomane. Vous avez une déficience. Il y a quelque chose qui ne va pas chez vous.

L'autre partie du message est : je suis compétent. Je suis chrétien, européen, homme, blanc, plus près de Dieu, expert, bien mentalement, instruit, choisi, fortuné, en sécurité. Et nous savons que je suis compétent parce que je suis celui qui décide que vous êtes déficient. Ma compétence exige votre déficience, donc, j'ai le droit et le devoir de vous faire passer certains tests, de voler vos terres, de détruire votre culture, d'enlever et de violer vos enfants, de diagnostiquer, de prescrire, d'éduquer, d'isoler, d'estropier et de présumer, tout cela pour votre propre bien. Donc, je pense que ça résume, en quelque sorte, l'éthique coloniale ou le code de relations colonial<sup>98</sup>.

Pour décrire leurs interactions avec des professionnels de la santé mentale, les témoins ont présenté de nombreux exemples illustrant l'héritage laissé par le « code de relations colonial » décrit par Allan Wade : pouvoir, hiérarchie, racisme et conception limitée de la notion d'expertise.

Par exemple, Sharna S. décrit le traitement condescendant et méprisant qu'elle a reçu d'un professionnel aidant dans un établissement psychiatrique alors qu'elle avait besoin de soutien après une rechute. Elle décrit ce qui lui est arrivé lorsqu'elle est retournée, avec en main les directives du tribunal, à l'unité de soins de santé mentale.



Je ne sais même pas si c'était un infirmier, mais il était toujours présent à l'unité, [...] il ne me laissait pas rentrer dans l'unité de soins de santé mentale parce qu'il y est indiqué quelque part, parce qu'il y est écrit « si » ou quelque chose du genre. Et il lisait ce qui est écrit et il était insolent. Il a dit : « Ce n'est pas indiqué ici que je dois te laisser rentrer. »

Et j'ai répondu : « Tu vas me laisser rentrer. » Il avait déjà empaqueté mes affaires. Il a rajouté : « Tu n'es pas revenue hier soir. » Et j'ai dit : « Ce sont les policiers qui sont venus me chercher hier soir. [...] »

[L'employé] ne voulait pas me laisser rentrer. Il m'a tendu mes affaires dans un sac de plastique blanc et il a dit : « On a déjà donné ta chambre à quelqu'un d'autre. »

Sharna a affirmé que cette situation l'a rendue si désespérée qu'elle a consommé tous les médicaments qu'elle a pu trouver pour revenir à l'hôpital en état de surdose et être réadmise dans l'unité de soins de santé mentale<sup>99</sup>.

Paula P. décrit une expérience semblable où la négligence d'un fournisseur de soins de santé mentale lui a causé d'autres problèmes de santé au lieu d'atténuer sa souffrance. Elle explique avoir pris part à des consultations psychologiques pour l'aider à composer avec les agressions sexuelles qu'elle a subies. Après six mois de consultations, la thérapeute a dit à Paula que tout ce que celle-ci lui avait dit depuis le début était bel et bien vrai et qu'elle allait maintenant commencer à l'aider. Paula s'est sentie « violée mentalement » parce que sa thérapeute ne l'avait pas crue et avait vérifié tous ses propos avant de l'aider. Paula était adolescente à l'époque. Elle explique qu'elle a alors baissé les bras et cessé de signaler les viols qu'elle a subis ainsi que de se défendre<sup>100</sup>.

L'expérience de Paula reflète les défis particuliers auxquels peuvent être confrontées les femmes, les filles et les personnes 2ELGBTQQIA autochtones qui sont victimes de violence et qui tentent d'obtenir des services de santé mentale. Elle reflète aussi la façon dont le « code de relations colonial », décrit par Allan Wade intervient dans le contexte propre aux consultations psychologiques des victimes de violence interpersonnelle. Comme celui-ci l'explique :

On a élaboré toutes sortes de modèles dans le domaine de la violence interpersonnelle et ces modèles blâment encore les victimes, surtout les femmes, en plus de cacher la nature de la violence. Un bon exemple est le prétendu cycle de violence. [...] C'est un cycle en trois étapes. Il y a, genre, une explosion, une lune de miel et une période de tension. Vous remarquerez que ce modèle ne comporte ni contexte social ni référence à la culture. On ne sait pas où sont ces gens. Et on ignore pourquoi on se concentre sur la femme même si c'est l'homme qui a commis les actes violents.

Vous verrez ça continuellement. Au lieu de s'interroger sur la violence commise par l'homme, on se concentre sur le cerveau et le corps de la femme. Depuis 125 ans, on fouille dans la tête des femmes pour changer le comportement de l'homme. Ça n'a jamais fonctionné. Ça ne peut pas fonctionner. Ça ne fonctionnera pas<sup>101</sup>.



Prenant la parole au nom de sa sœur, une mère de cinq enfants qui a été assassinée, Vanessa B. soulève elle aussi des problèmes importants liés aux services de santé mentale.

C'est une défaillance énorme des services de santé mentale. Faites-moi confiance, je l'ai vécu. J'ai vu des thérapeutes qui regardaient leurs clients et... et le pire, un enfant, et les faire se sentir si mal qu'ils ne veulent pas parler. Et ma théorie, c'est que si vous n'êtes pas là pour faire votre travail, si vous ne voulez pas vous réveiller et faire ce que vous croyez que vous essayez de faire et aider quelqu'un, il est sacrément temps que vous changiez de travail, parce que vous nuisez plus que vous aidez. Et je crois que si nos travailleurs sont... sont si surmenés tant dans les services sociaux que dans l'aspect de santé mentale de... des emplois, il faut faire une pause, parce que tu n'es pas... tu n'aides plus. Et c'est la même chose que j'ai constatée avec Tanya. Elle n'a... elle aurait pu utiliser et obtenir ces services, mais si elle a senti, à un certain moment, qu'elle n'avait pas ce dont elle avait besoin, on ne l'aide pas vraiment, hein? Donc... c'est ça. Voilà un exemple d'échec<sup>102</sup>.

En plus d'aborder les défis que doivent surmonter de nombreuses femmes, filles et personnes 2ELGBTQQIA autochtones et leurs proches pour accéder à des services de santé mentale impartiaux et adaptés à la culture, beaucoup de témoins ont parlé des difficultés d'obtenir de tels services en raison des longues périodes d'attentes et de l'absence d'autres solutions. En lien avec un contexte urbain, Adrienne B. note ce qui suit :

Vous savez, si je devais accéder à ces ressources à Edmonton, il y a deux mois d'attente pour voir un travailleur en santé mentale. J'ai pris rendez-vous avec un psychiatre, parce que je savais que ce que je sentais s'en venait. J'ai commencé à ressentir des éléments déclencheurs et à me remémorer des souvenirs. Ce rendez-vous a été reporté au mois suivant. Beaucoup de ces ressources ici doivent être mises en place pour aider les parents et les familles touchés par la disparition ou le meurtre d'une des leurs<sup>103</sup>.

« QUAND LES AMBULANCIERS SONT ARRIVÉS – C'EST CE QUE M'A DIT MA MÈRE – QUAND LES AMBULANCIERS SONT ARRIVÉS, ELLE ÉTAIT SUR LE SOL, SOUFFRANT D'UNE DOULEUR INSOUTENABLE. ELLE S'EST DIT QU'ILS LA TRAITAIENT COMME SI ELLE ÉTAIT TOMBÉE PARCE QU'ELLE ÉTAIT IVRE. ILS L'ONT RELEVÉE – C'ÉTAIT UNE FEMME ASSEZ CORPULENTE – ILS L'ONT RELEVÉE POUR QU'ELLE SOIT DEBOUT ET ELLE EST ENCORE TOMBÉE PARCE QUE LES COUPS REÇUS LUI AVAIENT CASSÉ LA HANCHE. ILS ONT RI D'ELLE. ET ILS L'ONT REMISE DEBOUT ENCORE UNE FOIS. ELLE A DIT : « JE NE PEUX PAS, ÇA FAIT MAL. MA HANCHE ME FAIT MAL. » ET LORSQU'ELLE EST TOMBÉE UNE AUTRE FOIS, ILS SE SONT DIT QUE PEUT-ÊTRE QUELQUE CHOSE D'AUTRE N'ALLAIT PAS. ILS ONT... J'IMAGINE QU'ILS L'ONT MISE SUR UNE CIVIÈRE POUR LA TRANSPORTER À L'HÔPITAL. »

Dianna B.





Lorna B. parle d'un cas particulier survenu dans un centre de Colombie-Britannique où les services offerts étaient très peu nombreux.

Je travaille à la Canada's First Nations Radio et nous desservons 42 communautés dans le Nord-Ouest; nous parlons donc à partir de Haida Gwaii, Terrace, Kitimat et Prince Rupert. Ce sont les grands centres, alors il y a beaucoup de gens qui y viennent en provenance de ces communautés. Et il y a... il n'y a pas assez de personnel pour aider autant de gens des Premières Nations, de ces 42 communautés réparties dans le Nord-Ouest. Un seul psychologue? C'est absurde<sup>104</sup>.

Comme le montrent ces exemples, les connaissances et la sagesse des femmes et des filles autochtones en ce qui concerne leurs besoins en matière de santé mentale et de bien-être sont ignorées, minimisées ou écartées par ceux à qui elles demandent de l'aide. Pour Allan Wade, ces attitudes et ces réactions reflètent ce qu'il décrit comme un « code de relations colonial », code qui, selon lui, est intégré à la formation reçue par bon nombre de professionnels du domaine de la santé mentale et au langage de ce milieu. Il présente certaines directives données aux psychiatres concernant la tenue d'entrevues cliniques.

Faites preuve d'expertise. L'empathie est très utile, mais ce n'est pas suffisant. Convincez-le que vous êtes un spécialiste. Utilisez trois techniques pour le convaincre que vous comprenez son trouble. Faites-lui comprendre qu'il n'est pas seul. Dites-lui que vous connaissez bien sa maladie. Mettez en valeur vos connaissances. Et pour terminer, gérez sa méfiance... sa défiance. Cette expertise vous élèvera au-dessus de ses amis et de ses proches bienveillants, et vous démarquera comme professionnel.

M. Wade demande ensuite : « Vous percevez les accents de colonialisme<sup>105</sup>? »

### **Accéder aux soins et à la sécurité par l'intermédiaire des fournisseurs de services d'urgence et de la police**

Pour décrire comment les institutions ont répondu aux besoins des femmes, des filles et des personnes 2ELGBTQQIA autochtones en matière de soins de santé, les témoins ont fourni des exemples montrant que les réactions racistes, condescendantes ou autrement inadéquates pouvaient non seulement se produire dans les établissements de soins comme les hôpitaux, mais aussi chez certains policiers et autres intervenants d'urgence à qui elles avaient demandé de l'aide après avoir été victimes de violence.

Par exemple, Dianna B. et d'autres témoins ont partagé des histoires troublantes où leurs besoins en matière de santé et ceux de leurs proches ont été minimisés lorsqu'ils résultaient de la violence. Comme l'explique Dianna lorsqu'elle parle du décès de sa mère qui, à presque 80 ans, a été gravement battue :

Quand les ambulanciers sont arrivés – c'est ce que m'a dit ma mère – quand les ambulanciers sont arrivés, elle était sur le sol, souffrant d'une douleur insupportable. Elle s'est dit qu'ils la traitaient comme si elle était tombée parce qu'elle était ivre.



Ils l'ont relevée – c'était une femme assez corpulente – ils l'ont relevée pour qu'elle soit debout et elle est encore tombée parce que les coups reçus lui avaient cassé la hanche. Ils ont ri d'elle. Et ils l'ont remise debout encore une fois. Elle a dit : « Je ne peux pas, ça fait mal. Ma hanche me fait mal. » Et lorsqu'elle est tombée une autre fois, ils se sont dit que peut-être quelque chose d'autre n'allait pas. Ils ont... j'imagine qu'ils l'ont mise sur une civière pour la transporter à l'hôpital<sup>106</sup>.

Dianna raconte aussi que lorsque des policiers sont venus enquêter sur l'incident, leur comportement a été tout aussi méprisant. Ils sont venus voir sa mère, mais ne lui ont pas demandé de déclaration. Lorsque Dianna leur a téléphoné pour savoir pourquoi il n'avait pas pris la déclaration de sa mère, les policiers lui ont répondu qu'ils n'ont pas pu le faire parce que sa mère « n'était pas toute là ». Dianna ajoute :

Je ne sais pas. Elle prenait des médicaments assez forts, mais je sais que je pouvais... je pouvais lui rendre visite. Je pouvais lui parler. Elle était capable de me donner sa déclaration. Elle a été capable de décrire l'incident à mon mari. Elle était donc cohérente et capable de parler à des gens. Je me demande s'ils ont vraiment fait un effort<sup>107</sup>.

Dans son témoignage, Robin R. raconte avoir appelé une ambulance quand elle a vu que sa fille de deux ans avait été cruellement battue par son partenaire. Elle mentionne toutefois que lorsque les intervenants d'urgence sont arrivés, ils ont refusé de transporter sa fille à l'hôpital avant que Robin ne trouve la carte santé de la fillette.

L'ambulance est venue chez moi et ils ont vérifié les signes vitaux de ma fille. Ils sont allés chercher une civière et ont demandé sa carte d'assurance-maladie. Je ne connaissais pas le numéro de sa carte de mémoire, et nous n'avions pas de médecin de famille. Mais l'ambulancier a insisté en disant qu'ils avaient besoin de la carte d'assurance-maladie avant de pouvoir la conduire à l'hôpital. Et c'était comme, ils ont refusé de quitter ma maison tant que je n'avais pas sa carte d'assurance-maladie pour aller à l'hôpital.

Alors j'ai fouillé tous les tiroirs de ma maison et j'ai sorti tout ce qui se trouvait dans les tiroirs. J'ai enlevé tout ce qui était sur les étagères. J'ai tout éventré. J'étais paniquée. J'avais peur. Et ma maison était en désordre après. J'ai viré ma maison à l'envers à la recherche de cette satanée carte santé parce que les ambulanciers disaient qu'ils ne partiraient pas tant qu'ils n'auraient pas ce numéro<sup>108</sup>.

La fille de Robin a fini par succomber à ses blessures. Les enquêteurs ont dit que la maison de Robin était « jonchée d'ordures » alors que le désordre avait été causé par la recherche de la carte santé. Selon Robin, cette description a contribué à la perte de la garde de son autre enfant<sup>109</sup>.



Cecil J., qui a perdu sa mère à un très jeune âge, se souvient d'un problème semblable lié à l'attitude des policiers et au défaut de fournir les soins adéquats.

Pour revenir aux circonstances, elle se trouvait à l'extérieur, marchait simplement dans la rue et a eu une altercation avec ces femmes. Apparemment, les agents de police ont pensé qu'elle était ivre, mais elle ne l'était pas. Et je suppose que c'est avant [...] qu'il n'y ait une cellule de dégrisement. Ils l'ont donc ramenée chez elle. Ils ont dit : « Oh, elle est saoule. » Mais elle ne l'était pas. Elle avait une lésion cérébrale. Ils l'ont ramenée à la maison, elle s'est endormie, et en gros, ne s'est pas réveillée<sup>110</sup>.

Stephanie H., dont la mère a été victime de meurtre, se rappelle ce qui est arrivé lorsqu'on a trouvé celle-ci au pied d'un escalier. Sa mère souffrait d'un traumatisme contondant et a été transportée à l'hôpital. Plus tard, deux policiers sont venus lui rendre visite. Voici son témoignage :

Et puis il y avait deux agents dans la cuisine juste, genre, à côté, et j'en ai entendu un chuchoter à l'autre [...] tout bas : « Une autre Indienne saoule qui est juste tombée dans les escaliers. » Et moi, comme, j'ai juste changé de couleur et tout s'est vidé... mon... mon sang. Tout s'est vidé. Je ne voulais pas réagir parce que j'avais peur de ne pas avoir d'aide. Ça a rendu les choses bien plus difficiles parce que, oh, mon Dieu, est-ce que j'ai une chance? Est-ce que ma mère a une chance? Juste... est-ce qu'elle a une chance ici? Je ne sais même pas si elle a une chance. J'étais... j'étais tellement scandalisée. J'étais tellement blessée. J'étais... j'étais dégoûtée. J'étais en deuil, et ça m'a arraché le cœur<sup>111</sup>.

Dans son témoignage, Sharna S. explique que même si elle recevait des soins dans une unité de santé mentale, ce n'était pas suffisant pour la protéger du harcèlement des policiers.

J'ai réussi à retourner à l'hôpital avant que le policier n'arrive. Je rentre dans l'unité de soins de santé mentale qui est, comme, vous savez, il faut sonner pour pouvoir entrer. Ce soir-là, deux policiers sont venus à l'hôpital et ont demandé aux infirmiers de... l'unité... ils disent qu'ils vont me sortir de l'unité. [...] Et j'ai dit : « Je ne pars pas. » Parce que, en fait, mon psychiatre... parce que j'ai peur des policiers, mon psychiatre a écrit à chaque page de mon dossier qu'en aucun cas Sharna ne doit être confiée... mise sous la garde des policiers, à moins qu'ils n'aient un mandat d'arrêt ou un autre document que mon psychiatre ne peut annuler. Eh bien, les policiers n'avaient pas de mandat. Les infirmiers ne voulaient pas les laisser entrer au début, mais les policiers les ont menacé d'obstruction à la justice et d'autres choses. Un des infirmiers a finalement cédé et laissé entrer les policiers. [...] Ils m'ont mis dans une cellule pour la nuit. Ils ont ri de moi. Ils trouvaient ça drôle. En fait, un des policiers a ri de moi, l'autre, pas beaucoup<sup>112</sup>.





Ces événements racontés par des témoins démontrent que des professionnels de la santé et des intervenants d'urgence ont manqué à leur devoir de fournir des services de santé adéquats aux femmes et aux filles autochtones alors qu'elles étaient vulnérables et traversaient des périodes critiques de leur vie. En ne reconnaissant pas le potentiel de transformation présenté par ces occasions de promouvoir la santé, de réparer les liens et de protéger le droit à la santé et à la sécurité des Autochtones, ces professionnels et ces intervenants, tout comme le système pour lequel ils travaillent, ont renforcé les fondements racistes, sexistes et discriminatoires qui définissent tant d'expériences vécues par les femmes, les filles et les personnes 2ELGBTQQIA autochtones dans le système de soins de santé, au lieu de les remettre en question.



## RÉFLEXION APPROFONDIE

# Questions propres aux communautés inuites et éloignées

Tout au long du processus de consignation de la vérité, l'Enquête nationale a recueilli les vérités des Inuits, ainsi que des Métis et d'autres membres des Premières Nations vivant dans des communautés nordiques et éloignées. Si l'on peut déceler des similitudes entre les vérités partagées par ces témoins et celles des Autochtones dans l'ensemble du pays, certains aspects de ces vérités reflètent les réalités culturelles, historiques et géographiques propres aux Inuits et aux personnes vivant dans des communautés nordiques et éloignées. Dans la présente réflexion approfondie, nous examinons de plus près ce que des témoins ont dit à l'Enquête nationale concernant leurs expériences particulières comme Inuits en contact avec la violence ou affectés par celle-ci. Nous nous penchons aussi sur des témoignages portant sur certaines des difficultés propres à l'existence dans des communautés nordiques et éloignées et sur l'incidence que ces réalités géographiques ont sur les problèmes liés à la violence.

S'il n'est pas possible d'analyser ici en profondeur la culture riche et nuancée des Inuits, la famille inuite, c'est-à-dire l'*ilagiinniq* ou « le fait de constituer une famille », constitue une des caractéristiques essentielles de cette vie culturelle évoquée par les familles inuites, les Aînés et les Gardiens du savoir à titre d'élément central du maintien de relations assurant la protection des femmes et des filles inuites contre la violence. Comme l'ont souligné ces témoins, il est absolument essentiel de saisir la perception inuite de l'*ilagiinniq* et, parallèlement, des relations parentales et de la manière dont celles-ci forgent l'identité de l'Inuit. Le terme qu'utilisent les Inuits pour décrire le lien de parenté entre la famille et les individus qui partagent le même nom est *tursurautiniq*. Dans *The Inuit Way: A Guide to Inuit Culture*, Pauktuutit Inuit Women of Canada a décrit l'importance des liens de parenté : « Ces liens garantissent que presque toutes les personnes vivant dans le camp sont liées entre elles d'une manière ou l'autre. Combiné à un système complexe d'obligations et de responsabilités réciproques, cela donne une communauté tissée serré et interdépendante <sup>A</sup>. »

Dans le Rapport de la consultation Parnasimautik – un rapport rédigé par des organismes inuits du Nunavik après avoir entendu l'opinion des Inuits au Nunavik concernant la stratégie économique nordique du Québec – l'*ilagiinniq* était perçu comme une priorité absolue. En bref, la plus grande inquiétude à propos de l'*ilagiinniq* était le risque de perdre le *tursurautiniq*, soit le recours à des conditions de parenté tellement importantes pour permettre aux familles inuites de maintenir les liens entre elles et, donc, de maintenir la prospérité de la communauté<sup>B</sup>.

Un grand nombre de témoins venus faire part de leur vérité à l'Enquête nationale voulaient parler d'une proche disparue ou assassinée. Ce faisant, cependant, les récits de violence qu'ils ont fini par partager ont révélé une description beaucoup plus longue et pluridimensionnelle du contexte dans lequel cette violence a lieu. Comme l'ont exprimé clairement de nombreux témoins venus parler de femmes et de filles inuites disparues et assassinées, à de nombreux égards, la violence qui a anéanti l'existence de leur proche n'était qu'un nouvel épisode d'une longue histoire de violence coloniale dirigée contre les Inuits. Pour de nombreux témoins, ce sont les influences qui ont contribué à l'affaiblissement de l'*ilagiinniq* et du *tursurautiniq* qui constituent le point de départ de toute explication ou compréhension de la violence qui a emporté leurs proches.

## La perturbation d'un mode de vie

Comme l'ont expliqué des témoins, c'est cette destruction de l'*ilagiinniq* et du *tursurautiniq* dans les pensionnats, les externats et les maisons d'hébergement, par la réinstallation forcée, le déplacement pour des raisons médicales et, plus récemment, les arrestations dans le cadre de la protection de l'enfance, qui a contribué à miner la santé, la sécurité et le bien-être de tous les Inuits, et





en particulier des femmes et des filles inuites, dans de telles proportions. Nous examinons ici de plus près certains récits dont ont fait part des témoins inuits à l'Enquête nationale à propos des expériences qu'ils ont vécues dans les pensionnats et les externats, en situation de réinstallation et de déplacement, et au cours de leurs interactions avec le réseau de la protection de l'enfance ainsi que des incidences de ces expériences sur plusieurs générations d'Inuits et sur la culture, la famille et les réseaux de parenté inuits.

## Les pensionnats indiens, les externats et les foyers scolaires

Comme nous l'avons analysé plus en profondeur au chapitre 4, dans le cas des familles et des communautés inuites, l'histoire du système des pensionnats, des externats et des foyers scolaires est plus récente que dans celui des Métis et des membres des Premières Nations vivant plus au sud. Néanmoins, pour les enfants inuits comme pour ceux des Premières Nations et des Métis vivant ailleurs, le régime des pensionnats, des externats et des foyers scolaires était synonyme de fréquentation obligatoire d'écoles souvent situées très loin de leur famille et de leur territoire traditionnel. Ainsi, alors que 15 % des enfants inuits environ fréquentaient l'école en 1955, en juin 1964, 75 % des enfants inuits d'âge scolaire y étaient inscrits<sup>C</sup>. De structure variable, ces établissements étaient désignés sous des appellations aussi diverses que « missions », « foyers » et « pensionnats ». Au bout du compte, il s'agissait des mêmes établissements que les pensionnats indiens du Sud si l'on s'en tient à la façon dont ils servaient à séparer les enfants et les adolescents de leur famille respective. Comme l'explique l'anthropologue Marie-Pierre Gadoua :

Pour la plupart, les [...] [établissements] étaient considérés comme des « externats fédéraux » par [le ministère des] Affaires du Nord. Les enfants inuits habitaient dans de petits ou de grands foyers situés à proximité, pouvant accueillir de huit à cent enfants. Bien que le terme « pensionnat » n'était pas en usage au gouvernement fédéral, les enfants qui fréquentaient ces établissements et vivaient dans des foyers, loin de chez eux, étaient considérés comme des pensionnaires<sup>D</sup>.

Comme nous l'ont dit des témoins, des survivantes et des parents de survivantes inuits, le système des pensionnats continue d'avoir d'immenses répercussions sur l'*ilaginiq* et le *tursurautiniq*. Pauktuutit Inuit Women of Canada souligne que, parmi ces répercussions, on peut noter l'érosion de la langue des Inuits, de leur culture et de leurs croyances spirituelles, ainsi que la perturbation de la transmission de la culture ou des connaissances traditionnelles, des habiletés pratiques et des valeurs culturelles d'une génération à l'autre. De façon plus particulière :

Parmi les habiletés pratiques traditionnelles [menacées] des Inuits, on compte la chasse, la préparation de la viande et des pelleteries, la couture, la construction des igloos, les déplacements sur le territoire et la navigation sur l'eau. La riche tradition des récits oraux, de la musique, de la danse et de l'artisanat, ainsi que le respect de l'environnement, qui faisaient partie intégrante du savoir et du mode de vie inuits, ont été érodés en raison de l'expérience des pensionnats<sup>E</sup>.

En faisant part de leur vérité à l'Enquête nationale, des témoins comme l'Aînée Elisapi Davidee Aningmiuq – une Inuite de la région de Baffin Sud ayant travaillé toute sa vie au sein des programmes culturels et communautaires de bien-être à Iqaluit – ont évoqué l'impact dévastateur et durable du système des pensionnats indiens sur l'identité culturelle et la famille. Cette dernière a décrit le ressentiment et la colère qu'elle a éprouvés à la suite de ses expériences en tant qu'élève dans les externats fédéraux et la manière dont, jeune adulte, elle a malencontreusement rejeté cette colère sur ses enfants. De son passage dans un externat, elle a dit ceci :

Et, pendant l'enfance, c'étaient là nos premières expériences, qui nous rabaissaient comme Inuits, parce que l'inuktitut était la seule langue que nous parlions. Et cela donnait l'impression de ne pas être normaux ou de se faire traiter, peut-être, comme si nous avions une marque sur la poitrine, une marque qui signifiait que nous n'étions pas assez bons. Je n'y ai jamais pensé quand j'étais très jeune, mais en vieillissant, j'ai eu conscience de ces sentiments<sup>F</sup>.





Le résultat, a-t-elle soutenu, est intergénérationnel et multigénérationnel pour les Inuits également : « Ma perception et notre conviction, c'est que la [piètre] estime [de soi] est très répandue. Des gens qui ne connaissent pas leur identité inuite, qui ne connaissent pas leur origine inuite, vraiment<sup>6</sup>. » L'Aînée Elisapi a décrit l'incidence que sa fréquentation du pensionnat avait eue sur son choix de la langue à enseigner à ses enfants.

Quand j'ai commencé à avoir des enfants, ils n'avaient pas le droit de parler anglais à la maison. Je les grondais quand je les prenais sur le fait. Si je pleure, c'est parce que je suis désolée pour mes enfants. Désolée de les avoir grondés de façon très malsaine. J'ignorais d'où cela pouvait bien provenir. Je leur disais de ne pas parler anglais. Mais ce n'était pas dit gentiment; ils le percevaient comme une réprimande. Comme je viens de le dire, j'ignorais d'où cela pouvait bien provenir, jusque bien des années plus tard. Cela venait de mon éducation au pensionnat. C'était ma revanche. C'était mon opposition à ceux qui me défendaient de parler ma langue. C'était moi qui ressentais de la colère. C'est quelque chose qui provenait du fin fond de moi, de la partie au plus profond de moi qui avait souffert<sup>1</sup>.

## **Les réinstallations de groupes, les déplacements pour des raisons médicales et les réalités propres aux Inuits**

En plus des répercussions du système des pensionnats et des externats sur la famille, la parenté et la culture, les témoins ont décrit que, les réinstallations de groupes, comme la Réinstallation dans l'Extrême-Arctique de 1953, de même que les déplacements pour des raisons médicales, ont été des éléments importants du contexte dans lequel la violence s'est propagée.

Dans le chapitre 4, nous avons examiné plus en détail les réinstallations de familles inuites chassées de leurs terres ou de leur territoire traditionnel menées par le gouvernement entre les années 1940 et 1970. Comme nous l'avons écrit, ces réinstallations, improvisées et menées sans transfert d'information, ont provoqué une immense détresse chez les personnes concernées. Elles ont aussi aggravé les

bouleversements familiaux, culturels et traditionnels, qui sont tous étroitement liés à l'environnement. Ainsi, lorsque les agents du gouvernement canadien, assistés des Forces armées royales canadiennes, ont déplacé sept familles inuites de Inukjuak, au Nunavik, vers l'île d'Ellesmere en 1953, on n'a pas pris la peine d'informer ces familles qu'elles seraient réinstallées dans trois endroits différents. Ce n'est qu'après qu'elles aient entrepris leur voyage par bateau qu'on les a informées de leur séparation imminente, ce qui a semé le désarroi chez ces familles persuadées qu'elles effectueraient ensemble le voyage jusqu'à l'île d'Ellesmere. Selon *La réinstallation dans l'Extrême-Arctique : un rapport sur la réinstallation de 1953–1955* publié en 1994 par la Commission royale sur les peuples autochtones, non seulement cette réinstallation leur était-elle imposée, mais les familles durent également subir l'épreuve de la séparation. Ayant examiné le récit de cette expérience par les Inuits réinstallés des années plus tard, la Commission royale en était venue à la conclusion que leur séparation – hors de tout doute imposée – avait représenté pour eux une expérience des plus pénibles et douloureuses. Au fil des années, ces familles inuites ont eu de la difficulté à s'adapter à un environnement entièrement nouveau et leur existence a été rendue extrêmement pénible en raison de la négligence du gouvernement et de leur incapacité à rendre visite à leur famille à Inukjuak<sup>1</sup>.

En raison de leur expérience relativement récente des réinstallations, de nombreux témoins inuits ont évoqué leurs difficultés à rétablir des liens familiaux et de parenté dans le but de renforcer la sécurité des femmes et des filles inuites. Dans son témoignage, Laura M. a décrit les implications sur le plan de la sécurité des réinstallations imposées et de la transition d'un style de vie traditionnel nomade vers des communautés centralisées, avec la présence de drogues et d'alcool comme facteur prédominant.

Alors on nous a proposé les communautés et on nous a offert un style de vie assorti d'un salaire et d'un logement gratuit. [...] De nombreuses occasions se sont présentées et le mode de vie colonial offrait une façon de vivre moderne et plus facile selon laquelle une famille pouvait subvenir à ses propres besoins au sein d'une économie basée sur les salaires. Ce mode de vie était assorti de la présence de drogues, d'alcool et de beaucoup de promiscuité sexuelle qui





régnait à cause du petit magasin des alcools de la baie d'Hudson. Ce sont les nombreux problèmes qui sont venus s'ajouter à l'aspect dysfonctionnel d'un foyer familial<sup>L</sup>.

Comme l'a expliqué la directrice du développement social de la Qikiqtani Inuit Association, Hagar Idlout-Sudlovenick :

À la réinstallation a succédé un sentiment de perte de [...] leur parenté avec leur territoire, l'endroit auquel ils appartiennent ou certaines parties du territoire. Le fait d'être retiré de l'endroit qu'ils connaissent, les territoires de chasse, par exemple, l'endroit où les [...] familles, où [ilagiit] se dressaient d'habitude les camps ou se trouvaient les territoires de chasse inuits, c'était saisonnier et ils se déplaçaient d'un endroit à l'autre. Étant donc retirés de cet endroit pour aller vers des endroits parfois très éloignés, ils éprouvaient un sentiment de perte puisque ces régions ne leur étaient pas familières ou qu'il leur fallait se familiariser avec leurs nouveaux territoires de chasse. Parfois, le gibier était différent – ils ne le connaissaient pas – étant donné qu'ils étaient réinstallés dans des endroits différents, il leur fallait modifier leur stratégie de chasse en fonction du genre de gibier présent à cet endroit. Se trouvant dans des endroits peu familiers, il leur a fallu réapprendre certaines pratiques de chasse. Selon moi, c'est cela l'incidence que la réinstallation a eue sur ces familles. Et elle a eu un effet durable sur les membres, y compris leurs familles<sup>K</sup>.

En outre, Hagar Idlout-Sudlovenick a affirmé qu'après leur réinstallation, les gens n'ont pas eu accès à l'aide et aux services promis. Selon elle, cette histoire et son incidence sur la famille et la parenté ont été à l'origine des conditions socioéconomiques qui ont donné lieu à de la violence à l'endroit des femmes et des filles inuites.

On leur avait dit qu'ils allaient avoir un emploi, un logement et un loyer très bas, et que le gouvernement allait les aider à s'acheter les choses essentielles au quotidien. Et certains s'étaient fait dire : si vous intégrez la communauté, vous aurez une maison avec tout ce qu'il faut à l'intérieur. Donc, si vous abandonnez votre lieu d'existence, c'est correct. Vous pouvez laisser vos affaires dans le camp, et

ils ont cru ce qu'on leur disait. Arrivés dans la communauté, ils ont vu qu'il n'y avait pas de maisons [...] ils n'avaient rien à faire, juste à attendre que la GRC ou le gouvernement leur dise ce qu'ils attendaient d'eux. Qu'on leur dise ce qu'on attendait d'eux; c'est à ce moment-là que la vie a commencé à changer<sup>L</sup>.

En plus des récits de ces réinstallations, des témoins inuits ont aussi fait part des répercussions des déplacements pour raisons médicales lorsqu'on a envoyé des personnes dans le Sud pour y recevoir des soins médicaux contre la tuberculose, souvent sans trop comprendre où elles étaient envoyées ni pour combien de temps et sans recevoir d'information. L'Aînée Elisapi Davidee Aningmiuq a évoqué l'incidence des déplacements pour raisons médicales, le traumatisme affectif qu'ont subi les enfants inuits et l'aliénation de leur famille causée par la distance et la durée de la séparation qui leur était imposée.

Quand on vous prive du lien avec vos parents ou votre famille, vous pouvez être perçu comme un exilé. Dans votre culture, on parlerait du mouton noir de la famille, je crois. [...] À l'époque où l'on envoyait les gens se faire soigner pour la tuberculose, et sans doute à celle des pensionnats, ce lien était rompu. Je vais vous en donner un exemple, celui d'une amie qui parlait d'un enfant en pleurs; elle se contentait de le regarder parce qu'elle ne savait pas comment réagir. N'ayant jamais été embrassée, elle ignorait qu'elle pouvait prendre l'enfant dans ses bras<sup>M</sup>.

De surcroît, dans le cas des Inuits déplacés dans le Sud pendant plusieurs années, les répercussions sur les patients et les familles étaient dévastatrices. Comme l'a raconté Micah A. à l'Enquête nationale, on n'a jamais retrouvé sa mère, morte dans un sanatorium du Sud<sup>N</sup>. Elle a expliqué ce qui suit :

On ne nous a jamais informés; ce n'est qu'à l'arrivée des bateaux que nous avons eu cette information. Il s'est passé du temps avant qu'on nous informe de son décès. Et je n'ai pas vu la tombe de Martha [T] [sa grand-mère]; je ne l'ai jamais vue. Seule ma mère nous racontait des choses à son propos. Quand ma mère était en vie, elle voulait que nous retrouvions son corps, et j'y suis parvenue. Mais il est à Winnipeg, et ils avaient été déplacés à Moose Jaw; partie de Moose Jaw





et enterrée à Winnipeg en territoire indien. Et les histoires qu'on nous a racontées diffèrent. Je n'ai jamais vu sa tombe de mes propres yeux<sup>Q</sup>.

Dans son témoignage, Annie B. a raconté comment, enlevée de sa communauté de Pangnirtung à l'âge de quatre ou cinq ans, elle avait été transportée dans un hôpital de Toronto pour y faire soigner sa tuberculose sans comprendre pourquoi on l'y amenait et sans être accompagnée de ses parents ou d'une quelconque connaissance. « Non, mes parents n'étaient pas présents, a-t-elle raconté. Pas même ma mère. Je n'ai aucun souvenir de mon départ du camp. Tout ce dont je me souviens, c'est que deux hommes sont venus pour m'emporter. [...] Mes parents habitaient trop loin pour venir [à Toronto]. Non. Aucun membre de ma famille. Rien<sup>P</sup>. » Au lieu de revenir à Pangnirtung, Annie a plutôt été envoyée dans un pensionnat, où elle a subi de la violence. « Il y avait tellement de violence, a-t-elle expliqué, on abusait si souvent de nous. Et j'ai complètement oublié qui j'étais<sup>Q</sup>. » Quand elle a fini par rentrer dans sa famille, Annie a appris que ses proches la croyaient morte, car ils n'avaient reçu aucune information sur l'endroit où elle pouvait bien se trouver.

L'Aîné Abraham Arnakak a pris un certain temps pour expliquer que la réinstallation de groupes d'Inuits avait donné lieu à une flambée de violence envers les femmes inuites, précisément parce qu'elle avait causé la désintégration de la famille.

Après [la réinstallation], notre existence a commencé à se détériorer parce qu'il y avait des problèmes à Pangnirtung, il y avait des problèmes de jeu et, quand nous sommes arrivés dans ces communautés, nous avons commencé à nous détourner de nos parents et à maltraiter nos conjointes. Nous nous sommes donc mis à rompre l'unité familiale à la suite de notre arrivée dans ces communautés. Nous étions brisés à ce point; c'est ce que j'ai à vous dire<sup>R</sup>.

Pour certains, le traumatisme de la rupture des liens familiaux continue à se faire sentir dans les nouveaux emplacements modernes. Amy Hudson, directrice de la recherche, de l'éducation et de la culture au Conseil communautaire de NunatuKavut, a affirmé devant l'Enquête nationale que la réinstallation imposée aux communautés inuites se poursuit de nos jours, une communauté ayant été réinstallée l'automne dernier. Comme elle l'a expliqué :

Le gouvernement de notre province a promis de ne plus imposer cela aux Autochtones, de ne plus imposer la réinstallation de personnes parce qu'il reconnaît l'existence d'un lien entre les Autochtones et leur territoire et leurs ancêtres, et le fait que ce lien fait partie intégrante de leur santé et de leur bien-être, et de s'abstenir de perpétuer ces mêmes injustices coloniales.

Afin de réinstaller la communauté, a expliqué Amy Hudson, le gouvernement s'est mis à éliminer

des services importants et essentiels, [...] qu'il s'agisse de l'école, de la santé ou du logement, selon le cas, et petit à petit, toutes ces ressources ont disparu. Il est impossible pour les familles de vivre là, ou alors, elles sont désintégrées et ravagées parce qu'un de leur membre doit fréquenter une école lointaine ou qu'un autre est malade et doit partir loin pour se faire soigner<sup>S</sup>.

Certains témoins ont évoqué le fait qu'en raison de la nécessité de quitter la communauté pour avoir accès à des services sociaux et des services de santé, les gens doivent se réinstaller et que cela continue de compromettre les relations familiales et le bien-être. Dans son témoignage, Sarah B. a raconté qu'elle avait été obligée de se rendre à Montréal pour s'occuper de son fils leucémique qui était à l'article de la mort et que, faute d'autres ressources, elle avait dû abandonner ses autres enfants. C'est pendant son absence qu'une de ses filles a été assassinée.

J'ai amené mon enfant à l'hôpital et j'ai laissé mes filles à la maison. J'étais censée quitter le jour même où j'ai reçu l'avis pour me rendre à l'hôpital. J'y suis restée longtemps, incapable que j'étais d'abandonner mon enfant.

Quand j'ai entendu le médecin me dire d'emmener mon enfant à l'hôpital, hors de ma communauté, je me suis mise à pleurer. Je ne pensais pas que ça servirait à quoi que ce soit. C'est seulement le soir que j'ai pu me mettre à pleurer. Pas devant qui que ce soit, mais j'étais incapable de quitter l'hôpital de Montréal quand on me l'a dit; ça paraissait étrange de ne pas pouvoir rentrer chez moi.

Tôt le matin, on m'a appelée pour me dire qu'une travailleuse sociale voulait me voir. C'est là que je l'ai appris [que sa fille avait été assassinée], en fait. J'étais incapable de pleurer. Mary Ann était tellement importante à mes yeux; je ne pouvais





pas croire qu'elle était morte. [...] J'étais triste d'avoir dû abandonner mes deux filles pour être avec mon fils, le benjamin de la famille, à l'hôpital. Je n'avais pas d'autre choix<sup>7</sup>.

## Les Inuits et la protection de l'enfance

En décrivant leurs expériences récentes et actuelles avec le système de protection de l'enfance, des témoins ont expliqué en quoi ce dernier, et le retrait d'enfants et d'adolescents inuits de leur famille et de leur communauté respectives, entretient l'effondrement de la culture, des liens de parenté et de la famille, avec de profondes répercussions. Ainsi, de nombreuses familles inuites dont les enfants sont sous la responsabilité des services de protection de l'enfance en dehors de l'Inuit Nunangat entretiennent les mêmes sentiments d'isolement et de perte du lien avec la culture et la famille qu'ont décrit les personnes parlant de la fréquentation des pensionnats indiens ou des réinstallations imposées. Néanmoins, en dépit des difficultés notoires connexes à la séparation ou à la désintégration des familles, plutôt que de s'efforcer de répondre aux besoins de la communauté, le système continue de considérer la réinstallation comme une solution au manque de services et de ressources. Comme l'a affirmé le directeur de l'avancement des politiques de l'Inuit Tapiriit Kanatami (ITK), Tom Sheldon : « Lorsque les jeunes ne peuvent avoir accès à ces services au sein de leur communauté, on les envoie souvent à l'extérieur de celle-ci et même de leur région. [...] Mais on possède très peu d'information sur le nombre d'enfants et d'adolescents inuits dans le système et où ils se trouvent. Il nous faut avoir un meilleur accès à ces chiffres<sup>8</sup>. » Même dans les cas où il existe des solutions au sein de la famille ou de la communauté pouvant permettre de garder un enfant dans la communauté, des témoins ont fait état de situations dans lesquelles ces solutions avaient été ignorées.

Au sein des communautés inuites, la crise de la protection de l'enfance est exacerbée par la distance et la manière dont on envoie souvent les enfants et les adolescents inuits dans le Sud, où ils sont confrontés à un mode de vie totalement différent. La méfiance de nombreux Inuits envers le système et les lois des *qallunaat* ou des « Blancs » est encore

renforcée par des expériences de réinstallation et de colonisation relativement récentes dans le Nord. Harriet (Rutie) et son mari, Johannes L., de Nain, au Labrador, en ont témoigné, en mémoire de leur fille, Kimberley J., assassinée à 20 ans par son petit ami. Johannes a fait part de la menace qui plane sur les familles dans les communautés inuites.

Certaines familles, qui vivent dans la pauvreté, n'ont pas les moyens d'élever leurs enfants et petits-enfants et manquent d'argent pour faire vivre les leurs. Et cela parce que le système d'éducation a emmené les enfants loin de leurs familles inuites, comme si l'éducation... le système d'éducation est devenu plus responsable des enfants, de l'éducation des enfants, de sorte que cette responsabilité a été retirée aux Inuits. Ce qui fait que notre culture, notre langue n'est plus enseignée à nos enfants et petits-enfants inuits. Notre façon d'être inuite est moins suivie, si bien que notre mode de vie a lui aussi perdu du terrain. Il y a des jeunes qui ont oublié qu'ils sont Inuits. « Suis-je Inuit ou non? », demandent-ils.

Au cours de leur témoignage, Gordon et Silpa O. ont décrit les effets de la séparation des enfants et de la désintégration des familles à la suite d'interventions gouvernementales, qui ont des répercussions imprévues pour les parents inuits et, plus particulièrement pour la sécurité et le bien-être des femmes. À Nain, dans le Nord du Labrador, Gordon et Silpa O. ont tragiquement perdu leur belle-fille, Katie. Leur fils, le mari de Katie, était mort peu auparavant de la tuberculose. Ils avaient quatre enfants, déjà placés sous la responsabilité des services de protection de l'enfance avant le décès de leurs parents et élevés dans une famille non inuite loin de leur ville natale. À propos de l'impact que les services de protection de l'enfance ont eu sur les enfants, Gordon O. a donné l'explication suivante :

J'avais [écrit] une lettre [...] au ministre de la Santé et du Développement social du Nunatsiavut [...] sur ce qui s'était passé et l'intervention que nous avons tentée à titre de famille pour [...] sachant que mon fils et sa femme avaient... avaient des problèmes à cette époque. Nous avons donc essayé de lancer un appel au secours pour que le





gouvernement intervienne et voie s'il pouvait empêcher... contribuer à empêcher que l'on emmène nos petits-fils loin du village, mais nous n'avons pas reçu de réponse. Au bout du compte, ils sont devenus des [...] enfants sous protection permanente. [...] Mon fils et sa femme ont été convoqués au tribunal et nous avons assisté à leur audience. [...] Notre fils et sa femme...on nous demandé de prendre la parole et je l'ai fait. De toute évidence, ce que nous avons à dire ou voulions dire ne comptait pas. L'avocat des services à l'enfance, à la jeunesse et à la famille semblait être la seule personne qu'on écoutait<sup>w</sup>.

Enfants, parents et grands-parents ont subi les conséquences de la perte des enfants et du manque de contrôle ou de mot à dire sur la durée d'application de leurs droits de visite. Pour Katie, après la mort de son mari et du père de ses enfants, le fait que les enfants soient placés en famille d'accueil à l'extérieur de leur communauté a été particulièrement difficile. Gordon a expliqué qu'il lui semblait important que les enfants puissent rétablir le lien avec leur parent, surtout en période de deuil, et que l'idéal serait qu'ils puissent grandir à la maison. Katie a trouvé très difficile d'être séparée de ses enfants; ils lui manquaient et elle avait de la peine et se sentait seule. Déjà exclue, elle s'est encore isolée davantage de sa belle-famille. Ces difficultés dans la vie l'ont rendue particulièrement vulnérable à cette époque.

## Les contextes socioéconomiques contemporains

L'impact des politiques et des pratiques coloniales sur le régime familial et parental inuit ainsi que sur le lien entre les Inuits et le territoire et les pratiques traditionnelles, va au-delà du bien-être affectif des familles et des communautés inuites; il a aussi de profondes répercussions socioéconomiques et d'importantes conséquences sur la santé. En dépit de la force et de la résilience des familles et des communautés inuites, les obstacles auxquels beaucoup se heurtent pour combler leurs besoins fondamentaux sur le plan du logement, de l'alimentation et de la santé sont importants. Comme l'ont démontré aussi bien des témoins que des

travaux de recherche, beaucoup de ces obstacles à une infrastructure sociale et économique adéquate contribuent à l'instauration de conditions augmentant la probabilité d'actes violents et d'autres menaces à la santé et au bien-être.

### Le logement

Comme les membres des Premières Nations et les Métis vivant ailleurs au Canada, les Inuits sont confrontés à de grandes difficultés pour avoir un accès à un logement sécuritaire et abordable. Dans le cas des Inuits et des personnes vivant dans des communautés nordiques, certaines de ces difficultés courantes sont exacerbées par la petite taille et l'isolement de leur communauté. Selon des données publiées dernièrement par l'Inuit Tapiriit Kanatami (ITK), 52 % des Inuits de l'Inuit Nunangat vivent dans des logements surpeuplés. On observe un écart énorme avec les 9 % seulement de tous les Canadiens vivant dans des conditions semblables. En outre, près du tiers des Inuits habitent dans des logements nécessitant des réparations majeures, alors que c'est le cas pour seulement 6 % des non-Autochtones au Canada<sup>x</sup>. Le coût des matériaux dans les régions éloignées et l'accès à ces mêmes matériaux viennent encore accroître la difficulté d'entreprendre des réparations. Au vu de ces chiffres, il n'est pas surprenant que des organismes comme l'ITK sont convaincus que la situation du logement des Inuits dans les communautés nordiques et éloignées a atteint un niveau de « crise<sup>y</sup> ». Comme l'ont décrit de nombreux témoins tout au long de l'Enquête nationale, souvent un logement surpeuplé, peu sécuritaire et inabordable entraîne d'autres problèmes. L'Inuit Tapiriit Kanatami signale que les logements surpeuplés sont « associés à des taux élevés de maladies transmissibles (comme la tuberculose), des facteurs de stress pouvant donner lieu à des frictions et à de la violence entre membres d'une même famille, de mauvaises conditions d'apprentissage et d'étude pour les enfants et d'autres difficultés<sup>z</sup>. »

En outre, et comme certains témoins en ont fait part, il y a des restrictions concernant les logements en construction ou existants dans de nombreuses communautés. D'abord, les conditions de vie peuvent être rendues plus éprouvantes encore par une architecture inadéquate sur le plan culturel, se traduisant par l'absence des espaces communautaires





nécessaires à la transmission traditionnelle de la langue et de la culture, ou par des logements unifamiliaux non conçus pour être multi-générationnels. De surcroît, comme l'a exprimé un témoin, les restrictions quant à l'usage des logements, selon l'autorité du logement, dans le Nunatsiavut, par exemple, signifient que certaines femmes vivant de la vente d'artisanat n'ont pas le droit de se livrer à cette occupation dans leur logement. Comme l'a expliqué Kim C.-M. :

Elles n'ont pas le droit de confectionner une paire de chaussons pour les vendre à leur voisin et ainsi gagner l'argent qui leur permettra d'acheter de quoi manger pour leurs enfants. Cela a une énorme incidence. [...] Comme on le sait, beaucoup de nos femmes sont encore essentiellement des artisanes traditionnelles et, pour plusieurs d'entre elles, il s'agit de leur seule source de revenu; imposer cette disposition à nos femmes aggrave les difficultés économiques des familles<sup>AA</sup>.

Comme le conseiller politique principal d'Inuit Tapiriit Kanatami, Tim Argetsinger l'a expliqué, des conditions de logement inadéquates et médiocres créent de nouvelles vulnérabilités, des situations propices à la violence et à d'autres menaces à la sécurité.

Puisque nous parlons de logement, de sécurité et de sûreté, [...] cela est lié à des choses comme [...] le stress souvent plus présent dans des foyers surpeuplés, à la capacité des personnes victimes de violence de partir pour aller chercher un autre logement, dans la communauté ou ailleurs. C'est en partie ce que nous nommons sans grande rigueur la sûreté et la sécurité qui constitue la pression dont les gens veulent parler lorsqu'ils évoquent les raisons de leur réinstallation dans un centre urbain, pour chercher la sûreté et la sécurité ailleurs, ce qui, dans certains cas, peut [...] contribuer à une plus grande vulnérabilité et à l'apparition de nouvelles difficultés<sup>BB</sup>.

## L'insécurité alimentaire

En plus du logement, s'assurer une alimentation adéquate n'est pas facile pour de nombreux Inuits. Selon des données récentes contenues dans *l'Inuit Statistical Profile*, l'insécurité alimentaire suscite beaucoup d'inquiétude dans tout l'Inuit Nunangat :

dans le Nunatsiavut, 44 % des foyers vivent dans l'insécurité alimentaire; dans la région désignée des Inuvialuit, cette proportion est de 46 %; et au Nunavut, elle est de 70 %. Ces chiffres contrastent fortement avec les 8 % de foyers au Canada qui ont de la difficulté à se nourrir convenablement<sup>CC</sup>. Ici encore, les causes de l'insécurité alimentaire dans les communautés éloignées et nordiques sont liées à l'éloignement de celles-ci, combiné à l'incidence durable de pratiques coloniales qui ont perturbé les manières traditionnelles de se procurer des aliments. Comme l'indique *l'Inuit Statistical Profile*, ces causes comprennent le « coût élevé des aliments dans les communautés inuites, la pauvreté, les coûts des engins et fournitures nécessaires pour récolter de la nourriture et le déclin de certaines espèces animales comme le caribou<sup>DD</sup> ».

De la même façon que le caractère inadéquat d'un logement entraîne de nouvelles difficultés, l'insécurité alimentaire constitue un élément catalyseur d'autres problèmes de santé. Elle est liée à une mauvaise santé physique et mentale, à des retards de développement cognitif, scolaire et psychologique chez les enfants, à des perturbations de transmission de la culture et du bien-être culturel connexe à la récolte et à la consommation d'aliments locaux, comme la viande de phoque et de baleine et le poisson<sup>EE</sup>. La directrice administrative de l'AnânuKatiget Tumingit Regional Inuit Women's Association of Nunatsiavut, Kim C.-M. a évoqué les craintes qu'elle entretient par rapport à l'abandon des pratiques traditionnelles de chasse et de cueillette et à l'importance de ces dernières pour la santé et le bien-être de sa communauté.

Je crains que la présente génération n'ait pas les mêmes connaissances que la mienne en raison de l'interdiction de la chasse au caribou. Nous ne pouvons plus chasser notre caribou. Notre saumon est en péril en raison des inquiétudes liées au méthylmercure. Nos phoques sont en péril en raison des inquiétudes liées au méthylmercure et nous savons que le développement empiète sur l'habitat naturel de nos animaux et parfois sur leurs sites de reproduction et je crains, je crains vraiment, que plus l'exploitation du Labrador se poursuivra, plus notre culture va reculer; c'est un fait. [...] Beaucoup d'entre nous ont [peur], et, pour moi, tout cela serait d'une grande tristesse<sup>FF</sup>.





Pour de nombreux Inuits, la difficulté de se trouver un logement et de se nourrir est encore accrue par la pauvreté résultant d'emplois mal rémunérés et des obstacles à l'enseignement. Par exemple, le revenu médian dans l'Inuit Nunangat en 2015 présentait un écart de près de 70 000 \$ entre celui des Inuits (24 485 \$) et celui des non-Autochtones habitant la région (92 011 \$). Pour de nombreuses familles inuites, ces faibles revenus constituent des difficultés uniques en leur genre par rapport à la géographie de la région, car les biens de première nécessité comme les aliments, les vêtements et le matériel de chasse et de pêche y sont plus coûteux qu'ailleurs<sup>GG</sup>.

Comme l'a décrit Laura M. en parlant de sa tante Betsy, qui a été assassinée, la pauvreté demeure un grand obstacle pour les femmes désireuses de quitter leur communauté en quête de nouvelles possibilités ou qui se trouvent contraintes de le faire pour échapper à la violence.

Des femmes comme Betsy n'ont jamais eu la possibilité d'avoir une vie meilleure. Ce genre d'occasions a profité à ceux qui avaient peut-être de la famille parmi les plus hautes sphères du gouvernement ou qui occupaient des postes bien en vue ou encore à des gens qui avaient des emplois très payants. Vous n'avez aucune chance de vous en sortir si vous n'avez pas les moyens ou des membres de votre famille pour gravir les échelons vers la réussite. Très rares sont ceux qui ont la chance de grimper et ils rencontrent en route de très nombreux obstacles, le plafond de verre, quoi. Je suis persuadée que vous comprenez ce dont je parle<sup>HH</sup>.

## Les effets cumulatifs de la marginalisation chez les Inuits

Si l'on cherche à comprendre les effets cumulatifs des facteurs socioéconomiques sur la santé physique et mentale et le bien-être des Inuits, il est important de voir la santé et le bien-être comme un concept global – qui « renferme tous les aspects de l'existence [...] et prend racine dans l'espoir de contribuer à l'existence, de la partager, d'en prendre soin, de lui appartenir, de

bien la vivre, de la respecter et de la célébrer<sup>II</sup> ». La prévalence élevée de tuberculose par rapport à celle du reste de la population canadienne est particulièrement inquiétante. L'Inuit Tapiriit Kanatami souligne que « le taux moyen de tuberculose active dans l'Inuit Nunangat était 300 fois plus élevé qu'au sein de la population non autochtone née au Canada<sup>JJ</sup> ». Cette réalité prend racine dans la marginalisation économique des Inuits, elle-même à l'origine de l'inadéquation des logements, de l'insécurité alimentaire et de la pauvreté. Elle résulte aussi de l'héritage des mesures gouvernementales en réaction à la tuberculose et du manque persistant d'approches adéquates – un problème que nous espérons voir régler à la suite de l'engagement du gouvernement du Canada à éradiquer la tuberculose dans tout l'Inuit Nunangat d'ici 2030<sup>KK</sup>.

Le suicide constitue un autre enjeu en matière de santé étroitement lié aux conditions socioéconomiques et aux impacts du traumatisme multigénérationnel : comme le souligne l'ITK, « les quatre régions inuites au Canada présentent des taux de suicide de 5 à 25 fois plus élevés que dans le reste du Canada<sup>LL</sup> ». Une fois de plus, les Aînés inuits considèrent qu'un des facteurs contribuant aux difficultés auxquelles les jeunes Inuits sont confrontés sur le plan de la santé mentale réside dans la perte de la culture et du lien avec le territoire. Kim C.-M. a souligné ce qui suit :

Eh bien, c'est cela notre identité. Qui fait de nous ce que nous sommes. Les jeunes ont besoin de [connaître] leur culture, et de pouvoir y souscrire, adhérer à tous les aspects de leur culture, et lorsque nous parlons de sources alimentaires traditionnelles, voyez-vous, si les jeunes sont devenus incapables de faire ces choses que nous faisons et si nous sommes incapables de leur apprendre ce qu'on nous a enseigné et de le transmettre comme notre condition d'êtres humains sur cette Terre nous oblige à le faire, qu'allons-nous laisser à nos enfants? Où vont-ils se retrouver sans leur rapport au territoire et à nos animaux et aux pratiques culturelles qui l'accompagnent? Tout est dans la culture<sup>MM</sup>.





## Quand les services sont inexistants : l'isolement dans les communautés éloignées et nordiques

Les difficultés liées à la santé physique, mentale et spirituelle auxquelles sont confrontés les Inuits de l'Inuit Nunangat et d'autres Autochtones vivant dans des communautés éloignées et nordiques se compliquent du fait de l'absence de ressources et d'aides pour répondre à ces inquiétudes. Ainsi, non seulement il n'existe pas de counseling en matière de santé mentale, mais il manque également de centres de traitement pour les Inuits vivant dans l'Inuit Nunangat. Les personnes qui souhaitent suivre un traitement pour régler un problème d'alcoolisme ou de toxicomanie doivent quitter leur foyer et leur famille et se rendre dans un centre de traitement situé en région urbaine. Pour une mère avec des enfants en bas âge, par exemple, c'est quasiment impossible à moins de bénéficier du soutien total de sa famille. Les Inuits considèrent aussi comme une grande priorité les services pour contrer la toxicomanie, en particulier dans les communautés éloignées<sup>NN</sup>.

À propos de la prévention et du genre d'aide nécessaire au sein des communautés, Benigna A. nous a fait part de ceci :

À Nain, je dois admettre qu'il y a des services – mais, vous savez, il n'y en a jamais assez. Nous avons tout de même une maison d'hébergement, mais les thérapeutes et les autres, comme je l'ai dit, viennent toujours de l'extérieur. Ils viennent à Nain et y restent peut-être six mois avant de repartir. À ce moment-là, les gens qui les ont vus commencent à s'ouvrir [...] et il n'y a plus personne pour les aider une fois qu'ils viennent d'ouvrir leurs blessures. On les laisse en plan comme ça jusqu'à ce qu'un autre thérapeute arrive, peut-être un an plus tard<sup>OO</sup>.

En raison de la nature transitoire d'une grande partie de la main-d'œuvre au sein des professionnels aidants – comme les policiers, les infirmiers, les thérapeutes et les enseignants – la qualité des soins et la continuité des soins et des services posent d'immenses problèmes. Plus particulièrement, quand les professionnels aidants, comme les thérapeutes décrits par Benigna, demeurent dans la communauté pendant une période limitée, il devient difficile pour les membres de la communauté de bâtir les relations

sûres et la confiance nécessaires à la guérison<sup>PP</sup>. Selon Benigna, il serait utile de bien former des gens de l'endroit et de renforcer leurs capacités : « Ceux qui vivent déjà là, qui aiment la communauté, qui aiment sa population et qui veulent se rendre utiles<sup>QQ</sup>. » Encore une fois, cependant, il est souvent difficile d'avoir accès à la formation et aux qualifications nécessaires sans quitter la communauté et sans disposer des moyens financiers requis pour le faire. Dans son témoignage, Pertice Moffitt a évoqué cette difficulté par rapport à la profession d'infirmier et aux défis à relever lorsqu'on cherche à satisfaire les exigences fondamentales en matière de formation en mathématiques et en sciences pour pouvoir accéder à un programme en sciences infirmières<sup>RR</sup>.

Dans le cas des femmes enceintes, le manque de soins obstétricaux au sein de nombreuses communautés a des répercussions particulières étant donné l'obligation imposée aux femmes de quitter leur foyer et leur famille pour aller accoucher. La pratique établie de longue date consistant à évacuer les femmes autochtones vivant dans des communautés éloignées vers des villes du Sud pour accoucher se justifie par le souci de sécurité et de bien-être de la mère et du bébé. C'est cependant une pratique que beaucoup considèrent comme ayant d'importants impacts négatifs tant sur la mère que sur sa famille<sup>SS</sup>. Comme l'a expliqué Tracy Denniston, une travailleuse sociale, qui est aussi directrice administrative de la maison de transition de Nain :

Nos femmes enceintes sont obligées de quitter un mois avant la naissance à moins de signer une renonciation stipulant qu'elles sont autorisées à attendre quinze jours de plus. D'après moi, cela a une incidence sur la décision de certaines femmes qui ont d'autres enfants à leur charge, et ce, même si leur mari ou leur compagnon fait sa part. Cela peut parfois signifier devoir mettre en péril la vie de leur enfant – leur enfant à naître – parce qu'elles doivent attendre et continuer à aider les deux autres parce que s'absenter pendant un mois plutôt que quinze jours, c'est trop long pour elles<sup>TT</sup>.

Des facteurs socioéconomiques comme le manque de logements, l'insécurité alimentaire et l'inadéquation du soutien et des services contribuent fortement à accroître les difficultés vécues dans les communautés inuites et les autres communautés éloignées et nordiques. Ces éléments se conjuguent





d'une manière qui contribue à la violence envers les femmes et les filles inuites.

## Combattre la violence dans les communautés nordiques et éloignées

En analysant les problèmes et les difficultés qui découlent du fait de combattre la violence dans les communautés éloignées et nordiques, des témoins ont une fois de plus souligné l'importance de bien saisir le rôle de la famille, de la parenté et de la culture en ce qui a trait à la sécurité des femmes et des filles inuites vivant dans cet environnement, ainsi que la façon dont le colonialisme a gravement affaibli ce filet de sécurité. Le coordonnateur de la Commission de vérité Qikiqtani, Inukshuk Aksalnic, a fait la description de certains facteurs historiques, socioéconomiques et géographiques particuliers susceptibles d'encourager la violence au sein de ces communautés.

Parmi les facteurs contribuant à la violence subie par les filles et les femmes, on peut citer la démographie des *Qallunaat*, c'est-à-dire la prévalence de jeunes hommes célibataires vivant ensemble presque sans supervision, sans parents ni conjointes pour encadrer leur comportement, avec l'ivresse pour forme de loisir, et l'ivresse pour expliquer leurs actes criminels. L'effondrement des unités familiales inuites pouvant assurer la protection des filles et des femmes inuites. On a souvent cité l'exemple de la division des familles lorsque les parents sont emportés vers le Sud pour y suivre des traitements. D'autres facteurs aggravants sont la consommation d'alcool au sein des familles inuites, ainsi que le caractère inadéquat et la surpopulation des logements. En plus des agressions commises par les policiers, [...] la violence subie par les filles fréquentant les pensionnats et vivant dans des foyers scolaires et confinées dans des hôpitaux dans le Sud. Quelques femmes et quelques hommes ont évoqué les agressions de toutes sortes au sein du foyer<sup>UV</sup>.

En faisant part de sa vérité devant l'Enquête nationale, Susan A. a réfléchi à sa propre expérience de victime de violence au sein d'une petite communauté. Elle a

expliqué comment elle a survécu aux agressions sexuelles d'un prédateur qui s'en est également pris à beaucoup d'autres filles dans la communauté inuite de Kangirlliniq/Rankin Inlet. Elle n'était qu'une enfant quand elle a été agressée; des années plus tard, devenue jeune adulte, elle a senti qu'elle devait quitter sa communauté après avoir vécu cette période particulièrement pénible.

Cela a pris près d'un an après que j'aie livré mon témoignage à cette première audience du tribunal. [Le tribunal itinérant a retardé la procédure judiciaire], et pendant cette année-là, nous vivions dans la même communauté. C'est alors que tous les problèmes de santé mentale que je croyais être en mesure de gérer se sont à ce point aggravés, en plus de l'isolement. J'ai toujours bénéficié d'une aide extraordinaire de ma famille. Pendant cette année-là, il y a eu quatre mois d'attente : « Oh non, il n'a pu avoir un avocat. » Et la fois d'après : « Encore quatre mois. » [...] C'est cette année-là que s'est développé l'état de santé mentale suivant. De petits tics, les convulsions ont empiré. Hypersensibilité à mon entourage. Représentez-vous une menace? Est-ce que vous me haïssez? Qu'allez-vous me dire? Cela cesse d'être ta communauté. Tu n'en fais plus partie. Crises d'anxiété. Et le pire pour moi, c'était la confiance. À qui faire confiance dans la communauté? À qui parler? Tout le monde se connaît. L'isolement vous rend socialement inapte. [...] Toutes les relations sont difficiles. [...] Je suis restée ici à Rankin à essayer de reprendre le dessus jusqu'au moment où il est venu à l'église après avoir fait son temps; il voulait me serrer la main et j'ai compris alors que j'avais perdu le soutien de la communauté. Non pas parce que les gens font leur choix, mais parce que le système nous impose un choix. Il le protège davantage qu'il ne protège la victime. Il me fallait quitter. [...] Aller chercher n'importe quoi, quelque chose de mieux, quoi que ce soit<sup>VV</sup>.

Même si elle a remporté sa cause, Susan a perdu son sens d'appartenance à cette petite communauté parce que « tout avait changé ». Comme elle l'a expliqué : « Ce long processus m'a laissée instable [...] Je suis partie à cause d'un manque de soutien affectif. Il n'y avait plus d'endroit où aller pour trouver un sentiment général de sécurité. Aucun endroit où aller pour comprendre que j'avais perdu le sens de





moi-même [...] c'est là que j'en étais quand je suis partie il y a 27 ans à peu près pour m'établir à Ottawa<sup>WW</sup>. » Jamais cette sensation de vulnérabilité ne l'a quittée – c'est une « compagne de tous les instants », comme elle l'a décrite, commune à beaucoup de survivantes. « Nous nous sentons toujours vulnérables, si bien que nous créons une vie autour de nous pour nous protéger de cette vulnérabilité, et c'est un état normal dans beaucoup de nos communautés<sup>XX</sup>. » Si elle avait pu obtenir de l'aide, a dit Susan, elle serait restée et se serait créée une existence au sein de sa communauté et parmi les Inuits.

Comme le montre ce récit, pour les femmes inuites vivant dans une petite communauté nordique où la plupart des gens se connaissent et ont, par la force des choses, des liens de parenté, d'adoption selon les coutumes ou issus du mariage, obtenir justice présente son lot de difficultés. Jadis, chez les Inuits, on mettait souvent un terme aux comportements brutaux et, si la situation ne se réglait pas ou même empirait, les parents de la fille brutalisée la reprenaient chez eux. Sandra Omik, avocate travaillant au sein de Nunavut Tunngavik Incorporated, situé à Iqaluit, a déclaré ceci :

Ils réglait le problème tout de suite. [...] S'il y avait de la violence, ils les séparaient si ça durait depuis trop longtemps. Alors ils se limitaient à les séparer. Ils se projetaient aussi dans l'avenir, ce n'est pas de bon augure pour l'avenir si ça se poursuit. [...] Nous devons alors utiliser les lois. [...] Elles ont toujours servi à protéger avant... avant que quelque chose n'arrive. Mais les lois du Canada fonctionnent à l'envers, genre ils les arrêtent et ils essayent de réparer la personne après l'avoir arrêtée [...] je pense que ça mélange les choses<sup>YY</sup>.

Les liens de parenté étant affaiblis par le colonialisme, et la GRC représentant un élément essentiel du colonialisme, les Inuits sont confrontés à un système juridique inadéquat pour eux en contexte nordique. Pour les femmes vivant dans des communautés éloignées ou nordiques, aller voir la police pour demander de l'aide risque de leur causer davantage de violence de la part de membres de leur communauté. La directrice de Human Rights Watch pour le Canada, Farida Dief, a évoqué un certain nombre de ces difficultés particulières.

Dans le Nord, beaucoup de détachements sont éloignés, il y a la sensation d'isolement, la peur véritable de déposer une plainte parce que le détachement en question ne compte que deux agents de police à peu près. Les membres de la communauté sont vraiment très faciles à repérer. Si vous subissez de la violence quelconque aux mains des policiers, si vous déposez une plainte dans un coin retiré du Nord de la Colombie-Britannique, on vous identifie très vite dans la communauté. Et vous êtes, en réalité, à bien des égards, beaucoup plus vulnérable quand vous vous trouvez dans un endroit éloigné avec seulement deux agents de police, pour la plupart des hommes. Donc, en ce sens, je crois qu'il y a là un degré supplémentaire, un plus grand potentiel en quelque sorte, de violence en raison de l'éloignement et de l'isolement, moins de possibilités de solution qu'on peut trouver dans un environnement urbain<sup>ZZ</sup>.

En faisant part de leur vérité respective devant l'Enquête nationale, Emilia et Arsene A. ont donné une illustration des obstacles auxquels leur fille et eux ont été confrontés pour recevoir les services et bénéficier de la protection qui auraient pu sauver la vie de cette dernière. La fille d'Emilia et Arsene A. avait eu deux enfants d'une relation antérieure et était proche de ses parents. Elle voulait toujours être dehors sur le territoire, aimait les activités à l'extérieur et s'amuser, et elle pouvait se confier à son père à propos de sa vie. Son nouveau partenaire était cependant un homme violent, et elle subissait beaucoup de mauvais traitements dans cette relation. Sa mère, Emilia, a raconté ceci :

J'ai très bien compris qu'elle ne pouvait plus rester à la maison, même si je sentais bien – je sais qu'il la contrôlait. Et quand ils se sont mis à se disputer et qu'elle se faisait battre [...] elle a dit à son père qu'elle croyait qu'il allait la tuer. J'ai alors fait une déclaration à la GRC [...] les agents sont allés les voir et ont dit que tout allait bien<sup>AAA</sup>.

Les épisodes de violence se sont répétés; Emilia et Arsene ont expliqué qu'à plusieurs reprises, leur fille avait eu des ecchymoses; une autre fois, c'était une fracture du nez et une fracture du poignet. Elle le racontait à son père. Mais Emilia et Arsene lui ont dit que, si elle avait besoin d'aide, elle devait la demander





elle-même. Emilia a expliqué pour quelles raisons il était difficile pour sa fille de dénoncer la violence et en quoi sa décision de ne pas le faire était motivée par le désir de protéger sa famille : « Oui, il lui fallait aller demander de l'aide par elle-même; comme ils le disaient, c'était une adulte maintenant. Mais elle avait peur et [...] elle a dit un jour que si elle parlait contre lui, il allait s'en prendre à nous aussi, sa famille. Donc parce qu'elle avait peur, elle ne pouvait pas parler. [...] Elle était coincée<sup>BBB</sup>. »

Sa mère s'est souvenue qu'elle s'était mise à appeler les services sociaux pour demander de l'aide pour sa propre fille; elle craignait pour sa sécurité. Les services sociaux ont répondu qu'elle pouvait s'arranger elle-même. Ils l'ont aussi dirigée vers les agents de la GRC, qui ont répondu qu'ils ne pouvaient rien faire. Emilia a raconté comment elle se sentait quand les agents de la GRC sont venus les voir après le meurtre de sa fille.

Les policiers de la GRC ont commencé à venir nous voir. Un des agents m'a appelée et est sans doute venu nous rendre visite [après qu'elle ait été assassinée], mais, moi, je ne voulais plus les voir. [...] J'étais trop en colère. Ils... c'était trop tard. Nous ne voulions plus voir les agents de la GRC dans les parages parce qu'ils ne s'étaient jamais présentés quand nous avions besoin d'aide. [...] Où était l'aide quand j'en avais besoin? Pourquoi avoir attendu si tard... si tard après-coup<sup>CCC</sup>?

Et Arsene d'ajouter :

Étant donné que nous vivons ici dans une petite communauté – nous ne sommes pas en ville – ma femme demandait de l'aide, mais il y a trop de formalités à remplir. Ils avaient des recours... nous utilisons les mêmes règles et le même droit que dans le Sud, mais ça ne devrait pas se passer comme ça. Ils auraient sans doute pu nous aider et les choses n'auraient sans doute pas tourné de cette façon. La GRC, ils savaient bien ce qui se passait. Mais à cause de la loi, et ils suivent la loi, ils ne pouvaient rien faire<sup>DDD</sup>.

Les familles et les Aînés inuits continuent à soutenir que le droit actuel ne fonctionne pas dans les communautés inuites. Comme on le voit dans l'exemple de la non-intervention de la GRC et dans son incapacité à agir à moins de recevoir un appel d'une personne en danger de mort, la mise en application de ces lois est en contradiction avec les constatations que font les parents inuits. Ceux-ci assistent impuissants à la dégradation de l'existence de leurs filles, qui s'achève dans la violence sous leurs propres yeux. Yvonne Niego, la sous-ministre des Services à la famille du gouvernement du Nunavut et ancienne agente de la GRC, a évoqué la différence entre les valeurs traditionnelles inuites et celles de la GRC.

La GRC a six valeurs essentielles et les Inuits ont huit principes fondamentaux. Il y a beaucoup de similitudes entre les deux, mais la différence est que [...] [les Inuits ont l'habitude] d'examiner les choses dans leur ensemble avec beaucoup plus de profondeur et de ressenti. Le consensus – la prise décision sociale, le fait de travailler ensemble en fonction d'une cause commune, c'est beaucoup plus présent dans nos façons de faire inuites, selon moi, que dans les valeurs de la GRC, qui reposent sur des valeurs générales canadiennes<sup>EEE</sup>.

Les changements survenant dans la société inuite font également obstacle à la capacité des parents inuits de sortir leurs filles de relations violentes. Les parents n'ont plus le pouvoir absolu sur leurs enfants comme autrefois, de sorte qu'il leur est très difficile de retirer leur fille des mains d'un homme avec lequel elle vit, surtout s'il demeure dans la même communauté et pourrait continuer à représenter un danger. Des nombreux cas où la mère d'une fille assassinée a appelé la GRC avant le meurtre pour demander de l'aide, il ressort également que les jeunes femmes inuites ne se sont vu proposer aucune ressource d'aide. On ne leur a pas offert de programmes de counselling et, surtout, on ne leur a donné accès à aucun réseau sécuritaire. Et, dans la plupart des cas de femmes inuites assassinées par leur conjoint, on relève du traumatisme intergénérationnel. Bien que ce lien soit évident dans les décisions de la Cour de justice du Nunavut, les policiers ne tiennent pas compte de ce savoir dans leur travail pour protéger les femmes inuites contre des conjoints violents.





Comme l'a exprimé Sophie N. :

Comment se fait-il que des hommes assaillent et battent des femmes? Je croyais que les unions avaient pour but de s'aimer et de veiller l'un sur l'autre. En tant que femmes, nous sommes heureuses lorsqu'on nous aime; c'est une relation très joyeuse. C'est absolument terrifiant de se faire battre par quelqu'un qui est ivre. Il n'y a pas d'échappatoire, pas de refuge, personne à qui parler et nous perdons notre force et notre raisonnement pour trouver une façon de nous en sortir. [...] Je suis sortie des bureaux des services de santé mentale et j'étais au plus bas. Nous avons besoin [...] d'un bon soutien à la santé mentale dans les communautés sans devoir prendre l'avion pour nous sauver chaque fois qu'il survient une tragédie ou l'autre. On pourra alors avoir accès à du soutien à la santé, notamment à la santé mentale, dans les communautés. Nous sommes les propriétaires de nos communautés. L'idéal serait que les personnes qui souffrent ne soient pas obligées de prendre l'avion pour obtenir de l'aide de consultants chaque fois qu'il se produit une tragédie<sup>FFF</sup>.

## Restaurer la famille, la parenté et la culture

La restauration de la santé et du bien-être est sans conteste étroitement liée à celle des liens familiaux et parentaux dans la communauté et à l'exercice de l'autodétermination. Yvonne Niego a évoqué la nécessité de la réconciliation en contexte inuit ainsi que des difficultés que cela comporte : « Nous ne pouvons revenir à notre mode de vie d'Inuits nomades, forts et résilients, d'autrefois. Nous le reconstruisons et le remettons en valeur, mais je suis totalement convaincue de l'existence d'une responsabilité fédérale à l'égard de la réconciliation. Donc, sous quelque forme qu'elle se présente, elle doit rejoindre la communauté<sup>GGG</sup>. » Les témoignages recueillis auprès des familles inuites et des survivantes de la violence, ainsi que des Aînés et des Gardiens du savoir intègrent les nombreux facteurs contribuant à la violence dans l'existence des femmes et des filles inuites et des autres personnes vivant dans des communautés isolées et nordiques. Mettre un terme aux actes de violence qui emportent la vie de femmes et de filles exige des mesures reflétant une compréhension de l'histoire, de la culture et de la géographie particulières des personnes vivant dans ces communautés; cela exige aussi une reconnaissance des actes de violence coloniale, autant dans le passé qu'aujourd'hui, qui ont entraîné des perturbations profondes des systèmes familiaux et parentaux, pourtant des éléments tellement indispensables de la sécurité, de la santé et du bien-être.





## Conclusions :

- L'interférence dans la vie des Inuits et l'imposition à ces derniers de lois, de politiques et de systèmes par l'État canadien ont été grandement motivées par l'aspiration du Canada à affirmer sa souveraineté sur leurs terres et sur leurs eaux, afin d'assurer un positionnement politique et d'obtenir des ressources économiques. Cette expérience fut perturbatrice, tragique et douloureuse pour les Inuits. Pendant tout ce temps, ils n'ont cessé de revendiquer leurs droits et leur place en tant qu'habitants légitimes du territoire. Finalement, après des années de joutes juridiques et politiques, les Inuits de l'Inuit Nunangat ont conclu avec la Couronne divers accords relatifs aux revendications territoriales et à l'autonomie gouvernementale. Ces accords définissent les droits, les avantages, les rôles et les responsabilités de l'État et des Inuits. Ils démontrent que ces derniers souhaitent faire partie du Canada et y participer, et ils définissent et régissent une partie des engagements et des obligations du Canada envers les Inuits. La souveraineté du Canada est entièrement dépendante de ces accords conclus avec les Inuits et se fonde sur ceux-ci.
- Il est impératif de respecter les obligations, les engagements, les intentions et les objectifs de ces accords. L'objectif vise l'autodétermination et la prospérité sociale, économique, culturelle et politique des Inuits au sein du Canada. Si ce dernier souhaite profiter des terres inuites et continuer à affirmer sa souveraineté sur l'Inuit Nunangat, il doit respecter et protéger leurs droits de la personne et leurs droits des Autochtones, et garantir l'égalité réelle pour tous les Inuits. Il en va de l'intérêt supérieur de tous les Canadiens.
- Les lacunes de l'infrastructure sociale et matérielle dans les communautés inuites entravent le développement économique, social, politique et culturel ainsi que le bien-être des Inuits. L'infrastructure déficiente contribue directement au maintien des taux élevés de violence chez les femmes, les filles et les personnes 2ELGBTQQIA inuites, ainsi qu'à la marginalisation sociale, économique, politique et culturelle de celles-ci. Tous les gouvernements et les organismes gouvernementaux n'ont pas reconnu ces lacunes et n'ont pas pris de mesures efficaces pour réellement corriger cette situation.
- Bien que la plupart des communautés inuites aient conclu des accords relatifs aux revendications territoriales et à l'autonomie gouvernementale dans l'espoir de garantir leur autodétermination et leur bien-être économique, social et culturel, les gouvernements n'ont pas respecté ni protégé concrètement les droits des Inuits et n'ont pas, dans de nombreux cas, veillé à ce que les accords atteignent leurs objectifs. Ces échecs entravent l'autodétermination des Inuits et contribuent directement au maintien des conditions favorisant les taux élevés de violence envers les femmes, les filles et les personnes 2ELGBTQQIA des Inuits ainsi que le refus d'assurer leur sécurité.
- Il est impératif de reconnaître que les Inuits ont droit à l'autodétermination dans tous les aspects de leur vie. L'autodétermination des Inuits, respectée et appuyée par l'État canadien, constitue le meilleur moyen de parvenir à assurer la sécurité et la santé des familles et des communautés.
- La culture, la langue, les liens de parenté et les liens communautaires forts sont essentiels à l'autonomisation et à la revitalisation des communautés inuites. Ce sont aussi des sources indispensables de soutien, de guérison et de sécurité pour les femmes, les filles et les personnes 2ELGBTQQIA inuites. Ces éléments favorisent le bien-être et l'unité des familles ainsi que la force des liens de parenté, qui sont au cœur de la sécurité et du bien-être des femmes, des filles et des personnes 2ELGBTQQIA inuites.
- L'enfance est une période déterminante de la vie qui peut renforcer un enfant et le protéger ou, au contraire, lui causer des traumatismes durables et l'exposer à la violence ainsi qu'à l'exploitation. On ne connaît pas le nombre exact d'enfants inuits pris en charge. Les agents responsables de la protection de l'enfance dans les communautés inuites jouissent d'un pouvoir énorme et exercent un contrôle largement incontesté sur les familles inuites. Les plus graves sujets de préoccupation demeurent la reddition de comptes et la surveillance des services à l'enfance et à la famille, des prises en charge d'enfants et des placements en foyer d'accueil.





- En général, les lois en vigueur dans les communautés inuites ne reflètent pas les lois et les valeurs inuites, tout particulièrement dans le domaine de la protection de l'enfance, du droit pénal et de l'application de la loi. Ainsi, ces lois ne permettent pas de fournir les services, les soutiens et les protections efficaces et utiles que ces systèmes sont censés assurer.
- Le colonialisme et les nombreuses violations des droits de la personne que l'État canadien a commis à l'encontre des Inuits ont créé un traumatisme intergénérationnel profond et ont perturbé les familles. Les violations des droits de la personne qui n'ont pas été condamnées et le traumatisme majeur sont les causes profondes de la violence subie par les femmes, les filles et les personnes 2ELGBTQQIA inuites. Il est urgent de rétablir l'autodétermination et la gouvernance chez les Inuits et de traiter le traumatisme en facilitant la guérison et le bien-être pour tous les Inuits.
- Toutes les mesures prises pour garantir la sécurité et le bien-être des femmes, des filles et des personnes 2ELGBTQQIA inuites doivent être inclusives et holistiques. Elles doivent également inclure les hommes et les garçons inuits. La perte des rôles traditionnels des hommes et des garçons inuits causée par le colonialisme, conjuguée au taux élevé de chômage et au traumatisme intergénérationnel sont tous des facteurs qui contribuent à une piètre estime de soi chez les hommes et les garçons et augmentent le risque de recours à la violence.
- L'inaccessibilité des services contribue à la violence subie par les femmes, les filles et les personnes 2ELGBTQQIA inuites. En raison notamment des lacunes des services accessibles et de l'infrastructure déficiente dans les communautés inuites, les femmes, les filles et les personnes 2ELGBTQQIA inuites ne peuvent pas obtenir les services essentiels ou elles doivent quitter leur communauté pour y parvenir. Les services manquants dans les communautés inuites sont les services essentiels que la plupart des Canadiens peuvent obtenir facilement près de chez eux et dans leur communauté. L'absence de services accroît le risque de violence, car les femmes, les filles et les personnes 2ELGBTQQIA inuites sont forcées de s'éloigner du milieu sûr fourni par leur famille et par leur communauté. Par ailleurs, en raison du manque de services dans les communautés inuites, les femmes, les filles et les personnes 2ELGBTQQIA inuites sont envoyées dans les villes pour y recevoir des traitements et elles y sont exposées à des dangers. Cette situation est surtout vraie pour celles qui ont besoin de services en matière de santé ou de santé mentale, de traitement des toxicomanies et d'éducation à l'extérieur de leur communauté. De plus, le manque de soins de maternité ainsi que de soins prénataux et postnataux dans la plupart des communautés inuites, et la disparition des pratiques traditionnelles en matière d'accouchement forcent un grand nombre de femmes inuites à quitter leur communauté pour donner naissance à leur bébé. Il a été établi qu'il existe des effets négatifs à long terme pour la mère et pour l'enfant. Dans certains cas, la perturbation de la situation familiale a engendré des actes de violence ou des risques de violence envers la mère ou les enfants qu'elle est forcée de laisser à la maison.
- Le manque de services efficaces et adaptés à la culture inuite contribue à la violence, notamment l'absence de prestation de services, le manque de services conçus par les Inuits et les services qui ne sont pas dirigés ni fournis par les Inuits. Les services qui sont gérés par les Inuits, qui ont recours aux valeurs, aux pratiques et aux lois inuites, qui sont offerts par les Inuits et qui sont accessibles et holistiques sont les plus utiles et les plus efficaces.
- Comme le personnel est principalement de passage et que la conception ainsi que le développement des services n'ont pas été réalisés par les Inuits, la qualité et l'efficacité de ces services dans les communautés inuites sont compromises. Une bonne prestation de services nécessite une relation de confiance durable avec la communauté desservie, tout particulièrement dans les domaines du travail social, de l'éducation, de la santé et de l'application de la loi.
- Les inégalités socioéconomiques contribuent directement à la violence et au manque de sécurité vécus par les femmes, les filles et les personnes 2ELGBTQQIA inuites. L'absence de logements sûrs et abordables et le surpeuplement dans les communautés inuites sont des facteurs qui augmentent le risque de violence et de préjudice, et constituent des obstacles pour les personnes voulant échapper à la violence. Le faible taux de réussite scolaire et le manque général de possibilités en matière d'éducation et de formation font en sorte qu'il est





difficile pour les femmes, les filles et les personnes 2ELGBTQQIA inuites d'obtenir l'indépendance économique. En outre, l'insécurité économique, la pauvreté et l'insécurité alimentaire sont des facteurs qui accroissent le risque de violence et sont des entraves pour les personnes voulant y échapper.

- Le nombre insuffisant de femmes inuites à des postes décisionnels au sein des gouvernements et des organisations qui représentent les Inuits freine la progression des lois, des politiques et des programmes conçus pour combattre la violence envers les femmes, les filles et les personnes 2ELGBTQQIA inuites.
- Un nombre croissant d'Inuits vivent à l'extérieur de leur territoire natal. On les appelle souvent les « Inuits urbains ». En raison d'anomalies dans le recensement actuel et dans les méthodes employées, ils ne sont pas tous recensés ou ne reçoivent pas tous des services. Le nombre d'Inuits vivant à l'extérieur de leur territoire est de loin supérieur à ce qu'indiquent les données actuelles. Comme les raisons de l'ampleur du mouvement et la taille de la population d'Inuits urbains restent inconnues, il est très difficile de déterminer les besoins et les services nécessaires pour traiter cet enjeu.
- Un grand nombre d'Inuits urbains se sont déplacés vers le Sud pour obtenir des services (subir des traitements médicaux, faire des études) ou pour échapper à la violence ou aux disparités économiques. Ils n'auraient pas eu à déménager si les services en question avaient été offerts dans leur communauté. En raison du manque d'installations et de services dans leur territoire, les Inuits sont envoyés au Sud pour traiter des toxicomanies, pour purger des peines d'emprisonnement dans des pénitenciers fédéraux et pour vivre dans des foyers d'accueil ou dans des foyers de groupe. Récemment, des Aînés ont été envoyés au Sud pour vivre dans des résidences-services. Beaucoup d'Inuits ne retournent pas chez eux, car leurs besoins sont continus ou ils sont forcés de rester dans le Sud, notamment les détenus et les personnes qui suivent des traitements.
- Les Inuits urbains, y compris les femmes, les filles et les personnes 2ELGBTQQIA, font l'objet d'une discrimination et d'une exclusion plus grandes lorsqu'ils exercent leurs droits et veulent obtenir des services adaptés à leur culture à l'extérieur de leur région d'origine. La sécurité des Inuits urbains, lorsqu'ils sont loin de leur terre natale, de leur famille, de leur communauté et de leur culture, ne peut plus être assurée par leur famille et par leur culture. En outre, les Inuits urbains sont marginalisés politiquement.

- 
- |   |                                                                                                                                                                                                                                  |   |                                                                                                                                   |
|---|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---|-----------------------------------------------------------------------------------------------------------------------------------|
| A | Pauktuutit Inuit Women of Canada, <i>The Inuit Way</i> , 30.                                                                                                                                                                     | M | Elder Elisapi Davidee Aningmiuq (Inuite, Lake Harbour/Iqaluit), Parties II et III mixtes, Volume public 1, Iqaluit, Nun., p. 112. |
| B | Makivik Corporation et al., « Parnasimautik Consultation Report. »                                                                                                                                                               | N | Micah A. (Inuite, Talurjuaq), Partie 1, Volume public 46(b), Rankin Inlet, Nun., p. 2.                                            |
| C | King, « A Brief Report of the Federal Government, » 10.                                                                                                                                                                          | O | Micah A. (Inuite, Talurjuaq), Partie 1, Volume public 46(b), Rankin Inlet, Nun., p. 2.                                            |
| D | Gadoua, « The Inuit Presence, » 169.                                                                                                                                                                                             | P | Annie B. (Inuite, Pangnirtung), Partie 1, Volume public 16, Winnipeg, Man., p. 6.                                                 |
| E | Pauktuutit Inuit Women of Canada, « Violence and Abuse Prevention. »                                                                                                                                                             | Q | Annie B. (Inuite, Pangnirtung), Partie 1, Volume public 16, Winnipeg, Man., p. 5.                                                 |
| F | Elder Elisapi Davidee Aningmiuq (Inuite, Lake Harbour/Iqaluit), Parties II et III mixtes, Volume public 1, Iqaluit, Nun., p. 10.                                                                                                 | R | Elder Abraham Arnakak (Inuite, Pangnirtung), Parties II et III mixtes, Volume public 4, Iqaluit, Nun., pp. 7–8.                   |
| G | Elder Elisapi Davidee Aningmiuq (Inuite, Lake Harbour/Iqaluit), Parties II et III mixtes, Volume public 1, Iqaluit, Nun., pp. 14–15.                                                                                             | S | Amy Hudson (Inuite, NunatuKavut), Partie 3, Volume public 9, Toronto, Ont., pp. 161–162.                                          |
| H | Elder Elisapi Davidee Aningmiuq (Inuite, Lake Harbour/Iqaluit), Parties II et III mixtes, Volume public 1, Iqaluit, Nun., pp. 17–18.                                                                                             | T | Sarah B. (Inuite, Iqaluit), Partie 1, Volume public 65, Montréal, Qc, pp. 31–32.                                                  |
| I | Pour plus d'information sur les conséquences des délocalisations, voir « An Assessment of Life in the New Locations, » Canada, Commission royale sur les peuples autochtones, <i>La réinstallation dans l'Extrême-Arctique</i> . | U | Cité dans Rogers, « Ottawa moving fast. »                                                                                         |
| J | Laura M. (Inuite, Rankin Inlet), Partie 1, Volume public 46(a), Rankin Inlet, Nun., p. 4.                                                                                                                                        | V | Johannes L. (Inuite, Nain), Partie 1, Volume public 57, Happy Valley-Goose Bay, T.-N.-L., p. 27.                                  |
| K | Hagar Idlout-Sudlovenick (Inuite), Parties II et III mixtes, Volume public 1, Iqaluit, Nun., pp. 36–37.                                                                                                                          | W | Gordon O. (Inuite, Nain), Partie 1, Volume public 50, Happy Valley-Goose Bay, T.-N.-L., pp. 9–10.                                 |
| L | Hagar Idlout-Sudlovenick (Inuite), Parties II et III mixtes, Volume public 1, Iqaluit, Nun., p. 42.                                                                                                                              |   |                                                                                                                                   |





- X Inuite Tapiriit Kanatami, « Inuite Statistical Profile, » 13.
- Y Ibid.
- Z Ibid.
- AA Kim C.-M. (Inuite, Labrador), Partie 1, Volume public 49, Happy Valley-Goose Bay, T.-N.-L., pp. 26–27.
- BB Tim Argetsinger (Iñupiaq), Partie 3, Volume public 4, Québec City, Qc, pp. 75–76.
- CC Inuite Tapiriit Kanatami, « Inuite Statistical Profile, » 16.
- DD Ibid.
- EE Ibid.
- FF Kim C.-M. (Inuite, Labrador), Partie 1, Volume public 49, Happy Valley-Goose Bay, T.-N.-L., p. 10.
- GG Inuite Tapiriit Kanatami, « Inuite Statistical Profile, » 17.
- HH Laura M. (Inuite, Rankin Inlet), Partie 1, Volume public 46(a), Rankin Inlet, Nun., pp. 15–16.
- II Tagalik, « *Inuitesiaqpagutit*, » 4.
- JJ Ibid., 14.
- KK Ibid.
- LL Ibid., 18.
- MM Kim C.-M. (Inuite, Labrador), Partie 1, Volume public 49, Happy Valley-Goose Bay, T.-N.-L., p. 11.
- NN Jennisha Wilson, Parties II et III mixtes, Volume public 16, St. John's, T.-N.-L., p. 59.
- OO Benigna A. (Inuite, Nain), Partie 1, Volume public 58, Happy Valley-Goose Bay, T.-N.-L., p. 22.
- PP Benigna A. (Inuite, Nain), Partie 1, Volume public 58, Happy Valley-Goose Bay, T.-N.-L., p. 22.
- QQ Benigna A. (Inuite, Nain), Partie 1, Volume public 58, Happy Valley-Goose Bay, T.-N.-L., p. 22.
- RR Dr. Pertice Moffitt, Parties II et III mixtes, Volume public 16, St. John's, T.-N.-L., p. 101.
- SS Lawford et Giles, « Marginalization and Coercion. »
- TT Tracy Denniston (Inuite, Hopedale), Partie 3, Volume public 5, Québec, Qc, pp. 244–245.
- UU Inukshuk Aksalnik (Inuite, Rankin Inlet), Parties II et III mixtes, Volume public 1, Iqaluit, Nun., pp. 55–56.
- VV Susan A. (Inuite, Arviat), Partie 1, Volume public 48(a), Rankin Inlet, Nun., pp. 49-52.
- WW Susan Aglukark (Inuite, Arviat), Parties II et III mixtes, Volume public 12, Winnipeg, Man., pp. 197-198.
- XX Susan Aglukark (Inuite, Arviat), Parties II et III mixtes, Volume public 12, Winnipeg, Man., p. 198.
- YY Sandra Omik (Inuite, Pond Inlet), Partie 3, Volume public 2, Winnipeg, Man., pp. 131-132.
- ZZ Farida Deif, Partie 3, Volume public 9, Toronto, Ont., pp. 110–111.
- AAA Emilia A. (Inuite), Partie 1, Volume public 47(b), Rankin Inlet, Nun., p. 3.
- BBB Emilia A. (Inuite), Partie 1, Volume public 47(b), Rankin Inlet, Nun., p. 5.
- CCC Emilia A. (Inuite), Partie 1, Volume public 47(b), Rankin Inlet, Nun., p. 6.
- DDD Arsene A. (Inuite), Partie 1, Volume public 47(b), Rankin Inlet, Nun., pp. 4, 6.
- EEE Yvonne Niego (Inuite), Partie 2, Volume public 8, Regina, Sask., pp. 12–13.
- FFF Sophie N. (Inuite, Pond Inlet), Partie 1, Volume public 47(a), Rankin Inlet, Nun., p. 4, 6.
- GGG Yvonne Niego (Inuite), Partie 2, Volume public 8, Regina, Sask., p. 27.



## Les facteurs favorisant la violence : le déni de la capacité d’agir et de l’expertise pour le rétablissement de la santé

Bien que beaucoup de témoins aient traité des lacunes et des dangers présents au sein des systèmes de soins de santé ainsi que des violations de leurs droits individuels et collectifs en matière de santé, ils ont également répété qu’il faut reconnaître leur propre force. Comme le dit Danielle E. : « Je ressens cette douleur, mais je ressens également la force<sup>113</sup>. »



*Sandra DeLaronde, co-présidente de la Coalition des FFADA au Manitoba, s’entretient avec les commissaires à Winnipeg, au Manitoba.*

Pour reconnaître cette force, il faut notamment écouter les femmes, les filles et les personnes 2ELGBTQQIA autochtones qui parlent de leurs expériences et qui ont une expertise à offrir en matière de santé et de bien-être. Karen C. souligne l’importance de comprendre et de faire entendre les voix autochtones.

Être entendu, c’est énorme. Autrefois, j’étais la petite fille, il y avait ma sœur et moi, et notre mère était assise en retrait. Elle n’a jamais été entendue parce qu’on nous disait toujours de nous taire. Ce qui se passe dans notre maison reste dans notre maison. [...] Aujourd’hui et depuis ma guérison, je me fais entendre haut et fort et j’en suis très fière. Et c’est ce que je suis devenue<sup>114</sup>.

### **L’accès à des services de santé et de soutien adaptés à la culture**

Au sujet de la reconnaissance de leur expertise et de leur capacité d’agir, beaucoup de témoins ont mentionné que l’une des priorités a trait à la nécessité de créer et de soutenir, peu importe l’endroit, des services de santé adaptés à la culture.

Carla et Moses M. ont expliqué que les paramètres de financement gouvernemental sont souvent en conflit avec les conceptions autochtones de la prestation de soins de santé enracinés dans la communauté et la culture. Carla a décrit ce qui est arrivé quand son mari, Moses, a tenté d’obtenir du financement pour ouvrir un centre de soins de santé dans leur communauté.



Moses s'est beaucoup battu pour obtenir du financement pour un centre de santé dans notre communauté, et il l'a obtenu, et... d'une certaine façon, je trouve que c'est le mal incarné. Le processus, d'une certaine façon, a été emporté par le mal et l'avarice. Et plus récemment ça a été détourné de son but par un gars blanc d'AANC [Affaires autochtones et du Nord Canada]. [...] L'édifice devait être un centre de santé. Il devait y avoir un cabinet de médecin et un cabinet de dentiste. Il devait y avoir une cuisine et une pièce permettant de réunir nos familles, où les gens pourraient organiser des soupers en famille, parce que nos maisons sont souvent trop petites. On aurait pu aussi y pratiquer nos danses. Et il devait y avoir une salle pour entreposer les fournitures des premiers répondants, car on vit dans une communauté isolée et si on subit un grand tremblement de terre, on serait probablement coupés du reste du monde. Il devait même y avoir une ambulance.

[Maintenant] il n'y a pas d'ambulance, pas de fournitures de premiers répondants, et personne ne peut accéder à l'édifice. Et ils ont installé des caméras partout et ils filment tout le monde. Et nos familles... à moins que vous fassiez partie de la famille du conseiller en chef et que vous soyez ami du gars blanc qui gère la bande, on ne peut pas accéder à l'édifice pour nos soupers en famille.

Alors quand je parle de la langue et de ce type de financement, c'est de ce genre de choses dont je parle. On a besoin d'aide et de moyens pour rendre ces services disponibles à tous les membres de notre communauté, et empêcher des gens ou des groupes de s'en emparer. Et je n'ai pas de réponses à ça. C'est une difficulté que beaucoup de communautés rencontrent, j'en suis certaine<sup>115</sup>.

Les témoins ont fait part de certains des moyens innovateurs qu'ils ont trouvés pour fournir, malgré les obstacles, des services de soutien et des soins de santé adaptés à la culture. Barb L. parle fièrement de son travail et souligne comment l'offre de services adaptés à la culture peut indiquer la voie à suivre.

Je fais maintenant partie d'une merveilleuse organisation qui a ouvert une clinique. On a d'abord créé une société de logement, Lu'ma Native Housing. On a commencé par les logements et maintenant, on a, autour de Vancouver, toutes sortes de subdivisions pour combler les lacunes dans les services.

Donc, mon programme, vous savez, aide les jeunes qui ne sont plus pris en charge en raison de leur âge. On a aussi un centre médical qui utilise la médecine occidentale et notre médecine traditionnelle. On a des salles de guérisons et des Aînés, et tous les gens de la ville y ont accès. Je suis fière de ça. C'est un bon endroit où aller pour prendre soin de toute sa personne. C'est bien<sup>116</sup>.





Des témoins ont aussi souligné qu'il faut continuer à soutenir ces services. Les solutions dirigées par des Autochtones sont d'ailleurs une partie importante de ce soutien. Sadie C. recommande ce qui suit : « Il est tellement important, vous savez, de nous dire que nous comptons, que notre opinion est importante, que les souffrances que nous avons vécues sont réelles et que nous ne sommes pas les seuls; qu'il y a de l'aide. » Elle ajoute ceci au sujet de son expérience au Native Education College : « Il y a des conseillers. Il y a des prières. Il y a de l'artisanat [...] et les cours qui aident au cheminement, qui nous guident vers d'autres ressources pour qu'on puisse poursuivre notre chemin, cette voie rouge, un point de convergence où l'on s'appuie sur notre Créateur<sup>117</sup>. »

Les cérémonies et les enseignements traditionnels ont un rôle à jouer. Sonia B. se souvient d'avoir rencontré dans un cours une femme venue faire une cérémonie du feu. Après la cérémonie, le groupe s'est mis à parler des centres de traitement et la femme qui avait dirigé la cérémonie a abordé ce sujet avec Sonia.

Elle a fait ce qu'elle a pu pour que j'y aille. Elle a dit que la période d'attente était de six mois à un an. J'étais un peu triste de l'apprendre, car j'en avais assez de boire. J'aurais aimé avoir déjà arrêté de le faire. Ça, c'était le 13 février 1991. Le 14 février, elle est venue à mon école et m'a demandé de venir dehors avec elle. On m'avait fixé une date d'admission, le 10 mars. Je suis allée au centre de traitement et je n'ai, pour ainsi dire, jamais regardé en arrière<sup>118</sup>.

Comme le soutient Barb L. :

Pour les personnes qui vivent... qui ont vécu des expériences difficiles, on se concentre beaucoup sur la guérison de ce que l'on voit; on se concentre donc sur la toxicomanie. Nos activités portent surtout sur, vous savez, l'éducation, l'emploi et la recherche de logements. Mais, même après tout ça, il reste un obstacle, car on ne s'est pas occupé de l'esprit. Jusqu'à ce que l'on s'en soit occupé pour qu'il y ait un sentiment de sécurité et qu'on puisse, vraiment, reprendre notre souffle et pratiquer notre culture, si c'est ce qu'on veut, ce qui n'est pas le cas pour tout le monde... il faut quand même s'occuper du moi intérieur et pas juste des choses superficielles<sup>119</sup>.

Pour s'occuper du « moi intérieur », Ann M. R. préconise le renouvellement de la compréhension de la culture et de la force culturelle comme moyen de rétablir la santé, de favoriser le mieux-être et d'assurer la sécurité.

Alors avec les problèmes de dépendance, le gouvernement doit joindre l'acte à la parole. Les Premières Nations, nos gens, notre communauté veulent guérir, ils veulent apprendre leur culture. Ils veulent aller sur le territoire. C'est là qu'ils veulent être. C'est là qu'ils veulent guérir. Ils veulent les Aînés, ils veulent guérir, ils veulent vivre leur culture<sup>120</sup>.

Tout comme Ann, Lillian H. souligne l'importance des programmes « de retour aux terres » pour promouvoir la santé et la guérison.



Alors, au sujet du soutien, le financement est vraiment important, mais je crois que le plus important est d'intégrer les perspectives autochtones à l'espace. Par exemple, [...] être créatif pour [...] intégrer les perspectives autochtones en fonction d'une approche Tla-o-qui-aht ou Nuu-chah-nulth du retour aux terres. Je crois que c'est lié à la guérison axée sur la terre, à la relation culturelle que [nous] les peuples Tia-o-qui-aht et les Nuu-chah-nulth entretenons avec la terre, et toutes nos tenues traditionnelles et toutes nos chansons proviennent de la terre, des ressources, alors c'est très apaisant ... c'est une approche de la guérison fondée sur la terre<sup>121</sup>.



*Plusieurs témoins ont déterminé que la guérison axée sur la terre est un élément clé de leur cheminement vers le mieux-être.*

Pour d'autres témoins, l'apprentissage et la préservation de la langue sont profondément liés à la santé et au bien-être. À ce sujet, Carla M. avait ceci à dire :

Il enseigne cette langue maintenant, et nos deux plus jeunes fils apprennent la langue, et sa fille Carol introduit maintenant la langue dans les écoles préscolaires. [...] On en a parlé avant de venir et une des choses qu'on recommanderait serait de soutenir la revitalisation de la langue dans nos communautés en en faisant un enjeu de santé. Les enseignements de nos communautés sont transmis dans la langue, et ça comprend les enseignements spirituels et les valeurs. Et je crois que ça a déjà été démontré statistiquement que des choses comme les taux de suicide augmentent considérablement dans les communautés qui perdent leur langue<sup>122</sup>.

« POUR LES PERSONNES QUI VIVENT... QUI ONT VÉCU DES EXPÉRIENCES DIFFICILES, ON SE CONCENTRE BEAUCOUP SUR LA GUÉRISON DE CE QUE L'ON VOIT; ON SE CONCENTRE DONC SUR LA TOXICOMANIE. NOS ACTIVITÉS PORTENT SURTOUT SUR, VOUS SAVEZ, L'ÉDUCATION, L'EMPLOI ET LA RECHERCHE DE LOGEMENTS. MAIS, MÊME APRÈS TOUT ÇA, IL RESTE UN OBSTACLE, CAR ON NE S'EST PAS OCCUPÉ DE L'ESPRIT. JUSQU'À CE QUE L'ON S'EN SOIT OCCUPÉ POUR QU'IL Y AIT UN SENTIMENT DE SÉCURITÉ ET QU'ON PUISSE, VRAIMENT, REPRENDRE NOTRE SOUFFLE ET PRATIQUER NOTRE CULTURE, SI C'EST CE QU'ON VEUT, CE QUI N'EST PAS LE CAS POUR TOUT LE MONDE... IL FAUT QUAND MÊME S'OCCUPER DU MOI INTÉRIEUR ET PAS JUSTE DES CHOSES SUPERFICIELLES. »

Barb L.



Comme le montrent ces exemples, l'accès à des soins de santé qui tiennent compte du rôle de la culture, des rituels, du territoire et de la langue peut avoir un effet transformateur en favorisant le bien-être individuel et la guérison collective. Dans ses recherches, Amy Bombay souligne que l'accès à des services pertinents et adaptés à la culture qui permettent en outre les pratiques de guérison autochtones est considéré comme l'un des plus importants facteurs de guérison pour les survivants des pensionnats indiens<sup>123</sup>.

La réflexion suivante de Patrick S. met en valeur la force du lien entre la culture et la santé :

C'est ce qui a stabilisé ma vie, vous savez, l'apprentissage de ma culture. Et j'ai une grande... une grande dette envers les Dakotas, les Lakotas et les Nakotas qui m'ont adopté dans leurs cérémonies, vous savez, et m'ont appris à prier et à guérir, et à prendre soin de moi<sup>124</sup>.

« ALORS AVEC LES PROBLÈMES DE DÉPENDANCE, LE GOUVERNEMENT DOIT JOINDRE L'ACTE À LA PAROLE. LES PREMIÈRES NATIONS, NOS GENS, NOTRE COMMUNAUTÉ VEULENT GUÉRIR, ILS VEULENT APPRENDRE LEUR CULTURE. ILS VEULENT ALLER SUR LE TERRITOIRE. C'EST LÀ QU'ILS VEULENT ÊTRE. C'EST LÀ QU'ILS VEULENT GUÉRIR. ILS VEULENT LES AÎNÉS, ILS VEULENT GUÉRIR, ILS VEULENT VIVRE LEUR CULTURE. »

Ann M. R.

## **Les liens qui unissent : accorder la priorité à l'unité familiale et aux générations futures**

La nécessité de mettre l'accent sur les jeunes et les prochaines générations représente l'un des plus importants éléments ayant été abordés quant aux services de santé et à la guérison.

Chrystal S. note ceci :

Je pense que c'est seulement un... parler à ses enfants, leur enseigner, c'est vraiment un enseignement universel et je crois que beaucoup de nos membres des Premières Nations ne pratiquent plus cette tradition, car tant de traumatismes les en empêchent. On ne fait que survivre, on essaie de passer à travers une heure à la fois, parfois un jour à la fois. Nous n'avons pas la sécurité, l'espace, ni le temps nécessaires pour transmettre les enseignements à nos enfants<sup>125</sup>.

Verna W. a aussi mentionné qu'un des effets durables des pensionnats indiens est la rupture de la communication entre les Aînés et les jeunes. Pour Verna, il est important de réparer ce lien pour rétablir la santé et favoriser le bien-être des jeunes.

Faire en sorte que les Aînés et les jeunes se retrouvent ensemble. Il faut encourager ça, parce que, vous savez, quand je vois notre... dans nos réserves aujourd'hui [...] que nos jeunes ne sont plus avec les Aînés, et j'ai l'impression que c'est en grande partie à cause des pensionnats indiens, des externats indiens, de la rafle des années 1960, c'est à cause de tout ça. C'est mon sentiment<sup>126</sup>.





D'autres témoins ont présenté les efforts qu'ils entreprennent dans leur communauté pour soutenir les jeunes. Voici ce qu'a dit Paul T. :

On rappelle toujours à nos enfants, vous savez. [...]. Il y a toujours des enfants [...] chez nous parce qu'on fait juste... parce qu'on fait des choses avec les enfants, et les enfants, ils... ils aiment venir à notre maison pour n'importe quelle raison. Vous savez, on... on a du plaisir avec les enfants. C'est un espace sûr, vous savez. On leur donne à manger, on pratique des sports avec eux, on... on leur parle de leur vie. [...] On essaye de les encourager<sup>127</sup>.

## Établir des liens avec les droits internationaux de la personne

Comme on peut le constater dans les témoignages du présent chapitre, il existe un lien complexe entre le droit à la santé et la tragédie des femmes et des filles autochtones disparues et assassinées. Le droit à la santé fait intervenir des critères de niveau de vie et de bien-être souvent associés à d'autres droits (droits économiques, sociaux et politiques) et liés, dans l'ensemble, au bien-être des familles et à ce qui leur arrive quand ces droits sont menacés.

Qu'elle soit flagrante ou implicite, la discrimination viole l'un des principes fondamentaux des droits de la personne et, souvent, elle est à la source d'un mauvais état de santé. La discrimination contre les minorités ethniques, religieuses et linguistiques, les peuples autochtones et d'autres groupes marginalisés de la société cause et aggrave la pauvreté et la maladie. Comme l'indique le Groupe d'appui interorganisations sur les questions autochtones :

Selon les données, la pauvreté extrême est considérablement plus présente chez les peuples autochtones que chez les groupes non autochtones. Elle prend racine dans divers facteurs comme le manque d'accès à l'éducation et aux services sociaux, la destruction des économies et des structures sociopolitiques autochtones, les déplacements forcés, les conflits armés ainsi que la perte et la dégradation des terres et des ressources coutumières. Ces circonstances sont établies et aggravées par le racisme structurel et la discrimination, et elles rendent les femmes et les enfants autochtones particulièrement vulnérables aux problèmes de santé<sup>128</sup>.

Le Groupe ajoute ce qui suit :

Ces inégalités en matière de santé sont très préoccupantes du point de vue de la santé publique autant que du point de vue des droits de la personne. Toute personne a le droit de jouir du meilleur état de santé physique et mental possible, et les États sont tenus de voir à la promotion, à la protection et au respect de tous les droits de la personne<sup>129</sup>.

La Conférence mondiale contre le racisme, la discrimination raciale, la xénophobie et l'intolérance qui y est associée a encouragé les États à adopter des politiques et des plans axés sur l'action, y compris l'action positive, pour assurer l'égalité, surtout en ce qui a trait à l'accès aux services sociaux dans le domaine du logement, de l'enseignement primaire et des soins de santé<sup>130</sup>.



## CONVENTIONS CLÉS : DROIT À LA SANTÉ

L'Enquête nationale considère que les conventions liées au génocide sont fondamentales en ce qui concerne toutes les violations des droits de la personne et des droits des Autochtones. Dans le domaine de la santé et du bien-être, il s'agit spécifiquement du meurtre de membres du groupe, de l'atteinte grave à l'intégrité physique ou mentale de membres du groupe, de la soumission intentionnelle du groupe à des conditions de vie devant entraîner sa destruction et de mesures visant à entraver les naissances au sein du groupe. De plus, le transfert forcé des enfants du groupe se répercute directement sur la santé et le bien-être.

Pour référence, l'article II de la Convention pour la prévention et la répression du crime de génocide, qui fournit une définition du génocide, inclut « l'un quelconque des actes ci-après, commis dans l'intention de détruire, en tout ou en partie, un groupe national, ethnique, racial ou religieux, comme tel :

- a) Meurtre de membres du groupe;
- b) Atteinte grave à l'intégrité physique ou mentale de membres du groupe;
- c) Soumission intentionnelle du groupe à des conditions d'existence devant entraîner sa destruction physique totale ou partielle;
- d) Mesures visant à entraver les naissances au sein du groupe;
- e) Transfert forcé d'enfants du groupe à un autre groupe ».

<p><b>PIDESC :</b></p> <ul style="list-style-type: none"><li>- la protection la plus large possible de la famille</li><li>- la protection des enfants de l'exploitation</li><li>- le droit au plus haut standard atteignable en matière de santé physique et mentale</li><li>- la garantie de ce droit inclut la création des conditions nécessaires à l'accès aux soins de santé</li></ul>	<p><b>PIDCP :</b></p> <ul style="list-style-type: none"><li>- la famille est l'unité naturelle et fondamentale de la société</li><li>- chaque enfant a le droit d'être protégé sans discrimination</li></ul>	<p><b>CEDEF :</b></p> <ul style="list-style-type: none"><li>- appelle les États parties à éliminer la discrimination à l'égard des femmes dans le domaine de la santé, et à assurer l'accès aux services de santé et aux soins prénataux et postnataux appropriés, à une nutrition adéquate et à la santé durant la grossesse</li></ul>	<p><b>CIETFDR :</b></p> <ul style="list-style-type: none"><li>- condamne la discrimination raciale dans tous les domaines de prestation de services</li><li>- s'engage à prévenir et à interdire toutes les formes d'apartheid et de discrimination</li></ul>	<p><b>CDE :</b></p> <ul style="list-style-type: none"><li>- l'enfant a le droit de jouir du meilleur état de santé possible</li><li>- les États parties sont responsables de réduire la mortalité infantile, d'offrir les soins médicaux nécessaires, de combattre la malnutrition, de garantir de l'eau potable et de développer des soins de santé préventifs</li></ul>
---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

PIDESC : Pacte international relatif aux droits économiques, sociaux et culturels

PIDCP : Pacte international relatif aux droits civils et politiques

CEDEF : Convention sur l'élimination de toutes les formes de discrimination à l'égard des femmes

CIETFDR : Convention internationale sur l'élimination de toutes les formes de discrimination raciale

CDE : Convention relative aux droits de l'enfant



## DÉCLARATIONS CLÉS : DROIT À LA SANTÉ

### DEVEF :

- les femmes ont le droit au meilleur état de santé physique et mentale possible
- inclut le droit de ne pas être soumise à la torture ou à tout autre traitement cruel, inhumain ou dégradant

### DNUDPA :

- les peuples autochtones ont le droit de vivre et ont droit à l'intégrité physique et mentale
- droit aux médecines et aux pratiques de santé traditionnelles
- droit au plus haut standard atteignable en termes de santé

### DPAV :

- les États ont la responsabilité d'éliminer la violence fondée sur le sexe par l'intermédiaire de mesures légales et d'actions dans des domaines pertinents, dont la protection de la maternité, les soins de santé et l'aide sociale
- les États doivent prendre des mesures pour promouvoir et protéger les droits des populations vulnérables et faire participer les personnes touchées à la formulation de solutions

### BEIJING :

- les connaissances sur les médecines, les pratiques et les soins traditionnels doivent être respectées, préservées et promues
- l'ensemble des systèmes de santé nationaux doit être régi par des politiques, normes et règlements nationaux qui veillent à l'utilisation appropriée, sécuritaire et efficace de la médecine traditionnelle

DEVEF : Déclaration sur l'élimination de la violence à l'égard des femmes

DNUDPA : Déclaration des Nations Unies sur les droits des peuples autochtones

DPAV : Déclaration et programme d'action de Vienne

Beijing : Déclaration de Beijing





Il existe des instruments relatifs aux droits de la personne qui appuient les divers aspects du droit à la santé. Les signataires du *Pacte international relatif aux droits économiques, sociaux et culturels* s'entendent pour dire qu'une protection et une assistance doivent être accordées à la famille, qui est l'élément fondamental de la société, « en particulier pour sa formation et aussi longtemps qu'elle a la responsabilité de l'entretien et de l'éducation d'enfants à charge » (article 10). Des mesures spéciales doivent donc être prises au nom des enfants et elles doivent être exemptes de toute forme de discrimination liée aux parents d'un enfant ou à d'autres circonstances. Le Pacte reconnaît aussi le droit à un niveau de vie suffisant, ce qui inclut des déterminants clés de la santé comme de la nourriture et des vêtements suffisants et un logement adéquat, ainsi qu'une « amélioration constante de ses conditions d'existence » (article 11). Ce sont tous des éléments clés de la santé mentale et physique. Comme le mentionne Brenda Gunn dans son témoignage, le comité chargé de veiller à l'application du Pacte a également noté que le défaut de protéger les femmes contre la violence et de poursuivre les agresseurs représente, en fait, une violation du droit à la santé<sup>131</sup>.

De plus, l'article 12 du Pacte aborde explicitement la question de la santé en énonçant que toute personne a le droit « de jouir du meilleur état de santé physique et mentale qu'elle soit capable d'atteindre ». Les mesures à prendre pour la pleine réalisation de ce droit doivent comprendre « la création de conditions propres à assurer l'accès à tous les services médicaux et à une aide médicale en cas de maladie ». En ce qui concerne plus particulièrement les communautés sans ressources en santé et les communautés isolées comme celles du Nord, il a été maintes fois précisé que le manque d'accès à des services de santé poussait les habitants à quitter la sécurité relative de leur communauté pour aller se faire soigner dans de plus grands centres. Pour bon nombre de gens, cette réinstallation, qu'elle soit permanente ou temporaire, a créé des conditions d'insécurité.

La *Convention sur l'élimination de toutes les formes de discrimination à l'égard des femmes* (CEDAW) aborde aussi spécifiquement la question de la santé, dans le contexte des droits de la femme. Elle affirme que les États parties doivent prendre toutes les mesures disponibles pour éliminer la discrimination à l'égard des femmes dans le domaine des soins de santé, ce qui comprend l'accès aux services, comme ceux qui concernent la planification familiale. Les parties s'engagent également à fournir aux femmes des services appropriés pendant la grossesse et pendant et après l'accouchement, y compris l'accès à une nutrition adéquate pendant la grossesse et l'allaitement (article 12).

Quant à la *Convention des Nations Unies relative aux droits de l'enfant*, elle porte sur le bien-être des enfants et traite aussi de la santé. Tout comme la CEDAW, la Convention reconnaît le droit des enfants de jouir du meilleur état de santé possible et d'avoir accès à des services médicaux. Le libellé de son article 24 est on ne peut plus clair : « Ils [les États parties] s'efforcent de garantir qu'aucun enfant ne soit privé du droit d'avoir accès à ces services. » Cette disposition soulève la question de l'accès aux services dans les communautés isolées ou nordiques. De plus, la Convention demande aux États parties de prendre des mesures pour



réduire la mortalité juvénile et infantile, pour fournir l'assistance médicale et les soins de santé nécessaires, pour lutter contre la maladie et la malnutrition et pour offrir des soins prénataux et postnataux aux jeunes mères.

Les soins de santé préventifs sont aussi une priorité, tout comme l'accès à l'éducation et à des connaissances de base sur la santé. Selon l'article 24 de la Convention, les États parties doivent aussi prendre des mesures, y compris par l'intermédiaire de programmes et de financement, pour aider les parents et les responsables à assurer le respect des droits de l'enfant. Par ailleurs, l'article 39 prévoit que les États parties doivent prendre toutes les mesures possibles pour faciliter la réadaptation physique et psychologique des enfants victimes, y compris ceux qui ont été confiés aux services de protection de l'enfance. Compte tenu du nombre de femmes et de filles autochtones disparues et assassinées qui sont passées par les systèmes de protection de l'enfance au Canada, il est primordial, dès maintenant et pour l'avenir, de favoriser leur rétablissement et leur réinsertion sociale pour leur permettre de surmonter leurs traumatismes personnels, mais aussi pour soigner les traumatismes intergénérationnels.

## Conclusion : créer une nouvelle conception de ce qui est « normal »

Comme l'illustrent plusieurs témoignages entendus, lorsque le mal-être des individus et de la communauté perdure, ce qui se développe au fil du temps constitue une bien cruelle ironie du sort. En effet, dans bien des cas, les traumatismes de ce genre, et leur transmission d'une génération à l'autre, mènent à la perception qu'il est normal d'être en mauvaise santé et de se sentir mal. Voici une réflexion de Chrystal S. sur sa propre expérience :

Je ne savais pas que j'étais déprimée. Je crois que c'est parce qu'il est si habituel pour les Autochtones de vivre des traumatismes. C'est quelque chose de normal. La violence, la séparation des familles, la pauvreté, la violence, c'est la norme d'en être témoin. C'est la norme, je crois, dans toutes les familles autochtones au Canada. Nous avons tous perdu quelqu'un. Nous avons tous vécu la perte d'un proche assassiné. Nous avons vu nos cousins, nos neveux et nièces ou les enfants de notre voisin être enlevés. Nous avons vécu des situations de violence, de violence latérale, de racisme et de discrimination. Et, toutes ces choses sont en quelque sorte normales pour les Autochtones<sup>132</sup>.

Nous soutenons que les obstacles à la santé et au bien-être des Autochtones ne devraient jamais être considérés comme normaux. Il en est de même pour la violence qui survient lorsqu'on refuse de servir les femmes, les filles et les personnes 2ELGBTQQIA autochtones, lorsqu'on leur offre un service discriminatoire ou lorsque les abus des fournisseurs de services font qu'elles deviennent ultérieurement la cible de violence.



Les audiences ont montré que de nombreuses solutions en matière de santé et de bien-être existent déjà et sont inlassablement mises de l'avant par des militants qui doivent souvent composer avec un financement précaire ou d'une durée limitée et avec un sentiment d'épuisement. Dans le processus de guérison, le rétablissement du sentiment de sécurité passe par le rétablissement du droit à la culture et à la santé.

« JE NE SAVAIS PAS QUE J'ÉTAIS DÉPRIMÉE. JE CROIS QUE C'EST PARCE QU'IL EST SI HABITUEL POUR LES AUTOCHTONES DE VIVRE DES TRAUMATISMES. C'EST QUELQUE CHOSE DE NORMAL. LA VIOLENCE, LA SÉPARATION DES FAMILLES, LA PAUVRETÉ, LA VIOLENCE, C'EST LA NORME D'EN ÊTRE TÉMOIN. C'EST LA NORME, JE CROIS, DANS TOUTES LES FAMILLES AUTOCHTONES AU CANADA. NOUS AVONS TOUS PERDU QUELQU'UN. NOUS AVONS TOUS VÉCU LA PERTE D'UN PROCHE ASSASSINÉ. NOUS AVONS VU NOS COUSINS, NOS NEVEUX ET NIÈCES OU LES ENFANTS DE NOTRE VOISIN ÊTRE ENLEVÉS. NOUS AVONS VÉCU DES SITUATIONS DE VIOLENCE, DE VIOLENCE LATÉRALE, DE RACISME ET DE DISCRIMINATION. ET TOUTES CES CHOSES SONT EN QUELQUE SORTE NORMALES POUR LES AUTOCHTONES. »

Chrystal S.





## Conclusions : le droit à la santé

- Les traumatismes intergénérationnels et multigénérationnels ont des répercussions négatives sur tous les aspects de la vie et du bien-être d'une personne autochtone et ils touchent également sa famille, sa communauté et sa Nation.
- Les traumatismes non résolus sont une cause profonde des taux élevés de problèmes de santé chroniques, de violence interpersonnelle et de toxicomanie. Ils se transmettent de génération en génération et sont cycliques. Ils contribuent directement à la réduction de la sécurité, à la violence que subissent les femmes, les filles et les personnes 2ELGBTQQIA autochtones et, ultimement, aux taux disproportionnés de disparition et meurtre qu'elles connaissent.
- Pour mettre fin au cycle des traumatismes intergénérationnels, il importe de mettre l'accent sur la guérison des personnes, des familles et des communautés. Guérir d'un traumatisme souvent exacerbé et, dans de nombreux cas, d'un traumatisme multigénérationnel et intergénérationnel est un processus qui peut s'étendre sur toute la durée de la vie. La participation de la famille et des membres de la communauté est souvent nécessaire à ce travail de guérison. Les programmes et les services de guérison doivent être dirigés par les Autochtones ou organisés en partenariat avec les communautés autochtones. Pour réussir à traiter un traumatisme, il faut exclure les limites de temps ou le recours à des approches figées.
- Le Canada a échoué à répondre aux besoins en matière de santé et de bien-être des femmes, des filles et des personnes 2ELGBTQQIA autochtones. Par ailleurs, il n'a pas garanti leur accès à des services et à des ressources qui sont équivalents à ceux que reçoivent les non-Autochtones. Les services de santé et de bien-être actuels sont extrêmement insuffisants et ils sont souvent inadéquats et inaccessibles, ce qui compromet directement la sécurité des femmes, des filles et des personnes 2ELGBTQQIA autochtones, et favorise la violence à leur égard.
- Le système actuel de prestation de services de santé et de bien-être pour les femmes, les filles et les personnes 2ELGBTQQIA autochtones est en grande partie conçu et mis en œuvre par des non-Autochtones. Les mesures prises pour la formation, l'embauche et la rétention des fournisseurs de services de santé et de bien-être autochtones ont été insuffisantes en raison des obstacles systémiques au sein des établissements d'enseignement et des difficultés relatives à la prestation de services adaptés à leur culture. Par conséquent, on note un manque de locuteurs des langues autochtones et un savoir culturel fragmentaire à certains endroits.
- Il n'y a pas assez de soutiens financiers et de modèles de financement durables pour inciter les Autochtones à travailler dans les domaines de la santé et du bien-être. Les services de santé et de bien-être existants ne réussissent pas à attirer les professionnels autochtones des soins de santé afin qu'ils travaillent dans des communautés urbaines, rurales, éloignées et du Nord. Il en résulte un taux élevé de roulement du personnel et une discontinuité dans les soins.



- Les services de santé et de bien-être sont les plus efficaces s'ils sont conçus et fournis par les Autochtones qu'ils sont censés servir, et si leur prestation est effectuée d'une manière cohérente et bien ancrée dans les pratiques, les visions du monde, les cultures, les langues et les valeurs des communautés précisément desservies. Il n'y a pas suffisamment de centres de traitement et de guérison adaptés à la culture des Autochtones et dont les services sont basés sur les besoins et sur les points de vue distincts des communautés inuites, métisses et des Premières Nations. Ceux qui existent ont du mal à obtenir un financement stable, suffisant et fiable.
- En raison des lacunes des infrastructures et des services en matière de santé physique et sociale et de bien-être dans les communautés inuites, métisses et des Premières Nations, les femmes, les filles et les personnes 2ELGBTQQIA doivent souvent quitter leur communauté pour obtenir ces services essentiels. Dans plusieurs cas, elles doivent quitter leur communauté inuite ou nordique pour aller accoucher. Ces déplacements forcés pour l'obtention de services contribuent à exposer davantage les femmes, les filles et les personnes 2ELGBTQQIA autochtones aux préjudices et aux risques, car elles ne bénéficient plus de la sécurité offerte par leur communauté et par leur famille. De plus, elles sont souvent contraintes de se séparer de leurs enfants, de voyager seules et d'être hébergées dans des endroits non sécuritaires ou non adaptés à leur culture et qui n'offrent pas le soutien dont elles ont besoin pour profiter de ces services en toute sécurité. Ces facteurs créent des risques et font des femmes, des filles et des personnes 2ELGBTQQIA autochtones la cible potentielle de gangs ou de trafiquants de personnes qui cherchent à les exploiter et à abuser d'elles.
- La négligence intergouvernementale entraîne le traitement inadéquat des enjeux politiques importants et le non-respect des droits de la personne. En effet, la prestation de services essentiels, incohérente et non réglementée, est effectuée à l'aide d'un ensemble disparate de programmes, alors qu'elle devrait être fondée sur les droits.
- Les Premières Nations, les Inuits et les Métis, y compris les personnes 2ELGBTQQIA, ont les solutions et les connaissances nécessaires pour prendre soin d'eux-mêmes et guérir, mais leurs forces et leur savoir sont sous-estimés par le système actuel des services de santé et de bien-être.



## Notes

- 1 Préambule de la Constitution de l’OMS, tel qu’adopté lors de la Conférence internationale de la Santé, New York, 19 juin au 22 juillet 1946; signé le 22 juillet 1946 par les représentants de 61 États (Actes officiels de l’OMS, no 2, p. 100).
- 2 Mazel, « Indigenous Health and Human Rights, » 10–11.
- 3 Organisation mondiale de la santé, « Santé des populations autochtones, aide-mémoire no 326 de l’OMS, octobre 2007. »
- 4 Groupe d’appui interorganisations des Nations Unies sur les questions des peuples autochtones, « The Health of Indigenous Peoples », p. 8.
- 5 Centre de gouvernance de l’information des Premières Nations, Rapport national de l’Enquête régionale sur la santé des Premières Nations, volume 1. L’Enquête régionale sur la santé des Premières Nations recueil de l’information sur les communautés des Premières Nations vivant dans les réserves et dans le nord.
- 6 Timothy Argetsinger (Iñupiaq), Partie 3, Volume public 4, Québec, Qc, p. 70. Dans ce chapitre, comme dans tous nos chapitres, la citation est tirée de la transcription officielle de la langue dans laquelle la personne a témoigné, même si la citation a été traduite.
- 7 Nations Unies, Instance permanente sur les questions autochtones, Quatrième session, Document de l’ONU E/C.19/2005/2, Annexe III, article 13, mentionné dans « Santé des populations autochtones, aide-mémoire no 326 de l’OMS, octobre 2007.
- 8 Groupe d’appui interorganisations des Nations Unies sur les questions des peuples autochtones, « The Health of Indigenous Peoples », p. 1.
- 9 Ibid., 9.
- 10 Gouvernement du Canada, « Histoire de la prestation des services de santé », 1.
- 11 D<sup>re</sup> Valerie Gideon (Nation Mik’maq de Gesgapegiag), Partie 2, Volume public 3, Calgary, Alb., p. 12.
- 12 D<sup>re</sup> Valerie Gideon (Nation Mik’maq de Gesgapegiag), Partie 2, Volume public 3, Calgary, Alb., p. 13.
- 13 D<sup>re</sup> Valerie Gideon (Nation Mik’maq de Gesgapegiag), Partie 2, Volume public 3, Calgary, Alb., p. 51.
- 14 D<sup>re</sup> Valerie Gideon (Nation Mik’maq de Gesgapegiag), Partie 2, Volume public 3, Calgary, Alb., pp. 194-95.
- 15 D<sup>re</sup> Valerie Gideon (Nation Mik’maq de Gesgapegiag), Partie 2, Volume public 3, Calgary, Alb., pp. 198-99.
- 16 D<sup>re</sup> Valerie Gideon (Nation Mik’maq de Gesgapegiag), Partie 2, Volume public 3, Calgary, Alb., p. 276.
- 17 D<sup>re</sup> Valerie Gideon (Nation Mik’maq de Gesgapegiag), Partie 2, Volume public 3, Calgary, Alb., p. 278.
- 18 D<sup>re</sup> Valerie Gideon (Nation Mik’maq de Gesgapegiag), Partie 2, Volume public 3, Calgary, Alb., pp. 51-52. La Nation métisse a depuis signé un protocole d’entente avec le gouvernement du Canada pour l’élaboration d’un accord sur la santé d’une durée de 10 ans (août 2018).
- 19 D<sup>re</sup> Valerie Gideon (Nation Mik’maq de Gesgapegiag), Partie 2, Volume public 3, Calgary, Alb., p. 72.
- 20 D<sup>re</sup> Valerie Gideon (Nation Mik’maq de Gesgapegiag), Partie 2, Volume public 3, Calgary, Alb., p. 279.
- 21 D<sup>re</sup> Valerie Gideon (Nation Mik’maq de Gesgapegiag), Partie 2, Volume public 3, Calgary, Alb., p. 74.
- 22 Sharna S. (Blackfoot, Blood Tribe), Partie 1, Déclaration publique 397, Richmond, C.-B., p. 3.
- 23 La violence latérale est une violence dirigée contre ses pairs plutôt que contre ses adversaires.
- 24 Voir Centre de gouvernance de l’information des Premières Nations, « Rapport national ». Voir aussi Reading et Wien, « Inégalités en matière de santé et déterminants sociaux de la santé des peuples autochtones »
- 25 Centre de gouvernance de l’information des Premières Nations, « Rapport national », 41.
- 26 Duong, « Canada has the least universal. »
- 27 Statistique Canada, « Life expectancy ».
- 28 Statistique Canada, « Un aperçu des statistiques sur les Autochtones ».
- 29 Santé Canada, « Profil statistique de la santé des Premières Nations au Canada ».
- 30 Sheppard, et al., « Birth Outcomes, » 13.
- 31 Ibid.
- 32 Smylie, et al., « A Review of Aboriginal Infant Mortality. »
- 33 Centre de gouvernance de l’information des Premières Nations, « Rapport national ».
- 34 Ibid, 40.
- 35 Ibid.
- 36 Université d’Ottawa, « The Health of Indigenous Peoples in Canada. »





- 37 Inuit Tapiriit Kanatami, « Inuit Statistical Profile, » 14.
- 38 Hunt, « Une introduction à la santé des personnes bispirituelles ».
- 39 Statistique Canada, « Pensées suicidaires au cours de la vie parmi les Premières Nations ».
- 40 Statistique Canada, « Les Premières Nations, les Métis et les Inuits au Canada. »
- 41 Ibid.
- 42 Canada, Santé Canada, « Profil statistique de la santé des Premières Nations au Canada ».
- 43 Université d'Ottawa, « The Health of Indigenous Peoples in Canada. »
- 44 Ibid.
- 45 Canada, Statistique Canada, « Enquête auprès des peuples autochtones »
- 46 Goodman, et al., « They treated me like crap. »
- 47 D<sup>re</sup> Amy Bombay (Ojibway, Premières Nations Rainy River), Parties II et III mixtes, Volume Public 10, Winnipeg, Man., p. 149.
- 48 D<sup>re</sup> Amy Bombay (Ojibway, Premières Nations Rainy River), Parties II et III mixtes, Volume Public 10, Winnipeg, Man., p. 149.
- 49 Chef Vivian T. (Wet'suwet'en), Partie 1, Volume public 4, Smithers, C.-B., p. 60.
- 50 Viola Thomas (Kamloops Tk'emlúps te Secwepemc), Partie 1, Volume public 104, Vancouver, C.-B., p. 19.
- 51 Shara L. (Dénée), Partie 1, Déclaration publique 101, Edmonton, Alb., p. 51.
- 52 Shara L. (Dénée), Partie 1, Déclaration publique 101, Edmonton, Alb., pp. 52-53.
- 53 Carol M. (Nisga'a Gitanyow), Partie 1, Déclaration publique 357, Richmond, C.-B., p. 76.
- 54 D<sup>re</sup> Amy Bombay (Ojibway, Premières Nations Rainy River), Parties II et III mixtes, Volume public 10, Winnipeg, Man., pp. 165-166.
- 55 Chrystal S. (Musqueam), Partie 1, Déclaration publique 385, Richmond, C.-B., p. 26.
- 56 Stephanie H. (Première Nation Fort McKay), Partie 1, Volume public 20, Edmonton, Alb., p. 103.
- 57 Kim C.-M. (Inuite, Labrador), Partie 1, Volume public 49, Happy Valley-Goose Bay, T.N.-L., p. 23.
- 58 Campbell, « Health Consequences. »
- 59 Nikki K. (Inuite), Partie 1, Volume public 46(a), Rankin Inlet, Nun., p. 45.
- 60 Sonia B. (Première Nation), Partie 1, Déclaration publique 371, Richmond, C.-B., pp. 4-5.
- 61 Sonia B. (Première Nation), Partie 1, Déclaration publique 371, Richmond, C.-B., p. 6.
- 62 Sonia B. (Première Nation), Partie 1, Déclaration publique 371, Richmond, C.-B., p. 6.
- 63 Paula P. (Crie/Lakota/Écossaise), Partie 1, Déclaration publique 374, Richmond, C.-B., p. 20.
- 64 D<sup>r</sup> Allan Wade, Parties II et III mixtes, Volume public 14, Winnipeg, Man., p. 19.
- 65 Centre de gouvernance de l'information des Premières Nations, « Rapport national ».
- 66 Goodman, et al., « They treated me like crap. »
- 67 Wien, « Tackling Poverty in Indigenous Communities, » 1.
- 68 Statistique Canada, « Tableaux de données, Recensement de 2016 ».
- 69 Centre de gouvernance de l'information des Premières Nations, « Rapport national, » 24.
- 70 Ibid., 25.
- 71 Belanger, et al., « Housing and Aboriginal People, » 4.
- 72 Thistle, « Definition of Indigenous Homelessness, » 6.
- 73 Ibid.
- 74 Statistique Canada, « Les conditions de logement des peuples autochtones au Canada, » 1.
- 75 Centre de gouvernance de l'information des Premières Nations, « Rapport national, » 16, 27.
- 76 Statistique Canada, « Les conditions de logement des peuples autochtones au Canada, » 1-2.
- 77 Sandra L. (Crie/Dakota), Partie 1, Volume public 41, Yellowknife, T.N.-O., pp. 193-194.
- 78 Centre de gouvernance de l'information des Premières Nations, « Rapport national, » 15.
- 79 Ibid., 31.
- 80 Ibid., 39.
- 81 Belanger et al., « Housing and Aboriginal People, » 7.
- 82 Verna W. (Cape Mudge), Partie 1, Volume public 88, Vancouver, C.-B., pp. 5-6.
- 83 Prokopchuk, « Grassy Narrows mercury victims. »
- 84 Centre de gouvernance de l'information des Premières Nations, « Rapport national, » 33.
- 85 Statistique Canada, « Les Premières Nations, les Métis et les Inuits au Canada, » 11.
- 86 Ibid., 15.
- 87 Goodman et al., « They treated me like crap. »
- 88 Ibid., 88.
- 89 Ibid., 87.



- 90 Doris G. (Crie, Première Nation Driftpile), Partie 1, Déclaration publique 79, Edmonton, Alb., p. 14.
- 91 D<sup>r</sup> Barry Lavallee (Première Nation/Métis), Partie 3, Volume public 9, Toronto, Ont., pp. 38-39.
- 92 Melissa C. (Nation Crie Fisher River), Partie 1, Volume public 15, Winnipeg, Man., pp. 114-115.
- 93 Doris G. (Crie, Première Nation Driftpile), Partie 1, Déclaration publique 79, Edmonton, Alb., p. 13.
- 94 Jaylene D., Partie 1, Déclaration publique 220, Yellowknife, T.N.-O., pp. 1, 2.
- 95 Jaylene D., Partie 1, Déclaration publique 220, Yellowknife, T.N.-O., pp. 2-3.
- 96 Jaylene D., Partie 1, Déclaration publique 220, Yellowknife, T.N.-O., p. 3.
- 97 Centre de gouvernance de l'information des Premières Nations, « Rapport national, » 71.
- 98 D<sup>r</sup> Allan Wade, Parties II et III mixtes, Volume public 14, Winnipeg, Man., pp. 47-49.
- 99 Sharna S. (Blackfoot, Blood Tribe), Partie 1, Déclaration publique 397, Richmond, C.-B., pp. 55-57.
- 100 Paula P. (Crie/Lakota/Écossaise), Partie 1, Déclaration publique 374, Richmond, C.-B., p. 38.
- 101 D<sup>r</sup> Allan Wade, Parties II et III mixtes, Volume public 14, Winnipeg, Man., pp. 50-51.
- 102 Vanessa B. (Première Nation Millbrook), Partie 1, Volume public 19, Membertou, N.-É., pp. 88-89.
- 103 Adrienne B. (Crie), Partie 1, Volume public 23, Edmonton, Alb., p. 66.
- 104 Lorna B. (Wet'suwet'en), Partie 1, Volume public 4, Smithers, C.-B., p. 165.
- 105 D<sup>r</sup> Allan Wade, Mixed Parties 2 & 3, Volume public 14, Winnipeg, Man., p. 49.
- 106 Dianna B. (Mohawk, Six Nations), Partie 1, Déclaration publique 376, Richmond, C.-B., p. 12.
- 107 Dianna B. (Mohawk, Six Nations), Partie 1, Déclaration publique 376, Richmond, C.-B., p. 17.
- 108 Robin R. (Nakota Sioux), Partie 1, Volume public 92, Vancouver, C.-B., pp. 16-17.
- 109 Robin R. (Nakota Sioux), Partie 1, Volume public 92, Vancouver, C.-B., p. 15.
- 110 Cecil J. (Première Nation de Rolling River), Partie 1, Volume public 14, Winnipeg, Man., pp. 5-6.
- 111 Stephanie H. (Première Nation Fort McKay), Partie 1, Volume public 20, Edmonton, Alb., pp. 119-120.
- 112 Sharna S. (Blackfoot, Blood Tribe), Partie 1, Déclaration publique 397, Richmond, C.-B., pp. 53-54.
- 113 Danielle E. (Première Nation Kawacatoose), Partie 1, Volume public 31, Saskatoon, Sask., p. 105.
- 114 Karen C. (Kwakwaka'wakw), Partie 1, Volume public 94, Vancouver, C.-B., p. 59.
- 115 Carla M., (Nuu-chah-nulth), Partie 1, Volume public 82, Vancouver, C.-B., pp. 16-17.
- 116 Barb L. (Premières Nations Heiltsuk/Nisga'a), Partie 1, Déclaration publique 360, Richmond, C.-B., p. 15.
- 117 Sadie C. (Wet'suwet'en), Partie 1, Déclaration publique 395, Vancouver, C.-B., p. 32.
- 118 Sonia B. (Première Nation), Partie 1, Déclaration publique 371, Richmond, C.-B., pp. 3-4.
- 119 Barb L. (Heiltsuk/Nisga'a Première Nation), Partie 1, Déclaration publique 360, Richmond, C.-B., p. 10.
- 120 Ann M. R. (Kaska Dena), Partie 1, Volume public 3, Whitehorse, Yn, p. 39.
- 121 Lillian H. (Mowachat de la bande Mowachat /Nuu-chah-nulth/Kwakwaka'wakw), Partie 1, Volume public 82, Vancouver, C.-B., p. 14.
- 122 Carla M. (Nuu-chah-nulth), Partie 1, Volume public 82, Vancouver, C.-B., pp. 6-7.
- 123 D<sup>re</sup> Amy Bombay (Ojibway, Premières Nations Rainy River), Parties II et III mixtes, Volume public 10, Winnipeg, Man., p. 180.
- 124 Patrick S. (Kwagu', Fort Rupert, Qualicum), Partie 1, Volume public 102, Vancouver, C.-B., p. 10.
- 125 Chrystal S. (Musqueam), Partie 1, Déclaration publique 385, Richmond, C.-B., p. 9.
- 126 Verna W. (Cape Mudge), Partie 1, Volume public 88, Vancouver, C.-B., p. 27.
- 127 Paul T. (Nation Crie Mikisew), Partie 1, Volume public 20, Edmonton, Alb., pp. 38-39.
- 128 Groupe d'appui interorganisations des Nations Unies sur les questions des peuples autochtones, « The Health of Indigenous Peoples, » 2.
- 129 Ibid.
- 130 Organisation mondiale de la santé, « Santé des populations autochtones. »
- 131 Brenda Gunn (Métisse), Partie 3, Volume public 6, Québec, Qc, p. 38.
- 132 Chrystal S. (Musqueam), Partie 1, Déclaration publique 385, Richmond, C.-B., pp. 47-48.







## Combattre l'oppression : le droit à la sécurité

Introduction : « Nous ne sommes pas en sécurité.

Personne n'est en sécurité. »

Partout au pays, le droit à la sécurité des femmes, des filles et des personnes 2ELGBTQQIA est systématiquement compromis. Lorsque les familles, les survivantes et les autres témoins ont fait part de leur vérité à l'Enquête nationale, il est devenu évident que, pour la majorité des femmes, des filles et des personnes 2ELGBTQQIA autochtones de tous les milieux et de toutes les régions, la sécurité est une question primordiale en vertu de laquelle non seulement nous pouvons, mais nous devons nous attaquer à la violence faite aux femmes et aux filles autochtones. Comme nous l'avons entendu, la sécurité physique, psychologique, économique, sociale et culturelle des femmes, des filles et des personnes 2ELGBTQQIA autochtones est presque constamment menacée. Lors de son témoignage à Winnipeg, Bernice C. a parlé de sa fille disparue le jour de son 18<sup>e</sup> anniversaire en 2008 et a déclaré : « On n'est pas en sécurité. Nos femmes ne sont plus en sécurité. Personne n'est en sécurité<sup>1</sup>. »

Le présent chapitre porte sur le droit à la sécurité en ce qui concerne les quatre facteurs favorisant la violence coloniale. Nous traiterons des façons dont la sécurité des femmes et des filles autochtones est compromise par la violence interpersonnelle, et de la façon dont le risque de violence interpersonnelle est accentué par des facteurs tels que le traumatisme intergénérationnel, la pauvreté, l'itinérance, la toxicomanie, les obstacles à l'éducation, à la formation et à l'emploi, ainsi que l'absence de services de lutte contre la violence et de mesures de soutien. De plus, nous examinerons en quoi l'absence de droits économiques, sociaux et politiques fondamentaux pouvant garantir la sécurité contribue à cibler les femmes et des filles autochtones. Nous explorerons ensuite la mesure dans laquelle la réticence des institutions à régler ces problèmes maintient un *statu quo* qui fait en sorte que la tragédie se poursuive. Enfin, nous



verrons de quelle manière les solutions requises pour rétablir la sécurité, de façon globale, reposent sur les expériences et les connaissances des femmes, des filles et des personnes 2ELGBTQQIA autochtones.

Comme bon nombre des témoins venus raconter leur histoire à propos d'une proche perdue, Cee-Jai J. a parlé de sa sœur, Norma, portée disparue dans le quartier Downtown Eastside de Vancouver le 28 septembre 1992 et retrouvée sans vie quelques jours plus tard. Elle a aussi raconté que le 28 septembre 2017, soit 25 ans jour pour jour après le décès de sa sœur, sa propre fille, Shayla J., était décédée après un accident de voiture. Au lieu de la conduire à l'hôpital, la police l'avait ramenée chez elle. Pour de nombreuses autres familles et personnes de soutien qui ont raconté leur vérité, l'acte de violence qui a coûté la vie de leur proche n'est qu'un des nombreux incidents de violence dont ils ont été témoins au cours de leur existence. Dans son témoignage à propos du meurtre de sa sœur, Cee-Jai a situé ce geste de violence dans le contexte des interactions et relations violentes dont elle-même a été victime et témoin dès sa plus tendre enfance, alors qu'elle était, comme elle le dit, « seulement un bébé dans son berceau<sup>2</sup> ».

Comme beaucoup de témoins, Cee-Jai a été victime d'actes répétés de violence physique, sexuelle et psychologique pendant toute sa vie. Elle a vu son père poignarder sa mère lorsqu'elle était très jeune; elle a vu sa mère se faire battre et agresser par des hommes alors qu'elle était jeune fille; elle a été victime d'agressions sexuelles et physiques répétées et de négligence dans différents foyers d'accueil; et elle a subi des agressions sexuelles et de la violence physique pendant son adolescence et sa vie adulte. La violence est omniprésente dans la vie de Cee-Jai, et ses relations avec les autres reflètent une réalité qui, malheureusement, est chose courante. Comme elle a partagé, « Je sens que mon esprit connaît la violence », résumant ainsi ce que de nombreuses femmes, filles et personnes 2ELGBTQQIA autochtones ressentent comme une violence pratiquement omniprésente qui contribue à l'absence générale de sécurité humaine fondamentale<sup>3</sup>.

## La définition de la « sécurité humaine »

Selon de nombreuses visions du monde autochtone présentées dans le contexte du processus de consignation de la vérité, le droit à la sécurité englobe un droit physique et un droit social. Les pactes et les conventions internationaux offrent une vue d'ensemble de la notion de « sécurité » comme étant à la fois physique et sociale.

La définition élargie de la sécurité humaine s'appuie sur une approche essentiellement axée sur le bien-être qui tient compte des interactions économiques et sociales complexes qui façonnent la sécurité ou l'insécurité d'une personne<sup>4</sup>. Cette définition va au-delà du programme de l'État; elle tient compte d'autres facteurs ou menaces « non traditionnelles » comme la pauvreté et la maladie,

« JE SENS QUE MON ESPRIT CONNAÎT LA VIOLENCE »

Cee-Jai J.



ainsi que des causes fondamentales de problèmes tels que la tragédie des femmes, des filles et des personnes 2ELGBTQQA autochtones disparues et assassinées.

## SÉCURITÉ HUMAINE ET SÉCURITÉ DE L'ÉTAT

Sécurité traditionnelle

- Protège l'État et ses frontières ainsi que ses institutions.
- Défend l'État contre les agressions externes; capacité à contrer une attaque.
- L'État œuvre pour garantir sa propre survie.
- La sécurité de l'État dépend des stratégies militaires et de défense, notamment de l'armement, des alliances et des autres structures et processus étatiques.

- Axée sur la population et la sécurité des individus et des groupes au sein de l'État.
- Définition élargie des dangers, qui peuvent comprendre des menaces environnementales ainsi que des menaces économiques et sociales, l'insécurité alimentaire et plus.
- Fait appel aux gouvernements, mais également aux organisations internes, notamment aux organisations gouvernementales et aux groupes et organismes communautaires.
- Fondée sur l'idée d'aller au-delà de la protection pour outiller la population afin qu'elle participe à la sécurité; selon ce modèle, la population touchée contribue directement aux solutions.

Sécurité humaine

Le concept de la sécurité humaine a été redéfini dans les années 1990, avec la fin de la Guerre froide au cours de laquelle l'accent avait été mis sur la sécurité militaire ou étatique. Selon le chercheur Taylor Owen, la chute du mur de Berlin a clairement démontré que les principales menaces qui pesaient sur la sécurité humaine ne provenaient plus des États militarisés. En revanche, au cours de la période qui a suivi la Guerre froide, les populations civiles « ont été victimes de ce qui restait des guerres par factions interposées, des catastrophes environnementales, de la pauvreté, de la maladie, de la faim, de la violence et de violations des droits de la personne<sup>5</sup> ». Dans ce contexte, l'accent mis sur l'État comme seul moyen d'assurer la sécurité humaine a en fait dissimulé une grande partie des tragédies liées à la sécurité humaine qui visent des gens de partout dans le monde.





En 1994, le Rapport mondial sur le développement humain (RMDH) du Programme des Nations Unies pour le développement (PNUD) a fait état des quatre caractéristiques fondamentales de la sécurité humaine, à savoir : elle relève d'un désir universel; ses composantes sont inter-dépendantes; le meilleur moyen d'assurer la sécurité est la prévention; elle est axée sur les personnes<sup>6</sup>. Fait important, elle *n'est pas* axée sur les appareils de sécurité militarisés ni sur les appareils de sécurité de l'État, mais plutôt sur la sécurité des gens qui vivent dans les États, de manière générale et dans le contexte des droits de la personne. Plus précisément, le RMDH de 1994 énonçait sept « dimensions essentielles » de la sécurité humaine :

- sécurité économique menacée par la pauvreté;
- sécurité sanitaire menacée par les blessures et les maladies;
- sécurité personnelle menacée par diverses formes de violence;
- sécurité politique menacée par la répression politique;
- sécurité alimentaire menacée par la faim et la famine;
- sécurité environnementale menacée par la pollution, la dégradation de l'environnement et l'épuisement des ressources;
- sécurité de la communauté menacée par les tensions sociales et l'instabilité<sup>7</sup>.

Comme l'indique le RMDH, cette liste n'est pas exhaustive, mais les éléments qu'elle contient sont dynamiques et leur analyse pourrait permettre de comprendre « les menaces précises à l'endroit de groupes de personnes précis, ainsi que la participation de ces personnes au processus d'analyse<sup>8</sup> ». De plus, ces éléments sont tous interreliés, en ce sens que la menace pour la sécurité économique est aussi liée, par exemple, aux menaces pour la sécurité personnelle, politique et liée à la santé. Voici l'explication avancée en 2000 par le secrétaire général des Nations Unies, Kofi Annan :

Il n'est désormais plus possible de définir simplement la sécurité comme une absence de conflits armés, qu'il s'agisse de conflits internationaux ou de conflits internes. Les violations flagrantes des droits de la personne, le déplacement massif de populations civiles, le terrorisme international, la pandémie de sida, le trafic de drogues et d'armes et les catastrophes environnementales représentent une menace directe à la sécurité humaine, nous forçant à adopter une approche beaucoup plus coordonnée à l'égard d'un vaste éventail de sujets<sup>9</sup>.

Telle qu'elle a été adoptée par résolution de l'Assemblée générale des Nations Unies, en 2012, la définition commune de la sécurité humaine comprend désormais les éléments suivants :

- Le droit des êtres humains de vivre libres et dans la dignité, à l'abri de la pauvreté et du désespoir, y compris de vivre à l'abri de la peur et du besoin;
- La sécurité humaine appelle des réponses axées sur l'être humain, globales, adaptées au contexte et qui renforcent la capacité d'action individuelle et collective;



- La sécurité humaine tient compte des liens entre paix, développement et droits de la personne et accorde la même importance aux droits civils, politiques, économiques, sociaux et culturels;
- La sécurité humaine n'est pas assurée par la menace ou l'emploi de la force ou de mesures de coercition. Elle ne saurait remplacer la sécurité que l'État doit garantir;
- La sécurité humaine est fondée sur l'appropriation nationale. Elle tient compte de la diversité des politiques et programmes d'un pays à l'autre et vise à renforcer les initiatives nationales « qui sont compatibles avec les réalités locales »;
- Il appartient en premier lieu à l'État d'assurer « la survie, les moyens de subsistance et la dignité de ses citoyens »;
- La sécurité humaine est assurée dans le strict respect des buts et principes énoncés dans la Charte des Nations Unies, notamment de la souveraineté de l'État<sup>10</sup>.

En 2012, la vice-secrétaire générale des Nations Unies, Asha-Rose Migiro, a fait observer ce qui suit :

## DÉFINITION DE LA SÉCURITÉ HUMAINE





N'oublions pas que la sécurité humaine est plus qu'un concept abstrait. Pour une famille affamée, la sécurité humaine se traduit par de la nourriture sur la table. Pour un réfugié, il s'agit d'un abri et d'un refuge sûr contre les conflits et les catastrophes. Pour une femme prise dans un conflit, c'est une protection contre les préjudices. Pour un enfant vivant dans la pauvreté, il s'agit d'une chance d'aller à l'école<sup>11</sup>.

D'après les témoignages entendus, les femmes autochtones sont aux prises avec des menaces quotidiennes pour leur sécurité humaine et leurs droits fondamentaux de la personne. Pour elles, la sécurité humaine correspond, notamment, à la capacité de vivre dans le monde sans constamment faire l'objet de menaces de violence ou de préjudices; à la capacité de dire « au revoir » à leurs enfants lorsqu'ils sortent avec des amis sans se demander s'ils reviendront; et à la capacité de fonder une famille et d'élever leurs enfants sans craindre qu'ils soient victimes de racisme ou de discrimination ou qu'ils soient injustement arrêtés. Les témoins ont parlé de la sécurité du point de vue physique comme étant le droit à la vie, à la liberté et à la sécurité personnelle, ainsi que le contrôle de leur propre état de santé mentale ou physique. Ils ont également relevé le besoin de protection et d'aide sociale grâce à des services essentiels en matière de santé, de logement, d'accès à l'eau potable, de nourriture et d'éducation, et ont insisté sur la nécessité de réduire la pauvreté puisque celle-ci se répercute sur le taux de violence. Dans ce contexte, la sûreté et la sécurité sont garanties par l'établissement et le maintien de relations respectueuses, égalitaires et sûres. La sécurité est plus qu'une simple condition physique, c'est également un profond sentiment d'appartenance, d'accomplissement, de confiance, de connexion et d'harmonie avec le monde humain, naturel et spirituel en général.

Les affirmations des familles et des survivantes à propos de la violence et de l'absence de sécurité dans leur vie quotidienne remettent en question les attitudes et les croyances qui, souvent, tiennent les femmes autochtones responsables de ce manque de sécurité. En effet, nous constatons que l'absence de sécurité est attribuable aux structures coloniales dans lesquelles vivent les femmes autochtones, et non aux femmes autochtones en elles-mêmes<sup>12</sup>. Il est donc clair que pour rétablir la sécurité – comme nous le verrons dans le prochain chapitre – il faut bien plus que des solutions temporaires. Il faut apporter des changements importants et systémiques dans les domaines désignés dans le présent rapport comme étant à l'origine de la violence envers les femmes, les filles et les personnes 2ELGBTQQIA autochtones. D'après ce que nous avons entendu des familles et des survivantes, le rétablissement de la sécurité exige des solutions collectives dirigées par les Autochtones. Ces solutions consistent, en premier lieu, à s'attaquer aux causes profondes de la violence qui privent complètement les victimes de leur droit fondamental à la sécurité.





## Les facteurs favorisant la violence : le traumatisme intergénérationnel et la violence interpersonnelle

Comme le démontre l'histoire de Cee-Jai, la sécurité des femmes et des filles autochtones est menacée par des éléments qui comprennent des actes isolés de violence physique et d'autres gestes qui vont bien au-delà de ces actes. Pour éliminer la violence qui a entraîné la disparition ou le décès de femmes, de filles et de personnes 2ELGBTQQIA autochtones, il faut examiner en quoi ces gestes précis de violence sont le résultat d'un refus multidimensionnel de longue date face à l'application de mesures qui favorisent et protègent la sécurité des femmes autochtones durant toute leur vie.

En s'appuyant sur ses nombreuses années d'expérience de travail auprès des femmes autochtones et des membres de leur famille dont la vie a été bouleversée par la violence, Josie Nepinak, témoin experte et directrice générale de l'Awo Taan Healing Lodge Society, un centre d'hébergement d'urgence pour les femmes en Alberta, nous rappelle que toute discussion à propos de la violence interpersonnelle qui élimine ou compromet la sécurité des femmes autochtones doit être fondée sur une compréhension d'autres formes de violence coloniale.

La violence faite aux femmes autochtones, qui est le résultat de la colonisation et de tout ce qui entoure la colonisation et la dépossession de nos coutumes sacrées, la dépossession de nos grands-mères et la dépossession de nos [...] de nos Aînés. Cela se manifeste par des politiques oppressives comme la *Loi sur les Indiens* pour les femmes des Premières Nations et cela se manifeste par les pensionnats en tuant l'Indien dans l'enfant et en tuant l'esprit de l'enfant. Cela se manifeste aussi dans les mauvais traitements dont nous avons souffert, qu'il s'agisse d'être placés dans une pièce sombre, de se faire dire que nous sommes des sauvages ou de se faire dire que nous ne pouvons pas parler notre langue<sup>13</sup>.

Josie Nepinak indique clairement que les discussions et les changements significatifs visant à mettre un terme à la violence interpersonnelle et à rétablir la sécurité des femmes, des filles et des personnes 2ELGBTQQIA autochtones doivent tenir compte du contexte historique beaucoup plus large de la violence coloniale qui cible activement les femmes autochtones et normalise toutes les formes de violence à leur égard. Pour ce faire, il faut d'abord reconnaître que la « dépossession de nos voies sacrées » est un geste initial de violence qui continue d'avoir des conséquences sur les communautés et les familles autochtones, ainsi que sur les relations marquées par le traumatisme intergénérationnel.

Comme beaucoup de personnes ayant fait part de leur vérité, Marlene J., qui nous a fait le récit de la disparition de sa sœur, a décrit à quel point la violence était presque omniprésente dans sa vie et celle de ses sœurs. Marlene a commencé par raconter un événement de son enfance lors duquel ses sœurs et elle-même ont dû se cacher sous l'escalier pour éviter d'être victimes de violence.



Je me rappelle qu'on était à la maison. Il y a [ma soeur], et moi, Doreen et notre mère. C'était calme, et tout à coup, on entend des bruits violents. On ne savait pas ce que c'était. Et notre mère a pris peur et nous a dit de nous cacher. Donc, on était tellement petites qu'on pouvait se cacher dans les plus petits coins, là où les adultes ne peuvent pas aller. Les bruits intenses me faisaient tellement peur que je peux me rappeler de ce soir-là, comme il faisait sombre dans cet endroit parce qu'on avait une de ces – comment est-ce qu'on appelle ces lampes qui – oui, à kérosène. Elles brûlent le plastique ou le sac [...] Je me rappelle encore à quel point il faisait sombre dans cet endroit. Et j'étais cachée sous l'escalier. Et puis, tout à coup, la porte s'est ouverte et j'entends crier, hurler, frapper, et puis j'entends les voix quitter notre maison et s'en aller vers la route<sup>14</sup>.

Cet acte de violence et d'intimidation que Marlene a décrit comme étant le « premier » événement traumatisant<sup>15</sup> de sa vie illustre bien ce qu'elle a par la suite décrit comme de nombreux autres actes de violence commis contre ses sœurs et elle par des membres et des amis de la famille, leurs parents d'accueil et, plus tard dans sa vie, des petits amis, des connaissances et des étrangers. Sa description des menaces de violence sexuelle proférées par des amis de la famille démontre comment ses sœurs et elle – comme tant d'autres femmes, filles et personnes 2ELGBTQQIA autochtones vivant avec des individus qui commettent des actes de violence – trouvaient des moyens de se rassurer même lorsque ce sentiment de sécurité leur était enlevé par les personnes qui étaient censées les protéger.

Eh bien, notre père faisait la fête ou était parti jusqu'à 1 h, 2 h du matin. Il y avait des hommes qui venaient et qui voulaient avoir des relations sexuelles. Ils ont essayé avec moi et Doreen ne leur permettait pas. Elle a dit « Je suis plus âgée, vous pouvez essayer avec moi ». Elle était trop jeune elle aussi, et ils ont dit « Est-ce qu'il y a quelqu'un d'autre ici avec qui je peux faire ça ? » Je ne sais même pas qui étaient ces gars [...] Je ne sais pas. Je sais que j'essayais de les repousser. Comme je suis petite, j'ai essayé de les frapper, de les mordre, tout ce que je pouvais pour les repousser, et ils m'ont juste poussée de l'autre côté de la pièce. Ils ont abandonné parce qu'ils ne pouvaient se glisser nulle part, c'était trop petit<sup>16</sup>.

Marlene et ses sœurs, ainsi que de nombreux témoins ayant raconté leur propre expérience ou celle d'une proche disparue ou assassinée, ont fait observer que les actes répétés de violence physique, sexuelle et psychologique les ont privées de tout sentiment de sécurité dès leur jeune âge. Des survivantes, comme Cee-Jai, ont également décrit les événements qui leur ont fait réaliser, en tant que jeunes filles autochtones, que la violence allait faire partie intégrante de leur vie.

Je jouais au terrain de jeu et je me souviens de ce petit garçon, du même âge que moi, qui voulait que je m'assoie sur ses cuisses et que je glisse avec lui sur la glissoire. Et je ne voulais pas. Je voulais descendre la glissoire toute seule. Il a fini par me battre. J'étais à la maternelle. Et j'ai eu un gros œil au beurre noir. Et je me souviens d'avoir pleuré et d'être retournée en courant à la maison, je courais vers la maison pour essayer de me faire protéger par les [...] mes parents [...] ma mère, ou quelqu'un. Et, tout ce qu'ils ont



dit, c'est [...] tous les adultes autour de moi ont dit « C'est mignon. Son amoureux l'a battue. » Et ils ont tous ri, et ils ont trouvé que c'était drôle, ou mignon. Et, c'est peut-être la première fois où j'ai vraiment cru que c'était correct que quelqu'un me batte et me fasse mal. Donc, aujourd'hui, je sais que [...] que c'était mal. Je n'aurais jamais demandé à mes nièces, je ne ferais jamais ça à mes nièces aujourd'hui. Ça s'est imprégné dans mon [...] mon esprit et mes souvenirs, mon système de croyances, que c'était correct de [...] qu'on me fasse mal. Une autre façon de ne pas me donner ma voix. Et d'apprendre que [...] les personnes qui, je pense, vont me protéger, ne vont pas le faire<sup>17</sup>.

En plus de lui apprendre qu'il était acceptable qu'on la batte et lui fasse du mal, la réaction de ses parents lui a également communiqué une autre dure réalité à propos de la façon dont les gens réagissent à la violence envers les filles autochtones : plutôt que d'essayer de rétablir la relation, ils banalisent les relations malsaines et, ce faisant, ils causent d'autres préjudices. Cette leçon voulant que « les personnes censées la protéger ne la protègent pas » a été confirmée à maintes reprises tout au long de la vie de Cee-Jai, et pas seulement par ses parents, mais aussi par des professionnels, comme des travailleurs des services de protection de l'enfance et la police.

À titre d'exemple, Cee-Jai a expliqué que, alors qu'elle était un peu plus âgée, le petit ami de sa mère l'a délibérément ciblée et manipulée afin de l'agresser et de l'exploiter sexuellement, ainsi que ses quatre cousines.

Quand nous sommes allés à Vancouver, ma mère est devenue amie avec un Français blanc. Il nous a accueillis et il nous achetait tout ce que nous voulions. Des biscuits, de la crème glacée, il nous nourrissait et il nous hébergeait. J'étais une petite fille. J'ai commencé à faire confiance à cette personne, je pensais qu'il allait me protéger, que nous étions en sécurité. Cet homme [...] j'ai perdu ma voix, et il a commencé à nous arriver de mauvaises choses. Je me souviens d'avoir si peur, et il a commencé à nous faire écouter ces films [...] c'était des films pour adultes<sup>18</sup>.

Encore une fois, cependant, lorsqu'une de ses cousines a dénoncé les sévices sexuels, rien n'a été fait. Cee-Jai se souvient de ce qui suit :

Je pense qu'une de mes cousines a dénoncé ce Français. Mais, ils ne sont pas venus nous parler de ce qu'il nous avait fait. Personne n'est venu pour parler. Nous savions toutes que ça se passait, mais on nous disait de ne rien dire. Mais une de mes cousines a finalement dit quelque chose. Par contre, ils ne sont jamais venus nous parler. J'étais une petite fille [...] j'avais honte ... honte de moi-même. Je ne sais pas ce qui s'est passé avec cette affaire judiciaire [...] aucune idée<sup>19</sup>.

Plus tard, alors que son premier petit ami lui faisait subir des agressions physiques à répétition, Cee-Jai était encore laissée à elle-même, même si elle était sous la garde des services à l'enfance et à la famille : « Je ne sais pas si les foyers d'accueil, ou les foyers de groupe, ou mes travailleurs sociaux, je ne me souviens pas s'ils ont essayé de m'aider. » Les épisodes répétés





de violence dont elle était victime et qui compromettaient sa sécurité lui ont très rapidement fait comprendre que chaque incident serait traité avec indifférence par les personnes à qui elle demandait de l'aide. Cee-Jai, en tant que jeune adolescente, en est naturellement venue à la conclusion qu'elle n'avait aucun droit à la sécurité et que son petit ami violent l'aimait vraiment, comme elle l'explique : « Mais je croyais qu'il m'aimait pour vrai, et j'y retournais toujours<sup>20</sup>. »

En parlant des actes répétés de violence physique et sexuelle dont elle a fait l'objet durant toute sa vie, Michele G. a également souligné l'absence de mesures d'intervention qui lui auraient fait sentir que son droit à la sécurité comptait.

Permettez-moi de résumer où nous en sommes maintenant. Ils m'ont arraché des bras de ma mère pour me placer dans un système censé me protéger. Mais où était la protection? J'avais été agressée sexuellement dans tous les foyers où ils m'avaient placée jusque-là. J'ai fait ce que je pensais être juste. J'ai signalé les agressions sexuelles à mes parents. Il ne s'est rien passé. J'ai signalé les agressions à mon assistante sociale. Il ne s'est rien passé. J'ai été examinée par des médecins du ministère de la Santé pour prendre des contraceptifs. J'ai été arrêtée plusieurs fois par la police. Pourtant, personne, personne ne m'a jamais demandé si j'avais déjà été victime d'agression sexuelle. La première personne à m'avoir posé la question a été un agent de la GRC qui s'est présenté à ma porte, à Musqueam, quand j'avais 30 ans<sup>21</sup>.

Lors de son témoignage, Monique F. H. a parlé de la confusion créée par le fait de vivre dans un contexte où la violence est associée à l'amour.

Quand j'étais [...] [une] jeune personne [...] j'ai commencé à subir des agressions sexuelles et c'était très difficile pour moi de comprendre pourquoi ça arrivait. Et vivre cette vie [...] Cette histoire était ... très difficile parce que je croyais toujours que, vous comprenez, votre famille est supposée prendre soin de vous. Il n'y a aucun doute dans mon esprit [...] mon agresseur aimait notre famille, mais c'était très mélangeant pour moi.

Alors je pense que dès un très jeune âge, j'ai commencé à réaliser et [...] et à comprendre que j'ai fait un lien avec [...] un lien très malsain [...] un lien qui faisait qu'une agression sexuelle, ou [...] sexuelle, que quelque chose de sexuel signifiait l'amour<sup>22</sup>.

Comme en témoignent les histoires entendues, la banalisation et le déni de la violence envers les filles, les femmes et les personnes 2ELGBTQQIA autochtones ont de graves conséquences. Selon Allan Wade :

Le meilleur indicateur du niveau de détresse d'une victime est la qualité des réactions sociales qu'elle obtient des autres. C'est un meilleur indicateur que la gravité de la violence [...] Le terme « réaction sociale » fait référence à la façon dont la famille, les amis, les collègues et les gens qui connaissent la victime réagissent à l'annonce de la violence.



Comme l'a indiqué Allan Wade, et comme cela ressort clairement des expériences racontées par Cee-Jai, Michele et bien d'autres, « malheureusement, la grande majorité des victimes, lorsqu'on leur demande si leur vie s'est améliorée ou a empiré depuis qu'elles ont dénoncé la violence, répondent qu'elle a empiré<sup>23</sup>. »

La banalisation de la violence dans ce contexte a d'autres conséquences graves sur la capacité des femmes autochtones de se protéger quand la situation l'exige. Lors de son témoignage, Josie Nepinak a raconté ce qui suit :

[La violence coloniale] se manifeste dans tous ces aspects [pensionnats indiens, rafle des années 1960, protection de l'enfance]. Nos vulnérabilités sont alors poussées dans ces environnements malsains et [...] dans ces domaines où nous sommes encore plus à risque au point où nous ne nous rendons même plus compte que nous sommes dans une situation de violence ou que nous sommes à risque de violence<sup>24</sup>.

« PERMETTEZ-MOI DE RÉSUMER OÙ NOUS EN SOMMES MAINTENANT. ILS M'ONT ARRACHÉ DES BRAS DE MA MÈRE POUR ME PLACER DANS UN SYSTÈME CENSÉ ME PROTÉGER. MAIS OÙ ÉTAIT LA PROTECTION? J'AVAIS ÉTÉ AGRESSÉE SEXUELLEMENT DANS TOUS LES FOYERS OÙ ILS M'AVAIENT PLACÉE JUSQUE-LÀ. J'AI FAIT CE QUE JE PENSAIS ÊTRE JUSTE. J'AI SIGNALÉ LES AGRESSIONS SEXUELLES À MES PARENTS. IL NE S'EST RIEN PASSÉ. J'AI SIGNALÉ LES AGRESSIONS À MON ASSISTANTE SOCIALE. IL NE S'EST RIEN PASSÉ. J'AI ÉTÉ EXAMINÉE PAR DES MÉDECINS DU MINISTÈRE DE LA SANTÉ POUR PRENDRE DES CONTRACEPTIFS. J'AI ÉTÉ ARRÊTÉE PLUSIEURS FOIS PAR LA POLICE. POURTANT, PERSONNE, PERSONNE NE M'A JAMAIS DEMANDÉ SI J'AVAIS DÉJÀ ÉTÉ VICTIME D'AGRESSION SEXUELLE. LA PREMIÈRE PERSONNE À M'AVOIR POSÉ LA QUESTION A ÉTÉ UN AGENT DE LA GRC QUI S'EST PRÉSENTÉ À MA PORTE, À MUSQUEAM, QUAND J'AVAIS 30 ANS. »

Michele G.

Le déni et la banalisation de la violence interpersonnelle dans la vie des femmes, des filles et des personnes 2ELGBTQIA autochtones – et la mesure dans laquelle ce déni, comme l'a souligné Josie, incite les femmes autochtones à demeurer dans des situations dangereuses ou les prive de leur sécurité – représentent une autre forme de contrôle colonial exercé par l'État. Cet État qui, au lieu de reconnaître sa complicité au cours d'une longue histoire de perpétration, puis de déni ou de dissimulation d'actes de violence, ne fait qu'ignorer cette violence ou – la plupart du temps – blâme ou punit davantage les femmes autochtones parce qu'elles sont des victimes. Afin d'aider à comprendre la façon dont la violence porte atteinte au droit à la sécurité de ces femmes, Wade a présenté l'observation suivante :

Le Canada est une nation activement coloniale. Nous ne sommes pas dans une ère postcoloniale, pas même proche, à mon humble avis. Il est très important de comprendre ça parce que, selon moi, on ne peut pas comprendre la violence sexiste sans comprendre son rôle dans une société coloniale qui se caractérise, notamment, par ses efforts extraordinaires pour cacher la vérité, pour cacher les faits<sup>25</sup>.



## Les pensionnats, les externats et la rafle des années 1960

Les histoires de Cee-Jai, de Marlene et de tant d'autres personnes tracent un portrait peu réjouissant de la mesure dans laquelle la sécurité physique et psychologique des femmes, des filles et des personnes 2ELGBTQQIA autochtones est violée par des actes de violence interpersonnelle. Cependant, l'éclairage et les renseignements contextuels que chaque femme apporte à son histoire sont tout aussi importants pour expliquer les relations favorisant une violation aussi grave du droit à la sécurité. Par exemple, comme l'a souligné Cee-Jai, on ne peut parler du manque de sécurité qui a marqué son enfance sans préciser que sa mère avait fréquenté un pensionnat indien et sans comprendre sa relation avec cette dernière en tant qu'enfant d'une survivante des pensionnats.

Et, je me souviens que mon enfance est... ma mère est une survivante du pensionnat Lejac. Et elle a passé, genre, je crois, 12 ans ou 14 ans au pensionnat Lejac. Et elle a enduré toutes les choses qui ont été faites aux personnes qui se trouvaient dans les pensionnats. Donc [...] je me souviens, genre, qu'elle me racontait l'histoire du pensionnat et ce qui lui était arrivé, et je ne comprenais pas les effets que ça avait eus sur elle. Ma mère [...] était [...] est une ancienne alcoolique. Ma mère buvait et commençait à parler de son expérience. Elle pleurait. Et j'étais seulement une petite fille et j'ai compris seulement quand je suis devenue beaucoup plus vieille<sup>26</sup>.

Cee-Jai a également expliqué qu'après toutes ces expériences, elle en était venue à croire que sa mère était ciblée par des hommes violents qui profitaient de la fragilité de sa santé émotionnelle et mentale, de sa dépendance active à l'alcool et de sa pauvreté – une situation qui, du même coup, exposait Cee-Jai et ses frères et sœurs à un risque accru de violence et à une sécurité réduite.

Je pense que ma mère nous a sortis de la réserve et qu'elle est partie de la réserve à cause de mon père et de sa famille, qui est ma famille. Elle nous a amenés à Prince George et, même chose, de la violence. J'ai appris ça. J'ai appris comment avoir peur à un âge aussi jeune. Je me souviens que ma mère, étant donné qu'elle était monoparentale, avait des amoureux. Et ce n'étaient pas des hommes très gentils qui venaient chez nous. Ma mère était vulnérable. Ça a dû être difficile pour elle. Je pense que nous avons vécu de l'aide sociale, toute ma vie, dans la pauvreté<sup>27</sup>.

La consommation d'alcool de la mère de Cee-Jai pour composer avec les sévices subis au pensionnat Lejac est un effet à long terme courant des pensionnats, selon les résultats d'une recherche sur les effets traumatiques à long terme de ce système sur les survivants et leurs familles. Il semble donc y avoir aussi un lien entre la fréquentation de pensionnats et la violence interpersonnelle<sup>28</sup>.

La compréhension que Grace T. avait du comportement violent de son beau-père, qu'elle a exposée dans son témoignage, voulant que le traitement qu'il réservait à sa mère soit attribuable





à son séjour au pensionnat cadre avec un document de recherche qui explique comment les pensionnats indiens conditionnaient systématiquement les élèves à la violence et aux sévices.

Tout l'amour ou le bonheur que mon grand-père nous a inculqué, à nous et à sa famille, nous a été enlevé parce qu'il [le beau-père de Grace] nous a amenés ici pour maltraiter ma mère, pour nous maltraiter avec sa haine, sa violence et ses sévices sexuels, les choses qui lui ont été inculquées par sa famille, les secrets dont personne ne devait parler et le pensionnat. Le monstre est né, et le monstre a prospéré<sup>29</sup>.

Dans son témoignage, Michele G. a associé la violence et les sévices subis durant toute son enfance passée en foyer d'accueil après avoir été retirée de la garde de sa mère pendant la rafle des années 1960 à la rupture que cet événement a entraîné dans une relation mère-fille pourtant essentielle dans sa vie.

Je suis fière d'être la fille de feu Beverly [G.]. Et aujourd'hui, je dédie mon témoignage à ma mère, et je parlerai en nos deux noms de la manière dont le système nous a volé notre relation [...] J'ai été retirée à mes parents en 1963, pendant la rafle des années 1960; ils m'ont prise des bras de ma mère sur-le-champ à l'hôpital [...] Le programme de placement en famille d'accueil n'a pas réussi à me protéger [...] Quarante ans plus tard, le programme continue d'échouer pour les filles et les femmes autochtones<sup>30</sup>.

En racontant leur vérité respective, Cee-Jai, Michele et Grace ont demandé qu'il y ait une prise de conscience quant à la façon dont les pratiques coloniales, comme le système de pensionnats et d'externats et la rafle des années 1960, ainsi que le placement continu des enfants autochtones en famille d'accueil sont à l'origine de l'absence de sécurité qui a marqué leur vie et celle de leur mère.

Puisque le traumatisme intergénérationnel résultant des pensionnats et externats et d'autres pratiques et politiques coloniales est l'une des causes profondes qui minent la sécurité des femmes et des filles autochtones, il est essentiel de comprendre les contextes entourant cette violence. Comme l'a indiqué Allan Wade en décrivant les dynamiques uniques et propres à la culture qui entrent en jeu dans la compréhension de cette violence à l'endroit des femmes, des filles et des personnes 2ELGBTQQIA autochtones, « vous n'avez pas seulement l'expérience de la violence, mais l'expérience de la violence en train d'être effacée de l'histoire, ou vous êtes tenu responsable si vous en êtes victime. Vous avez donc reçu ces réponses négatives des autorités, de nombreuses personnes pendant toute votre vie<sup>31</sup>. »

Dans son témoignage, Amy Bombay abonde dans le sens des récits de plusieurs témoins en nous demandant de nous rappeler que les Autochtones continuent de ressentir et de subir les conséquences des pensionnats et des externats indiens. Ses recherches démontrent, entre autres, que les pensionnats et externats ont gravement perturbé la sécurité physique, psychologique et sociale des survivants de ce système en raison du manque de nourriture, des conditions de vie difficiles, d'une mauvaise éducation, du manque de vêtements convenables, ainsi que de nombreux sévices physiques, sexuels et psychologiques<sup>32</sup>. Elle a expliqué qu'il existait « [...] des éléments de



preuve cohérents qui montrent que les enfants et les petits-enfants des personnes touchées par les pensionnats sont exposés au risque de subir diverses conséquences négatives sur les plans mental, physique et social<sup>33</sup> ».



*Filles dans les dortoirs au pensionnat indien de Moose Factory, situé à Moose Factory, en Ontario.*

La façon dont plusieurs témoins ont décrit la toxicomanie, la pauvreté et les actes répétés de violence interpersonnelle dont elles ont été victimes indique clairement que les difficultés des survivants n'ont pas simplement cessé à leur départ du pensionnat ou de l'externat. Au contraire, comme nous l'avons entendu dans les témoignages de l'Enquête nationale, la violation des droits fondamentaux à la sécurité et à la sûreté dans les pensionnats continue d'avoir des effets négatifs à long terme. Par exemple, Amy Bombay a cité des statistiques indiquant que 80,5 % des personnes ayant fréquenté un pensionnat pendant au moins trois ans considéraient que la violence psychologique et verbale qu'elles y ont subie avait une incidence négative sur elles, comparativement à 58,8 % des personnes qui y ont séjourné pendant moins de trois ans<sup>34</sup>.

On ne doit pas sous-estimer le rôle du système des pensionnats indiens dans les actes de violence qui sont commis de nos jours envers les femmes, les filles et les personnes 2ELGBTQQIA autochtones, ainsi que dans d'autres formes de violation de leur droit à la sécurité. Pour renforcer ce point, Allan Wade a décrit les pensionnats indiens comme des « camps de prisonniers que nous appelons, par euphémisme et à tort, des pensionnats. Ce n'était pas des résidences, ce n'était pas des écoles<sup>35</sup>. »

« TOUT L'AMOUR OU LE BONHEUR QUE MON GRAND-PÈRE NOUS A INCULQUÉ, À NOUS ET À SA FAMILLE, NOUS A ÉTÉ ENLEVÉ PARCE QU'IL [LE BEAU-PÈRE DE GRACE] NOUS A AMENÉS ICI POUR MALTRAITER MA MÈRE, POUR NOUS MALTRAITER AVEC SA HAINE, SA VIOLENCE ET SES SÉVICES SEXUELS, LES CHOSES QUI LUI ONT ÉTÉ INCULQUÉES PAR SA FAMILLE, LES SECRETS DONT PERSONNE NE DEVAIT PARLER ET LE PENSIONNAT. LE MONSTRE EST NÉ, ET LE MONSTRE A PROSPÉRÉ. »

Grace T.



Selon Amy Bombay, une bonne partie des torts causés par le système des pensionnats découle du fait que ces derniers favorisaient les agressions et les sévices entre élèves, modélisaient et banalisaient les mauvais traitements tout en éliminant les pratiques culturelles qui auraient permis de créer des liens. Elle a formulé l'observation suivante :

Après que des générations d'enfants [...] ont vécu [...] ce contexte des pensionnats, les enfants sont retournés dans leur communauté sans les compétences traditionnelles ni l'accès aux ressources du groupe dominant. Les victimes et les agresseurs ont été renvoyés dans les mêmes communautés, et les effets des traumatismes et de la modification des normes sociales ont également contribué aux cycles continus qui étaient favorisés dans les pensionnats<sup>36</sup>.

En racontant sa propre expérience, Josie Nepinak a expliqué que l'intégration forcée des élèves dans les pensionnats et les externats a marqué le début de nombreuses histoires de violence familiale et d'histoires témoignant du refus répété du droit à la sécurité des femmes, des filles et des personnes 2ELGBTQQIA autochtones, car c'est dans ces établissements que la dynamique de violence a commencé et que les facteurs favorisant la sécurité ont été compromis.

J'aimerais ajouter qu'on m'a souvent demandé depuis combien de temps je travaillais sur la question de la violence familiale. Je réponds, depuis que j'ai cinq ans. C'est ce que je réponds, parce qu'avant ça, je connaissais seulement la tradition, la culture et la langue, et [...] un environnement sûr et sécuritaire avec ma famille. Donc, dès l'entrée au pensionnat, on commence à sentir la dynamique et la destruction de l'esprit lorsqu'il s'agit des pensionnats<sup>37</sup>.

Paul T. a pris part au processus de consignation de la vérité pour raconter l'histoire de sa sœur, Amber, qui manquait à l'appel depuis deux ans et qui a finalement été retrouvée sans vie en 2012. En situant le contexte de la violence qui a marqué la vie d'Amber, Paul a parlé des conséquences qu'avait le pensionnat sur sa famille lorsqu'Amber et lui étaient enfants.

Ma mère était dans un pensionnat indien. Mon père l'était, mais je pense qu'il a été là seulement quelques journées, je pense. Et puis il s'est fait expulser. Mais ma mère [...] ma mère a été là pendant quelques années. Et [...] et c'est la partie triste parce que je n'ai jamais eu la mère que je [...] habituellement je ne pleure jamais. Mais ouais, c'est [...] vous [...] vous n'avez qu'une seule mère. Et dans mon cas, pour ma mère, vous savez, elle nous a élevés de la seule façon qu'elle connaissait et, vous savez, c'est comme je [...] pour moi en tout cas, je pense, vous savez, si on n'a pas eu tout ce qu'on pouvait avoir de ma mère, c'est parce que le pensionnat lui a tellement gâché la vie, vous savez.

Et aussi, il y a beaucoup d'autres personnes, et ça touche même [...] ça me touche encore aujourd'hui. Et mes autres frères parce que c'est comme, vous savez, ma mère sait ce [...] ce qu'elle a subi. Ne nous en parle pas vraiment. Mais ça a juste enlevé [...]





je ne dirai pas les meilleures années, mais ça a enlevé beaucoup [...] beaucoup de bons moments loin de [...] de moi et de mes frères et soeurs [...] Mais pour ma famille, ça a juste gâché toute ma [...] surtout du côté de ma mère. Et c'est presque comme si vous [...] vous voulez en parler, mais vous [...] certaines personnes ne sont pas prêtes à en parler. Et c'est dur; à cause des pensionnats indiens, il y a tellement d'affaires qui sont arrivées, et puis ça se passait même dans leurs propres familles, et c'est [...] ça a touché tout le monde<sup>38</sup>.

Les expériences de Paul, ainsi que la recherche de Amy Bombay, associent les expériences de violence vécues par les femmes dans leur communauté à une culture « de silence existante au sujet des pensionnats indiens et de certaines conséquences qui en découlent, y compris la violence et les sévices commis dans les communautés<sup>39</sup> ». Elle insiste sur le fait que les personnes dont au moins un des parents fréquentait un pensionnat ont déclaré plus d'expériences traumatisantes dans leur vie<sup>40</sup>. Dans ses études portant sur les séquelles laissées par les sévices entre élèves commis dans le contexte des pensionnats indiens, M<sup>me</sup> Bombay explique également que dans de nombreuses communautés, les gens avaient le sentiment de n'avoir nulle part où aller : certains craignaient de dénoncer les sévices ou de parler de leurs expériences et de revivre le traumatisme, tandis que d'autres avaient peur de nommer les agresseurs par crainte de représailles<sup>41</sup>. La conséquence directe des expériences dans les pensionnats et externats est que certains élèves sont devenus agresseurs, sont retournés dans leur communauté et ont, à leur tour, maltraité d'autres personnes : « les mauvais traitements ont engendré de mauvais traitements<sup>42</sup> ».

De même, en s'appuyant sur sa recherche axée sur la santé des femmes autochtones dans les Territoires du Nord-Ouest, Pertice Moffitt (témoin expert) a expliqué que le refus d'accorder des ressources pour remédier aux conséquences actuelles des traumatismes liés aux pensionnats indiens, combiné aux limites et aux difficultés propres à la géographie du Nord, est une autre façon de nier et de banaliser la violence vécue par les femmes autochtones. En décrivant ce qu'elle appelle « une culture de violence et de silence », Pertice Moffitt a fait remarquer qu'en raison du manque de mesures de soutien adéquates qui pourraient leur permettre de quitter une relation ou une situation de violence de façon sécuritaire, les femmes gardent stratégiquement le silence face à la violence afin de se protéger.

« LE LENDEMAIN, J'Y SUIS RETOURNÉE ET J'AI RACONTÉ À [T.] CE QUI S'ÉTAIT PASSÉ. APRÈS AVOIR VU MES BLESSURES, IL M'A DÉPOSÉE [AU POSTE DE POLICE] [...] ET J'AI PORTÉ PLAINTÉ. CELA A APPORTÉ L'ENFER DANS MA VIE. MA GRAND-MÈRE [G.] A INSISTÉ POUR QUE JE NE PORTE PAS D'ACCUSATIONS PARCE QUE CELA CAUSERAIT DES PROBLÈMES AU CLAN [G.]. MA TRAVAILLEUSE SOCIALE M'A ÉVITÉE AUSSI LONGTEMPS QU'ELLE L'A PU, PUIS J'AI EU UN AVOCAT. CETTE PERSONNE ME TERRIFIAIT. J'ÉTAIS CONSTAMMENT MENACÉE ET J'AI ÉTÉ TERRIFIÉE PENDANT DES SEMAINES ET DES MOIS [...]. CEPENDANT, AVANT LE PROCÈS, LA FEMME DE L'HOMME QUI M'AVAIT AGRESSÉE EST VENUE S'ASSEOIR À MA TABLE DE CUISINE. ELLE ÉTAIT ENCEINTE ET M'A DEMANDÉ D'ABANDONNER LES POURSUITES. JE L'AI DONC FAIT. »

Michele G.



Je crois que, pour les femmes autochtones, le fait de ne pas parler de ce qui se passe est une question de protection et de préservation de soi. C'est une raison pour laquelle il y a beaucoup de violence non signalée [...]. Il y a des représailles dans nos petites communautés où les familles s'accusent mutuellement et doivent composer avec des répercussions négatives si elles dénoncent l'agresseur de leur famille. Les représailles prennent la forme de harcèlement, d'isolement, d'accès limité au logement lorsqu'il y en a très peu, ou de faibles possibilités d'emploi dans la communauté. Ce n'est pas [...] c'est compréhensible que les victimes utilisent beaucoup leur instinct de survie lorsque des circonstances comme celles-ci surviennent dans une communauté. Les femmes gardent le silence dans une relation de violence. Elles peuvent évoluer à partir de cette situation. Elles peuvent se rendre compte du manque de services dans leur communauté, ce qui peut les aider à partir pour de bon<sup>43</sup>.

En décrivant la réaction de sa famille et de sa communauté à l'annonce de la violente agression commise à son endroit par un ami de son mari, Michele a démontré cette pression exercée sur les femmes pour qu'elles gardent le silence.

Le lendemain, j'y suis retournée et j'ai raconté à [T.] ce qui s'était passé. Après avoir vu mes blessures, il m'a déposée [au poste de police] [...] et j'ai porté plainte. Cela a apporté l'enfer dans ma vie. Ma grand-mère [G.] a insisté pour que je ne porte pas d'accusations parce que cela causerait des problèmes au clan [G.]. Ma travailleuse sociale m'a évitée aussi longtemps qu'elle l'a pu, puis j'ai eu un avocat. Cette personne me terrifiait. J'étais constamment menacée et j'ai été terrifiée pendant des semaines et des mois [...]. Cependant, avant le procès, la femme de l'homme qui m'avait agressée est venue s'asseoir à ma table de cuisine. Elle était enceinte et m'a demandé d'abandonner les poursuites. Je l'ai donc fait<sup>44</sup>.

Le silence est un exemple de traumatisme causé par les pensionnats et les externats, la rafle des années 1960 et les politiques coloniales. Toutefois, le manque constant de responsabilisation gouvernementale en matière de prestation de ressources et de mesures de soutien qui permettraient aux femmes de briser le silence de façon sécuritaire et significative ne fait qu'entretenir le cycle de violence et considérer sous un angle pathologique les femmes qui ne mettent pas un terme à leur relation de violence. Comme l'a indiqué Allan Wade, tant que nous continuons de vivre dans un contexte où les gens « refusent de dire la vérité à propos de la violence<sup>45</sup> » et que nous continuons d'alimenter un tel contexte, la sécurité des femmes, des filles et des personnes 2ELGBTQQIA autochtones est menacée, et leur vie est considérée comme étant sans importance.

Comme nous le verrons dans la prochaine section, la violence qui marque la vie des survivantes nous ayant fait part de leur histoire, de même que la violence qui a entraîné la disparition ou le décès de celles qui n'ont pas pu partager leur histoire et expliquer son lien avec les traumatismes intergénérationnels, doit être abordée en tenant compte des diverses façons dont la sécurité sociale des femmes et des filles autochtones continue d'être atteinte dans un État colonial.



Comme l'ont clairement démontré les témoins, la marginalisation sociale, économique et politique des peuples autochtones dans la société canadienne est un volet tout aussi important de l'histoire pour comprendre la violence qui entraîne la disparation ou le décès de femmes et de filles autochtones.

## Les facteurs favorisant la violence : la marginalisation sociale et économique

Comme l'a expliqué Jeffrey McNeil-Seymour dans sa présentation à l'Enquête nationale, avant la colonisation, la nation Secwepemc avait des pratiques qui assuraient la sécurité économique de tous ses membres.

Je crois qu'avant le contact avec les Européens, disons que si une famille de notre Nation n'avait pas suffisamment de provisions pour passer l'hiver, une famille qui avait des réserves excédentaires lui venait en aide. Pour ce faire, nous organisons un festin. La famille devait ensuite en organiser un pour remercier la famille qui l'avait aidée pendant l'hiver<sup>46</sup>.

Ce concept est directement remis en question par les obstacles qui menacent la sécurité sous toutes ses formes à l'heure actuelle. En partageant leurs histoires sur la façon dont leurs relations et des épisodes précis de ces relations ont ouvert la voie à la violence, les familles, les survivantes et les personnes de soutien ont été au-delà de la relation individuelle entre leur proche disparue ou assassinée et leur agresseur. Bon nombre des membres de famille et des survivantes ayant raconté leurs histoires de violence ont également parlé des grandes difficultés économiques auxquelles ils ont dû faire face ou auxquelles leurs proches ont dû faire face. Pour ces personnes, la marginalisation sociale et économique en général contribue – ou est directement liée – à la violence dont leur proche ou eux-mêmes ont été victimes. À mesure que nous examinons les témoignages à propos des femmes, des filles et des personnes 2ELGBTQQIA autochtones disparues et assassinées, nous comprenons mieux en quoi la pauvreté et les obstacles qui empêchent d'en sortir constituent une condition sous-jacente favorisant la violence dirigée à leur endroit. De plus, nous constatons de quelle façon les obstacles à la sécurité économique ont aussi une incidence sur la sécurité sociale et politique. Plus précisément, nous remarquons que la pauvreté oblige les femmes, les filles et les personnes 2ELGBTQQIA autochtones à vivre dans des situations qui accentuent le risque de violence. Nous constatons également que l'indifférence et le mépris de la société envers ceux qui éprouvent des difficultés sociales et économiques marginalisent encore davantage les femmes autochtones, ce qui les place dans des situations qui non seulement augmentent le niveau de risque ou de danger, mais réduisent encore plus les possibilités d'accéder aux ressources économiques qui permettraient de réduire ce risque.





## La pauvreté

Au Canada, les membres des Premières Nations, les Métis et les Inuits enregistrent des niveaux de pauvreté économique plus élevés que les non-Autochtones. Selon le Canadian Poverty Institute, un Autochtone sur quatre vit dans la pauvreté. Ce nombre est même plus élevé chez les enfants : quatre enfants sur dix (ou 40 %) résidant à l'extérieur des réserves, et six enfants sur dix (ou 60 %) résidant à l'intérieur de celles-ci sont touchés par la pauvreté<sup>47</sup>.

Comparativement à la population canadienne non autochtone et aux hommes autochtones, les femmes autochtones sont plus susceptibles de vivre dans la pauvreté. Environ 44 % des femmes autochtones résidant dans les réserves et 47 % de celles résidant à l'extérieur des réserves sont pauvres. De plus, les femmes autochtones gagnent moins d'argent que les hommes autochtones et les femmes non autochtones. Leur revenu annuel moyen est de 13 300 \$, comparativement à 18 200 \$ et 19 350 \$ pour les hommes autochtones et les femmes non autochtones, respectivement<sup>48</sup>.

Les chercheurs Gérard Duhaim et Roberson Édouard ont observé que, dans l'Inuit Nunangat, la pauvreté est en partie attribuable à un changement de mode de vie relativement inattendu qui a commencé au début des années 1950, lorsqu'une nouvelle forme d'économie a vu le jour. Voici leur explication :

Le passage du nomadisme à la sédentarité, à la fin des années 1950, a non seulement transformé le mode d'utilisation des terres par les Inuits, mais a aussi bouleversé l'organisation sociale de ce peuple, faisant du marché leur principale voie d'accès aux biens et services, de l'argent leur principal moyen d'échange et du gouvernement le carrefour principal de la plupart des industries<sup>49</sup>.

Le système de rémunération a eu une incidence directe sur les activités traditionnelles sur lesquelles reposait auparavant la vie des Inuits, notamment en ce qui concerne le logement, la nourriture, l'habillement et le transport. Comme Duhaim et Édouard l'indiquent, « bien qu'elles demeurent encore bien présentes, les activités de chasse, de pêche, de piégeage et d'artisanat, ainsi que les institutions traditionnelles de mise en commun ont vu leur rôle et leur statut subir d'importants changements. Ces activités sont devenues de plus en plus dépendantes de l'économie de marché [...] Ce système a profondément transformé la configuration des dispositions et des relations sociales<sup>50</sup>. » Les résidents de l'Inuit Nunangat dépendent désormais davantage de biens et de services importés qui sont coûteux, ce qui a de grandes conséquences sur la pauvreté.



# Insécurité économique et négligence de la part du gouvernement dans l'Inuit Nunangat

Dans l'Inuit Nunangat, le problème d'insécurité économique est exacerbé par l'échec du gouvernement à promouvoir un développement économique diversifié et à honorer ses engagements relativement aux revendications territoriales des Inuits.

Le développement économique dans l'Inuit Nunangat est généralement associé à l'activité minière et à l'exploitation pétrolière ou gazière. Ces industries extractives sont souvent considérées comme étant les principaux moteurs de développement économique dans la plupart des territoires du Nord. Pourtant, l'extraction des ressources non renouvelables n'est qu'un des nombreux secteurs de l'économie du Nord<sup>I</sup>. Les avantages économiques pour les communautés inuites ne sont généralement pas aussi importants que ce qui est promis au départ, puisque la plupart des emplois, des revenus et des possibilités de contrats continuent de revenir à d'autres administrations<sup>II</sup>. En outre, le développement extractif peut entraîner des risques supplémentaires pour la sécurité des femmes inuites, étant donné que le nombre élevé de travailleurs migrants dans les camps d'exploitation minière peut générer un environnement de travail et un milieu de vie propices au harcèlement sexuel et à la violence à leur endroit<sup>III</sup>. Par conséquent, le gouvernement doit promouvoir un développement économique diversifié afin de veiller à la sécurité économique des femmes inuites sur leur terre natale.

Malheureusement, le gouvernement ne réussit pas à faire la promotion d'un développement diversifié dans l'Inuit Nunangat. Les pêches du Nord, par exemple, sont une composante économique importante pour les communautés du Nunavut, car elles fournissent des emplois saisonniers et un revenu supplémentaire à bon nombre des résidents du territoire, y compris les femmes inuites. Les pêches fournissent également d'importantes sources de revenus aux organisations inuites et aux groupes de chasseurs et de trappeurs

des communautés puisque ceux-ci sont propriétaires d'entreprises halieutiques<sup>IV</sup>. Actuellement, le potentiel d'expansion des pêches au Nunavut est considérable; exploiter ce potentiel contribuerait donc positivement à la sécurité économique des femmes inuites. Cependant, de nombreux obstacles continuent de freiner cette croissance en raison de l'inaction gouvernementale. Par exemple, une part importante des quotas de pêche dans les zones au large des côtes du Nunavut est encore réservée à des entreprises de l'extérieur de l'Arctique. En outre, le manque d'infrastructures limite l'expansion. La valorisation des pêches côtières requiert d'importants investissements en infrastructures communautaires, comme des ports pour petites embarcations et des usines de transformation du poisson. Puisque le Nunavut ne dispose pas de ports pour gros navires, le territoire ne peut tirer profit de la transformation du poisson pêché au large des côtes<sup>V</sup>.

Le défaut d'honorer certaines dispositions des traités modernes est un autre exemple de l'échec du gouvernement à promouvoir la sécurité économique des femmes inuites. À titre d'exemple, le gouvernement n'a pas respecté les objectifs de l'article 23 de l'Accord sur les revendications territoriales du Nunavut en ce qui concerne la composition représentative de la fonction publique au Nunavut. En effet, selon l'article 23, puisque 85 % de la population du Nunavut est inuite, 85 % des employés gouvernementaux du territoire devraient l'être également. En 2006, la société Nunavut Tunngavik Incorporated a intenté des poursuites contre le gouvernement du Canada en





alléguant de nombreuses violations de l'Accord, y compris l'échec du gouvernement à prendre les mesures adéquates pour promouvoir un effectif représentatif<sup>I</sup>. L'affaire a progressivement suivi son cours<sup>VII</sup>, mais un règlement extrajudiciaire a été négocié en 2015, selon lequel de nouvelles sommes seraient accordées pour financer des projets d'éducation et de formation des Inuits<sup>VIII</sup>. Toutefois, en dépit de ce règlement, l'inaction du gouvernement aura entraîné des dommages de longue durée pour l'économie du Nunavut. En septembre 2018, seulement 51 % des employés du gouvernement du Canada étaient inuits<sup>IX</sup>.

Le problème du caractère représentatif de l'effectif ne se résume pas à la proportion d'Inuits au sein du personnel, mais englobe également les écarts salariaux importants. Les employés inuits, et particulièrement les femmes, ont un salaire nettement inférieur au salaire moyen des employés du gouvernement du Nunavut (GN). Par exemple, en 2015, l'employé moyen du GN gagnait environ 90 000 \$, les hommes inuits gagnaient environ 82 000 \$ et les femmes inuites gagnaient en moyenne 79 000 \$<sup>X</sup>.

De plus, étant donné que les marchés du logement privé et de la location sont surévalués et qu'il est très difficile d'avoir accès aux logements sociaux, l'attribution, par l'employeur, de logements aux membres du personnel s'avère essentielle. À titre

d'exemple, d'après un reportage réalisé en 2017 pour *CBC News* par Garrett Hinchey, le coût moyen des loyers à Iqaluit était parmi les plus élevés au Canada, un logement de deux chambres à coucher coûtant en moyenne 2 597 \$ par mois<sup>XI</sup>. Selon le rapport de 2018 sur le logement dans le Nord de la Société canadienne d'hypothèques et de logement, les deux tiers de la population du Nunavut n'ont pas les moyens de payer leur logement sans l'aide de leur employeur ou du gouvernement<sup>XII</sup>.

Le gouvernement du Canada et celui du Nunavut fournissent tous deux des logements subventionnés à leurs employés à temps plein. Le secteur public, l'employeur le plus important au Nunavut, a loué 39 % du marché locatif d'Iqaluit en 2017. Les entreprises privées ont loué 24 % du parc locatif pour loger leurs employés. Dans seulement 10 % des cas, les locataires privés paient leur loyer directement au propriétaire, et les logements sociaux fournis par la Société d'habitation du Nunavut (SHN) comptent pour 23 % des appartements locatifs<sup>XIII</sup>. Selon la SHN, le nombre de logements sociaux doit augmenter de 37 % à Iqaluit, c'est-à-dire que l'ajout de 193 unités d'habitation est nécessaire pour répondre aux besoins en matière de logement<sup>XIV</sup>. La conformité à l'article 23 de l'Accord sur les revendications territoriales du Nunavut par les deux gouvernements au sein de la région du Nunavut contribuerait à enrayer la crise du logement.

I Forum économique du Nunavut, « Nunavut Economic Development Strategy. »

II Bernauer, « The Limits to Extraction. »

III Czyzewski, Tester, Aaruaq, et Blangy, *The Impact of Resource Extraction*.

IV Forum économique du Nunavut, « Nunavut Economic Development Strategy. »

V Nunavut, Ministère de l'environnement, Pêches et Chasse au Phoque, « Nunavut Fisheries Strategy, 2016–2020. »

VI Nunavut Tunngavik Incorporated, « Amended Statement of Claim, » NUCJ File No. 08-06-713 CVC.

VII En 2012, la Cour de justice du Nunavut a rendu un jugement sommaire sur l'une des allégations de NTI: le gouvernement du Canada a violé l'accord du Nunavut en n'établissant pas de plan de surveillance général du territoire. Le tribunal s'est prononcé en faveur de NTI. See *Nunavut Tunngavik Incorporated v. Canada* (Attorney General), 2012, NUCJ 11.

VIII Nunavut Tunngavik Incorporated, Gouvernement du Nunavut, and Gouvernement du Canada, « Moving Forward in Nunavut. »

IX Nunavut, Ministère des Finances, « Towards a Representative Public Service. »

X Nunavut, *Public Service Annual Report: 2014–2015*.

XI Hinchey, « Iqaluit is one of the most expensive cities. »

XII Société canadienne d'hypothèques et de logement, « Northern Housing Report 2018, » 12–13.

XIII Ibid., 13.

XIV Société canadienne d'hypothèques et de logement, « Northern Housing Report 2018, » 12–13.

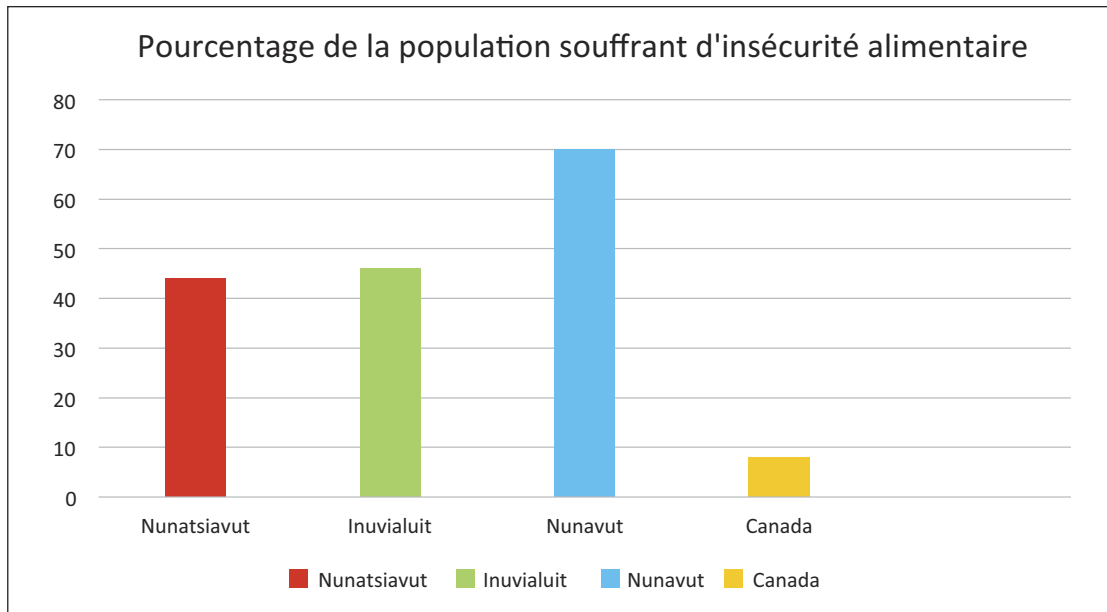




En outre, beaucoup de personnes de l’Inuit Nunangat souffrent d’une plus grande insécurité alimentaire qu’ailleurs au Canada. Une situation « d’insécurité alimentaire » se manifeste lorsque la nourriture achetée pour les membres d’un ménage ne dure pas assez longtemps et que le ménage n’a pas suffisamment d’argent pour acheter plus de nourriture ou des aliments sains; lorsque les membres d’un ménage réduisent leurs portions ou sautent des repas parce qu’ils n’ont pas les moyens d’acheter davantage de nourriture. Selon Statistique Canada, « en 2012, plus de la moitié (52 %) des Inuits de l’Inuit Nunangat âgés de 25 ans et plus vivaient dans un ménage ayant vécu de l’insécurité alimentaire au cours des 12 mois précédents<sup>51</sup> ». De plus, « en 2012, près du tiers (32 %) des adultes inuits de l’Inuit Nunangat ont mangé moins qu’ils auraient dû le faire parce qu’ils ne disposaient pas d’assez d’argent pour acheter de la nourriture. En outre, 27 % des adultes inuits ont déclaré qu’ils avaient eu faim parce qu’ils n’avaient pas les moyens d’acheter suffisamment de nourriture<sup>52</sup>. » Les adultes inuits étaient plus à risque de souffrir d’insécurité alimentaire, surtout les femmes, les familles ayant des enfants, les personnes vivant dans un logement surpeuplé et celles ayant peu de liens avec leur famille. D’après le profil statistique régional dressé par l’Inuit Tapiriit Kanatami (ITK), « au Nunatsiavut, 44 % des ménages souffrent d’insécurité alimentaire, ce qui est comparable au taux de 46 % dans la région désignée des Inuvialuit. Le plus haut taux d’insécurité alimentaire a été enregistré au Nunavut, où 70 % des ménages sont en situation d’insécurité alimentaire. En revanche, 8 % de l’ensemble des ménages au Canada souffrent d’insécurité alimentaire<sup>53</sup>. »



*Groupe de résidents qui sensibilise la population au sujet du coût élevé des aliments. Facebook, groupe public Feeding my Family, 21 juin 2012, Pangnirtung, au Nunavut. Aucune intention de violer le droit d’auteur.*



La pauvreté et l'insécurité alimentaire sont liées à l'accès ou au manque d'accès à l'éducation et à l'emploi. Comme l'indiquent clairement les statistiques du gouvernement, les peuples autochtones au Canada ont historiquement eu des taux d'activité et d'emploi ainsi qu'un revenu plus faibles que les non-Autochtones.

Une enquête de 2015 portant sur la situation des personnes vivant à l'extérieur des réserves dans les dix provinces canadiennes a révélé que les peuples autochtones étaient sous-représentés dans les emplois que le gouvernement a classifiés comme « professions du savoir », notamment celles liées à la gestion, aux affaires, aux finances, aux sciences naturelles et appliquées, à la santé, aux arts, à la culture, aux loisirs et aux sports. Toutefois, selon cette enquête, les peuples autochtones étaient proportionnellement plus nombreux que les non-Autochtones dans les domaines de l'enseignement, du droit et des services sociaux, communautaires et gouvernementaux (15,1 % contre 12,8 %). Comparativement aux non-Autochtones, les peuples autochtones affichaient un niveau d'emploi élevé dans les secteurs des métiers et des ressources naturelles, ainsi que dans celui de la vente et des services<sup>54</sup>.

Les données sur l'emploi variaient selon les régions. Cependant, il convient de mentionner qu'en 2015, c'est au Manitoba et en Saskatchewan que l'écart dans les taux d'emploi entre les Autochtones et les non-Autochtones était le plus marqué (17,4 % et 18,5 % respectivement). C'est aussi dans ces provinces que les taux de prise en charge d'enfants, de logements dangereux et de criminalisation des femmes autochtones sont parmi les plus élevés<sup>55</sup>. De plus, les statistiques indiquent clairement que les taux de sous-emploi et de chômage sont plus élevés chez les femmes autochtones que chez les hommes. Entre 2014 et 2015, par exemple, le taux d'emploi a diminué de près de 3 % chez les femmes autochtones, tandis qu'il est demeuré généralement



stable chez les hommes autochtones<sup>56</sup>. Le fait que les femmes soient souvent le parent responsable dans les familles monoparentales compromet encore davantage leur bien-être économique et les aspects connexes de sécurité.

Les femmes, les filles et les personnes 2ELGBTQQIA vivant dans les réserves font également face à des difficultés liées à la pauvreté. Selon les données sur le revenu du recensement de 2016, dans quatre réserves sur cinq, la population touchait un revenu médian sous le seuil de la pauvreté. Cela signifie que, sur les 367 réserves pour lesquelles on disposait de données pour cette mesure, 297 communautés se situaient en deçà de la mesure de faible revenu, et beaucoup d'autres étaient très près de celle-ci<sup>57</sup>. Et, comme l'a rapporté le journaliste Jordan Press, « au bas de l'échelle, 27 communautés ont déclaré un revenu total médian inférieur à 10 000 \$<sup>58</sup>. »

Dans l'Inuit Nunangat, bien que la majorité des Inuits (79 %) ait déclaré avoir un emploi permanent en 2016, 21 % travaillaient à temps partiel, et les femmes étaient plus susceptibles que les hommes de travailler à temps partiel<sup>59</sup>. Alors que la majorité des répondants a indiqué que plus d'emplois étaient nécessaires, 11 % des femmes inuites ont déclaré qu'une indemnité pour frais de garde d'enfants est ce qui leur serait le plus utile<sup>60</sup>. Selon le profil statistique de 2018 de l'ITK, les données de 2015 montrent que le revenu médian des personnes de 15 ans et plus était de 23 485 \$, comparativement à 92 011 \$ pour les non-Autochtones de la région, et que l'écart de revenu était de près de 70 000 \$. Comme le souligne le rapport, « le coût de la vie dans l'Inuit Nunangat est élevé, et de nombreux Inuits ont de la difficulté à acheter de la nourriture saine, des fournitures de chasse et de pêche, des vêtements et d'autres biens essentiels. De plus, de nombreuses familles inuites sont grandes, et les faibles revenus doivent être répartis de manière à répondre aux besoins fondamentaux des membres de la famille<sup>61</sup>. »

Comme il a été dit devant l'Enquête nationale, le manque de moyens financiers a de graves conséquences et expose les femmes inuites, métisses et de Premières Nations à un risque accru d'insécurité alimentaire et d'insécurité en matière de logement, ainsi qu'à un risque accru de problèmes de santé mentale et physique. Comme l'a mentionné Mavis Windsor, la pauvreté et l'insécurité qui en découlent sont à l'origine de nombreuses difficultés auxquelles sont confrontées les femmes et les filles autochtones aujourd'hui : « Un grand nombre de personnes de notre peuple, y compris nos femmes et nos enfants, vivent dans la pauvreté, souffrent de l'inégalité sociale et de la désintégration des familles, de la dépendance, de taux de mortalité prématurée, d'un faible niveau d'alphabétisation et d'éducation, et de niveaux élevés de maladies mentales et physiques<sup>62</sup>. »

En décrivant les difficultés économiques auxquelles sont confrontées les femmes inuites du Sud, Jennisha Wilson, gestionnaire de programmes auprès de Tungasuvvingat Inuit, à Ottawa, a expliqué ce que cela signifie de vivre dans la pauvreté.

Je pense que l'une des réalités qui rendent les Inuites vulnérables est qu'elles vivent au seuil de la pauvreté ou en dessous de celui-ci. Cela signifie qu'au quotidien, elles sacrifient un certain aspect de leur bien-être, que ce soit en coupant dans la nourriture afin de payer leur loyer ou en passant d'un sofa à l'autre à défaut de pouvoir se payer un





loyer. Elles sacrifient toujours quelque chose, et c'est, je pense, dans une certaine mesure, qu'elles enfreignent leurs propres droits de la personne à cause de la pauvreté, de la pauvreté structurelle et de la violence, non? Je pense que c'est l'une des principales raisons pour lesquelles les gens deviennent vulnérables, se font enjôler et [se font avoir] par les trafiquants qui disent « je peux vous offrir un endroit où dormir ». Cela couvre une des vulnérabilités, non<sup>63</sup>?

« UN GRAND NOMBRE DE PERSONNES DE NOTRE PEUPLE, Y COMPRIS NOS FEMMES ET NOS ENFANTS, VIVENT DANS LA PAUVRETÉ, SOUFFRENT DE L'INÉGALITÉ SOCIALE ET DE LA DÉSINTÉGRATION DES FAMILLES, DE LA DÉPENDANCE, DE TAUX DE MORTALITÉ PRÉMATURÉE, D'UN FAIBLE NIVEAU D'ALPHABÉTISATION ET D'ÉDUCATION, ET DE NIVEAUX ÉLEVÉS DE MALADIES MENTALES ET PHYSIQUES. »

Mavis Windsor

En faisant part de leur expérience sur les façons dont la pauvreté complique la recherche de sécurité, les témoins ont également démontré que le défaut de remédier à la grande insécurité sociale et économique des femmes, des filles et des personnes 2ELGBTQQIA autochtones est directement lié à la violence susceptible de leur coûter la vie.



## RÉFLEXION APPROFONDIE

# Comprendre les expériences intersectorielles vécues par les Métis

Les témoignages des familles et des survivantes dans le cadre de l'Enquête nationale montrent à quel point les femmes, les filles et les personnes 2ELGBTQIA autochtones ont beaucoup en commun, dont la violence, omniprésente, qui affecte pratiquement chaque dimension de leur existence. Pour bien comprendre cette réalité, il faut examiner en quoi le fonctionnement des systèmes est pour elles synonyme d'oppression. Nous avons également entendu le récit de nombreuses expériences qui mettent en évidence la nécessité d'adopter, à certains égards, une approche d'analyse basée sur les distinctions, pour mieux comprendre les obstacles uniques qu'affrontent ces groupes.

La présente réflexion approfondie met en évidence une part des différences apparues dans le récit des familles et des témoins des communautés métisses. Beaucoup de ces communautés sont guidées par le principe du *wahkohtowin*, qui se traduit par « parenté » ou « apparenté ». C'est un moyen essentiel de se comprendre soi-même et de se situer dans le monde. Dans le contexte spécifique de la Nation métisse et de son histoire, le principe du *wahkohtowin* est un rappel des responsabilités de chacun et de l'obligation de soigner ses liens avec l'ensemble de la création. Comme le définit le chercheur Matthew Wildcat, Nehiyaw (Cri des Plaines) et membre de la communauté de Maskwacis en Alberta ainsi que de la Nation des Cris d'Ermineskin :

[*Wahkohtowin*], c'est d'abord le lien qui nous unit à notre parenté humaine et à une parenté autre qu'humaine. C'est aussi une vision du monde selon laquelle l'existence entière est douée de vie et imprégnée d'un esprit [...] Ce sont enfin les moyens adéquats dont nous disposons pour gouverner et entretenir nos rapports avec notre parenté et les autres volets de notre existence<sup>A</sup>.

Or, de nombreuses familles métisses ont souligné au cours de l'Enquête nationale à quel point il est diffi-

cile d'entretenir ces rapports au sein de leur nation, puisque l'existence de cette dernière a été très longtemps occultée. Pourtant, comme l'explique la D<sup>re</sup> Janet Smylie, Métisse, médecin de famille et directrice de la santé publique à l'Hôpital St. Michael et à l'Université de Toronto, « respecter le *wahkohtowin* ou maintenir nos liens avec les ancêtres [...] c'est mettre en place des moyens pour s'assurer d'accéder à la mémoire du sang, qui nous aide à mener une vie productive et florissante et qui est la clé de ce que nous sommes, comme nation<sup>B</sup> ».

Le témoignage de la D<sup>re</sup> Smylie nous apprend qu'il est essentiel de se rappeler et de comprendre les protocoles pour contrer la violence qui survient au sein des familles et des communautés métisses et pour nouer des relations avec le monde non métis<sup>C</sup>.

## Le peuple oublié

L'histoire des femmes métisses dans le contexte d'un ordre social, politique et économique distinct est abordée brièvement au chapitre 4, principalement sous l'angle des structures policières et administratives mises en place pour isoler leur peuple et le séparer de ses cousins des Premières Nations. Bien que le caractère propre de l'expérience métisse tienne à l'existence des Métis comme nation distincte, il importe de souligner la forte conscience collective qui anime ce « peuple oublié » des gouvernements, en particulier pendant la période de 1885 à 1982, quand la Constitution a reconnu officiellement son existence.

Dans une certaine mesure, le manque de reconnaissance du peuple métis découle des structures administratives imposantes qui ont effacé les Métis des pages de l'histoire ou les ont réduits au concept de « mixité ». Adam Gaudry, Métis, chercheur et professeur agrégé à la Faculté des études autochtones de l'Université de l'Alberta, rappelle que les Métis n'ont pas toujours été connus sous ce nom :





Le terme Métis ne correspond plus à la même définition que jadis. Au 19<sup>e</sup> siècle, deux grandes communautés d'ascendance mixte vivaient aux abords de la rivière Rouge : une importante population de Métis catholiques francophones, et un grand groupe de *half-breeds* « sang-mêlés » anglophones, en majeure partie anglicans, qui pratiquaient l'agriculture.

Bien que distincts, ces groupes étaient tout de même liés et entretenaient d'étroites relations, précise-t-il. « Le mot *half-breed* est tombé en désuétude en raison de sa connotation péjorative<sup>D</sup>. » En fait, l'étude des registres coloniaux de la fin du 19<sup>e</sup> siècle et du début du 20<sup>e</sup> montre qu'il a été utilisé presque exclusivement par le gouvernement fédéral durant cette période. Selon Bibliothèque et Archives Canada, « Le terme était utilisé dans les notes de service, les rapports et les registres ministériels, les lois fédérales, les décrets et les publications officielles. Les chercheurs peuvent effectivement consulter les documents de cette époque sans jamais rencontrer le terme "Métis"<sup>E</sup>. » Ce dernier désigne de nos jours les personnes d'ascendance française, écossaise ou anglaise. Certaines personnes, dont au moins un des témoins à l'Enquête nationale, se définissent encore comme *half-breeds*, comme s'ils se réclamaient de cette appartenance.

Le document intitulé *Half-Breed Adhesion to Treaty #3* (adhésion des Métis au Traité n° 3) illustre bien l'usage du terme dans le discours gouvernemental. Historien principal depuis 2006 à l'Institut Louis-Riel de la Manitoba Métis Federation, l'auteur et chercheur Lawrence Barkwell explique : « En 1875, le premier – et le seul – traité numéroté qu'aient signé le Canada et les Métis visait en fait l'adhésion de ces derniers au Traité n° 3 [...] Les Métis de Fort Frances, qui font maintenant partie de la Première Nation de Couchiching, ont signé en 1875 leur adhésion au Traité n° 3 en tant que *half-breeds*<sup>F</sup>. » C'est Nicolas Chatelain, Métis, commerçant de fourrures et agent de la Compagnie de la Baie d'Hudson, engagé comme interprète par le gouvernement fédéral pour les négociations qui se sont déroulées à Lake of the Woods, qui a signé, pour la partie métisse, cet accord qui ne sera jamais ratifié par le ministère des Affaires indiennes. En contrepartie, les Métis étaient censés obtenir « deux réserves, ainsi que des rentes, du bétail et des instruments agricoles<sup>G</sup> ». Comme le déclare la D<sup>re</sup> Smylie : « Une large majorité d'entre nous ne sont

pas assujettis à un traité, mais nous sommes apparentés à ceux qui le sont et nous en sommes les descendants<sup>H</sup>. »

La plupart des Métis ont été écartés des négociations qui ont mené aux traités, dépossédés de leurs certificats et essentiellement rayés de l'histoire administrative du Canada avec de lourdes répercussions à la clé. « De 1885 au milieu des années 1900, explique M. Gaudry, pauvreté, découragement et racisme stigmatisaient à tel point les Métis que nombre d'entre eux ont préféré renier ou oblitérer cette part de leur patrimoine quand ils le pouvaient<sup>I</sup>. » Après l'adoption de la *Loi de 1870 sur le Manitoba* et le cafoillage entraîné par sa formule de distribution des terres, les Métis ont subi l'hostilité accrue d'un certain nombre de colons et de soldats nouvellement arrivés dans la province. Certains ont choisi de rester au Manitoba et se sont regroupés en communautés, mais pas sur les terres qui leur avaient été promises.

L'histoire de Ste. Madeleine, au Manitoba, symbolise à de nombreux égards ce qui en est venu à définir la relation entre les Métis et l'État canadien. Elle illustre la marginalisation économique et sociale des Métis, le refus des gouvernements de les reconnaître et les effets de cette dépossession sur la santé des communautés et, en particulier, des femmes métisses.

Ste. Madeleine était située à environ 15 kilomètres au sud du village de Binscarth<sup>J</sup>. Elle avait été fondée dans les années 1870 par des Métis venus de vieilles paroisses de la rivière Rouge, dont Baie St. Paul, St. François-Xavier et St. Norbert. Plusieurs familles de ces paroisses avaient auparavant détenu des lots en bordure de rivière dans les anciens districts, mais avaient été forcées d'abandonner leurs terres en raison des failles du système des certificats dont il est question en détail au chapitre 4<sup>K</sup>. Ainsi, bon nombre d'entre elles, maintenant établies dans la région de Ste. Madeleine, durent demander une concession en vertu de la *Dominion Lands Act* (loi sur les terres fédérales) de 1872<sup>L</sup>. Toutefois, le sol de ces nouvelles terres était moins fertile que les lots au bord de la rivière Rouge qu'elles avaient été forcées de quitter. Les anciens résidents ont directement lié l'éviction des lots de la rivière Rouge à l'installation dans la région de Ste. Madeleine<sup>M</sup>, mais n'en ont pas moins inscrit leur communauté dans une longue tradition de tenure foncière métisse, qui s'étend sur plusieurs générations<sup>N</sup>.





Au tournant du 20<sup>e</sup> siècle, en dépit des épreuves, Ste. Madeleine était devenue prospère. En 1913, la communauté s'était dotée d'une église et en 1922, les élèves de la 1<sup>re</sup> à la 8<sup>e</sup> année pouvaient fréquenter l'école Béliveau. En 1935, la communauté comptait environ 250 habitants, qui œuvraient en majorité comme travailleurs agricoles dans les villages environnants, mais qui continuaient tout de même de considérer Ste. Madeleine comme leur lieu de vie. Ces Métis avaient conservé leur mode de vie traditionnel, « à l'ancienne<sup>O</sup> ». Cependant, l'avancée progressive de l'État s'est accompagnée d'un système d'impôt et d'arpentage<sup>P</sup> établissant une nouvelle bureaucratie foncière qui n'a pas reconnu les terres ancestrales des Métis et qui a imposé des contraintes financières débilantes<sup>Q</sup>.

En 1935, au plus fort de la Grande Dépression, les Métis de Ste. Madeleine se sont trouvés pris au piège d'un enchevêtrement de mesures étatiques. Cette année-là, le gouvernement fédéral à Ottawa a adopté la *Prairie Farm Rehabilitation Act* (loi sur le rétablissement agricole des Prairies) dans le but de venir en aide aux cultivateurs et aux éleveurs de la région, frappée par la sécheresse<sup>R</sup>. Une armée d'agronomes gouvernementaux envoyés sur place pour élaborer une solution<sup>S</sup> ont proposé de classer la région comme pâturage, d'éliminer toutes les habitations et les cultures et de semer de quoi alimenter le bétail<sup>T</sup>. Cela signifiait que les familles métisses devaient partir. La loi prévoyait l'indemnisation de celles dont la maison serait rasée, à condition toutefois que les impôts aient été régulièrement payés. Or, la plupart étaient en défaut de paiement<sup>U</sup>. En 1938, la population a donc été évincée et les maisons ont été brûlées<sup>V</sup>, tout comme l'église et l'école. Certains ont même perdu leurs chiens, abattus par la police<sup>W</sup>. Un ancien de Ste. Madeleine a dit : « Avant 1938, les gens étaient peut-être pauvres, mais ils étaient heureux et indépendants. Ils avaient un mode de vie bien à eux. Après 1938, ils ont perdu une partie de leur indépendance, de leur amour propre et de leur autodétermination. Quand on vous chasse, comme ça, vous perdez tout<sup>X</sup>. »

Les répercussions de l'éviction ont été particulièrement prononcées pour les femmes. Alors que le gouvernement expulsait de force les familles de leur maison, sans les indemniser, plusieurs ont été contraintes de s'enfoncer davantage dans un cycle de

précarité qui allait compromettre leur sécurité. Le rôle central qu'occupait Ste. Madeleine en tant que foyer<sup>Y</sup> et sa destruction soudaine et violente ont bouleversé la vie de nombreuses femmes métisses. Finies les pratiques traditionnelles, qui permettaient à la communauté de demeurer unie et qui rendaient la vie des femmes plus sûre et gratifiante. Quelques anciens résidents ont rappelé que les aînées, et en particulier les sages-femmes, étaient essentielles à la santé des Métisses de Ste. Madeleine. Bien sûr, elles pratiquaient les accouchements, mais elles étaient aussi les gardiennes de savoirs profondément enracinés dans la communauté. Après l'éviction, la population s'est dispersée et beaucoup de femmes ont été coupées de ces aînées qui avaient veillé sur elles lors des naissances et ancré en elles les savoirs culturels communautaires<sup>Z</sup>.

Les gouvernements fédéral et provincial n'ont jamais reconnu la petite communauté, qui n'a donc pu être érigée en municipalité ou en village et a été rayée de la carte. Partout dans les Prairies, d'autres communautés métisses, qui s'étaient formées le long des emprises routières, ont toutes subi le même sort. Elles constituaient des centres prospères et vibrant d'une activité sociale et culturelle métisse, mais faute de reconnaissance officielle des gouvernements fédéral, provinciaux ou municipaux, elles se trouvaient dans un état de précarité constant.

L'histoire de Ste. Madeleine n'est pas exceptionnelle; elle s'inscrit plutôt dans une histoire plus vaste qui s'étend à l'ensemble des provinces des Prairies. Comme le souligne Adam Gaudry, deux tiers, voire plus selon certaines estimations, des quelque 10 000 personnes d'ascendance mixte qui vivaient au Manitoba dans les années 1870 sont parties dans les années qui ont suivi<sup>AA</sup> vers des horizons divers, dont quelques établissements métis comme ceux de Lac Ste. Anne, de St. Albert, de Lac La Biche, de St. Laurent, de Batoche et de Duck Lake.

En 1885, la concentration accrue de Métis en Saskatchewan et la frustration croissante à l'égard du gouvernement du Canada qui, faisant fi de de leurs préoccupations, continuait de négocier des traités et de planifier la construction du chemin de fer ont mené à la Rébellion du Nord-Ouest, puis à la défaite des Métis à Batoche. La dispersion des Métis de la rivière Rouge et la répression de la rébellion ont fourni au gouvernement fédéral une bonne part de





la justification dont il avait besoin pour « oublier » les Métis pendant plus de 100 ans. Pour l'historien Fred Shore, spécialiste de l'histoire des Métis et de la politique connexe, « les années qui ont suivi 1885 sont littéralement des “années oubliées”, au cours desquelles les Métis ont disparu dans des coins reculés de l'Ouest canadien<sup>BB</sup> ». Pour le premier ministre Sir John A. Macdonald, l'équation était simple : « S'ils sont sauvages, ils iront avec les tribus; s'ils sont Métis, ce sont des blancs<sup>CC</sup>. »

L'éparpillement subséquent de plusieurs familles métisses et la pauvreté croissante exacerbée par l'abdication du gouvernement quant à ses responsabilités ont alors plongé le peuple métis dans un vide juridique. Les provinces soutenaient que les Métis relevaient du gouvernement fédéral, qui à son tour déclinait cette responsabilité, tout comme le ministère des Affaires indiennes et du Nord. La *Loi d'établissement de soldats*, qui avait pour but de verser des prestations aux vétérans de la Première Guerre mondiale, est un bon exemple du traitement qu'on réservait aux Métis. La *Loi*, établie en 1917, créait la Commission d'établissement de soldats et lui conférait le pouvoir d'acheter des terres à l'intention des vétérans qui revenaient de la guerre. À plusieurs occasions, la Commission a acquis des terres se trouvant dans les réserves des Premières Nations, pour un total de quelque 85 000 acres (34 400 hectares) dans l'ouest du pays<sup>DD</sup>. Les vétérans métis ont tenté de demander les terres auxquelles ils avaient droit, mais ont été renvoyés au gouvernement fédéral et au ministère des Affaires indiennes et du Nord. Celui-ci affirmait *ne pas être* responsable des Métis. Ainsi, beaucoup d'entre eux n'ont jamais pu obtenir non plus leurs prestations de vétérans<sup>EE</sup>. En 2002, les vétérans métis de la Deuxième Guerre mondiale et de la Guerre de Corée ont intenté une action collective fondée sur le refus d'indemnisation qu'ils ont essuyé au retour et sur le fait d'avoir été exclus des mesures de dédommagement offertes aux Premières Nations signataires de traités<sup>FF</sup>.

Cet exemple ne concerne pas directement les femmes, mais il montre à quel point les différents gouvernements ont ignoré les Métis entre 1885 et leur reconnaissance officielle par la *Loi constitutionnelle de 1982*. Cette marginalisation économique et politique, décrite en détail au

chapitre 4, éclaire encore mieux l'indifférence et l'exclusion dont les Métis ont été victimes.

## Comment comprendre la violence en l'absence de données?

À la lumière des nombreux témoignages présentés à l'Enquête nationale, force est de constater qu'à certains égards, le problème demeure. Comme le rapportent Allard-Chartrand et ses collaborateurs en ce qui a trait à l'éducation :

Les provinces tendent généralement à dire que tous les peuples autochtones relèvent entièrement du gouvernement fédéral, mais que l'éducation est de compétence provinciale. Les Métis se retrouvent donc dans un vide politique entre les sphères de compétence respectives du fédéral et des provinces. Ainsi, aucun palier de gouvernement ne propose de solution efficace à leurs problèmes<sup>GG</sup>.

En raison de ce vide, plusieurs Métis doivent se battre pour obtenir les services essentiels qui répondraient en partie à leurs besoins et, ultimement, assureraient leur sécurité. En 2016, dans l'arrêt *Daniels c. Canada (Affaires indiennes et du Nord)*, la Cour suprême du Canada a statué que les Métis et les Indiens non inscrits sont des « Indiens » visés par le paragraphe 91(24) de la *Loi constitutionnelle de 1867*. C'est dire que le gouvernement fédéral a d'importantes obligations à leur égard, à titre d'« Indiens »<sup>HH</sup>. À la suite de cette décision, de nombreux gouvernements métis planchent sur de nouveaux cadres et accords avec les différents paliers de gouvernement, mais les négociations en cours et le long chemin menant à la signature d'ententes substantielles et concrètes laissent beaucoup de personnes dans l'expectative.

Par ailleurs, l'absence de données explicites sur les problèmes que vivent les Métis à l'échelle pancanadienne est un obstacle de taille au respect du droit à la sécurité des femmes, des filles et des personnes 2ELGBTQQIA des communautés métisses. Emma LaRocque, chercheuse métisse, explique :





Comme il est beaucoup plus difficile d'obtenir des statistiques précises sur les Métis, il est quasiment impossible de mesurer avec précision l'ampleur de la violence sexuelle dans leurs familles ou collectivités. Cela dit, à en juger d'après le nombre croissant de victimes qui portent plainte, tout permet de penser que la violence, y compris la violence sexuelle, y constitue un problème aussi grave que dans les réserves.

Évoquant un congrès tenu il y a plus de 25 ans, M<sup>me</sup> LaRocque ajoute : « Les faits relatés par les participants, qui étaient près de 150, ont montré que les femmes métisses [...] souffrent énormément – et en silence – de la violence, y compris le viol et les agressions sexuelles sur les enfants<sup>ll</sup>. »

Cette souffrance considérable et muette des femmes métisses est d'ailleurs attestée par de nombreux précédents rapports sur la violence contre les femmes et les filles autochtones, qui concluent à la nécessité de recueillir des données ventilées de meilleure qualité, qui rendraient compte des différences entre les groupes. Par exemple, dans un mémoire intitulé *Police Abuse of Indigenous Women in Saskatchewan and Failures to Protect Indigenous Women from Violence*, présenté en 2017 au gouvernement du Canada, l'organisme Human Rights Watch (HRW) a recommandé que soient recueillies et diffusées publiquement des données exactes et complètes, ventilées en fonction de la race et du sexe et comprenant une variable ethnique permettant de faire état de la violence, de l'usage de la force, des arrestations et des fouilles touchant les femmes autochtones. HRW incitait à demander à cette fin les conseils de leaders autochtones féminines et à collaborer avec des organisations communautaires autochtones ainsi qu'avec le Centre national pour les personnes disparues et les restes non identifiés (CNPDRNI)<sup>jj</sup>. HRW avait d'ailleurs déjà formulé une recommandation similaire dans un autre rapport, intitulé *Ceux qui nous emmènent : Abus policiers et lacunes dans la protection des femmes et filles autochtones dans le nord de la Colombie-Britannique, Canada*<sup>kk</sup>.

L'une des difficultés de compiler des données précises sur les réalités métisses tient en partie à ce que le gouvernement du Canada appelle la « mobilité

ethnique », un facteur clé de la croissance du chiffre de la population métisse, en particulier depuis le recensement de 2006, au cours duquel les Métis ont pu, pour la première fois, se définir comme tels. Le gouvernement définit la « mobilité ethnique » comme un phénomène qui fait qu'au fil du temps, un nombre accru de personnes déclarent pour la première fois leur identité autochtone à un recensement, ce qui « contribue grandement au taux de croissance élevé de la population autochtone en général et de la population métisse en particulier<sup>ll</sup> ». En 2002, le Ralliement national des Métis (RNM), représenté par des organes de gouvernance élus à l'échelle provinciale en Ontario et dans l'ouest du pays, y compris la Métis Nation of Ontario, la Manitoba Métis Federation Inc., la Métis Nation – Saskatchewan, la Métis Nation of Alberta et la Métis Nation British Columbia, a adopté cette définition :

**« Une Métisse ou un Métis est une personne qui se définit comme Métis, dont l'identité est distincte de celle des autres peuples autochtones, dont l'ascendance métisse est de longue date et qui est acceptée par la Nation métisse. »**

Réunis en assemblée générale annuelle à la fin de 2018, des représentants du RNM ont également constaté qu'un nombre croissant de personnes affirment être des « Métis de l'est ». Selon le président du RNM, Clément Chartier, ces groupes s'approprient de manière illicite la culture et les symboles métis. Si le seul critère était celui de l'ascendance mixte, tout le monde ou presque serait métis, conclut-il. Ces gens « volent notre identité, utilisent notre drapeau et prétendent être d'une nation métisse<sup>mm</sup> ». Fait intéressant, c'est dans le cadre de cette assemblée qu'a été présentée une nouvelle carte du territoire métis, qui exclut l'unique communauté métisse (celle de Sault Ste. Marie) dont les droits ont été reconnus officiellement dans l'arrêt *Powley*, rendu en 2003 par la Cour suprême. La Cour y établit les critères autorisant une communauté ou une personne métisse à revendiquer les droits ancestraux de chasse et de récolte qui ont été conférés par l'article 35 de la *Loi constitutionnelle* et qui étaient précisément l'objet du litige. Ces critères sont les suivants : se définir comme Métis, prouver ses liens ancestraux avec une communauté métisse historique se trouvant à l'endroit où la récolte se déroule, prouver que la pratique de récolte est antérieure à la mainmise des





Européens, prouver que la pratique faisait partie intégrante de sa culture distinctive, démontrer la continuité entre ce droit et le droit contemporain revendiqué, et être reconnu par une communauté métisse actuelle liée à une communauté ancienne.

Commentant la nouvelle carte, où ne figure pas la communauté métisse de Sault Ste. Marie, considérée comme titulaire de droits comme l'a établi la Cour suprême, Margaret Froh, présidente de la Métis Nation of Ontario, explique : « Oui, ce territoire est plus petit que celui qui était reconnu jusqu'ici comme le territoire historique des Métis [...] Nous allons discuter avec nos membres pour nous assurer que tous comprennent les décisions qui ont été prises et nous continuerons d'aller de l'avant<sup>NN</sup>. » La carte a suscité des discussions et a même, dans certains cas, outré les membres de nombreuses communautés, qui lui reprochent d'être restrictive et non représentative.

Pour ceux et celles qui ne se sont pas toujours définis comme Métis ou qui sont originaires de régions dont les liens avec les cultures autochtones sont clairs, même si les organismes nationaux, provinciaux et territoriaux ne les reconnaissent pas officiellement, ces discussions sont difficiles et ne peuvent qu'exacerber une partie de la violence latérale vécue par plusieurs en raison de leur désir d'appartenir à une communauté. De plus, beaucoup de Métis font état de discrimination de la part d'Autochtones comme de non-Autochtones. Julie, qui a participé à une étude menée par la chercheuse Cathy Richardson, souligne : « Les Métis souffrent souvent de ces préjugés néfastes entretenus par les deux groupes. J'ai l'impression de n'appartenir à aucune communauté<sup>OO</sup>. » Susan, une autre participante, exprime la même idée : « Je sens qu'on me considère comme une Blanche à moins que je précise moi-même mon appartenance, mais quand je le fais, j'ai le sentiment qu'on me reproche de me faire passer pour une Indienne<sup>PP</sup>. »

Michele G. est une Métisse qui a fait part d'expériences semblables à l'Enquête nationale. Originnaire de The Pas, au Manitoba, elle habite maintenant à Dartmouth, en Nouvelle-Écosse. Son père métis est mort jeune des suites d'un cancer. Selon Michele, sa mère ne se définissait pas comme Autochtone à l'époque, même si elle avait fréquenté un pensionnat indien et qu'elle en avait gardé de profondes séquelles. Michele a raconté qu'elle a

intérieurisé beaucoup de violence familiale pendant son enfance, violence subie de la part du deuxième mari de sa mère, lui aussi un Métis. Michele avait 15 ans quand sa mère est décédée. Michele se souvient qu'à cette époque, aucun membre de la famille de sa mère ne voulait les accueillir, ses frères et sœurs et elle : « Du côté de ma mère, ils sont beaucoup à avoir fait des mariages, genre, avantageux. Et ils ont, comme [...] nous avons toujours été vus, comme, disons, des sangs-mêlés. Alors, oui, ils ne voulaient pas vraiment nous prendre avec eux<sup>QQ</sup>. »

Michele est aussi une survivante de violence entre partenaires intimes, notamment de la part d'un homme qui trouvait amusant de l'appeler une « squaw ». Malgré tout, elle s'est demandé si elle devait ou non raconter son histoire devant l'Enquête nationale en raison de l'endroit où elle vit et de la couleur de sa peau : « Vous savez, j'ai hésité avant de venir ici parce que je ne suis pas Mi'kmaq. Je ne viens pas de ce territoire [...] et je n'ai pas la peau brune. Mais j'ai vécu ces expériences et c'est comme [...] ça me tient à cœur. Vous comprenez? J'ai donc dû me forcer un peu pour venir ici<sup>RR</sup>. »

Une autre témoin, Sharon P., a raconté que plus jeune, elle n'avait pas pris conscience de son identité métisse alors qu'elle subissait des mauvais traitements et, une fois adulte, de la violence de la part de partenaires intimes. Elle n'était pas non plus au courant des ressources vers lesquelles elle aurait pu se tourner si elle l'avait su : « Je n'ai pas su avant mes 40 ans que j'étais Métisse. J'ai l'impression qu'on m'a privée de ça toute ma vie, je [...] je me sens trahie, vous voyez<sup>SS</sup>? » Elle a expliqué que son frère avait fait quelques recherches généalogiques avant de mourir, mais qu'elle ne savait toujours pas beaucoup de choses de son histoire à elle.

S.A., une témoin métisse qui est aussi une survivante de la rafle des années 1960, a commencé sa déclaration en disant à quel point elle était contente de ne pas avoir à prouver qu'elle était Autochtone pour pouvoir raconter son histoire à l'Enquête nationale :

À ce moment-là exactement, c'était une guérison [...] quand j'ai commencé mon emploi, j'étais temporaire pour mon employeur actuel et j'ai posé ma candidature à un poste. Et ils m'ont





dit, genre : « Peux-tu prouver que tu es Autochtone? » Il a donc fallu que je sorte mon dossier du Ministère, que je venais de recevoir, et que je trouve la feuille qui disait que j'étais Autochtone pour pouvoir être reconnue et obtenir le poste. Et quand mon travail a pris de l'ampleur, le recruteur – je travaillais aux RH à ce moment-là, c'était juste un poste administratif – m'a dit genre : « Eh bien, on ne peut pas tous être des princesses cherokees perdues et abandonnées. »

Donc, même dans ma vie d'adulte, je suis confrontée à cette incrédulité systémique ou alors, vous savez, au fait de ne pas être assez Autochtone ou d'être trop Autochtone [...] C'est tout un cheminement d'essayer de pardonner, d'oublier et de passer à autre chose et juste, genre, de vivre ta vie et avancer. Donc oui, quand je vous ai appelés et que j'ai dit : « Bon, est-ce que j'ai besoin d'apporter mon dossier du Ministère, est-ce que j'ai besoin d'apporter ce qui m'identifie comme, vous savez, ce qui me permet d'être là? » et que vous avez répondu : « Non, ce n'est pas nécessaire, tout est beau », ce moment-là a été extraordinaire pour moi. Alors je voulais juste dire que je suis reconnaissante, et vous remercier de ce respect<sup>TT</sup>.

Les multiples dimensions de l'identité qui caractérisent les discussions au sujet de la Nation métisse en tant qu'entité, ou du fait de se définir comme Métis, démontrent clairement que ces groupes doivent surmonter des difficultés particulières reliées à l'héritage du colonialisme, et qu'ils veulent faire valoir leurs points de vue. L'Enquête nationale constate la nécessité d'une démarche fondée sur les distinctions, adaptée à cette situation unique. Elle prend note de l'histoire particulière des communautés et des établissements métis, ainsi que des récits des personnes que le colonialisme a dépossédées de leurs droits – notamment par l'entremise de la *Loi sur les Indiens* – qui peuvent désormais se définir comme Métis, mais qui ne répondent pas à la définition du RNM.

Au fil des audiences de l'Enquête nationale, plus de 100 recommandations mettant l'accent sur la cueillette de données ventilées ont été formulées. Les témoins du premier volet, notamment, ont exprimé

la nécessité de recueillir des données, notamment des données agrégées, qui permettraient de déterminer l'étendue réelle et les paramètres de la crise, ainsi que de comprendre les problèmes distinctifs entre les groupes, de même que les besoins et les expériences vécues, en fonction du lieu où ils vivent.

Les données agrégées peuvent simplifier le tableau à outrance et occulter certaines dimensions pourtant nécessaires à l'analyse. Les témoins ont collectivement fait valoir que la cueillette et la diffusion des données doivent tenir compte des connaissances, des définitions et des expériences autochtones, et de ce qui distingue les groupes. Les peuples, les organisations et les communautés autochtones doivent encadrer tout processus de ce type, qu'il soit mené par un gouvernement, un fournisseur de services ou une organisation non autochtone. Ils doivent également mener leurs propres processus au sein de leurs gouvernements, fournisseurs de services et organisations.

## Facteurs de distinction économiques, politiques et sociaux

Une partie des défis que pose la compréhension des éléments communs de la violence vécue par les Métis repose sur la dispersion géographique des personnes et des communautés touchées ainsi que sur la diversité des membres. Ainsi, beaucoup de Métis vivent dans des centres urbains, mais d'autres vivent dans des établissements métis précisément désignés comme tels. Ces différences montrent à quel point il importe de mieux comprendre les diverses réalités particulières de la violence dans la vie des Métis.

Les Métis qui vivent dans les villes sont en butte à des obstacles et des facteurs de stress particuliers, comme en témoigne une étude statistique sur les Métis au Manitoba, qui met en lumière les importantes difficultés socioéconomiques des jeunes Métis vivant à Winnipeg. Cette dernière compte des proportions nettement plus élevées de jeunes Métis comparativement au reste de la population. Selon les résultats du recensement publiés en 2018, c'est à Winnipeg que se trouve le plus grand nombre de





Métis, soit environ 52 000. Les jeunes de 0 à 24 ans représentent plus de 40 % de ce nombre, contre quelque 29 % parmi le reste de la population. Les enfants de moins de 15 ans représentent 23 % de la population métisse de la ville. Au sein de la population non métisse, le groupe homologue représente 16 % seulement. En revanche, les plus de 65 ans comptent pour un peu moins de 7 % de la population métisse de Winnipeg, mais pour près de 16 % de la population non métisse. C'est donc aux deux extrémités de la répartition selon l'âge qu'apparaissent les différences démographiques les plus marquées<sup>UV</sup>. Les populations métisses d'Edmonton, de Vancouver et de Calgary tout comme celles d'Ottawa, de Montréal, de Toronto, de Saskatoon, de Regina et de Sudbury, sont considérables au vu de la taille démographique de ces villes.

La situation des Métis dans les autres provinces dépend aussi des lois en vigueur. Ainsi, l'Alberta est la seule province à reconnaître aux Métis une assise territoriale. En 1934, le gouvernement de la province a créé la Commission Ewing, chargée d'enquêter sur la santé, l'éducation, l'aide sociale ainsi que le bien-être général dont jouissait la population métisse. La Commission a d'abord défini les « Métis » comme « les personnes d'ascendance mixte, blanche et indienne, vivant la vie des Indiens ordinaires, y compris les Indiens non visé par un traité<sup>VV</sup> », à l'exclusion de celles qui vivaient de l'agriculture ou qui n'avaient pas besoin de l'assistance publique. En 1938, par suite du rapport de la Commission, le gouvernement albertain a adopté la *Métis Population Betterment Act* (loi visant l'amélioration de la situation des Métis), qui concédait aux communautés métisses des terres de réserve situées au centre de la province : les « établissements ». En 1985, l'Assemblée législative albertaine a adopté à l'unanimité une résolution portant sur le transfert aux établissements métis de la responsabilité de ces terres, de même qu'une nouvelle loi leur accordant plus d'autonomie à l'échelle locale. Le tout pavait la voie à l'Alberta-Metis Settlements Accord (accord Alberta-Métis sur les établissements) de 1989. En 2018, un groupe représentant les huit établissements métis a conclu avec le gouvernement du Canada une entente-cadre établissant les bases des « négociations en cours en vue d'un accord de réconciliation avec les huit conseils d'établissements métis représentant les populations de Buffalo Lake, d'East Prairie,

d'Elizabeth, de Fishing Lake, de Gift Lake Kikino, de Paddle Prairie et de Peavine<sup>WW</sup>».

Dans les années 1990, en Saskatchewan, les Métis ont déposé une demande introductive d'instance par laquelle ils contestaient la validité du système des certificats comme moyen légitime d'abolir leur titre ancestral. La demande a été déposée auprès de la Cour du Banc de la Reine, à Saskatoon, en mai 1994, et le dossier n'a toujours pas été réglé. Présentée au nom du Ralliement national des Métis, de la Métis Nation of Saskatchewan et des Métis Locals of Northwest Saskatchewan, elle vise l'obtention de déclarations attestant l'existence continue des titres des Métis à l'égard des terres et des ressources de cette région, et confirmant leur droit de chasser, de piéger, de pêcher et de récolter, ainsi que leur droit inhérent à l'autonomie gouvernementale. Aucune décision n'a été rendue depuis 1994, mais beaucoup espèrent que les récents protocoles d'entente amènent un changement de cap. En 2017, l'un des demandeurs, Max Morin, de l'Île-à-la-Crosse, disait : « J'aimerais qu'on puisse régler l'affaire à l'amiable avec le gouvernement fédéral, qui doit faire preuve de bonne foi et discuter avec nous de la façon d'y arriver<sup>XX</sup>. » Un arrêt de la Cour suprême entretient en partie cet espoir chez certains des demandeurs. Le plus haut tribunal du pays a déterminé en effet que le système de certificats et le manquement à l'obligation de concéder des terres aux Métis, en vertu de la *Loi sur le Manitoba*, violaient le principe de l'honneur de la Couronne. Selon l'arrêt, une tendance persistante aux erreurs et à l'indifférence nuisant à l'atteinte des objectifs d'une promesse solennelle, en l'occurrence la *Loi sur le Manitoba* et le système des certificats, peut constituer un manquement à l'obligation de la Couronne de se conduire honorablement en s'acquittant de sa promesse.

Les nombreux différents témoignages des Métis sur la violation de leurs droits économiques, politiques et sociaux mettent en évidence les distinctions en termes de géographie, d'identité et de liens avec la communauté. Comme l'explique Virginia C. :

Ma mère est l'une de ces Métis qui [...] se déplaçaient toujours d'un endroit à l'autre. Il n'y avait pas de territoire permanent pour les Métis. Je sais que les deux villages où j'ai vécu quand j'étais enfant, Molanosa, au centre de la





Saskatchewan, par exemple, n'existent plus. Les gens [ont été emmenés] de l'autre côté du lac, à Weyakwin, parce que, je ne sais pas très bien [...] il y avait des ressources minérales ou quelque chose là-bas<sup>YY</sup>.

Pour Virginia, la dépossession et le rejet que sa mère a vécus à différentes étapes de sa vie sont typiques de l'expérience métisse.

Harold R. est un Métis originaire d'Edmonton. Sa tante Julie a été battue à mort quand il avait 15 ans. Il se souvient du jour où l'événement a été annoncé à sa famille. Le téléphone a sonné un soir, et sa mère, ayant pris l'appel, s'est effondrée au sol en apprenant que sa sœur Julie avait été battue et tuée par son partenaire. Harold n'oubliera jamais les effets immédiats de cette perte sur ses proches. « Un appel a suffi pour arracher à ma mère une part de sa vie<sup>ZZ</sup> », dit-il.

Il se rappelle aussi le silence qui a suivi. « On nous a privés de son rire; on nous a privés d'elle, vous comprenez? De son ardeur de vivre. On a volé à ma mère une amie et une sœur. Ça nous est resté, à moi et à ma famille. Cet appel a eu un impact sensible. » La famille n'ayant pas les moyens d'acheter un cercueil, il a dû fournir tout l'argent qu'il avait gagné pendant l'hiver de ses 15 ans. Puis il a fallu 15 à 20 ans avant de pouvoir faire graver une pierre tombale. Il a été forcé de vieillir rapidement, dit-il, pour composer avec tout ça<sup>AAA</sup>.

L'expérience de la pauvreté a marqué les contrecoups du décès de sa tante et également joué un rôle dans l'état de sa mère, en affectant son bien-être et sa santé pour le restant de ses jours.

## Les expériences des systèmes judiciaires

Plusieurs témoignages de Métis ont fait ressortir des distinctions dans l'application de la loi et le système judiciaire en fonction des expériences vécues au sein de divers milieux et communautés, ainsi que dans le cadre de contextes de vie très différents.

La famille de Fallon F. a elle aussi beaucoup perdu. Sherry et Maurice vivaient avec leur fille, Fallon, et leurs deux fils sur une ferme de St. Eustache, au Manitoba. Les parents travaillaient à Winnipeg

mais participaient activement à la vie de leur communauté. Sherry et Maurice ont été assassinés en 1993, le jour même où le meurtrier, qui avait harcelé Sherry, avait été remis en liberté à la suite d'une condamnation pour avoir enfreint une ordonnance restrictive. Fallon avait seulement 9 ans.

La nuit du double meurtre, Fallon a été réveillée par un bruit et a vu sa mère lutter avec le meurtrier, tandis que son petit frère de 5 ans pleurait tout près. Elle voulait appeler à l'aide, mais il lui fallait composer un numéro à sept chiffres parce le service 911 n'était pas offert dans la région. Le tueur l'a éloignée du téléphone, puis a coincé les trois enfants et menacé de tuer l'un d'eux si la mère n'acceptait pas de l'accompagner à l'étage<sup>BBB</sup>.

Fallon a tout de même réussi à appeler à l'aide plusieurs fois, mais le meurtrier avait déjà tué ses deux parents, puis retourné son arme contre lui<sup>CCC</sup>. Les enfants ont appelé à partir de minuit, mais le policier en devoir était endormi et n'a pas répondu avant 3 h. Fallon et son petit frère sont restés assis près des corps jusqu'à ce qu'on leur vienne enfin en aide, à 8 h 30<sup>DDD</sup>.

Cathy C., une mère de famille métisse, s'est présentée devant l'Enquête nationale avec son mari David et sa petite-fille Ashley pour parler de sa fille qui a été portée disparue de 2014 à 2017, et qui a de nouveau disparu. La plus grande frustration de la famille à l'égard des autorités sont les règles entourant la non-diffusion d'information concernant les personnes disparues. Cependant, ce qui complique les choses, c'est que sa fille est atteinte de schizophrénie et qu'elle a eu plusieurs psychoses induites par la drogue dans le passé.

La seule fois où les parents ont eu des nouvelles de leur fille, en 2017, c'est lors de son incarcération à Los Angeles. Lorsqu'on lui a donné des médicaments pour traiter sa schizophrénie, elle a commencé à se souvenir des numéros de téléphone des membres de sa famille et elle a appelé ses parents. Elle est restée en contact avec eux tout le temps qu'elle était en prison, soit jusqu'à sa libération en septembre 2017. Elle s'est ensuite retrouvée sans abri et, en octobre, ils ont de nouveau perdu le contact.

Elle est toujours portée disparue et tant les autorités canadiennes qu'américaines continuent de dire qu'elles ne peuvent leur donner de renseignements,





ni même leur dire si elle est morte ou vivante. La famille a l'impression que les autorités ont adopté l'attitude répandue du je-m'en-foutisme.

Dans une autre situation, la mère de Karin S. a été retrouvée noyée dans le fleuve Yukon. Toutefois, selon Karin, l'enquête sur la façon dont sa mère s'est retrouvée dans le fleuve n'a pas été menée adéquatement – un trop grand nombre de questions sont demeurées sans réponse.

De plus, les autorités ont incorrectement identifié la mère de Karin comme une personne non autochtone. Karin aimerait que cela soit officiellement corrigé sur le certificat de décès de sa mère. Comme elle l'a dit : « Elle n'était pas d'origine caucasienne [...] pas que ce soit une insulte, mais ma mère était très fière de son héritage des Premières Nations, Tsleil-Waututh et Métis du Manitoba<sup>EEE</sup>. »

Plusieurs Métis ont des expériences très différentes de l'application de la loi et du système judiciaire. Pour certains, ces différences tiennent au lieu, à la communauté et à l'identité présumée de la victime ou de l'auteur du crime. Les témoignages entendus à l'Enquête nationale ne permettent pas de généraliser, mais la diversité des récits et la perception que les témoins partagent d'avoir été oubliés ou rejetés montre la nécessité d'une plus grande prise de conscience de la part du système de justice à propos de la nécessité de donner suite à ces crimes, de consigner l'identité des victimes et des criminels et d'établir des relations plus productives dans toutes les situations où les Métis doivent interagir avec les autorités compétentes.

## Conclusion : recadrer les expériences diverses des femmes métisses pour rétablir leur sécurité

Au Canada, les femmes, les filles et les personnes 2ELGBTQQIA des communautés métisses vivent des expériences très diverses les unes des autres. C'est également le cas des femmes métisses et des autres femmes autochtones. Or, on manque de données pour analyser en profondeur en quoi les expériences

et la violence vécues par les femmes, les filles et les personnes 2ELGBTQQIA peuvent différer de celles vécues par les autres Autochtones. Si ces expériences peuvent s'apparenter à de nombreux égards à ce que vivent les autres Autochtones au Canada, il demeure primordial de comprendre comment l'insuffisance des services et l'abdication des gouvernements envers leurs responsabilités peuvent avoir contribué au problème, et ce, afin de déterminer les meilleurs moyens de combattre la violence dans ce contexte particulier.

La majorité des témoins venus raconter l'histoire de leurs proches disparues ont tenu à souligner ce qui leur manquait le plus chez elles. Par exemple, dans son témoignage, Karin S. a indiqué que ses cousins et cousines se souvenaient de sa mère comme d'une personne qui faisait en sorte que les autres se sentent spéciaux et aimés. En outre, sa mère déployait des efforts tout particuliers pour prendre soin des personnes âgées dans sa vie; elle leur apportait des repas et s'assurait qu'ils sortent pour participer à des activités, et elle était toujours prête à écouter.

De Madeline, la mère de Virginia C., la famille a rappelé la capacité de survivre à tant de violence et de pauvreté et son courage « qui lui permettait de tout supporter et de tirer le meilleur parti de toutes les situations ». Elle a « laissé un riche patrimoine d'amour », elle qui était « si gentille, indulgente, douce, généreuse, accueillante, travaillante et débrouillarde, qui tenait sa maison avec soin, qui veillait à faire manger son monde et à fournir des vêtements propres. Elle avait l'esprit d'entreprise et a longtemps vendu de jolies broderies perlées. Surtout, c'était la meilleure des mères<sup>FFF</sup>. »

Toutefois, les témoins ont aussi insisté sur la force et le pouvoir de leurs communautés et de leurs relations, qui leur ont permis d'avancer après ces pertes. Ainsi, même si elle est allée vivre en Ontario avec une tante après la mort de ses parents, Fallon conserve un lien avec ses amis et sa famille restés dans la communauté parce que « la façon dont elle a été élevée l'a liée à la communauté et à tout ce monde<sup>GGG</sup> ». Cette cohésion sociale a beaucoup d'importance pour les Métis, en particulier lors des expériences diverses – sociales, économiques, politiques, et autres – qu'ont vécues ces êtres chers dont nous avons entendu parler.





En témoignant aux fins de l'Enquête nationale, les Métis ont suggéré d'opposer à la violence des solutions distinctes, axées sur les forces. Janet Smylie a proposé ceci : « Et si nous nous imaginions richement? [...] Nous avons ce don d'être ce que nous imaginons être<sup>HHH</sup>. » Une démarche fondée sur les forces passe par la compréhension et la célébration de la culture ainsi que par l'amélioration

du mieux-être des familles et des communautés. Il faut valoriser et encourager les relations de qualité. Il faut admettre que les réponses se trouvent au sein des communautés métisses et qu'il suffit de demander. « Si les liens entre nous sont la trame et le ciment qui nous tiennent ensemble, nous devons absolument nous y investir<sup>III</sup> », insiste Janet Smylie.

---

## Conclusions

- Pendant de nombreuses années, plus particulièrement entre 1885 et 1982, plusieurs ordres de gouvernement ont ignoré les Métis. Ainsi, les gouvernements n'ont pas assumé leurs responsabilités à l'égard des questions concernant les Métis et ont souvent attribué cette inaction aux conflits de compétence. Cette situation, qui persiste encore aujourd'hui, se traduit par un manque de programmes et de services qui répondent aux besoins des Métis d'une manière équitable et conforme aux normes fondamentales en matière de droits de la personne.
- La prestation de services par la Direction générale de la santé des Premières Nations et des Inuits est discriminatoire et elle enfreint les droits de ceux qui sont exclus, notamment les Métis et les membres des Premières Nations non inscrits.
- L'utilisation du terme générique « Autochtones » entraîne la sous-représentation, l'effacement, voire même l'invisibilité des communautés métisses.
- Il y a un manque de données précises sur les questions concernant les Métis à l'échelle nationale, comme des données désagrégées concernant la violence et la violence sexuelle que subissent les femmes, les filles et les personnes 2ELGBTQQA métisses, ainsi que des données sur les obstacles particuliers que rencontrent les femmes, les filles et les personnes 2ELGBTQQA métisses lorsqu'elles cherchent à exercer leur droit à la sécurité.



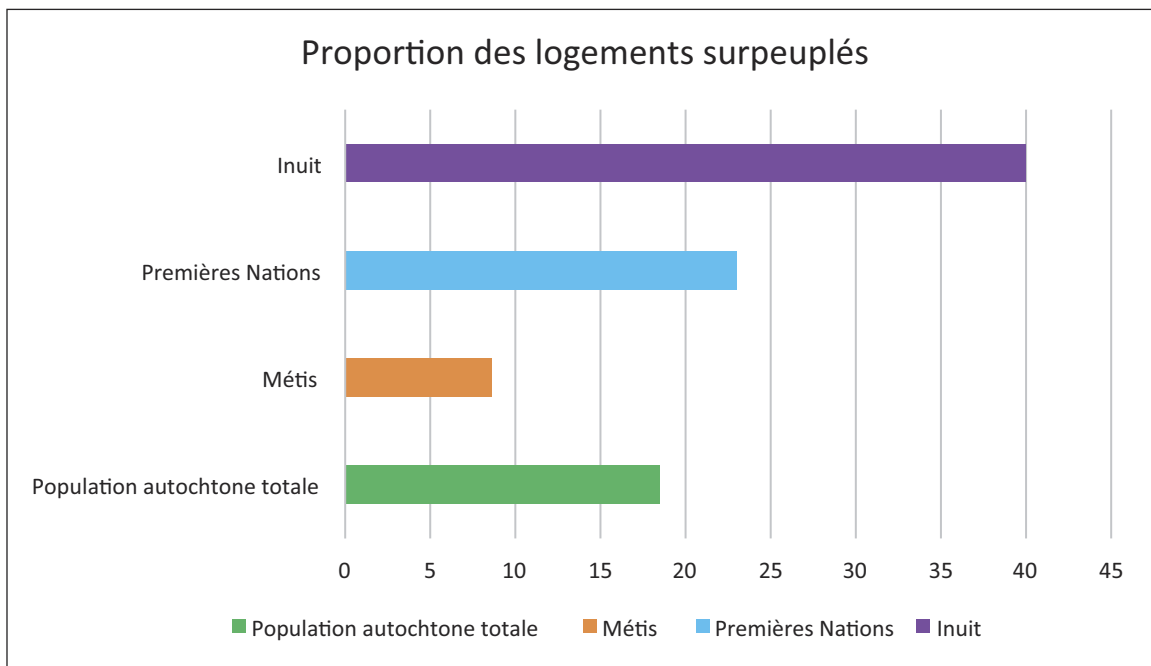


- A Wildcat, « Wahkohtowin in Action, » 14.
- B D<sup>re</sup> Janet Smylie (Crie/Métisse), Parties II et III mixtes, Volume public 3, Iqaluit, Nt, p. 18.
- C D<sup>re</sup> Janet Smylie (Crie/Métisse), Parties II et III mixtes, Volume public 2, Iqaluit, Nt, p. 148.
- D Gaudry, « Métis. »
- E Bibliothèque et Archives Canada, « Certificats des Métis, » <https://www.collectionscanada.gc.ca/metis-scrip/005005-4000-e.html>.
- F Barkwell, « Metis Adhesion to Treaty Three. »
- G Ibid.
- H D<sup>re</sup> Janet Smylie (Crie/Métisse), Parties II et III mixtes, Volume public 2, Iqaluit, Nt, p. 209.
- I Gaudry, « Métis. »
- J Sammons, « Leaving Ste. Madeleine, » 152.
- K Herriot, *Towards a Prairie Atonement*, 49.
- L Ibid.
- M Ibid., 45.
- N Ibid., 49.
- O Ibid., 46.
- P Ibid.
- Q Ibid.
- R Sammons, « Leaving Ste. Madeleine, » 152.
- S Herriot, *Atonement*, 22.
- T Zeilig et Zeilig, *Ste. Madeleine*, 4.
- U Herriot, *Atonement*, 88. Voir aussi Sammons, « Leaving Ste. Madeleine, » 152.
- V Sammons, « Leaving Ste. Madeleine, » 157.
- W Lena Fleury, « Oral History interview with Lena Fleury of Binscarth, Manitoba, » 22 June 1993. Accession No. 1997-44, Location Code C2420. Metis Women of Manitoba Inc. oral history project records, Archive of Manitoba. Voir aussi Sammons, « Leaving Ste. Madeleine, » 157.
- X Herriot, *Atonement*, 77.
- Y Sammons, « Leaving Ste. Madeleine, » 155.
- Z Zeilig et Zeilig, *Ste. Madeleine*, 168–69.
- AA Gaudry, « Métis. »
- BB Shore, « The Métis, » 1.
- CC Cité dans Gaudry, « Métis. »
- DD Carter, « An Infamous Proposal. »
- EE Duhamel et McCrae, « Holding Their End Up. »
- FF Common, « Métis veterans launch class action lawsuit. »
- GG Allard-Chartrand et al., « Métis Children and Families, » 40.
- HH Daniels v. Canada (Indian Affairs and Northern Development) 2016 SCC 12.
- II LaRocque, « Violence in Aboriginal Communities, » in Royal Commission on Aboriginal Peoples, *The Path to Healing*, 41.
- JJ Farida Deif, Partie 2, Volume public 9, Exhibit 26, Toronto, Ont., p. 85.
- KK Farida Deif, Partie 2, Volume public 9, Exhibit 31, Toronto, Ont., pp. 115-116.
- LL O'Donnell et Wallace, « First Nations, Métis and Inuit Women, » <https://www150.statcan.gc.ca/n1/pub/89-503-x/2010001/article/11442-eng.htm>.
- MM Hobson, « They're stealing our identity, » <https://aptnnews.ca/2018/11/26/theyre-stealing-our-identity-metis-national-council-calls-out-eastern-metis-groups/>.
- NN Ibid.
- OO Richardson, « Metis Identity Creation, » 60.
- PP Ibid., 61.
- QQ Michele G. (Métisse), Partie 1, Déclaration publique 467, Dartmouth, N.-É., p. 3.
- RR Michele G. (Métisse), Partie 1, Déclaration publique 467, Dartmouth, N.-É., p. 5.
- SS Sharon P. (Métisse), Partie 1, Déclaration publique 223, Prince George, C.-B., p. 28.
- TT S.A. (Métisse), Partie 1, Déclaration publique 29, Vancouver, C.-B., pp. 1-2.
- UU Canada. Statistique Canada, « Peuples autochtones – Faits saillants en tableaux, Recensement de 2016 ».
- VV Cité dans Hawkes, *Aboriginal Peoples and Government Responsibility*, 260.
- WW APTN, « Alberta Métis settlements, » <https://aptnnews.ca/2018/12/17/alberta-metis-settlements-sign-framework-agreement-with-canada/>.
- XX Cornet, « Fresh hopes for land claim, » <https://northernprideml.com/2017/05/fresh-hopes-land-claim/>.
- YY Virginia C. (Métisse), Partie 1 Déclaration publique 117, Saskatoon, Sask., p. 29.
- ZZ Harold R. (Métis), Partie 1, Déclaration publique 81, Edmonton, Alb., pp. 4-5.
- AAA Harold R. (Métis), Partie 1, Déclaration publique 81, Edmonton, Alb., pp. 5-6.
- BBB Fallon F. (Métis), Partie 1, Volume public 11, Winnipeg, Man., pp. 37, 43-45, 50.
- CCC Fallon F. (Métis), Partie 1, Volume public 11, Winnipeg, Man., pp. 46-47.
- DDD Fallon F. (Métis), Partie 1, Volume public 11, Winnipeg, Man., p. 47.
- EEE Karin S., Partie 1, Déclaration publique 4, Whitehorse, Yn, p. 3.
- FFF Virginia C. (Métisse), Partie 1, Déclaration publique 117, Saskatoon, Sask., p. 27.
- GGG Fallon F. (Métis), Partie 1, Volume public 11, Winnipeg, Man., p. 37.
- HHH D<sup>re</sup> Janet Smylie (Crie/Métisse), Parties II et III mixtes, Volume public 2, Iqaluit, Nt, p. 116.
- III D<sup>re</sup> Janet Smylie (Crie/Métisse), Parties II et III mixtes, Volume public 2, Iqaluit, Nt, pp. 122-123.



## Le logement

La pauvreté nuit aux Inuites, aux Métisses et aux femmes des Premières Nations dans leur quête de sécurité, notamment lorsqu'elles tentent de trouver un logement sûr, abordable et accessible. Partout au pays, des membres des familles, des survivantes, des Gardiens du savoir et d'autres personnes ont attiré l'attention sur le lien qui existe entre le manque d'accès à des logements sûrs et la violence. Le manque de logements sûrs et abordables dans beaucoup de communautés métisses, inuites et de Premières Nations est bien documenté. En 2016, selon Statistique Canada, près du cinquième (18,5 %) de la population autochtone vivait dans un logement de taille insuffisante pour le nombre de personnes qui y habitaient<sup>64</sup>. De ce nombre, 8,6 % étaient Métis, 23 % étaient membres d'une Première Nation et 40 % étaient Inuits<sup>65</sup>.



Pour les femmes, les filles et les personnes 2ELGBTQQIA autochtones vivant dans la pauvreté, il est particulièrement difficile d'accéder à un logement, surtout dans les communautés éloignées ou isolées. La violence peut être aggravée à la fois par le surpeuplement des logements et par la difficulté d'accéder à un logement pour diverses raisons, notamment la capacité financière et la disponibilité des logements. Par exemple, selon Statistique Canada, en 2016, les Inuits vivant dans l'Inuit Nunangat étaient plus susceptibles de vivre dans des logements surpeuplés que ceux qui vivaient ailleurs au Canada. Dans l'Inuit Nunangat, la moitié (51,7 %) de la population inuite vivait dans des logements surpeuplés<sup>66</sup>. Les familles inuites dont des proches sont décédés des suites de violence conjugale ont souvent fait mention de la pénurie de logements dans l'Inuit Nunangat, du surpeuplement, de l'incidence des maladies infectieuses et de la violence qui vient inévitablement avec les logements surpeuplés. Selon l'ITK, « le surpeuplement est associé à des taux élevés de maladies transmissibles (comme la tuberculose), à des facteurs de stress qui peuvent provoquer des frictions et de la violence entre les membres d'une même famille, à des conditions défavorables



à l'éducation et à l'apprentissage des enfants, ainsi qu'à d'autres problèmes<sup>67</sup> ». Les 52 % de la population inuite de l'Inuit Nunangat qui vivent dans des logements surpeuplés représentent un taux environ six fois plus élevé que celui de la population non autochtone du Canada. De plus, près du tiers des Inuits vivent dans des logements qui ont désespérément besoin de rénovations. Comme le souligne l'ITK, cela montre clairement l'iniquité entre les Inuits et le reste de la population en ce qui a trait à la qualité du logement et prouve concrètement ce que la plupart des Inuits savent déjà par expérience, soit qu'ils sont aux prises avec une crise du logement à laquelle il faut remédier<sup>68</sup>. Cette information rejoint les témoignages livrés devant l'Enquête nationale, selon lesquels les familles ont, à maintes reprises, fait état du manque de logements et de refuges pour les femmes victimes de mauvais traitements et de violence domestique.

Dans son rapport intitulé *Le logement dans l'Inuit Nunangat : nous pouvons faire mieux*, le Comité sénatorial permanent des peuples autochtones a décrit la menace que représentait la crise du logement pour la santé et la sécurité des familles inuites en 2017. Cette crise du logement dans l'Inuit Nunangat préoccupe grandement les familles inuites depuis de nombreuses années. Dans les communautés, les expériences vécues par les hommes, les femmes et les enfants inuits découlent du surpeuplement des logements : le manque de logements abordables, l'itinérance cachée, les maladies infectieuses comme la tuberculose, les infections respiratoires, les maladies mentales, la vulnérabilité des enfants à la violence et aux mauvais traitements et les taux élevés de violence familiale. La question du logement sécuritaire a été soulevée à maintes reprises par les témoins Inuits qui ont raconté à l'Enquête nationale leur vérité propre ou celle de leurs proches dans l'Inuit Nunangat.

Bien que la question du logement sûr dans l'Inuit Nunangat soit au premier plan, les membres des Premières Nations et les peuples métis doivent également relever leurs propres défis. Les membres des Premières Nations étaient également plus susceptibles de vivre dans un logement surpeuplé dans les réserves qu'à l'extérieur de celles-ci : 36,8 % des Autochtones vivant à l'intérieur des réserves, comparativement à 18,5 % de ceux vivant à l'extérieur de celles-ci, habitaient des logements surpeuplés<sup>69</sup>.

Lors de son témoignage, Lance S. a parlé des conditions du logement dans les réserves en Saskatchewan, ainsi que de leurs répercussions sur la santé et le mieux-être des membres des communautés.

La pauvreté qui existe, vous savez, les conditions de logements dans les réserves, la qualité de l'eau potable [...] vous savez, c'est beaucoup d'enjeux que nous, les Premières Nations dans les réserves, on vit encore comme ça aujourd'hui, comme il y a 30 ou 40 ans. On vit encore dans ces vieilles maisons. Les vieilles maisons dans les réserves sont encore utilisées. Les gens, les Aînés deviennent malades à cause de ça<sup>70</sup>.

Minnie K. a exprimé les mêmes préoccupations à propos de la sécurité et du surpeuplement lorsqu'elle a décrit les conditions du logement dans sa communauté.

Oui. Eh bien, j'ai en quelque sorte regardé les choses autour de moi, comme les familles qui vivent dans les maisons aujourd'hui. Les maisons dans lesquelles elles vivent ne sont pas adaptées pour elles. Elles vivent dans ces maisons que [...] eh bien, leurs maisons





sont surpeuplées. Leurs maisons sont construites, et tellement de familles sont dans les maisons aujourd'hui qu'il n'y a plus de place. Et aussi qu'ils construisent dans des endroits où ils ne devraient pas construire et dans des tas de pierres et des choses et peu importe. Il n'y a même pas de place pour que les enfants jouent ou rien comme ça<sup>71</sup>.

Lors de la séance sur les perspectives communautaires des femmes Heiltsuk, Mavis Windsor a expliqué à quel point les logements surpeuplés ou autrement dangereux exposent les femmes et les filles autochtones de sa communauté de Bella Bella, en Colombie-Britannique, à un risque accru de violence.

La plupart du temps, nous avons des maisons dans notre communauté où trois ou quatre familles vivent ensemble dans des conditions très surpeuplées, et ça a des répercussions sur la santé et le bien-être de [...] pas seulement, vous savez, des femmes dans la famille, mais aussi des hommes et des enfants, ce qui peut entraîner des situations où il y a de la tension et, vous savez, ce n'est simplement pas une situation très saine<sup>72</sup>.

Au cours de son témoignage, Rebecca M. a parlé des difficultés associées au logement auxquelles sont confrontées les femmes autochtones à Halifax, et de la façon dont ces difficultés suscitent un sentiment d'insécurité.

« LA PAUVRETÉ QUI EXISTE, VOUS SAVEZ, LES CONDITIONS DE LOGEMENTS DANS LES RÉSERVES, LA QUALITÉ DE L'EAU POTABLE [...] VOUS SAVEZ, C'EST BEAUCOUP D'ENJEUX QUE NOUS, LES PREMIÈRES NATIONS DANS LES RÉSERVES, ON VIT ENCORE COMME ÇA AUJOURD'HUI, COMME IL Y A 30 OU 40 ANS. ON VIT ENCORE DANS CES VIEILLES MAISONS. LES VIEILLES MAISONS DANS LES RÉSERVES SONT ENCORE UTILISÉES. LES GENS, LES AÎNÉS DEVIENNENT MALADES À CAUSE DE ÇA. »

Lance S.

La sécurité du logement est un gros problème pour beaucoup de femmes autochtones que je connais chez nous. Alors, genre, pour moi et ma famille, on économisait toujours sur tout.

Oui, alors je pense que la sécurité du logement [...] eh bien, je peux seulement parler pour Halifax vraiment, mais c'est un problème récurrent et je vois toujours nos femmes aux prises avec ça. Et c'est pour toutes sortes de raisons différentes, vous savez. Ce n'est pas toujours seulement financier, vous savez. Par exemple, souvent, j'ai un travail à temps plein ou j'ai économisé de l'argent, mais c'est juste difficile d'en obtenir un, d'en trouver un [...] Oui. Ou [...] ou vous devez libérer celui dans lequel vous êtes pour une raison ou pour une autre. Disons, ça pourrait être, comme j'ai dit, une raison conjugale ou ça pourrait être [...] ça pourrait être non sécuritaire d'une certaine façon, ou [...] ou, disons [...] ça pourrait être des problèmes, mais le logement est [...] est un gros problème<sup>73</sup>.



Les universitaires Ian Peach et Kiera Ladner soulignent que ces conditions de vulnérabilité sont directement liées à la migration urbaine des femmes, ce qui a pour effet de créer des circonstances favorables à la disparition et au meurtre de celles-ci. Cela a donc pour effet de perpétuer la marginalisation plutôt que de l'enrayer<sup>74</sup>.

En parlant du logement dans les Territoires du Nord-Ouest, Pertice Merritt a donné un exemple de la façon dont la perte d'une seule structure résidentielle peut entraîner de grandes difficultés pour la population, surtout pour les femmes victimes de violence.

Je tiens à mentionner, en particulier, les logements de transition parce que c'est ce qui m'est venu à l'esprit en discutant de l'enjeu du logement. Vous avez peut-être entendu récemment dans les médias que les appartements de transition, à Yellowknife, ont été rasés par les flammes. C'est là que se trouvait le YWCA. C'est là qu'étaient les logements de transition. Trente-trois familles ont dû être réinstallées. Et, alors que je préparais mon [...] pour la conférence et pour résoudre les ordonnances de protection d'urgence, j'ai dit à [...] la directrice générale, qu'il s'agissait d'une ordonnance de protection d'urgence en suspens. Et elle m'a répondu : « Pertice, c'est déjà arrivé. Ils ont déménagé des gens dans d'autres logements à Yellowknife, sans gardien de sécurité, et une femme s'est récemment fait défoncer sa porte et ne se sent pas en sécurité. »

Ainsi, en 2017-2018, le YWCA a fourni des logements de transition d'une durée maximale d'un an à 57 familles et 94 enfants, et il y avait 21 jeunes à Hope's Haven, comme nous l'avons dit, et la Women's Society de Yellowknife a ouvert huit unités semi-indépendantes pour femmes seules.

Je pense donc qu'une nouvelle tragédie est imminente pour notre petite population. Et les chiffres ne vous semblent peut-être pas importants, mais nous sommes une petite population vraiment répartie dans le Nord, et comme un aîné de la communauté me l'a déjà dit : « Je compte en tant que personne<sup>75</sup>. »

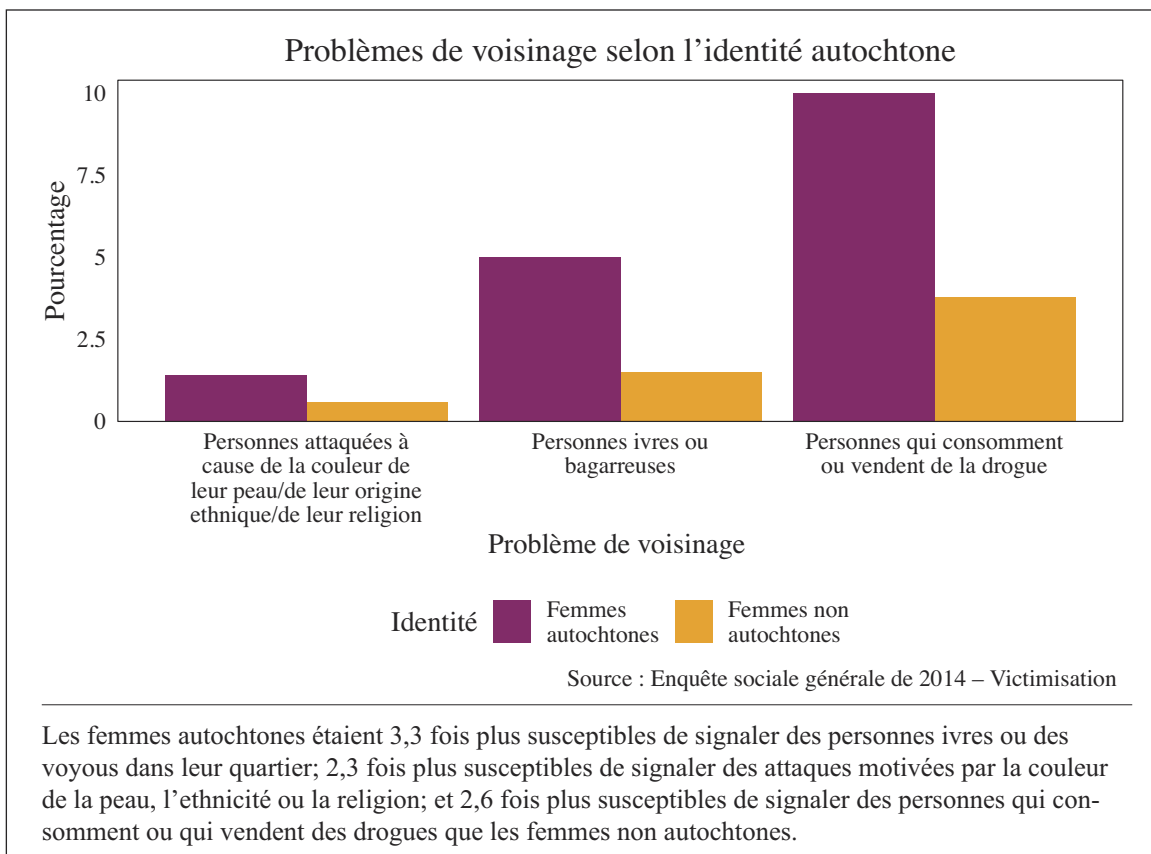
Dans un autre témoignage, nous avons constaté que les femmes dont la relation a pris fin en raison de la violence sont confrontées à des difficultés liées au logement que l'on peut attribuer aux politiques et aux pratiques communautaires. Michele G. a expliqué que la politique de la bande lui interdisait d'accéder à sa résidence conjugale.

Nous avons aussitôt décidé de nous séparer et de divorcer, nous nous sommes disputés pour savoir qui allait garder la maison conjugale, qui était à nos deux noms, dans la réserve. Comme on ne peut pas vendre de terres de réserve – ce sont des terres de la Couronne – il faut se reporter à la politique de la bande. Je suis restée dans la maison avec mes trois enfants et j'ai été victime de violence par des membres de sa famille qui ne voulaient pas que je reste là. Un jour, 100 poissons pourris ont été jetés dans ma cour, et une bicyclette a été lancée à travers la fenêtre avant. Je n'étais pas à la maison, mais mes six enfants y étaient. Ils ont composé le 911 et se sont cachés dans un placard à l'étage, terrifiés, mais la police n'est jamais venue. Quand je suis rentrée, j'étais



furieuse. J'ai parlé à un sergent [d'un service de police] qui s'est excusé et m'a dit qu'ils croyaient qu'il s'agissait d'une blague. J'ai parlé au chef du conseil de bande de l'absence de politique visant à protéger les femmes contre le fait qu'on les expulse de leur foyer dans la réserve pour qu'elles aillent vivre dans la pauvreté dans l'est de la ville. Il n'avait pas de réponse pour moi. J'ai quitté la réserve à ce moment-là<sup>76</sup>.

Pour les femmes autochtones vivant en milieu urbain, de même que pour les nombreuses femmes, filles et personnes 2ELGBTQQIA autochtones qui décident de quitter leur communauté, l'accès à un logement sûr et abordable représente toujours un problème qui les expose à un risque accru de violence. À titre d'exemple, Jennisha Wilson, gestionnaire de programmes à Tungasuvvingat Inuit, a expliqué que, pour les femmes inuites qui se réinstallent dans le Sud, les seules options de logement abordable se trouvent souvent dans des quartiers présentant des niveaux accrus de violence et de présence policière. « À Ottawa, Vanier est l'un des centres occupés par de nombreux Inuits, et l'endroit de la province où le taux d'agressions sexuelles est le plus élevé. C'est aussi un endroit où la surveillance et la présence policières sont assurées en permanence. » Toujours selon Jennisha Wilson, il est important d'aborder ces difficultés d'accès à des logements sûrs et abordables dans un contexte colonial qui continue de compromettre la sécurité des femmes. Selon elle, le grand nombre d'Inuites, de Métisses et de femmes des Premières Nations qui vivent dans des quartiers de familles à faible revenu où le taux de criminalité est élevé illustre à quel point « la violence est recréée en fonction de la géographie<sup>77</sup> ».







Dans son témoignage, la survivante Rebecca M. a parlé longuement des difficultés qu'elle a éprouvées en tant que femme autochtone à faible revenu à la recherche d'un logement à Halifax. Elle a parlé du lien qu'elle avait perçu entre le fait de vivre dans une unité de logement public non sécuritaire à Halifax et le risque accru de violence.

[T.] Housing, c'est des logements autochtones à Halifax, alors c'est comme des logements sociaux pour les Autochtones. Et [...] et ce sont vraiment des taudis. Ce sont les rois des taudis, alors ils ont beaucoup de problèmes. L'appartement [...] moi et [ma sœur], on a vécu là, on y a vécu pendant cinq ans. La porte arrière [...] n'était pas sécuritaire, alors le vent pouvait l'ouvrir et, genre, ça a été comme ça pendant les cinq années.

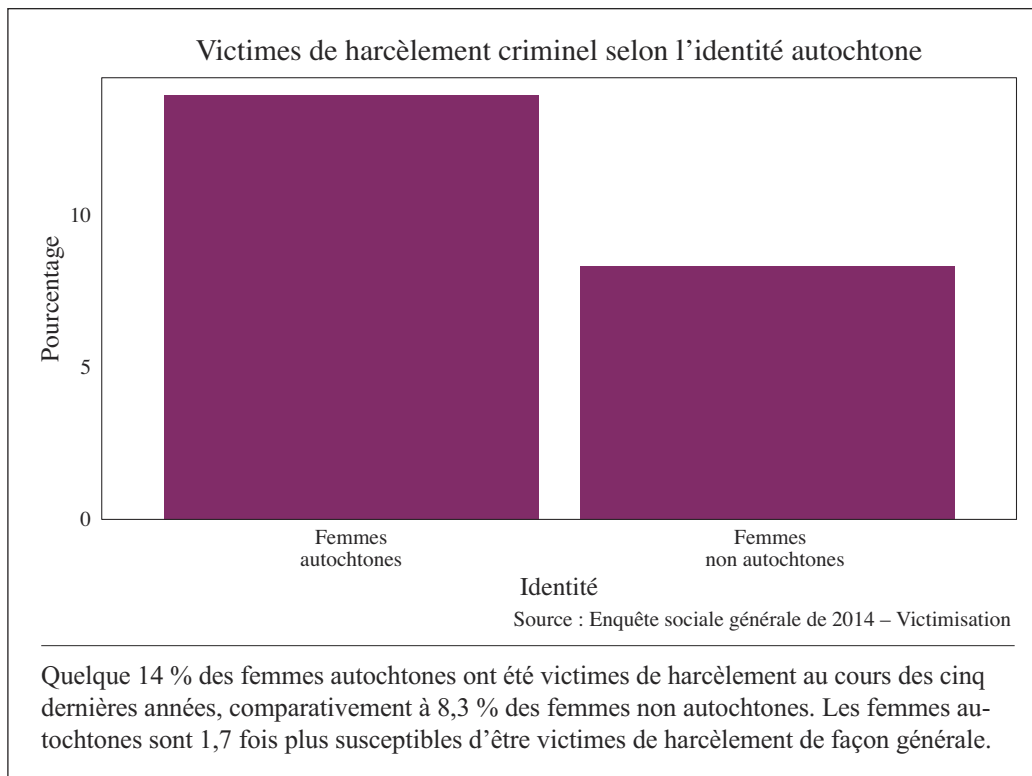
Avant même qu'on y déménage, jusqu'après notre déménagement, et ça a fini par mener ... alors c'était dangereux pendant toute la période et même si je leur disais « Vous savez, c'est [...] c'est moi et ma sœur, ma jeune sœur, genre, on est des jeunes femmes et on vit seules et vous savez, c'est très dangereux », ils n'ont jamais arrangé ça.

Il y a une fois où j'ai surpris [...] on a surpris quelqu'un qui essayait d'entrer chez nous et [...] je lui ai couru après dans la rue et tout. Puis j'ai appelé [T.] Housing, en panique, parce que notre porte arrière n'était pas sécuritaire. Et ils ont envoyé quelqu'un et ils ont juste [...] j'ai dit qu'ils ont mis une serrure indienne là-dessus parce qu'ils n'ont fait que couper un deux par quatre et ils l'ont placé entre l'escalier arrière et la porte arrière et ils l'ont laissé là.

Ils ont dit qu'ils allaient commander une nouvelle porte et [...] elle n'est jamais venue, ils ne sont jamais revenus. Ils n'ont jamais rien fait à ce sujet, alors inutile de dire qu'ils [...] ils se foutaient complètement [...] de notre sécurité à ma sœur et moi<sup>78</sup>.

Pour Rebecca, un logement non sécuritaire était encore plus préoccupant en raison de la violence à laquelle elle avait été confrontée dans sa vie de la part d'un partenaire violent, qui avait auparavant enfreint des ordonnances lui interdisant de s'approcher d'elle. Bien entendu, la sécurité physique et émotionnelle de Rebecca était compromise étant donné que la menace de violence était exacerbée par le manque de sécurité du logement. Comme elle l'a expliqué :

Et j'ai continué d'avoir des cauchemars de cette personne qui entrerait dans la maison par effraction parce qu'elle savait où je vivais. Alors je ne pouvais pas vraiment bien dormir là-bas, alors quand il a [...] il est allé en prison pendant un mois, jusqu'à la date du tribunal. Et pendant cette période, parce que je m'inquiétais vraiment de ce que cette personne pourrait faire quand elle sortirait [...] J'ai déménagé à l'autre bout du pays. Alors, j'ai déménagé à Vancouver<sup>79</sup>.



Lorsque Rebecca – comme tant d'autres femmes autochtones – a été obligée de déménager pour retrouver un sentiment de sécurité, elle s'est exposée à d'autres dangers.

Pour les personnes 2ELGBTQQIA, l'accès à un logement sûr au sein de leur territoire ou de leur communauté peut être compliqué à cause du sexisme, de la transphobie, de l'homophobie et d'autres croyances discriminatoires à propos de l'identité de genre, de l'expression de genre et de l'orientation sexuelle. Marge H. a décrit comment, en tant que lesbienne, elle a subi des pressions pour quitter sa communauté.

J'ai été chassée de ma communauté parce que j'étais lesbienne. Je [...] il n'y avait pas de place [...] et plusieurs membres de la famille ont suggéré que je prenne des vacances. Alors je travaillais à la conserverie dans ce temps-là. Et j'avais mis quelques chèques de côté. Puis j'ai pris le traversier pour Vancouver. J'étais vraiment blessée [à cause de] la façon dont j'ai été traitée. Je n'avais pas [...] j'ai perdu mes amis vraiment rapidement. Puis il y avait, bien entendu, des rumeurs et des commérages, et des choses comme ça. Et [...] alors je suis partie<sup>80</sup>.

Viola Thomas a également parlé du manque de sécurité dont souffrent les personnes 2ELGBTQQIA dans leur communauté et des pressions qu'elles subissent pour les inciter à partir.



Beaucoup de personnes bispirituelles finissent par être déplacées de leur territoire et de leur communauté parce qu'elles [...] elles ne se sentent pas en sécurité et elles ne se sentent pas bienvenues à cause de leur nature particulière. C'est pourquoi vous avez une grande population de personnes bispirituelles partout au pays qui finit par aller habiter dans les régions urbaines, où elles peuvent s'identifier à d'autres personnes et se sentir acceptées comme elles sont<sup>81</sup>.

Pour celles qui sont encouragées de quitter, bon nombre de ces problèmes existent également en ville. Pour Jamie L. H., ces préoccupations concernant la difficulté de trouver un logement abordable et sûr empirent à mesure qu'elle vieillit et réalise la rareté des logements disponibles pour les femmes transgenres et les personnes bispirituelles vieillissantes.

J'étudie un modèle au Mexique pour les Autochtones, les femmes retraitées et elles [...] et elles ont cette maison et c'est un endroit où elles vivent ensemble en communauté. Et j'aimerais voir des endroits comme ça pour nos communautés LGBTQ+. Et, vous savez, nous avons besoin de ça parce que je pense que, jusqu'au moment où on quitte cette Terre, on a besoin d'amour et d'un sentiment d'appartenance. Et donc j'ai très peur, vous savez, si je tombe vraiment malade, où est-ce qu'on va me mettre? Et vous savez, alors je pense que nous devons nous occuper de ce problème<sup>82</sup>.

## **L'itinérance et l'exploitation**

Pour de nombreuses femmes, filles et personnes 2ELGBTQQIA autochtones, la pauvreté les empêche d'avoir accès à toute forme de logement, et elles sont obligées de vivre dans des refuges, dans la rue ou dans des logements précaires. En évoquant les circonstances qui ont mené à la disparition ou à la mort de leur proche, de nombreux membres de famille ont indiqué que la personne était sans abri ou logée de façon précaire au moment de sa disparition ou de sa mort. Ainsi, Cee-Jai a expliqué que c'est lorsque sa sœur vivait dans la rue qu'elle a été assassinée. Malgré les efforts de Cee-Jai pour protéger cette dernière, la vulnérabilité à laquelle elle était exposée en tant que femme autochtone vivant dans la rue était trop grande.

Monique F. H., qui travaille maintenant comme avocate pour un organisme de lutte contre le sida, a puisé dans ses propres souvenirs de jeune fille sans abri vivant dans la rue et de la peur qu'elle vivait en raison de la menace presque constante à sa sécurité.

La violence que j'ai vécue dans ma vie m'a fait, je pense, davantage comprendre les femmes avec lesquelles je travaille. Beaucoup d'entre elles ne se rendent pas compte que quand j'entends leurs histoires, je m'entends moi-même [...] alors quand j'étais plus jeune et que je vivais dans la rue, c'était très [...] très difficile.

Je me rappelle avoir vu des filles se faire battre tout le temps. S'injecter des drogues. Avoir ce style de vie. Toujours avoir peur de ce qui allait arriver ensuite. Et j'avais peur, même si je ne le montrais pas, j'avais peur<sup>83</sup>.





En faisant part de ses expériences de vie dans la rue, Marlene J. a expliqué que la violence devient un mode de vie – et c’est quelque chose qu’elle a souvent enduré pour subvenir à ses besoins fondamentaux en nourriture et en logement.

Je dirais que j’étais violée trois parfois quatre fois par semaine [...] J’essayais simplement de survivre. Je buvais beaucoup pour ne pas souffrir. J’étais toujours saoule. Je buvais du soda pour ne plus ressentir la faim. Je volais. J’allais dans le magasin d’alcools et je volais des bouteilles d’alcool. J’étais ivre, et puis je me retrouvais avec ces hommes. Ils se disaient oh oui, on va faire la fête et ensuite je finissais par être violée. De combien de parcs j’ai dû sortir en rampant. J’étais toujours seule<sup>84</sup>.

La pauvreté peut aussi contribuer à la violence parce que les gens recourent aux drogues et à l’alcool pour faire face aux difficultés associées au fait de ne pas avoir d’argent ou de domicile. Comme l’a expliqué Marlene, l’alcool lui a permis de survivre à la violence, à la faim et à la douleur émotionnelle qu’elle a subies dans la rue, même s’il augmentait le risque que d’autres personnes lui fassent subir de la violence à leur tour.

Ces gens qui m’avaient violée, ils faisaient semblant d’être mes amis. Ils disaient : « On peut juste s’asseoir et parler. » Parce que j’étais sans abri, ils décidaient qu’ils allaient profiter de la situation. Parfois, je suis saoule, je ne me souviens pas, mais je sais [...] je ne sais pas. Comme je l’ai dit, au pensionnat, ce qu’ils vous disent chaque jour, que vous ne valez rien, reste dans votre tête et alors vous ne vous souciez plus de votre vie comme vous le devriez<sup>85</sup>.

Mealia Sheutiapik, une Inuite qui a parlé de son expérience d’itinérance dans les rues d’Ottawa, a raconté que la consommation de drogues est devenue un moyen de survivre non seulement aux conditions de vie difficiles, mais également au traumatisme qui l’habitait en raison de la violence dont elle avait été témoin et de sa séparation d’avec sa famille et sa culture.

Je fumais du hash. Je ne connaissais pas d’autres drogues dans ce temps-là. Il m’a amenée à fumer du hash. Alors, j’ai essayé d’étouffer la douleur que je ressentais depuis que j’avais été témoin de ce meurtre. Alors, j’ai continué à fumer du hash, puis je suis passée à des drogues plus dures juste pour étouffer la douleur et juste pour m’engourdir, juste pour oublier cette pensée et ce qui s’était passé avant. Et, de penser à ma grand-mère et à mes frères et sœurs, que je les avais quittés, j’ai fini par prendre encore plus de drogues dures. Et ça, aussi, ça m’a poussée à aller dans la rue pour trouver plus d’argent pour me défoncer<sup>86</sup>.

Les témoignages concernant les difficultés auxquelles font face les femmes, les filles et les personnes 2ELGBTQIA des Premières Nations, métisses et inuites qui vivent dans la pauvreté illustrent bien que la violation de leur droit à la sécurité sociale contribue directement aux nombreuses histoires de violence, de disparition et de mort rapportées par les familles et les survivantes.



## Les obstacles à l'éducation et à la formation

Tout comme la pauvreté entrave l'accès des femmes, des filles et des personnes 2ELGBTQQIA autochtones au logement, elle crée des obstacles à l'éducation, à la formation et à l'emploi, qui pourraient mettre fin au cycle de la pauvreté dans de nombreuses familles et communautés autochtones et qui sont des facteurs de protection connus contre la violence<sup>87</sup>.

L'accès à l'éducation, à la formation et à un emploi valorisant est un facteur reconnu pour diminuer la probabilité d'être l'auteur ou la victime d'actes de violence. Dans son témoignage, Robyn Bourgeois, une professeure crie à Brock University et une survivante de la traite des personnes, a raconté que l'éducation l'a aidée à construire son autonomie et lui a permis de comprendre sa culture et les moyens de combattre la violence coloniale.

J'ai grandi en ayant le sentiment que l'école renforçait mon autonomie. Je sais que ça peut sembler curieux, parce que, pour beaucoup d'Autochtones, l'école ne favorise pas l'autonomie. Mais, pour moi, ça a toujours été le cas. Et j'ai entrevu une possibilité [...] Je me rappelle avoir lu des travaux de recherche de penseurs autochtones et de me dire : « C'est génial ». Comme, juste de voir qu'ils peuvent utiliser les mots du gouvernement en particulier, parce ce que je suis toujours obsédée par le gouvernement du Canada, et j'ai de la difficulté, vous savez, à comprendre ce qui se passe dans ce pays avec les Autochtones. Alors, je me rappelle d'avoir pensé : « Je peux faire ça. Je pourrais faire ça. » Alors, je suis retournée à l'université<sup>88</sup>.

De la même façon, décrivant son expérience de vie en famille d'accueil, Cheylene Moon, qui a participé au groupe de discussion des jeunes à Vancouver, a expliqué que l'école lui donnait un sentiment de sécurité : « J'adorais l'école quand j'étais petite, parce que c'était comme mon refuge à l'abri de mes familles d'accueil<sup>89</sup>. »

La sécurité passera de plus en plus par l'éducation dans l'Inuit Nunangat, alors que le taux de croissance de la population inuite est plus élevé que celui de la population du Sud du Canada. Cela se traduit par une société très jeune : les Inuits de moins de 14 ans composent environ 33 % de la population inuite<sup>90</sup>. L'une des conséquences d'une population aussi jeune est le nombre plus élevé de jeunes mères inuites, qui sont souvent des mères célibataires. Parfois, ces jeunes mères cessent de fréquenter l'école secondaire à cause de leur grossesse. Les contraintes financières qui s'exercent sur les jeunes mères célibataires leur compliquent la vie et rendent plus difficile pour elles l'atteinte d'objectifs comme faire des études supérieures ou avoir leur propre domicile où elles seraient à l'abri du danger. De nombreuses histoires de jeunes mères inuites soulignent l'importance de la sécurité financière. Des programmes de soutien aideraient ces jeunes parents à élever leurs enfants et à poursuivre leurs études à l'abri du besoin. Elles ont pleinement exprimé leur droit à la sécurité financière.

Pour Amy Bombay, l'éducation lui a donné l'occasion de poursuivre les recherches permettant de mieux expliquer les répercussions encore actuelles de la violence coloniale et des pensionnats sur les peuples autochtones : « C'était durant mes études de premier cycle – au secondaire, ma



mère m'avait encouragée à faire un projet sur les pensionnats, et ç'a été la première fois où j'ai vraiment appris quelque chose sur ce sujet. Et, pour moi, ç'a été un déclic et ç'a expliqué bien des choses, vous savez, auxquelles je pensais quand j'étais enfant<sup>91</sup>. » Comme le montrent leurs témoignages, pour Robyn Bourgeois, Cheylene Moon et Amy Bombay, l'accès à l'éducation, à la formation et à l'emploi a non seulement favorisé la sécurité dans leur propre vie, mais il leur a aussi offert un moyen de s'attaquer à la marginalisation sociale, économique et politique au sein des structures coloniales, qui contribue à la violence contre les femmes, les filles et les personnes 2ELGBTQQIA autochtones.

Comme l'ont décrit des survivantes et des membres de la famille de proches disparues et assassinées, les obstacles auxquels eux-mêmes ou leurs proches se sont heurtés dans leurs efforts pour accéder à l'éducation, à la formation et à l'emploi ont joué un rôle dans la violence qu'ils ont subie. Malgré la responsabilité du gouvernement fédéral de fournir une éducation adéquate à tous les Autochtones, les disparités dans le financement des systèmes d'éducation autochtones, particulièrement dans les régions rurales et éloignées où l'accès aux écoles et à l'enseignement peut être extrêmement limité, continuent d'être l'un des principaux obstacles à l'éducation et à l'apprentissage<sup>92</sup>. Selon le Centre de collaboration nationale de la santé autochtone, malgré la croissance de la population chez les peuples autochtones et les diverses pressions inflationnistes qui s'exercent sur eux, la hausse du financement des programmes d'Affaires autochtones et du Nord Canada (AANC) pour les Premières Nations et les Inuits est plafonnée annuellement à 2 % depuis le milieu des années 1990<sup>93</sup>.

Dans son témoignage, le chef Roddy S. a parlé des difficultés liées à la vie dans une communauté éloignée en Colombie-Britannique auxquelles ses enfants doivent faire face sur les plans de l'éducation et de l'emploi.

Il faut donc faire quelque chose dans les communautés. Et il n'y a pas d'emplois. Et je n'ai jamais, jamais eu à dépendre de l'aide sociale. J'ai travaillé toute ma vie. Dans ce temps-là, c'était plus facile et tout le monde travaillait. Maintenant c'est vraiment difficile. Et je sympathise avec les personnes, mes enfants. Ma fille doit travailler à Smithers ici. Mon autre fille, elle essaie d'avoir un permis pour conduire des camions. Mon fils travaille [...] pour [une compagnie de sécurité].

Donc on a dû sortir nos enfants de la réserve pour qu'ils reçoivent une éducation. Et ils sont désolés parce qu'ils ont perdu leur langue et leur tradition un peu. Ma femme essaie de les remettre sur la voie, et nos petits apprennent<sup>94</sup>.

En raison de l'absence d'établissements d'enseignement adéquats dans les réserves, particulièrement dans les régions rurales ou éloignées, de nombreux enfants et jeunes autochtones doivent quitter leur communauté pour fréquenter une école secondaire ou un établissement d'enseignement postsecondaire. À titre d'exemple, l'Enquête auprès des peuples autochtones de 2012 a révélé qu'en 2011, environ 31 % des élèves des Premières Nations fréquentaient une école provinciale hors réserve<sup>95</sup>. En plus de constituer un obstacle important à

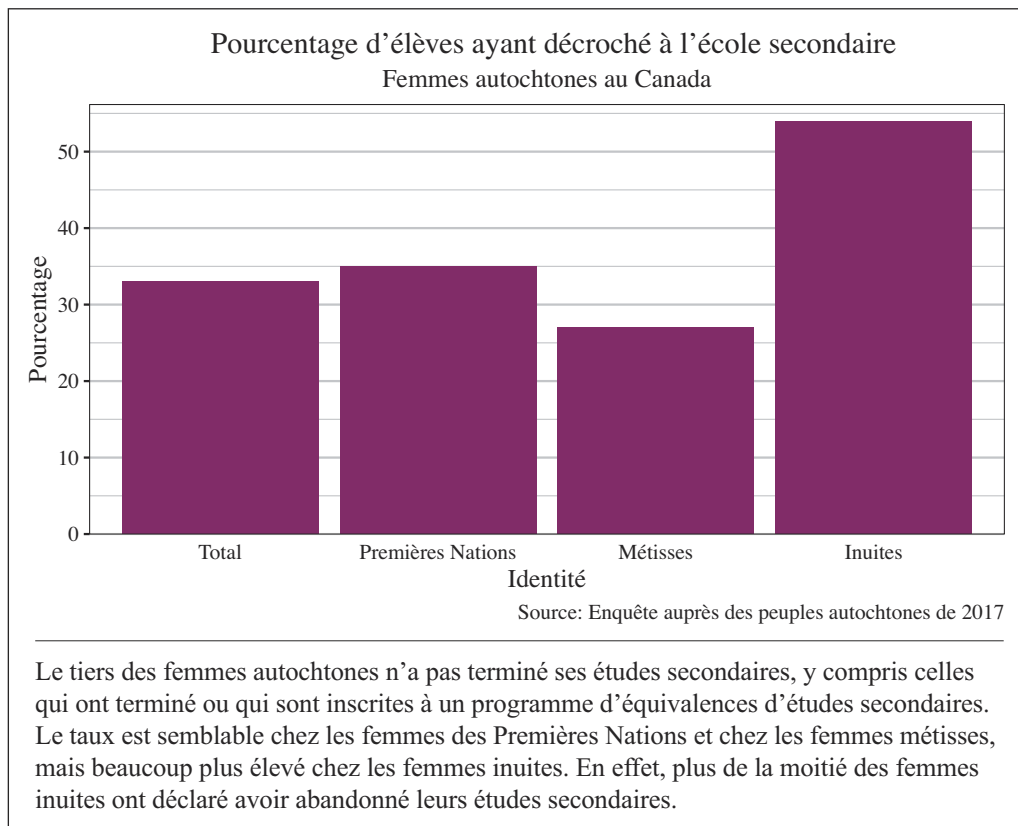


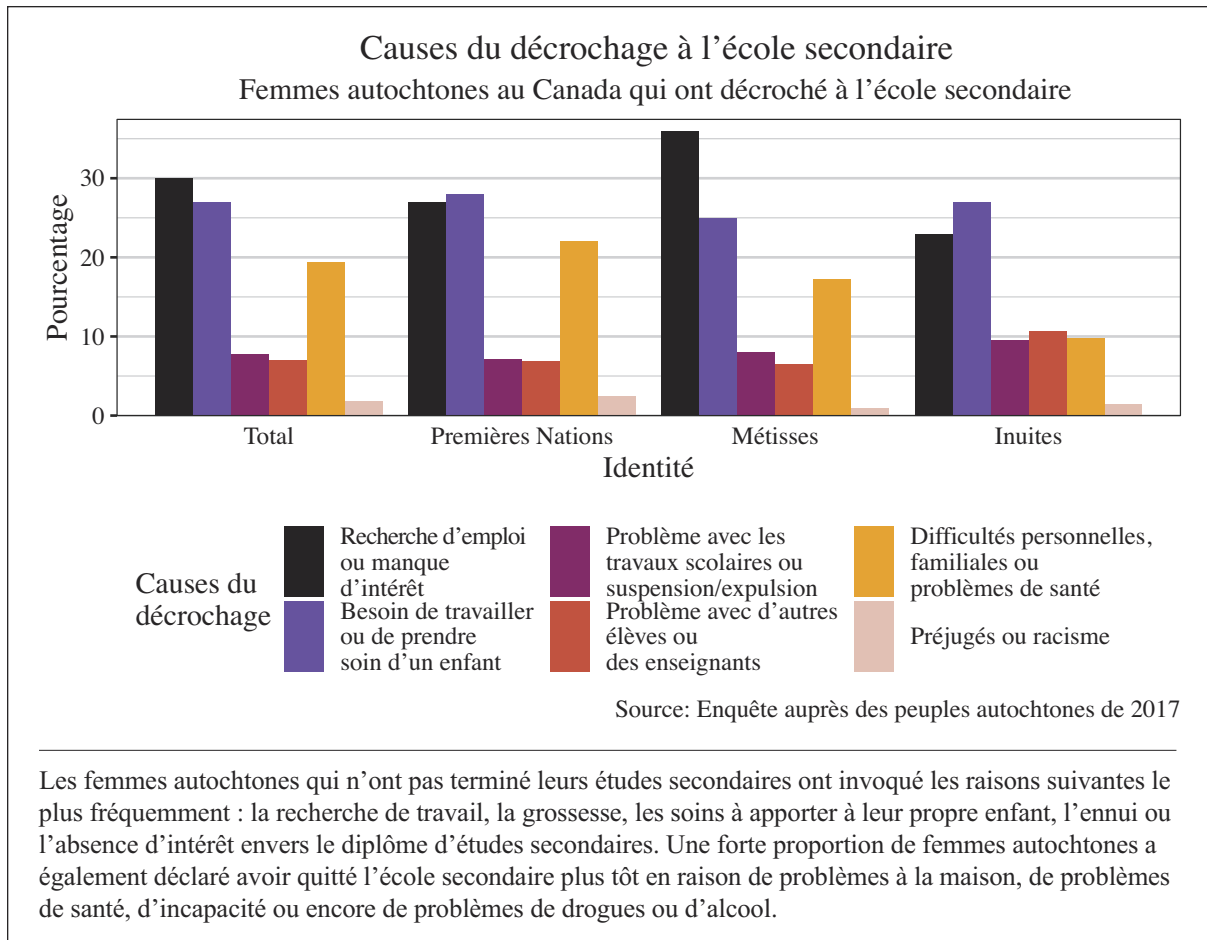


l'achèvement des études secondaires<sup>96</sup>, l'obligation de parcourir de grandes distances hors de la communauté pour fréquenter l'école engendre des risques distincts de violence. Comme l'a expliqué Pertice Moffitt, si l'éducation peut améliorer la sécurité sociale et économique des filles et des femmes autochtones, les réalités qu'elles doivent affronter pour accéder à cette éducation peuvent en même temps entraîner des risques supplémentaires pour leur sécurité physique.

Les femmes disent qu'elles n'ont pas d'endroit où aller. Comment s'y prennent-elles pour sortir de cette communauté? Alors, c'est ce qui les fait taire. C'est ce qui les réduit au silence; c'est ce qui les isole. Et alors, pour certaines femmes, il y a une possibilité de venir et de recevoir une meilleure éducation. Et, quand elles le font, elles emmènent leur famille. Elles reçoivent de l'aide. Mais alors, par exemple, même dans le programme de soins infirmiers, il y a des difficultés, à cause de [...] pour avoir votre formation de base en préparation, les maths et les sciences dont vous avez besoin pour venir dans un programme de soins infirmiers.

C'est difficile dans les petites communautés où il y a [...] la scolarité n'était pas quelque chose d'utile pour les grands-parents, par exemple. Et à cause de toute cette histoire des pensionnats, il y a de la méfiance à l'égard de l'école. Je pense que ces choses contribuent à l'absentéisme. Alors, c'est [...] les femmes ont besoin d'une meilleure éducation pour pouvoir obtenir de meilleurs emplois et avoir de meilleurs logements afin qu'elles puissent prendre soin de leurs enfants. Tous ces éléments se recourent<sup>97</sup>.





En plus des obstacles pour accéder à l'éducation et des dangers distincts qui peuvent exister pour les femmes, les filles et les personnes 2ELGBTQQIA autochtones qui veulent étudier à l'extérieur de leur communauté, les témoins ont décrit en quoi le racisme au sein des institutions et la méconnaissance de l'histoire et des répercussions du colonialisme peuvent créer des obstacles supplémentaires à l'apprentissage.

Dans son témoignage, Lisa B. J. a parlé de l'intimidation que son jeune fils subit à l'école, non seulement de la part des élèves, mais également de la part des professeurs qui, croit-elle, le ciblent en tant qu'Autochtone. Pour Lisa, l'intimidation que subit son fils – et qui l'a amené à changer d'école plusieurs fois – est particulièrement troublante parce que l'éducation peut jouer un rôle important dans la création de relations qui favorisent la sécurité. Pour Lisa, la violence dans la vie de sa sœur était liée directement à son incapacité à recevoir une éducation.

Si seulement elle avait pu finir ses études et pas [...] ne pas grandir en pensant qu'elle n'était pas désirée [...]

Elle était jeune, vous savez? On aurait pu l'empêcher de [...] de beaucoup de choses. Ils auraient pu vous savez, elle aurait pu finir l'école, et elle aurait pu devenir tout ce qu'elle voulait [...]



Et elle [...] elle a choisi cette vie-là parce que, quand elle s'est tournée vers le système, et que le système n'a pas été là pour elle et pour répondre aux inquiétudes qu'elle essayait d'exprimer<sup>98</sup>.

Pour Mealia Sheutiapik, le manque de compréhension et de sensibilisation concernant ses expériences en tant qu'Inuite a fait qu'il a été plus difficile pour elle de poursuivre des études et d'obtenir un emploi.

Eh bien, quand j'ai commencé à suivre les cours et quand j'ai obtenu les certificats pour les cours que j'avais suivis, j'ai commencé à chercher du travail, parce que je ne voulais plus jamais retourner dans la rue, et je savais que je pouvais faire mieux. Je cherchais du travail, mais étant donné que j'étais sans emploi depuis tant d'années, je n'étais pas acceptée. Même quand je remettais mon curriculum vitae, je n'étais pas acceptée. Ça m'a pris combien d'années pour trouver un autre emploi, un emploi normal, je veux dire [...] puis, après presque 18 ans, je suis retournée à l'Inuit Broadcasting et j'ai travaillé comme relectrice. J'ai renoué avec mon passé d'actrice, et puis je suis devenue relectrice. Et j'y suis restée pendant presque quatre ans. Mais il s'est encore produit quelque chose dans ma vie et je suis retombée dans les drogues, l'alcool et les drogues. Et j'ai été congédiée. Et ce n'était pas facile de trouver un autre emploi après avoir été congédiée. Et le fait d'être congédiée, ça m'a menée à recommencer à boire, et ça m'a repris, l'alcool<sup>99</sup>.

En racontant l'histoire de sa fille Jarita, qui a été assassinée par un homme qu'elle ne connaissait pas et qui avait de lourds antécédents de violence, Connie L. a expliqué que Jarita était étudiante et qu'elle parcourait environ 50 kilomètres par jour entre sa communauté d'Onion Lake et Lloydminster. Elle a décrit le rôle que jouait l'éducation dans la vie de Jarita et dans le soutien de ses enfants.

Ils [les enfants de Jarita] se tenaient debout à la fenêtre et ils la regardaient partir à l'école, et ils se sont habitués à ce qu'elle aille à l'école. Ses [...] ses études étaient très importantes pour elle, et les deux, ils restaient à la fenêtre et ils la regardaient partir, et ils lui faisaient signe de la main, et elle s'arrêtait et leur faisait signe à son tour. Elle devait se rendre à la confiserie pour prendre la navette pour aller à l'école à Lloyd[minster], et ça c'était au moment de sa mort, alors c'était vraiment difficile pour moi de voir mes petits-enfants l'attendre, et attendre que leur mère revienne, mais elle n'est jamais revenue. Et ils me posaient des questions. Où est maman? Je ne savais pas comment l'expliquer. C'était vraiment difficile à expliquer, qu'elle ne reviendrait pas<sup>100</sup>.

Le jour de sa mort, Jarita n'avait pas pu trouver de moyen de transport pour revenir de Lloydminster et elle avait loué une chambre d'hôtel pour la nuit. C'est dans cet hôtel qu'elle a été brutalement assassinée par un étranger qui, même s'il a été accusé, n'a jamais été condamné en raison d'un détail technique dans les procédures judiciaires. Comme sa mère l'a raconté, la bourse qui a été instituée au Collège Lakeland à la mémoire de Jarita témoigne de sa valeur en





tant « qu'étudiante émérite »; c'est également un rappel poignant de tout ce que Jarita aurait pu accomplir si elle avait été en mesure de poursuivre ses études à l'abri de la violence.

De nombreux membres de familles de victimes qui ont parlé de la disparition ou de la mort de leurs proches ont également parlé avec colère de la façon dont la violence a volé les réalisations potentielles que cherchaient à atteindre ces dernières à l'école ou au travail au moment de leur disparition ou de leur mort.

Dans leur témoignage, les membres de la famille Potts ont parlé des études et des réalisations de Misty P., qui, au moment de sa disparition, était professeure dans un collège des Premières Nations, faisait ses études de doctorat à l'Université du Manitoba et menait un important travail de recherche sur l'environnement et la culture traditionnelle<sup>101</sup>.

Dans son témoignage, Leslie K. s'est rappelé le talent de soudeuse de sa fille, Candace O. : « Il n'y avait rien, je suppose, qui ne pouvait se mettre au travers du chemin de ma fille qu'elle ne pouvait ... si quelqu'un lui disait qu'elle ne pourrait pas faire quelque chose, elle le faisait. Elle était têtue comme ça, comme moi sans doute<sup>102</sup>. » Comme l'a rappelé sa sœur, Raylene K., « [Candace] était motivée par ses études, ses objectifs. Elle a fait de moi ce que je suis aujourd'hui, une personne forte, indépendante<sup>103</sup> ».

Ces histoires brossent un portrait troublant de l'omniprésence de la violence dans la vie des femmes, des filles et des personnes 2ELGBTQQIA autochtones. Même dans les cas où les jeunes et les filles autochtones parviennent à surmonter les nombreux obstacles qui se présentent pour poursuivre leurs études, la menace de la violence est toujours présente.

« ILS [LES ENFANTS DE JARITA] SE TENAIENT DEBOUT À LA FENÊTRE ET ILS LA REGARDAIENT PARTIR À L'ÉCOLE, ET ILS SE SONT HABITUÉS À CE QU'ELLE AILLE À L'ÉCOLE. SES ... SES ÉTUDES ÉTAIENT TRÈS IMPORTANTES POUR ELLE, ET LES DEUX, ILS RESTAIENT À LA FENÊTRE ET ILS LA REGARDAIENT PARTIR, ET ILS LUI FAISAIENT SIGNE DE LA MAIN, ET ELLE S'ARRÊTAIT ET LEUR FAISAIT SIGNE À SON TOUR. ELLE DEVAIT SE RENDRE À LA CONFISERIE POUR PRENDRE LA NAVETTE POUR ALLER À L'ÉCOLE À LLOYD[MINSTER], ET ÇA C'ÉTAIT AU MOMENT DE SA MORT, ALORS C'ÉTAIT VRAIMENT DIFFICILE POUR MOI DE VOIR MES PETITS-ENFANTS L'ATTENDRE, ET ATTENDRE QUE LEUR MÈRE REVIENNE, MAIS ELLE N'EST JAMAIS REVENUE. ET ILS ME POSAIENT DES QUESTIONS. OÙ EST MAMAN? JE NE SAVAIS PAS COMMENT L'EXPLIQUER. C'ÉTAIT VRAIMENT DIFFICILE À EXPLIQUER, QU'ELLE NE REVIENDRAIT PAS. »

Connie L.

Pour Jenny L., dont la mère, Linda B., a été assassinée par son mari, qui s'est suicidé par la suite lorsque Jenny avait quatre ans, la violence qui mène à la disparition et à la mort de femmes, de filles et de personnes 2ELGBTQQIA autochtones a des répercussions négatives sur l'accès à l'éducation pour leurs enfants « abandonnés ».

Et, une autre chose qui est très importante pour moi, j'ai presque terminé mon premier diplôme, et j'ai eu beaucoup de difficulté à cause du financement et, vous savez, avoir suffisamment de ressources pour moi-même, parce que je n'ai pas de parents pour



m'appuyer. Et, je pense qu'il devrait y avoir plus de bourses et de bourses d'études pour les familles des FFADA qui veulent entreprendre des études, ou poursuivre leurs études, parce que ce sont elles qui vont être très utiles dans l'avenir pour changer la façon dont ça se passe pour les gens, et pour appuyer ceux qui ont été touchés par ça, parce qu'elles ont vécu ça elles-mêmes. Je pense que c'est vraiment important<sup>104</sup>.

Faciliter l'accès à l'éducation des femmes, des filles et des personnes 2ELGBTQQIA est un excellent moyen d'améliorer la sécurité et de combattre la violence à la source.

### **Les menaces dans les périodes de transition**

Un grand nombre de femmes, de filles et de personnes 2ELGBTQQIA autochtones dont la sécurité est régulièrement compromise par la violence, la pauvreté, l'itinérance, les obstacles à l'éducation et à l'emploi et d'autres formes de marginalisation économique et sociale prennent certaines décisions dans l'espoir d'améliorer leur sécurité. La marginalisation économique et sociale pousse souvent les gens à déménager afin d'atténuer ces formes d'oppression et de violence. Jennisha Wilson a dressé une liste des différentes raisons pour lesquelles une femme ou une fille inuk pourrait choisir de quitter sa communauté.

Ça peut être pour atteindre un niveau d'études supérieures ou poursuivre des études, avoir de meilleures perspectives d'emploi, visiter la famille par choix ou renouer avec des membres de la famille, un placement en famille d'accueil, une incarcération, obtenir du soutien en santé mentale et en toxicomanie, des soins de santé primaires, réduire la pauvreté, donc chercher une vie meilleure, accéder à de meilleures conditions de logement, à des aliments abordables et aux choses susceptibles d'améliorer le bien-être<sup>105</sup>.

De nombreuses femmes, filles et personnes 2ELGBTQQIA autochtones prennent la décision de déménager ou de s'installer ailleurs pour échapper à la violence permanente. Pour certaines, cela veut dire quitter une communauté éloignée pour aller dans un centre urbain; pour d'autres, cela signifie s'enfuir d'un foyer d'accueil pour aller vivre dans la rue; pour d'autres encore, cela signifie se réfugier auprès de partenaires précaires ou violents parce qu'elles n'ont pas d'autre choix.

Prenant la parole en tant que survivante et militante du Réseau canadien autochtone du sida, Monique F. H. – qui a amorcé son témoignage en disant « je suis une mère et une grand-mère. Je suis également une survivante de la violence, de nombreuses formes de violence<sup>106</sup> » – a raconté comment, à l'âge de 13 ans, pour échapper aux sévices sexuels qu'elle subissait à la maison, elle s'est enfuie et a vécu dans la rue – pour se retrouver aux prises avec d'autres agressions sexuelles.

Eh bien, à cause des sévices sexuels que j'avais subis et parce que je pensais qu'il n'y avait pas vraiment quelqu'un pour m'aider ou [...] je suis partie. Et je ne voulais pas regarder en arrière. Je voulais juste m'échapper de toute cette douleur et de toutes ces choses. Je ne sais pas comment vous voulez appeler ça. Je voulais juste m'enfuir et m'éloigner, mais ça m'a juste entraînée vers encore plus de violence sexuelle. Une violence plus grande que je n'avais pas prévue. Vous savez, beaucoup d'années ... pendant toutes ces années que j'ai passées dans la rue, j'ai été violée souvent. Drogée et violée.



Je raconte cette histoire aujourd'hui parce que je ne voudrai jamais ça [...] que mes filles et mes petites-filles subissent ça. Je suis très protectrice envers mes filles. Probablement trop protectrice. Mais je plains la personne qui va leur faire du mal<sup>107</sup>.

Tout comme le récit de Monique, de nombreux témoins ont relaté que, dans leurs efforts pour retrouver la sécurité et échapper à la violence ou pour trouver une vie meilleure, elles ont souvent rencontré plus de violence. Des infrastructures et des moyens de transport inadéquats, ou des moyens de transport qui deviennent eux-mêmes des lieux de violence, punissent les femmes autochtones qui cherchent à « avoir une vie meilleure » en s'efforçant d'échapper à la violence ou d'améliorer leur sort ou de se mettre à l'abri du danger. Le manque d'infrastructures de soutien et de transports compromet davantage cette sécurité. En lieu et place de la sécurité et de la protection qu'elle recherchait, Monique a trouvé ce qu'elle a décrit à juste titre comme une « violence plus grande ».

Comme des témoins l'ont expliqué, en se déplaçant d'un endroit à l'autre, les femmes, les filles et les personnes 2ELGBTQQIA autochtones sont confrontées à des risques importants de violence. C'est ce qu'a dit Jennisha Wilson, en parlant du périple qu'accomplissent les Inuites qui se réinstallent dans le Sud :

Et dans ces 1 000 kilomètres-là, il peut se passer bien des choses, pas vrai? Et ça joue un rôle dans la disparition et le meurtre de femmes autochtones, pas vrai? Le fait de devoir remuer ciel et terre, ce qui constitue un obstacle important, pour accéder à des services fait souvent en sorte que des personnes choisissent de se passer de ces services et de demeurer vulnérables. Certaines personnes deviennent vraiment résilientes dans le sens où elles trouvent leurs propres solutions, qui ne sont peut-être pas les meilleures, ou elles se tournent vers des services qui [...] qui sont nuisibles, juste parce qu'ils sont plus près. Alors, je pense que, et ce que j'essaie de dire, c'est que, oui, nous pouvons considérer St. John's comme un endroit, mais nous devons aussi regarder les autres facteurs qui peuvent contribuer ou non à rendre plus difficile l'accès aux ressources et à accroître la vulnérabilité et la traite des femmes et des filles<sup>108</sup>.

Les risques supplémentaires pour la sécurité auxquels s'exposent les femmes, les filles et les personnes 2ELGBTQQIA autochtones dans leurs efforts pour se réinstaller ou déménager

« ET, UNE AUTRE CHOSE QUI EST TRÈS IMPORTANTE POUR MOI, J'AI PRESQUE TERMINÉ MON PREMIER DIPLOME, ET J'AI EU BEAUCOUP DE DIFFICULTÉ À CAUSE DU FINANCEMENT ET, VOUS SAVEZ, AVOIR SUFFISAMMENT DE RESSOURCES POUR MOI-MÊME, PARCE QUE JE N'AI PAS DE PARENTS POUR M'APPUYER. ET, JE PENSE QU'IL DEVRAIT Y AVOIR PLUS DE BOURSES ET DE BOURSES D'ÉTUDES POUR LES FAMILLES DES FFADA QUI VEULENT ENTREPRENDRE DES ÉTUDES, OU POURSUIVRE LEURS ÉTUDES, PARCE QUE CE SONT ELLES QUI VONT ÊTRE TRÈS UTILES DANS L'AVENIR POUR CHANGER LA FAÇON DONT ÇA SE PASSE POUR LES GENS, ET POUR APPUYER CEUX QUI ONT ÉTÉ TOUCHÉS PAR ÇA, PARCE QU'ELLES ONT VÉCU ÇA ELLES-MÊMES. JE PENSE QUE C'EST VRAIMENT IMPORTANT. »

Jenny L.





résultent en partie de l'absence de moyens de transport adéquats et sûrs. L'absence de transports sûrs et abordables oblige les gens à recourir à d'autres moyens, comme la marche ou l'autostop, non seulement pour échapper à des situations dangereuses, mais aussi simplement pour se rendre à l'école ou au travail.

Comme Josie Nepinak l'a expliqué, en raison du manque de ressources pour le transport, des femmes qui se trouvent déjà en danger et dans des situations d'extrême vulnérabilité alors qu'elles fuient des relations violentes sont parfois obligées de s'exposer elles-mêmes à des risques supplémentaires importants pour se rendre à une maison d'hébergement ou à un refuge d'urgence – par exemple en faisant de l'autostop. Josie Nepinak a expliqué qu'un financement approprié pour répondre aux besoins de transport des femmes, des filles et des personnes 2ELGBTQQIA autochtones dans ces moments où elles tentent d'échapper à la violence serait un bon moyen de prévenir d'autres actes de violence.

Si quelqu'un nous appelle de [...] vous savez, d'une autre province, même si nous avons souvent des femmes qui viennent d'autres provinces, mais qu'elles n'ont aucun moyen de nous joindre et qu'elles n'ont pas de ressources là où elles sont. Elles peuvent se trouver à Saskatoon ou à Regina. Donc, vous savez, si nous avons, vous savez, la capacité de dire, vous savez, nous allons envoyer par autobus, vous savez, et cetera, et de pouvoir faire ces choses<sup>109</sup>.

Pour certains membres de la famille de personnes qui ont raconté l'histoire de proches assassinées par un partenaire violent, la difficulté d'accès au logement – et particulièrement à des maisons de transition et des refuges – constitue un moment charnière permettant de comprendre les circonstances entourant la mort de leur proche. Les risques combinés créés par le ciblage de femmes, de filles et de personnes 2ELGBTQQIA autochtones dans des moments de transition, ou dans des moments de vulnérabilité, montrent bien le rôle que peuvent jouer les services de prévention et de détection. Dans son témoignage, par exemple, Jenny L. a expliqué comment le fait de ne pas reconnaître la vulnérabilité de sa mère à sa sortie d'une maison de transition a été un élément déclencheur de la violence qui lui a coûté la vie.

Je pense personnellement que ma mère n'aurait pas été tuée si quelqu'un l'avait accompagnée pour nous rendre visite, à ma sœur et moi. Elle était dans une maison de transition à l'époque [...] C'est pour les femmes victimes de violence au foyer. J'ai habité là pendant un bout de temps avec elle. Et, je ne [...] je ne comprends tout simplement pas pourquoi personne ne l'a accompagnée.

Elle venait de revenir de Thompson et, vous savez, elle allait dire à mon père qu'elle voulait nous prendre, ma sœur et moi. Et ils auraient dû savoir. Ils auraient dû savoir, et ils auraient dû [...] auraient dû être assez intelligents pour connaître l'historique de violence conjugale qu'ils avaient entre eux. Et, ils auraient dû envoyer peut-être même un policier ou quelqu'un pour l'accompagner pour venir nous chercher ou nous rendre visite. Ils n'auraient pas dû la laisser aller seule, parce que je pense qu'elle serait toujours en vie s'ils ne l'avaient pas laissée aller seule<sup>110</sup>.



Dans le témoignage qu'elle a livré sur la traite des personnes, Diane Redsky, directrice générale du centre Ma Mawi Wi Chi Itata, a expliqué que des prédateurs ciblent des filles autochtones dans les gares routières et les aéroports afin de profiter de leur vulnérabilité dans une période de transition, comme lorsqu'elles cessent d'être prises en charge en raison de leur âge.

Nous [le groupe de travail des jeunes] avons souligné que l'un des principaux facteurs de risque est le manque d'uniformité entre les différentes politiques provinciales de protection de l'enfance au Canada. Il y a six provinces dans notre pays où les services d'aide à l'enfance se terminent à 16 ans. Alors, si vous avez 15 ans et demi et que vous avez besoin de protection, vous risquez que votre demande de services soit refusée. Et, de fait, des survivantes nous ont dit qu'on leur avait refusé des services à cause de leur âge. Qu'on leur avait donné un billet d'autobus et l'adresse du refuge pour jeunes le plus proche où, on le sait, les trafiquants de personnes se tiennent à l'affût<sup>111</sup>.

La militante de la lutte contre l'exploitation sexuelle et la traite de personnes Jennisha Wilson et d'autres ont rappelé qu'il y a une occasion importante à saisir pour prévenir la violence et la traite des personnes en intervenant à ces moments de transition – par exemple,

en s'assurant que des moyens de sensibilisation et d'information sont déployés dans les services de transport aérien et les différents moyens de transport entre les centres urbains, pour que les gens sachent que si on leur donne un billet d'avion pour venir dans le Sud et qu'on leur promet un emploi, que ça puisse être vrai ou pas, mais qu'il est possible que ça soit aussi une forme d'enjôlement dans le but de les exploiter. Et, il est préférable d'avoir cette information avant de descendre de l'avion qu'après, quand il est trop tard. Et malheureusement, très souvent, c'est une fois que les personnes ont été séduites et ont été victimes d'exploitation que nous intervenons et que nous leur donnons du soutien<sup>112</sup>.

Jamie L. H. a également expliqué que, lorsque des femmes, des filles et des personnes 2ELGBTQQA autochtones sont contraintes de déménager, cela peut perturber le lien qu'elles ont avec une communauté et qui contribue à les protéger. Elle a parlé de l'impact de son expulsion de sa communauté du West End de Vancouver.

Vous savez, je me sens toujours en sécurité dans une communauté à laquelle j'appartiens, où je suis acceptée et accueillie et aimée. Et c'est très, très important. Je sais, vous savez, j'aimerais [...] je pourrais remonter à 1984, vous savez, je faisais partie des jeunes qui ont été évincés de notre communauté du West End par une injonction de la cour accordée en juillet 1984 par le juge McEachern, qui nous a évincés pour [...] évincés en masse du West End par l'État. Est-ce que c'était, vous savez, parce qu'on était des travailleuses du sexe ou parce qu'on était des personnes allosexuelles? Parce que nous étions des personnes bispirituelles? Il y a tellement de recouvrements.



Mais ils voulaient nettoyer la communauté pour la rendre plus blanche et plus classe moyenne. À l'époque, le West End était très classe ouvrière. C'était [...] c'était abordable. Et je me suis rendu compte que, lorsque vous êtes déplacée, ça a un effet profond. Vous êtes sûre de subir plus de violence, et ça se termine souvent par un meurtre. Vous êtes ciblée par des prédateurs, comme, vous savez, des proxénètes ou [...] ou des personnes qui vous feront du mal.

Et alors j'estime que ma survie, je crois, c'était dû au fait que j'étais liée à une communauté et [...] et que je suis restée bien enracinée, mais quand j'ai été évincée, j'ai dû trouver une autre communauté. Et parfois, ce n'est pas toujours facile. Et ça devient plus difficile comme Mark l'a mentionné à mesure que vous vieillissez, et plus particulièrement dans notre communauté LGBTQ+, vous savez, c'est juste qu'on accorde plus d'intérêt aux jeunes. Et les Aînés de la communauté sont mis de côté. Et le déplacement a un effet profond sur nos vies<sup>113</sup>.

## **La protection de l'enfance et la fin de la prise en charge en raison de l'âge**

Pour les filles et les jeunes 2ELGBTQQIA autochtones, les dangers associés au déménagement d'un endroit à un autre ou au déplacement à l'extérieur d'une communauté sûre sont beaucoup plus grands. Toutefois, étant donné la violence et les mauvais traitements généralisés que subissent de nombreux jeunes pris en charge, la fugue d'une famille d'accueil ou d'un autre milieu de vie semble être la seule option pour échapper à la violence.

En relatant la violence et les mauvais traitements que sa sœur, Laney E., a vécus en famille d'accueil, Danielle E. a parlé des efforts que celle-ci a déployés pour assurer sa sécurité dans un monde où elle était autrement hors de portée : « Je ne crois pas que ma sœur, au cours de toute sa vie, s'est jamais sentie en sécurité, que la seule sécurité qu'elle a eue était ce qu'elle pouvait créer quand elle réussissait à sortir d'un foyer d'accueil<sup>114</sup>. » Comme les nombreuses histoires que nous avons entendues de filles, de jeunes et de jeunes adultes autochtones et 2ELGBTQQIA qui ont disparu ou qui sont morts alors qu'ils étaient déplacés ou placés en famille d'accueil, l'histoire de la sœur de Danielle a été reprise de diverses façons par d'autres témoins, dont les vérités ont montré combien bon nombre de facteurs qui compromettent la sécurité dans la vie des adultes – comme la pauvreté, l'itinérance, la toxicomanie, les déplacements pour obtenir des services ou subvenir à des besoins fondamentaux et la fuite devant des situations de violence – sont plus répandus ou plus intenses chez les filles, les jeunes et les jeunes adultes autochtones vivant en famille d'accueil ou qui ne sont plus pris en charge en raison de leur âge. Erin Pavan, directrice du programme de transition STRIVE Youth in Care, a décrit de façon poignante le manque de sécurité qui prévaut pour les filles, les jeunes et les personnes 2ELGBTQQIA autochtones dans ces contextes : « Alors, la fin de la prise en charge en raison de l'âge, c'est vraiment un euphémisme pour désigner l'interruption abrupte de [...] tous les services. Je n'aime pas ce terme, la fin de la prise en charge en raison de l'âge, je pense que c'est trop doux pour exprimer ce dont il s'agit; c'est comme d'être poussé du haut d'une falaise, non<sup>115</sup>? »





Pour de nombreux membres de familles et amis de victimes qui ont fait part de leurs vérités, le fait de ne pas tenir compte des réalités de mauvais traitements et de violence vécues par les enfants et les jeunes pris en charge par la protection de l'enfance oblige de nombreux jeunes, dans leurs tentatives d'échapper à la violence, à se placer dans des situations plus dangereuses, ce qui commence généralement par une fugue. Même pour les jeunes qui demeurent en foyer d'accueil, la fin de la prise en charge en raison de leur âge et le manque de soutien équivaut – comme le dit Erin – à les pousser du haut d'une falaise. Dans les deux cas, la pauvreté, le logement, les obstacles à l'éducation et la vulnérabilité inhérente aux drogues, à la traite des personnes et à d'autres formes de violence interpersonnelle les placent collectivement dans l'insécurité. Comme nous l'ont dit de nombreuses familles, il est essentiel de reconnaître ce qui se passe au bord de cette falaise et de quelle façon la sécurité sociale et économique est fragilisée pour comprendre la violence qui mène à la disparition et à la mort des femmes et des filles autochtones.

« ALORS, LA FIN DE LA PRISE EN CHARGE EN RAISON DE L'ÂGE, C'EST VRAIMENT UN EUPHÉMISME POUR DÉSIGNER L'INTERRUPTION ABRUPTTE DE [...] TOUS LES SERVICES. JE N'AIME PAS CE TERME, LA FIN DE LA PRISE EN CHARGE EN RAISON DE L'ÂGE, JE PENSE QUE C'EST TROP DOUX POUR EXPRIMER CE DONT IL S'AGIT; C'EST COMME D'ÊTRE POUSSÉ DU HAUT D'UNE FALAISE, NON ? »

Erin Pavan

En faisant part de leur expérience de ne plus pouvoir être pris en charge en raison de leur âge, les membres du groupe des jeunes à Vancouver ont parlé des réalités de la pauvreté et de la menace constante de l'itinérance. Fialka Jack a parlé de la difficulté qu'elle a eue à trouver un logement.

Un mois après avoir passé l'âge d'être prise en charge, mon travailleur social m'a déménagée au centre-ville de Vancouver dans une maison de chambres. Et avant ce jour-là, je n'avais aucune idée de ce que c'était une maison de chambres. Et c'était terrifiant de constater, si tôt dans ma vie d'adulte, de voir que des gens vivaient là. C'est comme, je ne pouvais pas imaginer que des gens pouvaient vivre heureux dans des endroits comme ça, et c'était terrifiant et c'était, pour être honnête [...] j'ai fait des choses que je m'étais jurée de ne jamais faire, et je le regrette. Mais comme, de là, j'ai grandi et pour être honnête, je ne pense pas que les travailleurs sociaux devraient placer leurs enfants dans des maisons de chambres. Je pense, comme, chercher un logement et nous apprendre à chercher un logement, ça devrait être une partie importante de leur travail. Parce que vous ne devriez pas craindre de tomber dans l'itinérance chaque seconde de votre vie après la fin de votre prise en charge. Et à presque 25 ans, c'est quelque chose que je crains chaque jour.

Et je vis dans une maison. Je vis à Vancouver-Sud, je vis avec beaucoup de monde, du monde qui m'aime. Mais j'ai été sans abri deux fois depuis que je suis trop âgée pour être prise en charge. J'ai été sans abri pendant un an; je vivais au centre-ville de Vancouver, je vivais dans le parc Stanley. Genre, je dormais dans le parc Stanley. Ça a été une période très dure<sup>116</sup>.



De plus, comme Erin Pavan l'a expliqué, les jeunes autochtones sont confrontés à de la discrimination.

Et les jeunes sont aussi victimes de discrimination, non? Si vous vivez de l'aide sociale, vous devez apporter ce papier [...] qui montre que vous vivez de l'aide sociale, et les gens vous ferment la porte au nez. Et c'est la même chose pour, personne ne veut louer à des jeunes non plus, pas vrai? Et les personnes de couleur aussi subissent de la discrimination lorsqu'elles veulent louer. Elles sont donc très désavantagées lorsqu'elles veulent louer un logement ici, et le fait qu'elles reçoivent cet argent pour leur loyer provenant du programme Agreements with Young Adults pendant qu'elles participent au programme STRIVE nous permet de leur dire : « OK, maintenant, tu as ton logement. Qu'est-ce que tu veux vraiment faire? » Vous savez, comme : « Qu'est-ce qui te passionne, ou qu'est-ce que tu veux faire de ta vie? Ou as-tu besoin d'un autre genre d'aide, comme du soutien en santé mentale, ou quoi que ce soit? Veux-tu retourner à l'école? » Et ça aide vraiment<sup>117</sup>.

Naturellement, vu les difficultés de la survie au quotidien, pour de nombreux jeunes en famille d'accueil ou ceux qui ont passé l'âge de recevoir des services, il devient impossible de terminer leurs études secondaires, de faire des études postsecondaires ou de trouver un emploi. Erin Pavan met les choses en perspective :

Ils ne finissent pas leur secondaire; je pense qu'à 19 ans, quelque chose comme 32 % des jeunes qui ne sont plus pris en charge en raison de leur âge ont leur diplôme d'études secondaires, comparativement à 84 % des jeunes dans la population en général. Et donc ils ne terminent pas leurs études.

Ils sont aussi moins susceptibles d'avoir un emploi. Ils auront moins d'argent. Et beaucoup d'entre eux dépendent de l'aide sociale dès le départ, 40 % s'en vont directement sur l'aide sociale.

Le taux de prestation d'aide sociale a finalement été haussé récemment en Colombie-Britannique, mais c'est très loin d'être suffisant pour vivre à Vancouver. Ce n'est même pas assez pour payer le loyer, sans parler d'acheter à manger. Alors ils tombent dans l'extrême pauvreté tout de suite en partant, sans diplôme d'études secondaires, sans le soutien de personne. Évidemment, par définition, une personne qui est passée par les services d'aide à l'enfance souffre d'un traumatisme. Donc ils vivent un traumatisme; ils sont plus susceptibles d'avoir des problèmes de santé mentale, de toxicomanie, d'avoir des démêlés avec le système de justice pénale, de devenir de jeunes parents. Ils sont plus à risque de mourir jeunes. Des 1 000 jeunes qui atteignent l'âge limite de la prise en charge en Colombie-Britannique chaque année, trois ou quatre seront morts avant d'avoir 25 ans.

Alors je pense qu'on peut vraiment voir le lien, n'est-ce pas, entre les jeunes femmes disparues et assassinées et le système d'aide à l'enfance<sup>118</sup>.



# Les dangers découlant de la prise en charge :

## l'évaluation des risques dans une perspective de protection de l'enfance

Dans le cadre de l'Enquête nationale, bon nombre de témoignages ont fait état de mauvais traitements et de soins non adaptés à la culture dans le contexte des services à l'enfance, mais aussi des conséquences découlant de la séparation d'enfants de leur famille et de leur culture, un événement qui peut, de différentes manières, accroître les risques que ces enfants soient ciblés par la violence. Parmi ces témoignages, certains ont été mis sous scellé afin de protéger l'identité des témoins. Ces récits relataient souvent des expériences de violence et de mauvais traitements particulièrement sévères au sein d'un système pourtant mandaté pour assurer la protection des enfants dans les provinces et les territoires.

Même si bon nombre de ces récits sont confidentiels, d'autres ont déjà été divulgués publiquement. Ils révèlent comment les quatre facteurs ciblés par l'Enquête nationale contribuent conjointement à maintenir la violence coloniale. L'histoire d'Angel, telle que documentée par le Protecteur des enfants et des jeunes du Manitoba, est l'un de ces récits.

### Des traumatismes de nature historique, multigénérationnelle et intergénérationnelle

Angel a subi différentes formes de traumatismes au cours de sa vie. Pendant son enfance, elle a été exposée à des événements traumatisants qui n'ont jamais été adéquatement diagnostiqués et pour lesquels elle n'a pas reçu les soins appropriés<sup>i</sup>. Elle a été prise en charge par les Services à l'enfant et à la famille (SEF) du Manitoba pour la première fois<sup>ii</sup> en 1999, alors qu'elle avait 17 mois. À ses 17 ans, Angel avait été prise en charge par les SEF 14 fois et placée dans 46 foyers d'accueil différents<sup>iii</sup>. L'instabilité chronique dans la vie d'Angel est en elle-même une forme de traumatisme. De plus, Angel a été agressée

sexuellement à 21 mois, puis à 7 ans. Elle a ensuite été exploitée sexuellement pendant la période où elle était hébergée en famille d'accueil. La toxicomanie de sa mère, qui a entravé la capacité de celle-ci à prendre soin de ses enfants et a conséquemment entraîné l'implication des SEF dans la vie d'Angel, est un autre symptôme de traumatisme intergénérationnel.

### Une marginalisation sociale, économique et politique

Angel et sa famille n'ont jamais eu la possibilité de s'en sortir. Elles ont connu la pauvreté, et ont souvent vécu dans des centres d'aide locaux entre les prises en charge des SEF et le placement familial<sup>iv</sup>. Malgré les traumatismes importants subis par Angel et sa famille, aucun système de soutien adéquat n'était accessible pour elles au sein de leur communauté. Angel et sa mère auraient eu à se déplacer à l'extérieur de leur communauté pour avoir accès à des programmes de lutte contre la dépendance, à des services de soutien psychologique ou à des centres d'aide pour victimes d'agressions sexuelles<sup>v</sup>. Cela a contribué à renforcer l'isolement pour Angel et sa mère, à entraîner leur séparation et l'éloignement de leur communauté.





## Le maintien du statu quo et le manque de volonté institutionnel

Les institutions mises en place pour protéger et aider Angel ont totalement échoué dans leur mission. Dans son cas, les SEF n'ont pas respecté ni suivi les normes provinciales en ce qui concerne l'analyse du dossier, la planification des interventions, la prestation de services et les évaluations<sup>vi</sup>. Chaque fois qu'Angel a été appréhendée ou prise en charge par les SEF, elle a par la suite été de nouveau confiée aux soins de sa mère, mais les systèmes de soutien requis pour aider cette dernière n'ont jamais été mis en place<sup>vii</sup>. Même s'ils étaient au courant des problèmes de toxicomanie de la mère d'Angel, les SEF lui en ont quand même confié la garde, poursuivant ainsi le cycle d'appréhension et de placement par les SEF<sup>viii</sup>. De même, lorsqu'Angel était adolescente, qu'elle vivait en foyer d'accueil et qu'elle obtenait l'autorisation de visiter sa mère, les SEF ne prévoyaient aucun plan pour assurer sa sécurité<sup>ix</sup>, même s'ils savaient qu'elle avait été abusée sexuellement par trois membres de sa communauté<sup>x</sup> et que ses problèmes de toxicomanie et d'automutilation s'aggravaient chaque fois qu'elle revenait de ces visites.

Les SEF ont également ignoré les signes d'abus sexuels, de consommation excessive de drogue et d'alcool et les problèmes psychologiques d'Angel pendant leurs nombreuses interactions avec elle. À deux reprises en 2013, les SEF ont été informés par l'école d'Angel et par sa famille d'accueil qu'elle était exploitée sexuellement en échange de drogue et d'alcool. Cependant, ils n'ont jamais réalisé de suivi après avoir été avisés de ces préoccupations<sup>xi</sup>. De la même façon, les SEF étaient au courant des problèmes de consommation d'Angel. En effet, elle avait commencé à inhaler de la colle et des vapeurs d'essence comme moyen de gérer ses traumatismes alors qu'elle n'avait que dix ans<sup>xii</sup>. Pendant son adolescence, Angel a été hospitalisée et a reçu plusieurs contraventions pour consommation d'alcool et de drogue et pour intoxication dans les lieux publics par une personne mineure. Les SEF ont recommandé qu'Angel participe à un programme de traitement de la toxicomanie, mais ils n'ont jamais effectué de suivi

pour vérifier l'application de leurs recommandations et Angel a continué de consommer de l'alcool et de la drogue<sup>xiii</sup>.

En outre, les SEF étaient dûment informés des problèmes psychologiques d'Angel. Elle a commencé à exprimer des pensées suicidaires dès l'âge de huit ans<sup>xiv</sup>. Angel a dû être hospitalisée à plusieurs étapes de sa vie en raison de graves problèmes psychologiques. En 2007, un travailleur en santé mentale a noté au dossier d'Angel que sa santé mentale était vacillante et a recommandé aux SEF d'assurer un suivi auprès de la jeune fille et de l'encourager à continuer d'avoir recours aux services d'aide. Les SEF n'ont jamais effectué le suivi demandé<sup>xv</sup>. Malgré tout cela, en 2014, le plan d'intervention d'Angel signalait qu'elle était responsable de ses problèmes situationnels et ne démontrait aucune compréhension de ses traumatismes<sup>xvi</sup>. Son dossier la décrivait comme étant « hors de contrôle » et indiquait que son comportement était dû à la consommation d'alcool de sa mère pendant sa grossesse<sup>xvii</sup>.

## L'expertise et la capacité d'agir des femmes, des filles et des personnes 2ELGBTQQIA autochtones négligées

Les SEF n'ont pas tenu compte de l'expertise obtenue et ont rejeté la capacité d'agir d'Angel et de sa mère à de nombreuses reprises. En 2006, la mère d'Angel a indiqué aux SEF qu'elle ne souhaitait pas qu'Angel consulte un thérapeute se trouvant à l'extérieur de la communauté. En effet, elle craignait que la confidentialité du dossier ne soit pas respectée et qu'un thérapeute hors de la communauté ne soit pas réceptif aux besoins particuliers d'Angel<sup>xviii</sup>. Sa mère ne s'opposait pas à ce qu'Angel reçoive du soutien psychologique, mais ces types de services étaient limités au sein de la communauté<sup>xix</sup>. Néanmoins, les SEF ont déterminé qu'Angel consulterait le thérapeute de l'extérieur deux fois par semaine pendant six mois<sup>xx</sup>. Ils ont omis de tenir compte de l'expertise de la mère d'Angel et n'ont pas proposé de services de soutien en santé mentale adaptés à la culture.





En 2007, après une autre prise en charge des SEF, Angel est retournée vivre avec sa mère, même si elle avait exprimé aux intervenants ses inquiétudes quant à la capacité de sa mère de prendre soin d'elle et de ses autres enfants<sup>xxi</sup>. En effet, Angel avait indiqué aux SEF que sa mère la laissait souvent seule avec les autres enfants. Ils ont déclaré que ces déclarations étaient sans fondement, sans pourtant procéder à une vérification. Les SEF ont omis d'écouter Angel et ont relancé le cycle d'instabilité dans sa vie en la confiant de nouveau aux soins de sa mère. Cependant, à l'adolescence, alors qu'elle habitait en foyer d'accueil et qu'elle avait été placée sous tutelle permanente des SEF, Angel a exprimé formellement le souhait de reprendre contact avec sa mère. Elle a indiqué qu'une grande partie de la tristesse qu'elle ressentait, et conséquemment, du besoin de consommer de l'alcool ou de la drogue ou de s'automutiler, était causée par l'absence de sa mère<sup>xxii</sup>. Malgré cela, les SEF n'ont fait aucun effort pour aider Angel à reprendre contact avec sa mère.

## Une nouvelle voie à tracer

En mars 2019, le Protecteur des enfants et des jeunes du Manitoba a publié son rapport sur la mort de Tina Fontaine, intitulé « A place where it feels like home ». Il s'agit de l'histoire de Tina Fontaine, une adolescente assassinée en août 2014. Comme l'indique le rapport, l'histoire de Tina ressemble à beaucoup d'autres, et les thèmes que l'on y retrouve soulignent certaines lacunes importantes des services à l'enfant et à la famille, qui ont failli à leur tâche de les garder en sécurité. Ces thèmes reflètent une réalité plus vaste, et mettent en évidence la nécessité d'un changement majeur. Comme le rapport le précise :

Les expériences de fractures familiales, de violence familiale, d'exploitation, de dépendance, de deuils, de douleur, de résilience, de détermination, d'espoir et de recherche d'un sentiment d'appartenance vécues par Tina ne doivent pas être envisagées comme des situations isolées.

À bien des égards, la vie de Tina rappelle des expériences vécues par d'autres personnes, y compris ses parents et bon nombre des membres de sa famille élargie, dont certains qu'elle connaissait et d'autres qu'elle ne connaissait pas. Ce contexte est important, car c'est uniquement en parvenant à une acceptation et à une compréhension universelle des réalités historiques et actuelles de la discrimination, des injustices, du racisme systémique et du fait que tous n'ont pas accès aux mêmes possibilités dans une égale mesure que nous aurons un jour l'espoir de corriger l'injustice historique, qui existe depuis longtemps et qui perdure<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.





## RÉFLEXION APPROFONDIE

# Renforcer la coopération intergouvernementale pour favoriser la sécurité

Comme l'a souligné notre rapport provisoire, les études et les commissions d'enquête ont produit plus de 1200 recommandations sur les moyens à prendre pour lutter contre la violence faite aux femmes, parmi lesquelles on retrouve la nécessité d'accroître la coopération intergouvernementale pour éradiquer la violence contre les femmes et les filles autochtones. Ces rapports recommandent une coopération accrue, notamment dans les secteurs cruciaux suivants : le déploiement de campagnes de sensibilisation et la mise en œuvre de plans d'action à l'échelle nationale, l'amélioration des services de transport en commun, des services et des programmes sociaux ainsi que la réforme des instruments juridiques et du système de justice pénale, y compris les dispositions relevant du droit pénal concernant le travail du sexe et la traite des personnes à des fins d'exploitation sexuelle, les services de police et l'administration des prisons et des pénitenciers.

La majeure partie des recommandations relatives à un gouvernement en particulier s'adressent aux gouvernements provinciaux et territoriaux, puis au gouvernement fédéral. Les recommandations destinées aux gouvernements autochtones sont moins nombreuses. Il importe toutefois de souligner que parmi les recommandations qui concernent un seul palier de gouvernement, certaines invitent tout de même à une plus grande communication et collaboration entre les différentes organisations et régions.

Dans cette réflexion approfondie, l'Enquête nationale adopte une approche par systèmes afin de comprendre comment le manque de coopération et de coordination au sein de champs de compétence complexes a fait perdurer la violence faite aux femmes, aux filles et aux personnes 2ELGBTQQIA autochtones. Il est important de mettre en évidence les nombreuses recommandations qui appellent à

plus d'actions concertées entre les gouvernements pour deux raisons particulières. La première est que la confusion et les conflits suscités par le partage des compétences des gouvernements fédéral et provinciaux à l'égard des peuples autochtones contribuent à l'insuffisance du financement et des services fournis à ces communautés. La seconde est qu'étant donné son envergure, son autorité fédérale et l'appui qu'elle reçoit des provinces, l'Enquête nationale a l'occasion unique, et sans doute primordiale, de donner suite aux recommandations et d'en émettre de nouvelles favorisant une coopération intergouvernementale accrue pour lutter contre la violence faite aux femmes, aux filles et aux personnes 2ELGBTQQIA autochtones.

L'intensification de la coopération intergouvernementale est nécessaire pour combler les lacunes dans la prestation de services, une situation qui expose particulièrement les femmes, les filles et les personnes 2ELGBTQQIA autochtones à la violence. En effet, beaucoup de témoins ont fait valoir que les problèmes d'accès aux services les met en danger, elles et leurs proches. Plusieurs personnes ont confié à l'Enquête nationale qu'elles ont l'impression que les Autochtones et leurs territoires ne cadrent pas avec la délimitation des collectivités publiques, ce qui engendre des difficultés considérables. Par exemple, les Algonquins du Québec et de l'Ontario sont issus d'ancêtres communs et partagent un même territoire. Toutefois, comme celui-ci est traversé par la frontière qui sépare les deux provinces, ils ne peuvent pas se déplacer librement sur leur territoire ni en profiter pleinement. Voici un autre exemple : les Inuits du Nunavut sont obligés de se rendre au Manitoba, en Ontario ou en Alberta pour obtenir certains services. Or, c'est souvent dans ces grands centres que les femmes, les filles et les personnes 2ELGBTQQIA sont la cible de violence.





## Définir la négligence qui découle du partage des compétences

La négligence qui découle du partage des compétences se rapporte aux situations où des groupes et des individus peuvent passer entre les mailles du filet, faute de coopération intergouvernementale. Comme le montre la réflexion approfondie consacrée aux Métis, cette négligence entraîne de lourdes conséquences sur le plan de la sécurité. Les témoignages sont clairs : le manque de services coordonnés, imputable à l'incapacité des différents ordres de gouvernement de collaborer pour trouver des solutions aux problèmes et pour accroître la sécurité, peut souvent faire la différence entre la vie et la mort.

En raison du manque de coopération intergouvernementale, en partie, le Canada n'a pas réussi à garantir aux Autochtones l'accès aux ressources et aux services nécessaires pour protéger leur dignité humaine, leur vie, leur liberté et leur sécurité. Comme le présent rapport l'a démontré, les responsabilités constitutionnelles particulières aux Premières Nations, le déni de longue date de reconnaissance constitutionnelle des autres groupes autochtones et la réalité de la prestation des services provinciaux et territoriaux dans des domaines essentiels, comme l'éducation et la santé, ont donné lieu à un partage complexe des compétences. Cependant, cette réalité ne justifie en rien l'atteinte aux droits de ces personnes.

Pour les gouvernements, la négligence qui découle du partage des compétences constitue un manquement à leurs responsabilités, une atteinte à leur relation avec les Autochtones et une violation du droit à la vie, à la liberté et à la sécurité que garantit pourtant l'article 7 de la Charte. Ces manquements au devoir de protection et aux droits, notamment au droit à la vie des femmes, des filles et des personnes 2ELGBTQQIA autochtones, enfreignent essentiellement les principes de justice. Ils ne concernent pas que l'organisation des services ou les paramètres de la prestation, mais également le droit fondamental à la vie, à la liberté et à la sécurité de chaque femme, de chaque fille et de chaque personne 2ELGBTQQIA autochtone.

## Un partage complexe des compétences

Plusieurs administrations ont, dans leurs champs de compétence, pleine autorité et responsabilité sur plusieurs aspects liés au bien-être des Autochtones qui sont fondés sur les droits fondamentaux que sont la liberté et la sécurité. Souvent, ce chevauchement des compétences a donné lieu à un refus d'accès à un service qui aurait pu sauver des vies.

Les nations et les gouvernements autochtones ont conservé leur droit inhérent à l'autonomie gouvernementale dont ils jouissaient avant la colonisation. L'autonomie gouvernementale englobe notamment l'administration des services sociaux. La compétence autochtone découle de l'acharnement des Autochtones à défendre leur souveraineté qui, comme telle, peut être considérée comme indépendante des gouvernements canadiens. Cette indépendance est d'ailleurs reconnue de plusieurs façons et dans diverses mesures par les systèmes juridiques autochtones et canadiens. Dans son rapport, la Commission royale sur les peuples autochtones (CRPA) a indiqué que le paragraphe 35(1) de la *Loi constitutionnelle* comprenait le droit à l'autonomie gouvernementale et qu'il s'agissait d'un droit inhérent des peuples autochtones, reconnu à la fois par la constitution et par la common law. Par conséquent, la CRPA a conclu qu'une reconnaissance plus explicite du droit ou de sa protection constitutionnelle n'était pas nécessaire. En outre, elle a émis une série de recommandations sur l'autonomie gouvernementale des Autochtones qui se trouvent dans le volume 5 de son rapport.

Dans les faits, l'autonomie gouvernementale des Autochtones et l'exercice de leur compétence peuvent prendre plusieurs formes. Certains gouvernements autochtones sont reconnus par les traités historiques et modernes conclus avec les gouvernements canadiens. Par ailleurs, la *Loi sur les Indiens* reconnaît que les Autochtones peuvent constituer des gouvernements de bande des Premières Nations. Les gouvernements autochtones qui n'ont signé aucun traité ou qui sont formés par des Autochtones non inscrits en vertu de la *Loi sur les Indiens* peuvent faire valoir et tenter d'exercer leur compétence inhérente reconnue par différents





gouvernements dans diverses mesures. Au bout du compte, toutefois, la capacité des gouvernements autochtones et la nature de leurs relations juridiques et politiques avec les gouvernements canadiens peuvent entraîner des lacunes et des conflits de compétence, qui peuvent avoir des conséquences sur les droits et le bien-être des Autochtones.

Récemment, l'actuel gouvernement fédéral s'est engagé à établir des relations de nation à nation avec les Premières Nations et les Métis ainsi qu'entre les Inuits et la Couronne, reconnaissant que « toutes les relations avec les Autochtones doivent être fondées sur la reconnaissance et la mise en œuvre de leur droit à l'autodétermination, y compris le droit inhérent à l'autonomie gouvernementale<sup>A</sup> ». Plusieurs provinces ont également reconnu le droit des Autochtones à l'autonomie gouvernementale<sup>B</sup>. Par ailleurs (et à la différence du gouvernement précédent), le gouvernement fédéral actuel semble viser ce que certains ont appelé un « fédéralisme de réconciliation ». C'est du moins ce qui transparaît dans son discours, qui souligne l'importance des partenariats et d'une coopération accrue avec les gouvernements provinciaux et autochtones<sup>C</sup>. Dans la pratique, toutefois, la mise en œuvre de ces mesures semble limitée.

De plus, en vertu de la constitution canadienne, les gouvernements fédéral et provinciaux exercent des compétences qui se chevauchent en matière de prestation de services aux Autochtones. Ainsi, le paragraphe 91(24) confère au gouvernement fédéral l'autorité législative sur « Les Indiens et les terres réservées pour les Indiens », ce qui comprend les personnes ayant le statut d'Indien et les communautés inuites. En 2016, la Cour suprême du Canada a statué, dans le cadre de son arrêt Daniels, que les Métis et les Autochtones non inscrits font partie des « Indiens » visés par le paragraphe 91(24). Comme l'explique la chercheuse Julie-Ann Tomiak, cela s'est traduit par « des services fragmentés et disparates, des problèmes de coordination au niveau des différents programmes, un sous-financement, des incohérences, des lacunes dans la prestation de services et un

manque d'intégration<sup>D</sup> ». Il semble que les Métis et les Autochtones non inscrits vivant en milieu urbain soient ceux qui subissent le plus les contrecoups des conflits de compétence<sup>E</sup>, bien que la reconnaissance croissante des gouvernements métis, en vertu de la *Loi constitutionnelle*, soit porteuse de plus d'équité pour ce groupe<sup>F</sup>.

Le gouvernement fédéral exerce sa compétence sur le mariage et sur le divorce en vertu du paragraphe 91(26), sur certains éléments de la loi criminelle en vertu du paragraphe 91(27) et sur les dispositions relatives à l'établissement, à l'entretien et à la gestion des pénitenciers en vertu du paragraphe 91(28). Pour leur part, les provinces exercent leur compétence sur l'établissement, l'entretien et la gestion de leurs prisons en vertu du paragraphe 92(6); sur les hôpitaux et les autres établissements de soins de santé en vertu du paragraphe 92(8); sur les institutions municipales en vertu du paragraphe 92(8); sur la célébration de mariage dans la province en vertu du paragraphe 92(12); elles ont également des pouvoirs étendus sur la propriété et les droits civils dans la province en vertu du paragraphe 92(13); et elles détiennent l'autorité sur l'administration de la justice, y compris en matière civile et pénale, en vertu du paragraphe 92(14)<sup>G</sup>.

Ces articles de la *Loi constitutionnelle* (dits « chefs de compétences »), très exhaustifs, englobent pratiquement tous les aspects de la vie quotidienne des peuples autochtones au Canada. Comme ils régissent le partage des compétences, ils peuvent également être la source des négligences et des conflits qui nuisent à la prestation absolue et opportune de services, sociaux et autres, aux Autochtones. Par conséquent, la réalisation des droits des femmes, des filles et des personnes 2ELGBTQQIA autochtones est entravée par ces obstacles. Ces lacunes et ces conflits découlent de la nature très limitée des infrastructures juridiques et politiques, qui peinent à faciliter et à soutenir de façon cohérente la coordination et la coopération entre ces paliers de pouvoir.





## Les conséquences du manque de coordination et de coopération intergouvernementales

La négligence qui découle du partage des compétences et les conflits intergouvernementaux contribuent encore largement aux lacunes dans les services aux Autochtones, qui devraient pourtant protéger leur culture et assurer leur santé, leur sécurité et leur accès à la justice. Le manque de coordination et de coopération intergouvernementales pour mettre en œuvre des mesures traitant les causes profondes de la violence faite aux femmes, aux filles et aux personnes 2ELGBTQQIA autochtones demeure un obstacle de taille à leur sécurité et, ainsi, porte atteinte à leurs droits.

Ce manque de coordination se manifeste de quatre manières générales qui sont interreliées.

1. Les politiques en matière de programmes, la planification des services et les stratégies sont souvent élaborées en vase clos par des autorités et des organismes différents. Résultat : elles ne tiennent pas compte de l'ensemble des besoins des Autochtones. Cette situation s'aggrave lorsque les représentants autochtones ne participent pas de manière appropriée au développement des politiques et de la planification.
2. Les gouvernements fédéral et provinciaux tendent à légiférer sans tenir compte les uns des autres, même dans les secteurs où il y a chevauchement des compétences. Il en résulte des lacunes et des incohérences lourdes de conséquences pour les Autochtones, qui doivent s'y retrouver dans les réglementations provinciales et fédérales pour obtenir des services essentiels.
3. Quand les compétences provinciales et fédérales se chevauchent, les conflits en matière de financement peuvent priver les Autochtones des services en question.

4. La collecte de données et le partage de renseignements sur les difficultés actuelles des Autochtones, y compris sur les incompatibilités et les résultats insatisfaisants des programmes, sont largement insuffisants au sein de l'ensemble des administrations (en particulier avec les instances autochtones). Par conséquent, il n'y a pas d'évaluation régulière des programmes et des services existants dans toutes les administrations.

Deux rapports du vérificateur général sur le rendement des programmes fédéraux axés sur le taux de chômage et les écarts disproportionnés en matière d'éducation, de santé et de revenu chez les Premières Nations, les Inuits et les Métis indiquent que le gouvernement ne faisait pas état de façon adéquate du progrès de ses initiatives ou de la mesure des résultats. En outre, le gouvernement n'utilisait pas les données appropriées pour améliorer le rendement de ses programmes et ne communiquait pas aux Premières Nations les données dont il disposait, empêchant de la sorte une coopération éclairée et une concertation des autorités compétentes<sup>H</sup>. Le gouvernement fédéral a réagi à ces rapports en affirmant qu'il travaillait avec des représentants autochtones pour établir un vaste processus de collecte de données et des protocoles d'échange d'information afin d'assurer une meilleure coopération entre les gouvernements fédéral et autochtones dans la prestation et l'examen des programmes<sup>I</sup>.

Petit à petit, un nombre croissant de politiques et de lois ont été instituées pour régler certains des problèmes liés à la coopération intergouvernementale dans le contexte de la prestation de services aux Premières Nations. Toutefois, il reste encore beaucoup de progrès à faire. En général, les initiatives destinées à résoudre les conflits de compétence, dont les Autochtones et les personnes qui ne sont pas membres des Premières Nations subissent les contrecoups, sont plus limitées. Cependant, on note quelques améliorations potentielles, dont le Saskatchewan's Framework for Cooperation, ce cadre régissant la coordination des programmes provinciaux conçus pour répondre aux besoins des Métis et des membres des Premières Nations de cette province qui ne vivent pas dans des réserves<sup>J</sup>. Toutefois, la mise en œuvre de ces politiques laisse souvent à désirer.





Par ailleurs, les gouvernements autochtones et canadiens semblent utiliser des protocoles d'entente pour régir la prestation de services sociaux et de santé afin de régler les problèmes de compétence et de coopérer pour définir les priorités et atteindre les objectifs fixés. Plusieurs protocoles d'entente en matière d'éducation et de santé sont décrits en détail ci-dessous. S'ils représentent parfois une autodétermination accrue, les protocoles d'entente et les autres accords semblables ne facilitent pas pour autant l'exercice de l'autonomie gouvernementale, puisque les pouvoirs (financiers, en particulier) appartiennent tout de même au gouvernement qui les propose. Ils peuvent également être en vigueur pendant de courtes périodes, puis être renouvelés et renégociés, ce qui pourrait permettre aux gouvernements autochtones d'obtenir plus de contrôle. Cependant, ils pourraient aussi voir leurs pouvoirs être limités.

## Sur le terrain : examen de la négligence qui découle du partage des compétences et de son incidence sur des affaires de traite des personnes

Les témoignages évoquant la nécessité d'une meilleure coordination intergouvernementale concernaient entre autres les services de police. Beaucoup de familles ont mentionné ne pas bien comprendre les processus en place. Elles ont fait état de la difficulté de s'y retrouver parmi les autorités pour obtenir des renseignements sur une affaire concernant un être cher ou encore lors de son transfert d'un tribunal à un autre compte tenu des faits établis. Le problème devient particulièrement complexe quand les victimes de crime peuvent être déplacées d'une région à l'autre du pays, comme dans les cas de traite des personnes.

Selon le Protocole additionnel à la Convention des Nations Unies contre la criminalité organisée visant à prévenir, à réprimer et à punir la traite des personnes, en particulier celle des femmes et des enfants, la traite des personnes se définit comme suit :

le recrutement, le transport, le transfert, l'hébergement ou l'accueil de personnes, par la menace de recours ou le recours à la force ou à d'autres formes de contrainte, par enlèvement, fraude, tromperie, abus d'autorité ou d'une situation de vulnérabilité, ou par l'offre ou l'acceptation de paiements ou d'avantages pour obtenir le consentement d'une personne ayant autorité sur une autre aux fins d'exploitation. L'exploitation comprend, au minimum, l'exploitation de la prostitution d'autrui ou d'autres formes d'exploitation sexuelle, le travail ou les services forcés, l'esclavage ou les pratiques analogues à l'esclavage, la servitude ou le prélèvement d'organes<sup>K</sup>.

S'il est surtout mention de la traite des personnes à l'échelle internationale, ce problème existe au Canada et il touche particulièrement les femmes, les filles et les personnes 2ELGBTQQIA autochtones. Comme l'indique un rapport de l'Association des femmes autochtones du Canada (AFAC) :

Au Canada, l'héritage du colonialisme met les femmes et les filles autochtones dans une situation économique et sociale précaire et dangereuse, qui les rend particulièrement vulnérables à diverses formes de violence, notamment l'exploitation et la traite des personnes. C'est un problème grave qui n'est pas nécessairement admis et encore moins résolu<sup>L</sup>.

Au Canada, on dénote souvent des cas de traite des personnes entre les grands centres urbains et les communautés. À partir de 2016, la Gendarmerie royale du Canada (GRC) a publié des statistiques démontrant que 94 % des affaires de traite des personnes ne débordaient pas les frontières du pays<sup>M</sup>. Par ailleurs, même si les femmes autochtones ne formaient que 4 % de la population canadienne en 2016, elles représentaient près de 50 % des victimes de la traite des personnes. De ce nombre, près du quart avaient moins de 18 ans<sup>N</sup>.

Beaucoup de témoins inuits, métis et des Premières Nations ont fait part à l'Enquête nationale de cas de traite des personnes en lien avec leur expérience du système de protection de l'enfance ou avec leur recherche de services de soins médicaux, qui





n'étaient pas offerts dans leur communauté. Les témoignages ont démontré que ceux qui exploitent les femmes, les filles et les personnes 2ELGBTQQIA autochtones savent s'y prendre pour les cibler et qu'ils n'hésitent pas à se poster à l'extérieur des foyers de groupe ou des lieux où ils trouveront leurs victimes potentielles, pour ensuite les intégrer aux réseaux de traite des personnes. De plus, des études révèlent que les aéroports sont des terrains de recrutement fertiles. Comme l'explique la chercheuse Anupriya Sethi, souvent, les trafiquants sont informés du départ des filles pour la ville par un membre de la communauté qu'ils connaissent. Dès l'arrivée des filles à l'aéroport, les trafiquants les abordent sous prétexte de pouvoir les aider à trouver un endroit où rester ou à accéder aux ressources<sup>o</sup> ». Les écoles et pratiquement tous les endroits où les victimes se trouvent loin de chez elles et isolées font partie des autres zones principales de recrutement. Parmi les moyens utilisés par les trafiquants, on retrouve la méthode du petit ami (où un trafiquant approche une fille en prétendant vouloir être son petit ami)<sup>p</sup>, le recours à d'autres filles ou femmes et l'autostop<sup>q</sup>.

Il est très difficile d'appliquer les lois en matière de traite des personnes principalement en raison de la nature mobile de ce crime. Des agents d'application de la loi ont confié à l'Enquête nationale les problèmes de compétence qu'ils rencontrent lorsqu'ils surveillent les activités et enquêtent sur les crimes liés à la traite des personnes dans différentes administrations. Par exemple, Tina Chalk, inspectrice de la Police provinciale de l'Ontario (PPO), a témoigné de la façon dont les problèmes de compétence peuvent être des obstacles à leurs efforts déployés pour retrouver des victimes.

Prenons l'exemple d'une personne qui viendrait de Whitedog et qu'on emmène à Kenora, une ville où les services de police relèvent de la PPO. Ensuite, on l'envoie à Thunder Bay, où la responsabilité revient au service de police municipal, et enfin à Toronto, où les services d'application de la loi sont aussi du ressort municipal. Quatre ou cinq services de police doivent alors se coordonner, se concerter et s'échanger les renseignements pertinents. Si en plus vous devez traiter avec trois ou quatre tribunaux, vous devez aussi collaborer avec trois ou quatre procureurs. Une seule personne devrait diriger ces enquêtes, pour que les

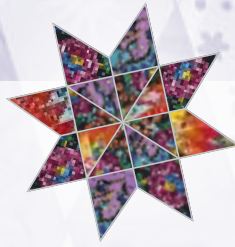
preuves et les renseignements fournis par les témoins puissent être organisés et rassemblés. Vous pouvez imaginer à quel point il peut être difficile de s'assurer que la police comprenne bien les réseaux de traite des personnes<sup>r</sup>.

Au Canada, on retrouve également des tendances en matière de traite des personnes, où les victimes sont envoyées d'une ville à l'autre dans différentes provinces, par exemple. En effet, il existe des circuits triangulaires entre des villes relativement proches, mais situées dans des provinces différentes, par exemple Saskatoon–Edmonton–Calgary–Saskatoon et Saskatoon–Regina–Winnipeg–Saskatoon<sup>s</sup>. Beaucoup de facteurs contribuent au choix des circuits de traite des personnes, notamment la présence de chantiers d'exploitation pétrolière et gazière où séjourne brièvement le temps d'un contrat, une population essentiellement masculine<sup>t</sup>.

Le Centre national de coordination contre la traite de personnes est d'une certaine utilité, concède Joanne Crampton, commissaire adjointe à la GRC, mais les services de police des diverses administrations ne sont pas tenus de lui communiquer quoi que ce soit. Il n'est donc pas toujours possible de faire le suivi d'un dossier d'une compétence à une autre. En réalité, le partage des renseignements repose « sur les relations, en fait, entre les différents services de police », soutient Crampton. Par conséquent, l'exactitude des données dépend de la qualité des rapports. Par ailleurs, les statistiques ne sont pas toujours utiles parce qu'elles n'indiquent pas nécessairement si un dossier est toujours en instance ou s'il est clos. « Nous ne savons pas quelles enquêtes sont en cours parce que les services de police ne sont pas tenus de se rapporter au Centre national de coordination contre la traite de personnes », explique M<sup>me</sup> Crampton. « Si la communication et la coordination étaient meilleures, nous aurions un portrait plus juste d'une situation donnée et nous pourrions assurer un meilleur suivi de dossier à mesure que l'enquête se déplace d'une administration à l'autre. Il serait très utile que tous les services de police se rapportent au Centre national de coordination<sup>u</sup>. »

Cette lacune, les difficultés de coopération entre les services de police en raison du partage des compétences et le manque de données désagrégées constituent un problème important, qui empêche de bien comprendre comment divers groupes vivent





différemment la réalité de la traite des personnes. Anupriya Sethi explique :

Il n'existe pas de données sur les déplacements des populations autochtones à l'échelle nationale ni sur leur représentation dans la traite à des fins d'exploitation sexuelle. L'absence de données précises sur la traite au Canada, la confusion qui en découle, le caractère clandestin du crime et les déplacements des victimes d'une ville à une autre empêchent de chiffrer le phénomène avec précision<sup>v</sup>.

Les graves conséquences ne touchent pas uniquement les services de police, comme le rapport de l'AFAC l'indique :

Il est extrêmement difficile pour les organisations autochtones, les défenseurs des intérêts des Autochtones et les membres des communautés autochtones d'étudier l'expérience diverse des femmes des Premières Nations, des Inuites et des Métisses touchées par la traite des personnes et d'élaborer des politiques et des stratégies adaptées à cet égard<sup>w</sup>.

La lutte contre un crime dont l'ampleur et les formes demeurent largement méconnues est un réel enjeu intergouvernemental et intragouvernemental pour les services d'application de la loi et les systèmes de justice, tout comme pour les bénéficiaires des services destinés aux familles des personnes disparues ou assassinées, victimes de la traite des personnes, qui relèvent d'un ou de plusieurs paliers de gouvernement.

## Coordonner les interventions pour assurer le respect des droits de la personne et des Autochtones

Comme l'illustrent les témoignages entendus par l'Enquête nationale tout au long du processus de consignation de la vérité et l'aperçu du problème de la traite des personnes, le manque de coopération intergouvernementale équivaut pratiquement à bafouer les droits de la personne et les droits des Autochtones en matière de culture, de santé, de

sécurité et de justice, autant de sujets approfondis dans les chapitres 5 à 8. Ces problèmes ne sont pas nouveaux : ils ont déjà été documentés en détail dans des rapports antérieurs.

## Éducation et emploi

Onze rapports<sup>x</sup> parus entre 1996 et 2015 traitent de l'écart entre Autochtones et non-Autochtones sur le plan de l'éducation. Les rapports déterminent que cet écart et celui en matière d'emploi sont ceux qui contribuent le plus à la marginalisation des femmes autochtones et à leur dépendance accrue envers autrui, y compris des partenaires violents et d'autres relations malsaines. Ainsi, elles sont plus vulnérables à la violence et moins en mesure d'y échapper.

Les recommandations formulées directement ou indirectement à ce sujet appellent pour la plupart à une plus grande coopération intergouvernementale en matière d'éducation et de formation. Cette question fait l'objet de nombreuses recommandations dans le rapport d'enquête du coroner, déposé en 2016, sur le suicide de jeunes autochtones à Thunder Bay. Ces recommandations portaient sur la sécurité des jeunes autochtones qui sont forcés de quitter leur communauté pour poursuivre leurs études, un autre domaine où il est urgent d'accroître la coordination et la coopération au niveau des services. Il semble que certaines provinces fassent des progrès en la matière.

Un peu partout au pays, les gouvernements autochtones, fédéral et provinciaux utilisent à divers degrés des ententes officielles qui établissent les responsabilités et les mécanismes de coopération et de coordination des services d'éducation destinés aux élèves autochtones. La Colombie-Britannique, notamment, a conclu des ententes visant à rendre l'éducation plus accessible aux enfants autochtones (Aboriginal Education Enhancement Agreements), de la maternelle à la fin du secondaire<sup>y</sup>. Toutefois, elles semblent concerner uniquement certaines Premières Nations, à l'exclusion de nombreux enfants autochtones, notamment ceux qui vivent hors des réserves ou qui ne sont pas inscrits.

D'autres méthodes ont aussi été utilisées. Pour combler les lacunes et le manque de soutien provincial dans le nord de la Saskatchewan, neuf Premières Nations s'efforcent de mettre sur pied un





système scolaire unifié en intégrant leurs écoles aux principales commissions scolaires du système<sup>Z</sup>. En 2017, le Manitoba a instauré un système scolaire des Premières Nations, conçu et dirigé par les communautés autochtones. Les enseignants établissent le curriculum, déterminent leurs besoins en perfectionnement, recrutent le personnel enseignant et autre. Par conséquent, ils ont accès à plus de ressources et de possibilités qu'auparavant grâce à une nouvelle formule de financement<sup>AA</sup>. La province s'est aussi dotée d'un cadre stratégique triennal (2016-2019) dont le but est de mieux adapter l'éducation aux besoins des élèves des Premières Nations ainsi que des élèves métis et inuits, en intégrant l'histoire des peuples autochtones au curriculum et en formant les enseignants à cet égard. Le cadre a été enchâssé dans des modifications à la *Loi sur l'administration scolaire*<sup>BB</sup>. Le gouvernement du Yukon et le gouvernement fédéral ont signé un protocole d'entente avec le Council of Yukon First Nations et les 13 Premières Nations du territoire dans le but de combler l'écart entre les jeunes Autochtones et les jeunes non-Autochtones en matière d'éducation<sup>CC</sup>. Pour y parvenir, ils ont élaboré un plan qui s'étale sur 10 ans<sup>DD</sup>.

L'Assemblée des Premières Nations réclame depuis longtemps une plus grande coordination intergouvernementale au moyen d'unités ou de mécanismes permanents, dont le mandat est de « renforcer la coordination, l'uniformisation, la surveillance et l'évaluation des activités dans tous les secteurs et à tous les ordres de gouvernement, pour assurer l'équité des politiques et des services concernant les enfants et pour résorber les écarts ou les conflits de compétence<sup>EE</sup> ».

Les Mississaugas de la Première Nation de New Credit se sont récemment adressés aux tribunaux pour dénoncer le financement inéquitable accordé aux élèves des Premières Nations ayant des besoins particuliers par rapport aux sommes dont bénéficient les élèves non autochtones de l'Ontario. Ils affirment que les droits des élèves sont violés par divers obstacles intergouvernementaux. Bien que le gouvernement fédéral ait promis l'équité aux élèves des Premières Nations, ceux avec des besoins particuliers étaient obligés de fréquenter les écoles du réseau provincial et d'en assumer les frais. Or, la province facture des frais de scolarité prohibitifs aux élèves des Premières Nations, au point qu'il leur est

pratiquement impossible de fréquenter ces écoles tout en vivant dans les réserves.

L'affaire a été suspendue, le temps que soit rédigé un rapport sur la question. Ce dernier souligne qu'il suffirait d'apporter certaines modifications simples à la loi provinciale afin d'accroître la flexibilité intergouvernementale pour les élèves ayant des besoins particuliers et ainsi faciliter leur accès à l'éducation à moindre coût. Le rapport recommandait expressément les changements à apporter à la législation provinciale pour abolir ces frais, pour assurer l'équité aux élèves des Premières Nations, pour améliorer l'échange d'information avec les Premières Nations et pour renforcer le rôle de celles-ci dans les écoles provinciales<sup>FF</sup>. Par conséquent, le gouvernement fédéral, provincial et celui des Premières Nations ont été priés de partager l'information, de modifier leurs lois respectives et de résoudre entre eux les questions de financement de sorte que tous les enfants des Premières Nations reçoivent une éducation adéquate. Même si à ce jour, la mesure dans laquelle les recommandations ont été mises en œuvre semble limitée, elles peuvent servir de modèle de coopération intergouvernementale à d'autres administrations du Canada.

## Pauvreté

Trois rapports publiés entre 2003 et 2009 portaient précisément sur la nécessité pour les gouvernements d'élaborer des politiques et des stratégies axées sur l'élimination de la pauvreté chez les Autochtones. Il est à noter que les autres sous-thèmes de cette section portent indirectement sur certains indicateurs de pauvreté dans les communautés autochtones. Ce sous-thème, par opposition, souligne l'obligation des gouvernements canadiens de tenir expressément compte des besoins des femmes autochtones dans l'élaboration et la mise en œuvre des stratégies et des initiatives de lutte contre la pauvreté.

Des trois rapports portant spécifiquement sur le besoin de stratégies de lutte contre la pauvreté, l'un vise le gouvernement de la Saskatchewan, un autre, le gouvernement fédéral, et le troisième, toutes les compétences canadiennes. Tous trois insistent sur l'importance de consulter les leaders et les organisations autochtones ainsi que les organisations non gouvernementales pour élaborer les stratégies d'élimination de la pauvreté.





Le gouvernement fédéral élabore actuellement une stratégie nationale de lutte contre la pauvreté<sup>GG</sup>, mais il n'est pas clair si cette stratégie favorise la coopération et la coordination intergouvernementales ou dans quelle mesure elle le fait. Plusieurs provinces ont déjà des plans et des stratégies en place. Cependant, si la plupart constatent l'augmentation du taux de pauvreté parmi les communautés autochtones, seuls les plans de l'Ontario et du Yukon prévoient des programmes ou des initiatives à l'intention des femmes autochtones. Aucun de ces plans ne propose de mesures précises pour accroître la coopération ou la coordination intergouvernementale dans la prestation des services. Plusieurs d'entre eux mentionnent tout de même l'idée de consultation auprès des représentants autochtones (des gouvernements ou des organismes, de façon générale).

## Logements sûrs

Dix-sept rapports ont été publiés à cet égard de 1991 à 2016, comprenant environ 39 recommandations appelant à une action intergouvernementale accrue. Les rapports indiquent que la précarité du logement et l'accès limité aux maisons d'hébergement sont des facteurs qui favorisent la violence faite aux femmes autochtones, et ce, pour deux raisons : 1) l'itinérance ou les logements surpeuplés exposent davantage les femmes à des situations violentes; 2) le risque de se retrouver sans abri ou dans un logement inadéquat empêche les femmes et les enfants autochtones de fuir des situations violentes.

Un rapport récemment publié par le Comité sénatorial permanent des peuples autochtones portant sur le logement dans les réserves au Canada met en lumière deux grands problèmes :

1. le nombre de logements est insuffisant : il ne suit pas le rythme de croissance rapide de la population autochtone au Canada;
2. la pénurie de logements risque d'entraîner une baisse de la qualité et de la sécurité ainsi que le non-respect des dispositions du code du bâtiment, même si la situation n'est pas la même dans toutes les Premières Nations<sup>HH</sup>. L'incertitude et les conflits en matière de compétence sont

également responsables de l'inaction des gouvernements fédéral et provinciaux par rapport à la pénurie de logements. Or, il ne semble pas y avoir d'efforts de coopération et de collaboration intergouvernementales à ce sujet. Pendant ce temps, les communautés autochtones font preuve de beaucoup de créativité et de débrouillardise, recourant entre autres au microcrédit pour se doter de logements indépendants plutôt que de logements sociaux, et pour mettre sur pied une économie locale plus durable qui réponde mieux aux besoins individuels en matière de logement<sup>II</sup>.

En 2017, le gouvernement fédéral a lancé une consultation publique en vue d'améliorer la situation du logement dans les réserves<sup>JJ</sup>. Par ailleurs, les gouvernements fédéral et provinciaux ont injecté des fonds pour prolonger le programme de logement abordable, qui est consacré aux logements hors réserve pour les Premières Nations. La Nouvelle-Écosse, l'Île-du-Prince-Édouard et le Nouveau-Brunswick semblent s'en remettre aux fonds du gouvernement fédéral pour répondre aux besoins des membres des Premières Nations qui habitent sur leur territoire<sup>KK</sup>.

Le gouvernement fédéral n'a pas de stratégie pour répondre aux besoins des Autochtones non inscrits ou qui vivent à l'extérieur des réserves, ni de stratégie générale à l'égard des besoins des Inuits et des Métis partout au Canada.

Des protocoles d'entente ont encore été conclus afin d'officialiser les efforts intergouvernementaux pour répondre aux besoins des Premières Nations en matière de logement. La Colombie-Britannique a conclu le Transformative Change Accord (accord de changement et de transformation) et le Métis Nation Relationship Accord (accord précisant les rapports avec la nation métisse) pour réduire l'écart entre les Autochtones et les non-Autochtones sur le plan du logement. En 2008, par ailleurs, le gouvernement de la Colombie-Britannique et le gouvernement fédéral ont signé un protocole d'entente tripartite sur le logement des Premières Nations avec le First Nations Leadership Council favorisant leur collaboration afin de mettre en pratique une approche globale visant l'amélioration de la situation du logement dans les réserves et à l'extérieur de celles-ci<sup>LL</sup>.





Au Yukon, un partenariat entre le gouvernement du territoire et la Première Nation de Kwanlin Dün a permis d'augmenter la capacité d'accueil des maisons d'hébergement d'urgence de Whitehorse<sup>MM</sup>.

## Services de santé

De 1996 à 2016, 19 rapports<sup>NN</sup> ont été consacrés aux écarts entre les populations autochtones et non autochtones en matière de soins de santé. Ils ont également souligné la nécessité d'offrir des services de soins de santé plus adaptés à la culture des populations autochtones. Ce thème regroupe quelque 86 recommandations. Les rapports sont unanimes : l'insuffisance de services de soins de santé accessibles aux Autochtones est attribuable à une discrimination persistante. Par ailleurs, on attribue souvent les problèmes de santé mentale et de toxicomanie à l'héritage de la colonisation et aux pensionnats indiens. Enfin, les problèmes de santé contribueraient à la hausse des taux de violence contre les femmes, les filles et les personnes 2ELGBTQQIA autochtones et, parallèlement, en découleraient.

Les recommandations sur ce thème s'adressent principalement aux gouvernements provinciaux et territoriaux, à titre individuel, ou aux gouvernements provinciaux et fédéral, à titre collectif. Fait intéressant, il y a peu de recommandations sur les problèmes de compétence, qui semblent pourtant être un obstacle de taille à la prestation de soins adéquats et opportuns aux populations autochtones.

La Commission de vérité et réconciliation du Canada (CVR) a recommandé au gouvernement fédéral de définir les écarts en matière de soins de santé et de fixer des objectifs qui permettraient de les combler. La CVR a également cherché à assurer une reddition de comptes tout au long du processus. Ainsi, elle a demandé au gouvernement de publier des rapports annuels sur les progrès accomplis qui résument les efforts déployés pour atteindre les objectifs. Les ordonnances de suivi relatives au principe de Jordan avaient aussi pour but d'inciter le gouvernement à l'action. Ce principe, traité ailleurs dans ce rapport, veut que « les enfants des Premières Nations bénéficient des services publics au même titre que

les autres enfants, sans refus, ni retard, ni interruption attribuable à leur statut de membre des Premières Nations<sup>OO</sup> ». En 2016, le Tribunal canadien des droits de la personne (TCDP) a statué que « le défaut du gouvernement du Canada de respecter le principe de Jordan et d'assurer aux enfants des Premières Nations l'accessibilité des services publics au même titre qu'aux autres enfants était discriminatoire et contraire à la loi ». Il a ordonné au gouvernement de pleinement mettre en œuvre le sens et la portée de ce principe. Cette même année, le TCDP a émis deux autres ordonnances contre le Canada, qui ne s'était toujours pas conformé à la décision et qui proposait une nouvelle formulation trop étroite du principe<sup>PP</sup>. Après la décision du TCDP de 2016, Santé Canada a amorcé l'examen des services de soins de santé offerts aux personnes vivant dans les réserves. Le rapport a conclu que le gouvernement n'y fournit pas des services et des traitements adéquats<sup>QQ</sup>. Depuis, le gouvernement fédéral a promis d'octroyer un meilleur financement pour répondre aux besoins des autochtones en matière de santé, y compris la santé mentale<sup>Rr</sup>. À ce jour, pourtant, le gouvernement n'a pas publié les études et les rapports de progrès recommandés par la CVR et n'a pas injecté des fonds suffisants pour combler l'écart constaté dans les soins de santé.

En Colombie-Britannique, les pouvoirs des Autochtones sur la prestation de soins de santé aux populations autochtones sont croissants. La First Nations Health Authority (FNHA) a été mise sur pied. Elle gère la création et la prestation des programmes et des services de santé, en plus d'assumer les responsabilités qui incombait autrefois à la Direction générale de la santé des Premières nations et des Inuits (région du Pacifique) de Santé Canada. La FNHA est une structure de gouvernance autochtone qui travaille avec les Premières Nations de la province pour atteindre les objectifs fixés et pour traiter les priorités établies en matière de santé, ce qui comprend le transfert de fonds aux Premières Nations en vertu d'accords de contribution donnant aux communautés le contrôle des ressources. Toutefois, l'organisation a été critiquée en raison du manque de transparence de ses responsables et de la discrimination subie par son personnel féminin autochtone<sup>SS</sup>.





D'autres provinces ont mis en pratique des stratégies ou ont organisé des forums pour tenter de résoudre les problèmes de coordination intergouvernementale en matière de services de soins de santé. Par exemple, l'Alberta a élaboré l'Aboriginal Mental Health Framework, un cadre fournissant une orientation stratégique pour résoudre les problèmes de compétence qui nuisent à la prestation des services. Ce cadre cible également le besoin de cerner et de combler les lacunes dans les politiques régissant les services de soins de santé destinés aux Autochtones souffrant de problèmes de santé mentale<sup>TT</sup>. Dans son rapport intitulé *Exploring Health Priorities in First Nation Communities in Nova Scotia*, le Forum tripartite Mi'kmaq–Nouvelle-Écosse–Canada accorde d'abord la priorité à la santé mentale, puis à la toxicomanie. Le ministère de la Santé travaille avec ses partenaires du réseau de la santé pour faire progresser ces deux priorités en les intégrant à la planification des programmes et des projets, afin d'assister le peuple mi'kmaq et les autres populations autochtones de la Nouvelle-Écosse<sup>UU</sup>. Aucun rapport de progrès ni évaluation n'a été publié sur ces mesures depuis leur instauration en 2009.

En plus d'examiner les services de santé, des rapports soulignent également les piètres conditions de vie, propices aux disparités entre les populations autochtones et non autochtones sur le plan de la santé. Par exemple, les Nations Unies reconnaissent que l'accès à l'eau et l'assainissement de l'eau sont des droits internationaux et que l'absence de tels services peut avoir un effet dévastateur sur la santé, sur la dignité et sur la prospérité, en plus de nuire considérablement à l'exercice d'autres droits<sup>VV</sup>. Or, 134 systèmes de distribution d'eau touchant 85 Premières Nations du Canada font l'objet d'avis d'ébullition de l'eau et offrent un accès limité à l'eau potable ou effectuent un traitement restreint des eaux usées. L'eau de ces communautés est souvent contaminée par l'*E. coli* (ce qui peut être le signe d'une mauvaise infrastructure de traitement des eaux usées) et par des trihalométhanes et de l'uranium (ce qui peut être le signe de contamination à la source), d'où un risque d'incidence accrue du cancer<sup>WW</sup>. Selon un rapport de Human Rights Watch, il incombe souvent aux proches aidants, en grande partie des femmes autochtones, de s'assurer que les enfants, les Aînés et les personnes souffrant

de maladie chronique ou de problèmes d'ordre physique ou mental ne sont pas exposés à l'eau contaminée. Dans plusieurs réserves, les infrastructures insuffisantes pour traiter l'eau potable et les eaux usées ont des conséquences sur les logements parce qu'elles retardent ou empêchent la construction de nouvelles habitations, sous peine de surcharger les réseaux. De plus, le manque d'accès à l'eau saine peut aussi grandement perturber les activités de pêche et de chasse, car il peut risquer d'empoisonner les animaux et entraîner leur dispersion ou leur mort. En outre, le manque d'accès à l'eau claire peut également nuire aux cérémonies et à la transmission des connaissances traditionnelles. Le rapport de Human Rights Watch ne laisse aucun doute : « Selon les coutumes et les traditions de nombreuses communautés, les femmes sont les gardiennes et les protectrices des eaux. Plusieurs membres des Premières Nations considèrent l'eau comme vivante et comme une forme de médecine. Pour certains, il est déconcertant de ne pas pouvoir boire l'eau de leur propre communauté<sup>XX</sup>. » Cette situation constitue une infraction extrêmement grave aux droits culturels, entre autres.

De manière générale, les installations d'eau potable et de traitement des eaux usées (souvent exploitées par les municipalités) relèvent des gouvernements provinciaux ou territoriaux partout au pays. Ceux-ci n'hésitent toutefois pas à affirmer que leur sphère de compétence ne s'étend pas aux réserves, qui sont plutôt du ressort fédéral. Or, le gouvernement fédéral n'a pas réussi à développer des règlements comparables sur l'eau potable et sur les eaux usées susceptibles de s'appliquer aux réserves en l'absence de dispositions provinciales ou territoriales. À ce jour, il semble plutôt traiter la question par voie de contrat avec chaque réserve. L'incohérence de cette approche donne lieu à une prestation des services essentiels qui dépend d'entrepreneurs indépendants. Par conséquent, la qualité des services est grandement inégale d'une communauté à l'autre<sup>YY</sup>. Dans son budget de 2016, le gouvernement fédéral promettait aux Premières Nations un accès à l'eau potable équitable à celui dont jouissent les Canadiens non autochtones. À ce jour, aucune évaluation globale des progrès accomplis n'a été effectuée.





## Manque de volonté de la part des institutions et maintien du statu quo

Quelque 51 recommandations des 22 rapports publiés entre 2003 et 2016<sup>ZZ</sup> pressent les gouvernements de s'assurer que les services et les programmes destinés aux femmes autochtones reçoivent un financement égal à celui octroyé aux programmes et services réservés à leurs homologues non autochtones.

Près de la moitié de ces recommandations s'adressent aux gouvernements provinciaux, en toute logique, puisque les services sociaux sont du ressort provincial. Toutefois, près de la moitié met en évidence la nécessité d'une meilleure coopération intergouvernementale dans la création et la prestation de programmes et de services destinés aux Autochtones. Encore une fois, ce n'est pas étonnant, car les gouvernements fédéral, provinciaux et territoriaux partagent la responsabilité des services aux Autochtones. Les recommandations qui appellent à une meilleure coopération intergouvernementale précisent que si aucun progrès n'est accompli à cet égard, les efforts des gouvernements n'arriveront pas à éliminer efficacement les causes profondes de la violence faite aux femmes et aux filles autochtones. Parallèlement, plusieurs recommandations destinées à une administration en particulier portent sur la nécessité d'améliorer la coordination et la communication entre les différents services sur le territoire. Enfin, près du quart des recommandations qui se rattachent à ce thème s'adressent au gouvernement fédéral.

À ce jour, il semble que même si les gouvernements canadiens augmentent le financement de certains services aux Autochtones, les fonds demeurent insuffisants et cette mesure ne règle pas explicitement les conflits intergouvernementaux qui les opposent à cet égard.

Le gouvernement fédéral des dix dernières années a systématiquement refusé de financer de nombreux programmes dédiés aux Autochtones ainsi que des organisations autochtones<sup>AAA</sup>. Ces importantes compressions ont, de fait, entraîné la fermeture de la Fondation autochtone de guérison, de l'Institut de la

statistique des Premières Nations, de l'Organisation nationale de la santé autochtone et de l'initiative Sœurs par l'esprit de l'AFAC, entre autres. Les vastes répercussions ne sont pas encore totalement recensées ou comprises.

Cependant, l'actuel gouvernement fédéral a augmenté le financement des organisations et des initiatives autochtones au cours des deux dernières années. En 2016, il a promis de lever le plafond de financement de 2 % des programmes offerts dans les réserves. Il a également commencé à négocier avec les Premières Nations pour établir une « nouvelle relation financière<sup>BBB</sup> ». En 2017, le budget fédéral a prévu une augmentation des fonds promis aux Premières Nations en 2016, ce qui porte le financement de base à 11,8 milliards de dollars en six ans. Une grande part des fonds doit servir à répondre aux besoins des réserves en matière d'eau saine et de logements, en plus de financer des programmes de santé mentale et de soutien aux étudiants autochtones. Cette dernière mesure profitera principalement aux Autochtones inscrits<sup>CCC</sup>. Un chapitre du budget de 2018 consacré à la réconciliation alloue de nouveaux fonds aux services en matière de protection de l'enfance, de soins de santé, d'eau et de logement ainsi qu'à l'autonomie gouvernementale et à la négociation de traités modernes<sup>DDD</sup>.

Le gouvernement fédéral semble disposé à combler certaines lacunes de financement découlant du partage des compétences et à établir des relations de plus grande portée de nation à nation avec les Métis ainsi qu'entre les Inuits et la Couronne. D'ailleurs, le budget de 2016 a été le premier à reconnaître et à inclure les Métis : il prévoyait une somme de 25 millions de dollars en cinq ans pour stimuler leur développement économique<sup>EEE</sup>. En février 2017, les Inuits ont aussi conclu avec le gouvernement fédéral une entente axée sur les revendications territoriales, sur l'équité socioéconomique et sur la collaboration au processus de réconciliation entre le Canada et les peuples autochtones<sup>FFF</sup>.

Bien que ces augmentations de financement constituent un pas dans la bonne direction, elles demeurent insuffisantes pour répondre aux besoins des communautés autochtones. Dans plusieurs secteurs, les Autochtones reçoivent encore des fonds inférieurs à ceux accordés aux non-Autochtones. Par exemple, le gouvernement fédéral a promis de verser





2,6 milliards de dollars en cinq ans pour combler l'écart défavorable aux Premières Nations en matière d'éducation, une somme qui, selon certaines personnes, représente moins de la moitié des fonds réellement nécessaires pour y parvenir. Des défenseurs des intérêts des Autochtones affirment qu'il en va de même pour les secteurs du logement et de la formation chez les Premières Nations, chez les Inuits et chez les Métis<sup>GGG</sup>. Certes, le budget de 2018 marque un changement vers des dépenses plus équitables<sup>HHH</sup>, mais il reste encore beaucoup de travail à faire. Du reste, comme le prouvent certaines initiatives évoquées ci-dessus, quand un problème touche tous les peuples autochtones, mais que la mesure ou l'engagement pris par le gouvernement concerne uniquement les Premières Nations, les Métis ou les Inuits, la solution ne sert qu'un segment de la population autochtone.

Voici les mesures adoptées par certaines provinces pour combler l'écart de financement des services à l'égard des populations autochtones :

- En réponse au rapport de la CVR, l'Ontario a voulu concrétiser sa participation au processus de réconciliation en se dotant d'une stratégie, qui comprend un financement accru des mesures visant à lutter contre la marginalisation socioéconomique des Autochtones de la province et contre la discrimination qu'ils subissent. La stratégie se distingue par un plan de services unique, qui vise les séquelles du colonialisme et du système des pensionnats indiens<sup>III</sup>.
- Le gouvernement de Terre-Neuve-et-Labrador a mis sur pied l'Annual Leaders Roundtable, une table ronde qui réunit tous les ans les dirigeants de la province ainsi que les gouvernements et les organisations autochtones. L'objectif est d'établir ensemble les domaines prioritaires et de s'assurer que les programmes et les services provinciaux répondent aux besoins de la population autochtone<sup>JJJ</sup>.
- En 2017, le gouvernement du Québec a créé la Commission d'enquête sur les relations entre les autochtones et certains services publics, pour examiner la façon dont les Autochtones sont traités par les intervenants des services de police

et des services sociaux (y compris les fonctionnaires, les médecins, les travailleurs sociaux et les agents de services correctionnels)<sup>KKK</sup>.

Cependant, des efforts supplémentaires sont nécessaires à l'échelle des provinces, surtout en matière d'initiatives officielles et de mécanismes juridiques visant à faciliter la coordination intergouvernementale.

## Reconnaître l'importance de l'autodétermination et de la capacité d'agir

Il importe de noter que les communautés et les organisations autochtones déploient elles-mêmes beaucoup d'efforts pour combler les lacunes de l'aide gouvernementale et pour répondre aux besoins particuliers des populations autochtones, en tenant compte des particularités culturelles de chacune. Le rapport *Urban Aboriginal Service Delivery* élaboré en Saskatchewan soutient ce qui suit :

L'urbanisation et le déplacement croissants des Autochtones au Canada a donné lieu à l'émergence d'une « infrastructure de services invisible », constituée d'organisations autochtones qui s'emploient à répondre aux besoins des populations autochtones urbaines dans des secteurs comme les services sociaux, la langue et la culture, le développement économique, l'emploi, l'éducation et la santé. Ces populations sont pourtant confrontées à une prestation de services comportant des lacunes et des retards importants, en raison d'une série de facteurs, systémiques et autres, liés à la colonisation historique et au phénomène actuel de marginalisation.

Le rapport souligne entre autres l'incapacité des municipalités et des provinces à créer des espaces particuliers pour les Autochtones qui vivent en milieu urbain. Par conséquent, ils n'ont d'autre choix que d'être « hébergés » dans des centres non autochtones, qui ne sont pas dotés des politiques et des programmes adaptés à leurs besoins sociaux et culturels<sup>LLL</sup>.





Les gouvernements autochtones semblent également s'être mobilisés pour corriger les lacunes des services. À l'Île-du-Prince-Édouard, par exemple, la Mi'kmaq Confederacy a mis en place un programme de justice autochtone, des services d'aide à l'éducation et à l'emploi ainsi que des programmes pour les familles (axés notamment sur les problèmes liés aux services de protection de l'enfance). Ici encore, toutefois, on note peu de progrès dans le développement de mécanismes explicites et obligatoires qui, d'une part, assureraient le soutien des gouvernements canadiens à ces gouvernements et ces organisations autochtones et, d'autre part, veilleraient à ce que l'ensemble des actions soient coordonnées.

Enfin, la question du financement des services aux Autochtones exige de toute urgence une coordination accrue. Ceci est encore plus vrai dans les cas où il y a chevauchement des compétences entre les gouvernements fédéral et provinciaux,

et que chacun affirme être un « fournisseur de dernier recours », c'est-à-dire tenu de financer un service donné seulement si l'autre autorité n'est potentiellement pas responsable dudit service<sup>MMM</sup>. Puisque plusieurs Autochtones (notamment ceux des Premières Nations et des communautés inuites) peuvent avoir de multiples fournisseurs de services à leur disposition, notamment des organismes fédéraux et provinciaux, il y a lieu de se demander si le manque d'accès aux services ne résulte pas du refus des fournisseurs de payer pour la prestation des services en question, plutôt que du manque de services. Par ailleurs, les fournisseurs consultent rarement les Autochtones et leurs gouvernements pour déterminer les priorités et fixer les budgets des services. Par conséquent, ils sont mal outillés pour répondre aux besoins des populations autochtones<sup>NNN</sup> et n'ont pas recours à des protocoles ou à d'autres moyens pour résoudre les conflits de compétence en matière de financement.

---

## Conclusions

- Les domaines de compétence, tels que définis aux articles 91 et 92 de la Loi constitutionnelle, provoquent des conflits de compétence qui engendrent des inégalités et des iniquités dans la prestation de services essentiels aux communautés inuites, métisses et des Premières Nations. Ces conflits de compétence violent les droits de la personne et les droits des Autochtones, en plus de contribuer directement à la violence systémique contre les femmes, les filles et les personnes 2ELGBTQIA autochtones.
- La négligence qui découle des conflits de compétence et le refus de reconnaître, de protéger et de soutenir les compétences inhérentes des Autochtones entraînent le déni de services essentiels, des atteintes aux droits de la personne et aux droits des Autochtones ainsi qu'une violence systémique à l'égard des femmes, des filles et des personnes 2ELGBTQIA autochtones.
- Les lois, les politiques et les pratiques de l'État canadien échouent à reconnaître, à respecter et à faire de la place au droit inhérent à l'autonomie gouvernementale et à l'autodétermination des Autochtones.





- A Canada, Ministère de la Justice, « Principes régissant la relation du Gouvernement du Canada avec les peuples autochtones. »
- B Voir, par exemple, Heritage Newfoundland and Labrador, <https://www.heritage.nf.ca/articles/politics/aboriginal-self-government.php> Voir aussi Hogg et 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 Voir Bureau du vérificateur général du Canada, « Rapport 5 – Les écarts socio-économiques dans les réserves des Premières Nations »; Bureau du vérificateur général du Canada, Rapport 6 – Formation à l’emploi pour les Autochtones. »
- I Meyer, « Feds ignoring data. »
- J Petten, « Framework for cooperation. »
- K Nations Unies, « Protocol to Prevent, Suppress and Punish Trafficking. »
- L L’Association des femmes autochtones du Canada, « Trafficking of Indigenous Women and Girls in Canada, » 3.
- M Grant, « Missing and murdered: The trafficked. »
- N Canada. Statistique Canada, « Le traite des personnes au Canada, 2016. »
- O Sethi, « Domestic Sex Trafficking of Aboriginal Girls, » 209.
- P Voir l’Association des femmes autochtones du Canada, « Boyfriend or Not. »
- Q Sethi, « Domestic Sex Trafficking of Aboriginal Girls, » 210. Voir aussi l’Association des femmes autochtones du Canada, « Trafficking of Indigenous Women and Girls in Canada, » 6–9.
- R Inspectrice Tina Chalk, Parties II et III mixtes, Volume public 15, St. John’s, T.-N.-L., p. 95.
- S Sethi, « Domestic Sex Trafficking of Aboriginal Girls, » 209.
- T Ibid.
- U Commissaire adjointe Joanne Crampton, Parties II et III mixtes, Volume public 15, St. John’s, T.-N.-L., pp. 78–79.
- V Sethi, « Domestic Sex Trafficking of Aboriginal Girls, » 208.
- W L’Association des femmes autochtones du Canada, « Trafficking of Indigenous Women and Girls in Canada, » 4.
- X Y inclus la CRPA, *Femmes invisibles*, et les rapport de la CVR.
- Y Colombie-Britannique, « 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&d=25297&md=1>.
- CC « Memorandum of Understanding on Education Partnership, » <https://cyfn.ca/wpcontent/uploads/2013/09/MOU-official-copy.pdf>.
- DD Yukon First Nation, *Joint Education Action Plan 2014–2024*.
- EE Assemblée des Premières 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 Comité permanent des peuples autochtones, « On-Reserve Housing and Infrastructure. »
- II Curtis, « Repairing, rebuilding of First Nations housing. »
- JJ Canada, Relations Couronne-Autochtones et Affaires du Nord 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 Y inclus les rapport de la Commission royale sur les peuples autochtones et de la Commission de vérité et de réconciliation du Canada.
- OO Société de soutien à l’enfance et à la famille des Première Nations du Canada, « Jordan’s Principle, » 1.
- PP Société de soutien à l’enfance et à la famille des Première Nations du 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 BC »; 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 Nations Unies, « Human Rights to Water and Sanitation. »
- WW Human Rights Watch, « Make It Safe. »
- XX Ibid.
- YY Ibid.
- ZZ Y inclus la Commission interaméricaine des droits de l’homme, *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. »                                | JJJ | Terre-Neuve-et-Labrador, <i>The Way Forward</i> .                                                                                                                  |
| EEE | Spurr et Smith, « Budget commits nearly 8.4 Billion. »             | KKK | Québec, <i>Commission d'enquête du Québec (Viens)</i> ; CBC News Montréal, « Québec's Indigenous inquiry to explore »; Peritz, « Quebec launches public inquiry. » |
| FFF | Canada, « Inuit Nunangat Declaration on Inuit-Crown Partnership. » | LLL | Findlay et al., « The Urban Aboriginal Service Delivery Landscape. »                                                                                               |
| GGG | Spurr et Smith, « Budget commits nearly 8.4 Billion. »             | MMM | Dion, « Falling through the cracks, » 12.                                                                                                                          |
| HHH | Voir Gaspard, « A way forward. »                                   | NNN | Ibid.                                                                                                                                                              |
| III | Ontario, <i>The Journey Together</i> .                             |     |                                                                                                                                                                    |





## Les facteurs favorisant la violence : le manque de volonté et les interventions insuffisantes de la part des institutions

Pour de nombreuses personnes vivant dans la pauvreté ou dans la rue, le manque de logement, de nourriture ou d'autres formes de soutien est perçu comme une conséquence directe du manque de volonté politique ou de réponse de la part des institutions. Bon nombre de ceux qui ont témoigné à propos d'une proche ont décrit la façon dont cette personne a demandé, mais s'est vu refuser de l'aide, ou en quoi le manque général de volonté ou de soutien à l'égard des institutions ou des organismes de secours a une incidence importante sur la capacité des personnes à assurer leur sécurité. Ici, nous nous concentrons sur les histoires que les familles ont racontées concernant les relations qu'elles ont formées et les rencontres qu'elles ont eues avec des institutions, des organisations, des administrations ou d'autres systèmes dans leur quête de sécurité.

Dans de nombreux cas, la sécurité des femmes, des filles et des personnes 2ELGBTQQIA autochtones était directement compromise par des lacunes dans les domaines suivants : accessibilité; financement; formation culturelle et services adaptés à la culture, en particulier ceux qui sont liés à un traumatisme; politiques et procédures prévues dans la législation; et absence de volonté morale et politique de changer les choses. En fin de compte, la réponse des institutions – ou l'absence de réponse – et l'absence de volonté politique de changer les lois et les politiques pertinentes relatives à la lutte contre la violence ont des répercussions directes sur les droits à la sécurité des femmes et des filles autochtones. Ces réponses inadéquates deviennent une autre arme dans ce que Josie Nepinak a décrit comme « la guerre contre les femmes autochtones<sup>119</sup> », une guerre qui perdure encore. Dans bien des cas, les institutions vers lesquelles se tournent les femmes, les filles et les personnes 2ELGBTQQIA à certains des moments de leur vie où elles sont le plus vulnérables agissent d'une manière qui renforce la croyance que la sécurité des femmes et des filles autochtones est sans importance.

### **Les obstacles à l'accessibilité**

Les témoignages présentés à l'Enquête nationale confirment ce qui est déjà bien connu des défenseurs des intérêts des Autochtones, des familles et des survivantes : les services offerts pour promouvoir et assurer la sécurité des femmes, des filles et des personnes 2ELGBTQQIA autochtones qui ont subi de la violence ou qui sont marginalisées sur le plan social, économique ou politique sont nettement insuffisants. Plus particulièrement, il y a des obstacles à l'accessibilité aux services de soutien aux victimes de violence et aux services connexes, comme des logements et des refuges, ainsi qu'à l'éducation, à la formation et au soutien à l'emploi pour les peuples autochtones et dans les communautés autochtones.

Dans son budget actuel, le gouvernement canadien consacre du financement supplémentaire à des services dont le mandat est de fournir de l'aide aux femmes victimes de violence<sup>120</sup>. Une somme additionnelle est réservée pour des services destinés expressément aux femmes et aux filles autochtones<sup>121</sup>. En raison de ce budget restreint, les mesures de soutien et les services relatifs à la lutte contre la violence, comme les refuges, les maisons de transition, les travailleurs



de proximité et les centres d'aide aux victimes d'agression sexuelle, sont très limités, surtout en ce qui concerne les services de lutte contre la violence propre aux Autochtones. Par exemple, selon la dernière Enquête sur les maisons d'hébergement de Statistique Canada, on a dénombré, au 16 avril 2014, 627 refuges pour femmes violentées en activité au Canada. Ce jour-là, 338 femmes et 201 enfants se sont vu refuser l'admission dans un refuge. Dans 56 p. 100 des cas, la raison invoquée était le manque de place dans le refuge, les autres raisons étant, entre autres, les problèmes d'alcoolisme ou de toxicomanie et les problèmes de santé mentale<sup>122</sup>. Les femmes des Premières Nations, les Métisses et les Inuites qui fuient la violence sont très désavantagées en raison de l'accès limité à des refuges et à des maisons de transition qui s'adressent spécialement à une clientèle autochtone. Selon le Cercle national autochtone contre la violence familiale, le gouvernement fédéral ne finance que 41 refuges pour répondre aux besoins des 634 communautés des Premières Nations reconnues au Canada, et, au mois de janvier 2018, seuls 38 refuges étaient opérationnels<sup>123</sup>.

Les Inuites qui fuient la violence rencontrent pour la plupart davantage de difficultés à accéder à des services. Selon une étude de 2018 d'Amnesty International, on compte environ 15 refuges et maisons de transitions pour 53 communautés inuites dans la région de l'Arctique. Certains de ces refuges sont extrêmement petits et la plupart des communautés ne sont accessibles que par voie aérienne<sup>124</sup>. De nombreuses Inuites se trouvent très loin du refuge le plus proche, et même si elles sont en mesure de payer le vol très coûteux pour se rendre à un refuge, il n'y a pas nécessairement de place pour les recevoir. Le gouvernement fédéral ne finance pas les refuges dans les communautés inuites<sup>125</sup>.

Pour celles qui déménagent dans un nouveau centre, les difficultés peuvent aussi être décourageantes. Comme l'a expliqué Susan Aglugark en parlant de son déménagement à Ottawa en 1990 :

Le premier défi pour moi ç'a été les autobus de la ville, c'est comme, oh, c'est juste des autobus. C'est juste des chauffeurs d'autobus. Mais c'est des chauffeurs d'autobus *qallunaat* et il n'y a que des *Qallunaat* dans l'autobus, et je suis juste une petite Arviatmiut. Peut-être qu'ils vont s'apercevoir que je suis une petite Esquimaude Arviatmiut qui essaie d'aller du point A au point B, et peut-être qu'ils ont le droit de dire : « Non, tu ne peux pas monter dans cet autobus. » Je nourrissais ce genre de peur et je vivais ce genre de peur. Et, peur n'est pas le bon mot. Le mot dans ce contexte, c'est *ilira*. Dans notre dialecte, *ilira* est le radical de *ilirasuk* [...] Je vivais une peur émotionnelle constante. Ils avaient du pouvoir sur moi. J'avais besoin de leur permission pour monter dans l'autobus pour me rendre au travail. Tous les matins [...] certains matins, c'était trop pour moi et je faisais cinq milles à pied plutôt que de confronter cet autobus [...] je pensais que je devais confronter le pauvre homme. Il n'en avait pas la moindre idée, mais moi oui. J'avais cette peur en moi. Alors, je devais me dire : « Ne sois pas stupide. C'est correct. Tu as juste [...] c'est juste un autobus qui t'emmène du point A au point B<sup>126</sup>. »



Dans d'autres cas, des témoins ont expliqué qu'il n'y avait pas assez de services ou qu'ils ne savaient pas comment y accéder, ce qui a obligé certaines personnes à rester dans des situations dangereuses. Josie Nepinak a expliqué qu'en 2015-2016, 16 359 femmes ont été refusées dans des refuges en Alberta et que, de ce nombre, 65 % étaient des Autochtones<sup>127</sup>. Sandra Montour, directrice générale des Ganohkwasra Family Assault Support Services, en Ontario, a expliqué elle aussi qu'en raison du manque de services pour les femmes et les enfants autochtones victimes de violence, ces derniers sont souvent refusés ou doivent parfois attendre des mois pour recevoir des services.

Nous avons de 20 à 30 femmes en attente pour notre programme de consultation pour femmes chaque mois. Notre programme de consultation pour hommes, *Sahonikonri:ione*, qui signifie « son esprit a été guéri », a aussi une liste d'attente qui compte habituellement entre 15 et 20 personnes. La liste d'attente pour notre programme pour enfants, *Gaodwiyá:noh*, comprend habituellement entre 20 et 30 enfants. On n'arrive pas à suivre. Et c'est ainsi depuis des années. Je ne dors pas la nuit et j'ai peur que nos gens meurent pendant qu'ils sont sur notre liste d'attente<sup>128</sup>.

Comme le laissent entendre les témoignages des familles, la peur de Sandra « que nos gens meurent pendant qu'ils sont sur notre liste d'attente » de services dans les moments où ils sont le plus vulnérables est compréhensible. Dans leurs témoignages, les familles ont souvent pointé du doigt des rencontres importantes lorsque leurs proches maintenant disparues ou assassinées ont tenté d'obtenir du soutien, qui leur a toutefois été refusé. Par exemple, Barbara H. a décrit qu'elle a tenté d'obtenir de l'aide pour sa fille Cherisse H., assassinée en 2009.

Elle se prostituait et elle était toxicomane. Et, à un moment donné, là-bas, elle m'a dit : « Maman, j'ai besoin d'aide. » C'était après la naissance de son fils. Elle consommait encore de la drogue et elle avait finalement réalisé qu'elle voulait obtenir l'aide dont elle avait besoin pour être une bonne mère. Donc, elle m'a dit qu'elle avait besoin d'aide, elle m'a demandé de téléphoner à sa travailleuse des SEF [Services à l'enfance et à la famille] afin qu'elle la place dans un établissement verrouillé pour qu'elle n'ait pas à courir dans les rues pour consommer de la drogue. Je crois qu'elle consommait aussi de la drogue pour surmonter le fait qu'on lui ait pris son fils à la naissance.

Donc, j'ai téléphoné à sa travailleuse et sa travailleuse a dit de rappeler. Donc, j'ai rappelé et elle a dit qu'aucun établissement ne pouvait prendre Cherisse, et je crois qu'elle [...] je crois qu'elle s'est sentie abandonnée, ou [...] vous savez? Donc, elle est retournée dans la rue et, une semaine après, c'est là que [...] ils ont trouvé son corps deux ou trois semaines plus tard<sup>129</sup>.

En décrivant les circonstances qui ont mené au meurtre de sa sœur Patricia, Charlotte M. a fait valoir que, si sa sœur avait eu accès à des services, elle serait peut-être encore en vie.





Nos familles habitaient donc à Kitchenuhmaykoosib, une réserve au nord d'ici à environ 500 kilomètres. Et c'est une communauté accessible par avion uniquement, donc très isolée. Donc, à l'époque précédant le meurtre de ma sœur Patricia, il n'y avait pas grand-chose en place dans la réserve, en ce qui concerne le soutien. Par exemple, il n'y avait pas de lieu d'accueil pour la famille où elle pouvait emmener ses enfants. À l'époque, il n'y avait pas de professionnels d'aide aux victimes d'agression sexuelle. Il n'y avait aucun défenseur pour les accompagner aux réunions avec les Services à l'enfance et à la famille, qui se trouvent dans notre région à Tikinagan. Et donc, j'ai toujours pensé que, si on avait plus de services comme ceux en place, les circonstances qui ont conduit à la mort de ma sœur, son meurtre, n'auraient peut-être pas eu lieu<sup>130</sup>.

De même, Chef Vivian T. a parlé de l'occasion manquée de protéger Destiny lorsqu'elle aussi a cherché à obtenir de l'aide.

À ce moment-là, je ne crois pas qu'il y avait de conseiller en toxicomanie au sein de notre bande. Et elle voulait aller dans un centre de traitement, mais elle continuait de demander et d'appeler et d'essayer d'avoir de l'aide pour commencer un programme où elle pourrait cesser de boire. Et ils n'arrêtaient pas de retarder le processus ou ils ne la rappelaient tout simplement pas. Elle s'est finalement mise en colère et elle a recommencé à boire<sup>131</sup>.

Destiny T. a été sauvagement battue à mort par son petit ami en 2013.

### **Le manque de services adaptés à la culture**

Si l'absence totale d'accessibilité est un problème, les femmes, les filles et les personnes 2ELGBTQQIA autochtones sont souvent confrontées à des difficultés supplémentaires pour accéder à des services liés au logement, à la lutte contre la violence et à d'autres types de services sociaux qui ne correspondent pas aux besoins particuliers des peuples autochtones.

Dans son témoignage, Halie B. a parlé de la nécessité de services adaptés à la culture pour les femmes autochtones aux prises avec la violence, la pauvreté, la toxicomanie et d'autres problèmes.

Il y a trop peu de services et d'endroits adaptés à la culture pour nos femmes et pour nos jeunes. Et ils doivent être adaptés à la culture. Je suis une femme [qui s'exprime en Kwak'wala]. Je suis Kwa'kwa'kawakw. C'est ma culture, c'est ma tradition. C'est ma grand-mère Kwa'kwa'kawakw qui m'a sauvée. Et ce sont mes lois Kwa'kwa'kawakw qui m'ont protégée et m'ont aidée à passer à travers ce système. Alors, il faut qu'ils soient adaptés à la culture<sup>132</sup>.

Pour de nombreuses femmes autochtones qui cherchent à obtenir de l'aide après une exposition à la violence, l'accès à des services de soutien aux victimes de violence, comme un refuge, une maison de transition, un centre d'aide aux victimes d'agression sexuelle ou un autre type de soutien, constitue souvent une première étape importante. Ces services sont souvent nettement



sous-financés et sont rarement conçus ou équipés pour répondre aux besoins particuliers des femmes autochtones. Par exemple, l'Enquête nationale a été informée d'une politique courante appliquée par de nombreux refuges voulant qu'ils ne soient pas en mesure d'accepter des clients souffrant d'une dépendance active à l'alcool ou aux drogues. Pour de nombreuses femmes autochtones qui consomment de l'alcool ou de la drogue pour supporter une situation de violence extrême et des traumatismes, cette politique crée un obstacle supplémentaire à l'obtention de soutien, souvent à un moment de leur vie où elles sont les plus vulnérables – un obstacle susceptible de renvoyer ces femmes sur le trottoir.

Parmi les femmes autochtones qui ont recours à des refuges, à des maisons de transition et à d'autres services d'aide aux victimes de violence familiale qui ne sont pas dirigés par des Autochtones, un bon nombre sont placées dans des programmes qui ne répondent pas à leurs propres modes de guérison par l'entremise de pratiques culturelles et spirituelles.

« ELLE SE PROSTITUAIT ET ELLE ÉTAIT TOXICOMANE. ET, À UN MOMENT DONNÉ, LÀ-BAS, ELLE M'A DIT : « MAMAN, J'AI BESOIN D'AIDE. » C'ÉTAIT APRÈS LA NAISSANCE DE SON FILS. ELLE CONSOMMAIT ENCORE DE LA DROGUE ET ELLE AVAIT FINALEMENT RÉALISÉ QU'ELLE VOULAIT OBTENIR L'AIDE DONT ELLE AVAIT BESOIN POUR ÊTRE UNE BONNE MÈRE. DONC, ELLE M'A DIT QU'ELLE AVAIT BESOIN D'AIDE, ELLE M'A DEMANDÉ DE TÉLÉPHONER À SA TRAVAILLEUSE DES SEF [SERVICES À L'ENFANCE ET À LA FAMILLE] AFIN QU'ELLE LA PLACE DANS UN ÉTABLISSEMENT VERROUILLÉ POUR QU'ELLE N'AIT PAS À COURIR DANS LES RUES POUR CONSOMMER DE LA DROGUE. JE CROIS QU'ELLE CONSOMMAIT AUSSI DE LA DROGUE POUR SURMONTER LE FAIT QU'ON LUI AIT PRIS SON FILS À LA NAISSANCE. DONC, J'AI TÉLÉPHONÉ À SA TRAVAILLEUSE ET SA TRAVAILLEUSE A DIT DE RAPPELER. DONC, J'AI RAPPELÉ ET ELLE A DIT QU'AUCUN ÉTABLISSEMENT NE POUVAIT PRENDRE CHERISSE, ET JE CROIS QU'ELLE [...] JE CROIS QU'ELLE S'EST SENTIE ABANDONNÉE, OU [...] VOUS SAVEZ? DONC, ELLE EST RETOURNÉE DANS LA RUE ET, UNE SEMAINE APRÈS, C'EST LÀ QUE [...] ILS ONT TROUVÉ SON CORPS DEUX OU TROIS SEMAINES PLUS TARD. »

Barbara H.

Pour Josie Nepinak, l'Awo Taan Healing Lodge – un refuge dirigé et administré par des Autochtones qui accueille des femmes et des enfants autochtones fuyant la violence – présente un contre-exemple éloquent : à l'Awo Taan Healing Lodge, « ce sont des femmes autochtones qui sont les premières à venir en aide aux femmes autochtones. Et donc [...] ça fait partie de la guérison<sup>133</sup>. »

Nakuset, une Crie de Lac la Ronge, en Saskatchewan, qui est directrice générale de la maison d'hébergement pour femmes autochtones de Montréal, a puisé dans son expérience de travail avec des femmes autochtones pour expliquer l'importance d'offrir des options d'hébergement adaptées à la culture :

Le fait est que, quand tu mets quelqu'un dans un minuscule appartement en lui disant voilà, vous êtes maintenant logé, les gens ne restent pas parce qu'ils n'ont pas de soutien, alors c'est presque comme une petite prison. Nous avons donc remarqué que les gens vont toujours quitter leur logement [...] pour se retrouver dans une communauté et y passer du temps, et leur problème sous-jacent, que ça soit la drogue, l'alcool ou autre, il n'est pas résolu, ils vont finir par perdre encore leur logement<sup>134</sup>.



La description que Cee-Jai a faite de ce qu'elle a ressenti lorsqu'on l'a logée dans une maison de chambres illustre l'observation de Nakuset.

Mais c'était difficile parce que c'était tellement différent de coucher dehors et d'être dans la rue. Je crois que pendant les premiers jours, nous nous disions, genre « On prend nos oreillers et nos couvertures qu'ils viennent de nous donner et on va dormir dehors ». Donc, nous prenions notre chariot d'épicerie et nous le poussions pour aller dormir sous les [...] comment est-ce qu'on les appelle? Des viaducs.

Elle est drôle, celle-là ... un matin, aussi, je pense que c'était, comme le deuxième ou le troisième jour, et nous n'arrêtons pas de le faire parce que nous avons du mal à dormir dans ces chambres. Comme si elles étaient hantées. Ces chambres d'hôtel sont hantées. Bref, nous couchions dehors et notre très grand lit était le trottoir<sup>135</sup>.

## **Le manque de soutien financier pour les services d'aide aux victimes de violence**

Si les obstacles institutionnels existants sont parfois attribuables aux organismes et aux programmes eux-mêmes, dans bien des cas, les obstacles sont créés et maintenus par des problèmes structurels et systémiques sous-jacents qui empêchent ces organismes et ces programmes de fournir leurs services de la façon qui répondrait le mieux aux besoins des utilisateurs. Dans le contexte des services d'aide aux personnes victimes de violence – et plus particulièrement ceux qui sont dirigés par des Autochtones – il faut reconnaître que l'accès limité à du financement de l'État ou d'autres sources, surtout du financement stable et pluriannuel et non du financement par projet, est à l'origine du manque de protection pour les femmes autochtones.

Comme Sandra Montour l'explique clairement, il y a un lien direct entre les complexités et la réticence des bailleurs de fonds gouvernementaux et d'autres intervenants à céder les cordons de la bourse et la violence dans la vie des femmes et des filles autochtones : « Si nous pouvions tous avoir un financement équitable, nous pourrions sauver des vies, je vous le garantis. Il est évident que nous pourrions sauver des vies<sup>136</sup>. »

Le manque de financement de base – ainsi que les nombreuses dispositions et contraintes liées à ce financement – crée des obstacles et des difficultés considérables pour la prestation de services et, au bout du compte, la protection des femmes, des filles et des personnes 2ELGBTQQIA autochtones. Dans son témoignage, Nakuset a parlé du fardeau supplémentaire qui est imposé au personnel et aux gestionnaires qui, alors qu'ils font déjà un travail difficile, doivent consacrer une bonne partie de leur temps à trouver du financement pour poursuivre leurs activités. Dans son témoignage, Nakuset a expliqué que, encore une fois, cette contrainte touche les femmes autochtones de façon particulière. Comme les femmes autochtones peuvent se présenter au refuge avec des antécédents de traumatisme complexes, les types de soutien – counseling traumatologique spécialisé, soutien individuel à long terme ou services adaptés à la culture –





qui sont les mieux adaptés pour répondre à ces besoins et à ces problèmes, sont souvent ceux qui demandent le plus de temps et d'attention de la part du personnel. Des organismes comme la maison d'hébergement pour femmes autochtones de Montréal et l'Awo Taan Healing Lodge ne reçoivent aucun financement pour l'embauche de professionnels essentiels comme du personnel infirmiers praticiens et des conseillers en traumatologie, et sont obligés de mener leurs propres collectes de fonds, encore une fois une activité qui exige beaucoup de temps et d'efforts<sup>137</sup>.

Le financement inadéquat ou limité présente également son lot de défis pour le personnel des refuges et des maisons de transition, qui est habituellement très peu rémunéré pour faire un travail souvent très difficile et dangereux. À cela s'ajoute le problème du maintien en poste du personnel : un roulement élevé signifie souvent que les clients les plus susceptibles d'avoir besoin de services à long terme ne peuvent bénéficier de soutien et de soins continus et à long terme<sup>138</sup>.

Nakuset a plus spécialement parlé des obstacles particuliers à surmonter pour obtenir du soutien pour les organisations de femmes autochtones.

Alors ce que je dois faire ou ce que je choisis de faire, c'est d'aller dans différents organismes et dans différentes écoles pour présenter des ateliers sur les réalités autochtones. Et ce n'est qu'à ce moment-là qu'ils comprennent vraiment. Et alors ils sont plus empathiques. Et puis ils disent : « Hé, je connais quelqu'un qui pourrait aider. Je connais quelqu'un qui a peut-être de l'argent. » Et c'est là [...] vous savez, c'est le genre de choses qu'il faut faire. Il faut continuer à défendre les intérêts des femmes et à répandre le message que, vous savez, nous sommes incroyablement résilientes, mais il nous faut quand même passer de A à B. Et il n'y a rien à l'heure actuelle dans la ville qui soit adéquat<sup>139</sup>.

« COMME VOUS AVEZ ENTENDU MA FILLE PARLER DE SA TOXICOMANIE, DANS LE NORD, IL Y A DES TAUX DE PAUVRETÉ EXTRÊMES ET IL Y A UN BESOIN CRIANT DE CENTRES DE SANTÉ, DE GUÉRISON ET DE MIEUX-ÊTRE PARTOUT, PAS SEULEMENT DANS LE NORD, MAIS PARTOUT AU CANADA. ET LA CHOSE QUI ME DÉRANGE LE PLUS AU SUJET DE TOUTES CES CHOSES NÉCESSAIRES, C'EST QUE LORSQUE LE GOUVERNEMENT DÉCIDE DE NOUS LES DONNER, IL NOUS LES DONNE PENDANT DEUX ANS. QUE CE PASSE-T-IL APRÈS CES DEUX ANNÉES? C'EST LA MÊME CHOSE POUR LE SERVICE DE NAVETTES. QUE CE PASSE-T-IL APRÈS CES DEUX ANNÉES? LE GOUVERNEMENT RETIRE SON FINANCEMENT, ET C'EST FINI. ENSUITE, IL FAUT RECOMMENCER À ZÉRO. »

Gladys R.

Pour Nakuset, ce travail nécessite souvent de faire contrepoids aux stéréotypes concernant les femmes autochtones tout en obtenant le soutien nécessaire. Elle a donné l'exemple suivant d'une rencontre qu'elle a eue avec des représentants municipaux alors qu'elle tentait d'obtenir du financement pour une activité à l'occasion de la Journée des Autochtones.



La Ville de Montréal a demandé : « Pensez-vous vraiment que c'est approprié? Genre, pourquoi n'aidez-vous pas vos gens? » Moi, j'étais, disons, gonflée à bloc : « Oh, mon Dieu. C'est incroyable. » Je parlais, comme, vous savez, comme si j'étais l'hôte d'un talk-show ou quelque chose du genre parce que je savais que si je répondais à la question d'une façon qui allait les déranger, je n'allais peut-être pas obtenir ce financement. Je devais donc trouver un moyen de présenter ça de façon positive pour [...] presque éliminer leur négativisme et leur discrimination. Elle disait : « Eh bien, vous savez, la Journée des Autochtones, ce n'est pas seulement pour les Autochtones. » Genre « Oh, vraiment<sup>140?</sup> »

Nakuset a décrit de quelle façon ces problèmes sont compliqués du fait qu'on ne tient pas compte de l'expertise que détiennent les femmes et les personnes 2ELGBTQQIA autochtones.

D'ailleurs, souvent, ils ironisent, disons que le gouvernement ira ailleurs pour trouver l'expertise, c'est presque comme si on faisait double emploi avec le travail. C'est un peu insultant. Nous devons, en quelque sorte, lui expliquer : « Oh, en passant, ça fait dix ans qu'on fait ça. Alors, pourquoi ne venez-vous pas nous consulter? » Il est donc primordial qu'ils reconnaissent le travail que [...] nous faisons<sup>141</sup>.

En présentant sa vérité, Gladys R. a parlé sur un ton passionné de la façon dont les structures gouvernementales qui fournissent du financement à court terme et à durée limitée témoignent d'une absence fondamentale de respect et de connaissance des besoins particuliers en matière de sécurité des femmes autochtones et des personnes qui leur fournissent des services.

Comme vous avez entendu ma fille parler de sa toxicomanie, dans le Nord, il y a des taux de pauvreté extrêmes et il y a un besoin criant de centres de santé, de guérison et de mieux-être partout, pas seulement dans le Nord, mais partout au Canada. Et la chose qui me dérange le plus au sujet de toutes ces choses nécessaires, c'est que lorsque le gouvernement décide de nous les donner, il nous les donne pendant deux ans. Que ce passe-t-il après ces deux années? C'est la même chose pour le service de navettes. Que ce passe-t-il après ces deux années? Le gouvernement retire son financement, et c'est fini. Ensuite, il faut recommencer à zéro. Lorsque nous mettons en place ces programmes de santé, de guérison et de mieux-être, ils doivent être permanents pour protéger les femmes et les enfants [...] Donc la santé, la guérison et [...] quand vous [...] quand le gouvernement offre du financement, peu m'importe que ce soit deux ans, ils peuvent le faire pour la vie parce que ces cycles se perpétuent. Ces cycles se perpétuent. Ils vont être [...] nous avons besoin d'une solution permanente, pas à temps partiel. Les solutions temporaires n'ont pas fonctionné jusqu'à maintenant, alors nous en avons besoin. Nous en avons besoin de façon permanente<sup>142</sup>.



Cette préoccupation au sujet du financement à court terme a été également réitérée par de nombreux autres fournisseurs de services qui travaillent dans le secteur de l'aide aux victimes de violence comme un obstacle important à la création de services qui peuvent vraiment restaurer la sécurité. De plus, les mécanismes bureaucratiques complexes et la paperasse qui accompagnent ce type de financement créent le sentiment que les organisations et les femmes autochtones doivent rendre des comptes et justifier leurs efforts pour créer un climat de sécurité. Lorsqu'on constate la créativité et la résilience dont font preuve des femmes comme Nakuset, Josie Nepinak, Gladys et de nombreuses autres, malgré les contraintes que les institutions et le gouvernement ont imposées à leurs services, il ne fait pas de doute qu'avec un financement suffisant, ces femmes seraient capables de créer un milieu sécuritaire et de mettre fin à la violence.

### **Des politiques, des lois et des procédures insuffisantes**

Dans leurs histoires concernant l'absence de sécurité dans la vie des femmes, des filles et des personnes 2ELGBTQQIA autochtones et la façon dont cette absence de sécurité est imposée par des pratiques institutionnelles et structurelles, des témoins ont souligné un certain nombre de pratiques stratégiques, législatives et organisationnelles plus générales qui empêchent l'accès à la sécurité sur le plan structurel.

Dans son témoignage, Josie Nepinak a fourni une analyse importante de la façon dont les notions mêmes de « sécurité » et « danger » sont conceptualisées différemment dans les contextes autochtones et non autochtones. Cela se répercute sur l'accès au financement pour les services, les interventions policières et les mesures de sécurité comme les ordonnances de protection d'urgence. Josie Nepinak et son équipe ont comparé les mesures obtenues avec les outils d'évaluation du danger perçu couramment utilisés par les services de lutte contre la violence au Canada auprès de femmes autochtones, de femmes immigrantes et de Canadiennes établies qui utilisent leurs services. Ils ont découvert que, lorsqu'ils comparent le niveau de danger perçu dans la même situation, la conscience du danger n'est pas aussi grande pour les femmes autochtones que pour les femmes immigrantes et les Canadiennes établies.

Comme Josie Nepinak l'a expliqué, ce résultat donne à penser que les outils d'évaluation « ne portaient pas sur les expériences vécues par les femmes autochtones. Ils ne tiennent pas compte de la colonisation, de la politique paternaliste, de l'oppression, des expériences vécues dans les pensionnats, de [...] des expériences des enfants pris en charge. » C'est pourquoi « les évaluations du danger ne conviennent pas aux expériences et à la vie des femmes autochtones [...] car tant que nous ne pourrons pas reconnaître que la violence infligée aux femmes autochtones se manifeste par la colonisation, nous n'aurons pas d'idée précise de ce qu'est la violence pour les femmes autochtones ». Josie Nepinak croit que, lorsque les expériences et les niveaux de danger vécus par les femmes autochtones ne sont pas mesurés en tenant compte de leur histoire et de leur culture distincte, et ne sont compris qu'à travers le prisme d'outils et de cadres coloniaux, les femmes, les filles et les personnes 2ELGBTQQIA autochtones risquent d'être plus vulnérables parce qu'on leur refuse l'intervention ou le soutien dont elles ont besoin<sup>143</sup>.





La passivité institutionnelle entourant l'amélioration de la protection des femmes autochtones est une autre manifestation des tactiques du colonialisme pour ignorer, normaliser et effacer la violence. Dans son témoignage, Sandra Montour a donné un exemple concret de cette réalité lorsqu'elle a parlé de l'imposition de la constitution en société pour avoir accès au même niveau de financement que celui qui est accordé aux refuges et aux maisons de transition non autochtones.

Pendant longtemps, j'étais occupée à éduquer les bailleurs de fonds. Ils disaient « Sandy, pourquoi n'avez-vous pas demandé ce financement? » Et je répondais « Parce que votre [...] la toute première ligne dit "doit être constituée en société" ». Et j'ajoutais : « Vous savez quoi? Ganohkwasra est une organisation vieille de 30 ans qui n'a jamais fini une année dans le rouge. Nous sommes dignes de confiance, et nous ferons ce que nous disons que nous pouvons faire, mais votre [...] votre condition "Doit être constituée en société" élimine d'emblée les refuges des Premières Nations. » C'est l'une des choses que j'ai dû [...] j'ai fait de mon mieux pour éduquer les bailleurs de fonds. Et [...] la situation change lentement<sup>144</sup>.

L'approche adoptée par certains organismes de prestation de services peut être circonscrite ou dictée par les modalités des ententes de financement ou les politiques organisationnelles qui régissent leur travail. Par exemple, une exigence organisationnelle stipule que les travailleuses du sexe doivent avoir coupé les liens avec le milieu de la prostitution pour recevoir des services<sup>145</sup>. De façon plus générale, les organisations peuvent être tenues de travailler avec des modèles coloniaux ou dominants qui favorisent une approche abolitionniste plutôt qu'une approche axée sur la réduction des dommages pour les dépendances, le travail du sexe ou d'autres stratégies que les femmes, les filles et les personnes 2ELGBTQQIA autochtones utilisent pour composer avec leurs expériences de violence et pour répondre à leurs besoins fondamentaux.

Parfois, les politiques organisationnelles ou les mandats qui régissent les organismes exigent que les femmes, les filles et les personnes 2ELGBTQQIA autochtones « prouvent » qu'elles méritent de recevoir ces services. En décrivant ses efforts pour trouver un logement sécuritaire, Cee-Jai a donné un bon exemple de la procédure; ce n'est qu'après avoir été capables de démontrer à une personne en autorité qu'ils étaient prêts à « changer » que Cee-Jai et son partenaire ont pu avoir accès à un logement.

Je me souviens d'avoir eu une chambre dans une maison de chambres parce que j'étais sans abri dans la rue, j'ai rampé pour sortir de ma ruelle, vous savez. Ce prêtre, ou aumônier ou, genre, homme d'Église, ou peu importe comment on les appelle, tous ceux qui sont chrétiens, pardonnez-moi. Mais vous comprenez ce que je dis, n'est-ce pas? Mais il nous a vraiment crus quand nous lui avons dit que nous voulions rester sobres, donc il nous a [...] nous a trouvé une chambre dans le Downtown Eastside. Mais, dans cette maison de chambres, il y avait des chrétiens, et ils étaient tous sobres et ne consommaient pas de drogues. Il nous a donné cette chambre et nous nous sommes réchauffés et nous avons commencé à nous ranger<sup>146</sup>.



La faible réactivité des institutions face aux besoins très réels des femmes, des filles et des personnes 2ELGBTQQIA autochtones qui vivent de la violence ainsi que leur manque de volonté de mettre en place les changements nécessaires pour s'attaquer d'abord aux causes profondes de la violence sont une autre illustration de la façon dont les structures et les systèmes ignorent et exacerbent la violation de leur droit à la sécurité. Comme l'a souligné Nakuset, rejeter les femmes, les filles et les personnes 2ELGBTQQIA autochtones dans ces moments critiques où elles sont à la recherche de sécurité revient, en effet, à participer à la normalisation de la violence et à renforcer le message que la plupart d'entre elles ont appris depuis la petite enfance, soit que leur sécurité importe peu.

Comme elles se font rejeter, elles s'imaginent que c'est la norme, et nous devons leur démontrer que ce n'est pas le cas, et nous devons les aider en étant là et en défendant leurs intérêts pour qu'elles comprennent que c'est, hé, c'est comme ça que je suis censée être traitée, ce n'est plus la norme<sup>147</sup>.



## RÉFLEXION APPROFONDIE

# Projets d'extraction de ressources et violence à l'égard des femmes autochtones

Des témoignages entendus et des preuves examinées dans le cadre de l'Enquête nationale portent à croire que les projets d'extraction de ressources peuvent exacerber le problème de la violence envers les femmes et les filles autochtones. Des témoins experts, des représentants des institutions et des Gardiens du savoir ont expliqué lors des audiences que de telles initiatives sont susceptibles d'engendrer de la violence envers ces dernières de plusieurs manières, notamment par les problèmes que posent les travailleurs migrants, le harcèlement et les agressions en milieu de travail, les horaires rotatifs, la toxicomanie et la dépendance, ainsi que la précarité économique. Ils ont fait valoir que ce type de projets peut multiplier les actes répréhensibles commis par des hommes non autochtones à l'endroit de femmes autochtones, et également mener à une augmentation de la violence au sein des communautés autochtones. Les rapports déposés par ces témoins viennent étayer leurs allégations, tout comme un nombre considérable de documents de référence colligés par l'Enquête nationale. Ces constatations tendent vers une même conclusion : les autorités fédérales, provinciales, territoriales et autochtones, à l'instar des sociétés minières, pétrolières et gazières, doivent davantage tenir compte de la sécurité des femmes et des enfants lors du processus décisionnel relatif à l'extraction de ressources sur les territoires autochtones ou à proximité de ceux-ci.

Le Canada a toujours été tributaire de l'extraction, et ce, de différentes manières. Pensons entre autres à la mise sur pied en 1841 de la Commission géologique — la deuxième au monde — seulement six ans après le Royaume-Uni, ou encore à l'exportation des ressources naturelles, en passant par la mise en œuvre de projets contemporains d'exploitation minière et de transport par pipeline toujours plus vastes et plus volumineux. L'idée d'exploiter la terre pour s'emparer de ses richesses afin d'en tirer profit est la source des conflits les plus retentissants qui

opposent les gouvernements à certains groupes autochtones. Comme l'ont exposé Alain Denault et William Sacher, auteurs du livre *Imperial Canada Inc.*, les trois quarts des sociétés minières de la planète ont aujourd'hui établi leur siège social dans notre pays. De ce nombre, 60 % sont inscrites à la Bourse de Toronto (TSX), qui se targue de comptabiliser dans ses livres plus de la moitié des placements propres au domaine minier qui sont négociés dans le monde<sup>A</sup>.

Bien que les entreprises vouées à l'extraction ainsi que les sociétés minières, notamment, soulignent souvent leur apport économique aux communautés tant autochtones que non autochtones, comme nous l'avons entendu dans le cadre de l'Enquête nationale, les répercussions de ces activités sont souvent négatives. Les témoins ont indiqué que l'escalade de violence qui suit le sillon de la main-d'œuvre temporaire et migrante est une problématique venant alimenter les nombreux moteurs perpétuant la violence coloniale présentée jusqu'à maintenant dans ce rapport final. Cette réflexion approfondie s'intéresse spécifiquement aux problèmes que posent les travailleurs migrants, et aussi à la manière dont certaines parties prenantes de l'industrie ont contesté l'existence de ces problèmes, contribuant de manière continue à occulter certains enjeux ayant littéralement une incidence de vie ou de mort.

## Les travailleurs migrants et la violence

Des témoins ont attiré l'attention des commissaires sur l'immense quantité de travailleurs migrants allant de pair avec l'extraction des ressources. Connie Greyeyes, membre de la Nation crie de Bigstone, habite dans le nord de la Colombie-Britannique. Elle a affirmé devant l'Enquête nationale que la présence d'une forte population d'ouvriers de passage peut poser un risque de violence pour les femmes autochtones.





Il y a donc ces jeunes gens qui débarquent à Fort St. John pour travailler sans relâche pendant un mois, voire six, sept semaines de suite, s'affairant à la tâche de 12 à 14 heures quotidiennement. Puis, ils ont quelques jours de congé avant de devoir reprendre du service; ils mettent alors le cap sur Fort St. John.

Pour être honnête, je ne sais même plus combien il y a de boîtes de nuit aujourd'hui à Fort St. John. Il y en avait déjà beaucoup, comment dire, enfin il y en a beaucoup, mais disons qu'il y a davantage de bars de danseuses que de bars à proprement parler. Et ces gens, bien souvent, viennent en ville pour « relaxer », les poches pleines après avoir travaillé durant plusieurs jours, campés dans le bois; ils sont là pour s'amuser et profiter du moment, vous comprenez? Leur travail est très exigeant.

Souvent, j'essaie ... Je ne peux m'imaginer vivre encore de la sorte. J'ai déjà travaillé dans ce secteur; j'étais assistante médicale sur des platesformes de forage et de maintenance, et je me souviens de ce que c'était quand je me rendais en ville avec les gars, pour décompresser. Vous l'imaginez, c'était souvent [accompagné] d'une abondance de drogue et d'alcool, et leur but était aussi de ramasser des femmes [de] la communauté. J'étais sur place, assise aux premières loges, et j'ai connu bien des femmes violentées par un travailleur migrant qu'elles avaient rencontré la soirée d'avant. Et, la plupart du temps, presque toujours en fait, j'entendais le même discours : « Je ne l'avais jamais vu, mais il travaille pour un tel. »

C'est comme ça que les choses se passent à Fort St. John. Il faut le voir pour le croire. Moi, j'ai vécu là toute ma vie. Je connais beaucoup de monde. Je ne sors pas souvent, rarement, disons, mais je vais danser de temps en temps en compagnie de mes amies, et c'est impressionnant de constater le nombre de travailleurs qui ne viennent pas d'ici.

Quand on attend à l'aéroport, on voit les vols qui vont et qui viennent, faisant la navette entre la digue et Fort St. John, ou même ailleurs, je ne sais pas trop, mais chaque vol amène et emmène son lot d'ouvriers. Quand l'univers de ces gars-là se

limite à faire de l'argent et à abattre de la besogne, et qu'ils n'ont que Fort St. John pour relâcher la tension et faire la fête, à quoi d'autre peut-on s'attendre? C'est un cocktail toxique pour les femmes et les filles de l'endroit<sup>B</sup>.

Jacqueline Hansen, d'Amnesty International, a soumis aux commissaires un rapport que Connie Greyeyes et elle-même ont contribué à rédiger. Intitulé *Loin des yeux, loin du cœur*, celui-ci fait également valoir que la main-d'œuvre migrante affectée à l'extraction de ressources représente une menace à la sécurité des femmes et des filles autochtones.

Les comportements négatifs qui accompagnent la « détente » peuvent être accentués par le fait que d'innombrables travailleurs migrants n'ont ni famille ni liens qui les unissent au nord-est de la Colombie-Britannique. « Rien ne les rattache à la communauté — ni aux femmes », selon ce qu'on a rapporté à Amnesty International. Connie Greyeyes, qui défend les intérêts communautaires, croit que le nombre élevé de travailleurs temporaires et de courte durée à Fort St. John a rendu le milieu de vie moins sécuritaire pour les femmes. Elle a déclaré à l'organisme : « Ici, quiconque peut facilement se confondre dans la foule et commettre un crime sans que personne ne puisse l'identifier<sup>C</sup>. »

T.J. Lightfoot, une personne bispirituelle mi'kmaw originaire de la Première Nation d'Elsipogtog, a aussi affirmé à l'Enquête nationale que les campements d'hébergement associés à l'extraction industrielle de ressources présentent un risque potentiel pour les femmes et les enfants.

Il faut distinguer deux types de campement. Il y a d'abord ceux qui sont établis par l'industrie vouée à l'extraction des ressources, c'est-à-dire que l'entreprise paye pour pouvoir aménager, disons, des logements déplaçables sur une parcelle de terre. Il y a aussi les campements informels mis sur pied par des particuliers qui rassemblent un certain nombre de maisons mobiles sur leur propriété en sachant que les ouvriers sont au service de l'industrie vouée à l'extraction des ressources, comme on l'a vu en Alberta, en Colombie-Britannique et ailleurs. On a donc une masse de travailleurs qui arrive sur





place avec une certaine vision des choses et parfois, pas toujours, mais parfois, ces derniers sont eux-mêmes issus d'un milieu défavorisé. Ce sont souvent des hommes canadiens cisgenres et hétérosexuels. Ce que je veux dire, c'est que ce ne sont pas des Autochtones.

Nous avons constaté qu'une telle conjoncture entraîne une hausse des actes de violence physique et sexuelle, et mène à la disparition de femmes et d'enfants autochtones<sup>D</sup>.

Lightfoot a soumis à l'Enquête nationale un rapport préparé par la *Women's Earth Alliance* et le *Native Youth Sexual Health Network* qui documente les manières dont les activités extractives peuvent affecter la santé et la sécurité des femmes et des enfants autochtones. Celui-ci présente plusieurs cas d'agressions sexuelles et physiques commises par des travailleurs migrants issus de ce secteur d'activité à l'endroit de femmes et de filles autochtones. Le rapport comporte la déclaration suivante, faite par Melina Laboucan-Massimo, membre de la Première Nation crie Lubicon.

Le modèle industriel canadien d'extraction des ressources repose sur des rapports de pouvoir et de domination. Ceux-ci présupposent le viol et le pillage de la Terre mère, tout comme la violence envers les femmes. Les deux sont intimement liés. L'importance grandissante de cette industrie donne lieu non seulement à la profanation des terres, mais aussi à une flambée de la violence visant la population de sexe féminin. Les allées et venues de travailleurs migrants au sein et à proximité des campements d'hébergement font que la violence sexuelle à l'endroit des femmes est omniprésente et entraînent par le fait même une variété de problèmes sociaux<sup>E</sup>.

D'autres ouvrages corroborent ces constatations. Une évaluation régionale des effets cumulatifs associés au développement hydroélectrique au Manitoba a révélé que les femmes et les enfants autochtones furent la cible de violence sexuelle et raciale attribuable à la venue d'une vaste main-d'œuvre dans le nord de la province.

L'avènement d'une population de travailleurs de la construction à prédominance masculine s'est

soldé par des agressions sexuelles à l'endroit de femmes autochtones. Les gens racontent que ces derniers ont profité de leurs victimes après les avoir saoulées et certaines personnes rapportent avoir été témoins de viol sans qu'elles puissent intervenir. D'autres affirment que des instances institutionnelles vouées à la protection du public, particulièrement la Gendarmerie royale du Canada, brutalisent les hommes, cautionnent l'exploitation des femmes et se refusent à considérer les plaintes avec sérieux, bien que certaines de ces plaintes aient été prises en charge par le passé. Les enfants autochtones s'estimaient la cible de discrimination et de violence raciales<sup>F</sup>.

Un rapport préparé par *Northern Health* et la *Provincial Health Services Authority* de la Colombie-Britannique s'est penché sur la relation entre le taux de criminalité et l'extraction de ressources, y compris les agressions sexuelles et physiques perpétrées contre les femmes autochtones par des travailleurs migrants.

Les incidences défavorables des activités de mise en valeur des richesses naturelles sur la sécurité communautaire et sur le taux de criminalité sont bien documentées tant au Canada qu'ailleurs dans le monde. L'augmentation des crimes, dont les infractions relatives à la drogue et à l'alcool, les infractions de nature sexuelle, la violence domestique et la violence attribuable aux « gangs », a été liée au boum immobilier et à d'autres variables corrélées au développement des ressources. À l'inverse de l'accroissement de la population dans d'autres contextes ruraux, les activités d'exploitation exigent souvent de recourir à l'immigration; arrivent donc de jeunes hommes disposant de salaires élevés qui ont peu d'intérêt envers la communauté d'accueil. L'afflux d'argent et de main-d'œuvre au sein des communautés peut influencer sur les activités criminelles et le commerce du sexe, et aussi accroître l'accès des habitants aux substances illicites. La consommation accrue d'alcool et de drogue, l'isolement social qu'entraîne la vie de camp et la culture « hypermasculine » qui y domine, ainsi que le détachement des travailleurs par rapport aux communautés locales sont autant de facteurs pouvant faire bondir le taux de criminalité<sup>G</sup>.





James Anaya, ancien rapporteur spécial des Nations Unies sur les droits des peuples autochtones, a expliqué que les travaux de recherche qu'il a menés dans le cadre de ses fonctions lui ont permis d'établir un lien entre la venue en très grand nombre de travailleurs migrants et la violence faite aux femmes autochtones.

Au cours des dernières années, j'ai mené une étude et préparé un rapport sur l'industrie extractive affectant les populations autochtones. À la lumière des renseignements obtenus dans le cadre de l'étude, il est devenu évident que cette industrie a, de manière répétitive, divers effets préjudiciables et souvent disproportionnés sur les peuples autochtones, et particulièrement sur les conditions de santé des femmes. Par exemple, j'ai appris que, dans de nombreux cas, les femmes autochtones habitant une communauté établie à proximité d'une exploitation minière, pétrolière ou gazière sont vulnérables aux infections sexuellement transmissibles, dont le VIH et le SIDA, qui vont souvent de pair avec l'augmentation rapide du nombre de travailleurs affectés à l'extraction des richesses naturelles en milieu autochtone. De plus, ces dernières ont rapporté que l'arrivée massive d'ouvriers spécialisés au sein de leur communauté pour mettre en œuvre des projets d'extraction a aussi mené à davantage d'incidents liés au harcèlement et à la violence sexuels, y compris des viols et des voies de fait. Je suis notamment intervenu dans un dossier faisant état de filles autochtones qui se rendaient à pied à l'école et qui ont été agressées sexuellement par des travailleurs forestiers exploitant un territoire traditionnel en vertu d'une concession accordée par le gouvernement<sup>H</sup>.

## Harcèlement et agressions en milieu de travail

T.J. Lightfoot a indiqué aux commissaires que les femmes autochtones travaillant dans les mines ou dans le cadre d'autres projets de mise en valeur de ressources sont fréquemment exposées au harcèlement et aux agressions sexuelles de même qu'au racisme.

Celles qui choisissent d'y participer — et quand je dis « choisissent », c'est dans le sens où ces choix sont fréquemment imposés à nos communautés sans que nous puissions dire quoi que ce soit — n'ont souvent d'autres possibilités, car c'est parfois l'unique moteur économique de la région. Les femmes qui se mettent au service de l'industrie dans un tel contexte sont confrontées au racisme ainsi qu'au harcèlement et à l'exploitation sexuels!

T.J. Lightfoot a soumis à l'Enquête nationale un rapport publié par *Pauktuutit Inuit Women of Canada*, qui conclut que le harcèlement sexuel était un grave problème dans une mine du Nunavut. L'ouvrage a démontré que ce dernier, tout comme les agressions sexuelles, expliquent en grande partie pourquoi certaines Inuites ont démissionné<sup>I</sup>.

Le rapport *Out of Sight* préparé par Amnesty International a expliqué comment la nature des emplois dans le secteur de l'exploitation de ressources peut soumettre les femmes autochtones au harcèlement et aux abus.

Prenez des facteurs comme un milieu extrêmement stressant, l'isolement géographique et la consommation abusive d'alcool et de drogue dans certains camps, et vous venez de créer un climat malsain pour les femmes. À cela s'ajoute l'éloignement des corps policiers, qui se trouvent souvent à des heures de route. Une femme ayant séjourné dans des camps de travail a confié à Amnesty International que la majorité des hommes avec qui elle a été appelée à collaborer sont de bonnes personnes, « mais ceux qui ne le sont pas, comment dire, disons que leurs impulsions sont décuplées ».

Connie Greyeyes a décrit le harcèlement quotidien qui caractérise certains chantiers. « Tout ce qu'une femme doit endurer [...] Ce ne serait jamais toléré dans un bureau », a-t-elle affirmé. « C'est ça, la réalité, quand on s'affaire à extraire le pétrole. » Une personne de sexe féminin a indiqué à Amnesty International que « C'est une clique d'hommes qui s'entraident; si quelque chose survient, tu te tais ». Une autre a expliqué comment les superviseurs s'attendent





souvent à ce que les employées soient sexuellement disponibles pour eux. Une personne qui a travaillé dans l'industrie a déclaré au même organisme que « les soudeurs s'attendaient à certains "extras" de la part de leurs aides féminines ».

Ces comportements peuvent être encore plus agressifs envers les Autochtones de sexe féminin. Travailleur de soutien aux personnes autochtones, David Ratray, maintenant à la retraite, a affirmé que « Le racisme sur le champ de pétrole est parfois évident, mais très subtil la plupart du temps. C'est probablement à cause de cela, et à cause d'autres facteurs, qu'il y a cette présomption voulant qu'il soit facile de coucher avec une femme autochtone. Certains hommes affectés à l'extraction du pétrole considèrent les femmes autochtones comme des proies, et je redoute que ce soit cette attitude raciste qui en est, en grande partie, responsable. »

Les travailleuses ont fait mention des dangers qui les guettent sur les lieux de travail et dans les camps d'hébergement, mais aussi lors des déplacements. Il est parfois impossible, en hiver notamment, de retourner à Fort St. John en raison des routes glacées ou enneigées, car le trajet est long. Il faut alors trouver un endroit où dormir. « Et la nuit s'avère parfois tragique », a avoué une femme, qui faisait référence aux agressions sexuelles qui surviennent dans des cas où les travailleurs et les travailleuses sont contraints de partager une chambre ou un dortoir improvisé<sup>K</sup>.

Dans un rapport, Northern Health et la Provincial Health Services Authority de la Colombie-Britannique ont constaté que le développement des ressources est souvent associé au harcèlement sexuel sur les lieux de travail<sup>L</sup>.

## Horaires de travail rotatifs

Dans le cadre de l'Enquête nationale, des éléments de preuve ont été déposés démontrant que les horaires de travail rotatifs associés à la mise en valeur des richesses naturelles peuvent peser lourdement sur les relations familiales et favoriser la violence domestique. Des travaux de recherche menés par

*Pauktuutit Inuit Women of Canada* ont établi un lien entre de tels horaires de travail, l'éclatement de la famille et la violence en milieu familial au Nunavut.

Les travailleurs de la mine Meadowbank sont soumis à un horaire rotatif de deux semaines, ce qui signifie que les employés inuits demeurent sur le site minier pendant 14 jours avant de retourner chez eux à Qamani'tuaq pour les 14 jours suivants. Cette absence prolongée, loin du partenaire de vie et de la famille, crée des tensions et un mouvement de jalousie au sein du ménage; le travailleur revient chez lui épuisé, et son manque de disponibilité pour sa conjointe et pour l'exercice de ses responsabilités familiales cristallise graduellement le mécontentement. Par l'entremise d'un sondage et d'entretiens, de nombreuses femmes ont exprimé des préoccupations quant aux ragots et aux rumeurs qui circulent dans la communauté à l'égard de soi-disant relations extraconjugales sur les lieux de travail. Selon le sondage, plus de 60 pour cent des femmes ont indiqué que leur relation était plus tendue depuis l'ouverture de la mine en raison des potins que l'on raconte.

Conformément au calendrier établi, les employés de Meadowbank, lorsqu'ils logent au site minier, peuvent travailler 12 heures par jour, sept jours sur sept. Deux semaines plus tard, ils retournent à Qamani'tuaq, fatigués et exténués, n'ayant que peu d'énergie à consacrer à leurs proches. Ces travailleurs sont parfois perçus par les leurs comme étant insensibles aux besoins de la famille et non disposés à prendre part aux tâches ménagères, ce qui provoque des tensions. En conjuguant cela au stress engendré par la jalousie, des femmes ont déclaré que les horaires prévoyant deux semaines de travail et deux semaines de congé nuisent à la cohésion du noyau familial et mènent à l'éclatement de celui-ci<sup>M</sup>.

Une autre étude réalisée par *Pauktuutit Inuit Women of Canada* affirme :

L'horaire de travail réparti sur deux semaines rotatives fait en sorte que le salarié est loin des siens pendant un certain temps, absence qui cause de la jalousie. Bon nombre de nos sources ont fait remarquer que la mine a mis les relations





conjugales à rude épreuve. Une personne éprouvant de la jalousie ou ayant des doutes à propos de son partenaire alors qu'il est à la mine, ou encore qui est seule et isolée avec les moyens d'acheter de la drogue ou de l'alcool, risque de décharger sa colère (les hommes, principalement) sur son partenaire à son retour au foyer<sup>N</sup>.

Ces constatations sont corroborées par des travaux de recherche menés ailleurs. Un rapport compilé en 2008 par l'Organisation nationale de la santé autochtone souligne que les horaires de travail rotatifs associés aux exploitations diamantifères dans les Territoires du Nord-Ouest sont venus aggraver les problèmes de violence familiale dans les communautés autochtones.

Les travaux d'aménagement de l'exploitation minière Diavik ont eu des répercussions sexospécifiques négatives au sein de la communauté, dont une hausse des agressions conjugales et de la toxicomanie qui y est associée. Des femmes mariées à des employés de la mine ont déclaré que les longues absences de leur conjoint attribuables aux horaires rotatifs exerçaient des pressions sur leurs rapports. En conséquence, des situations conflictuelles touchant la famille ne sont jamais abordées ni réglées, ce qui perturbe le comportement des enfants<sup>O</sup>.

Un rapport préparé par *Northern Health* et la *Provincial Health Services Authority* de la Colombie-Britannique a montré une corrélation entre le travail régi par des horaires rotatifs et la violence familiale dans le nord de cette province.

Il est bien connu que les séquences de travail variables, particulièrement les horaires rotatifs et les affectations de longue durée, peuvent avoir des effets néfastes sur le bien-être du travailleur, mais aussi sur celui de son partenaire de vie tout comme sur celui de ses enfants. Ces effets se manifestent notamment sous la forme de troubles du sommeil, de dépression, de toxicomanie et de violence familiale<sup>P</sup>.

## Toxicomanie et dépendance

Des preuves soumises aux commissaires attestent que la hausse de la consommation d'alcool et de drogue associée aux activités extractives peut contribuer à aviver la violence familiale au sein des communautés autochtones. De plus, un rapport rédigé par la *Women's Earth Alliance* et le *Native Youth Sexual Health Network* soutient que l'accessibilité grandissante aux drogues peut aggraver le traumatisme que vivent les familles autochtones.

L'arrivée massive de travailleurs industriels sur un territoire riche en ressources naturelles appartenant aux peuples autochtones entraîne aussi une prolifération rapide du crime et de la drogue. Cette main-d'œuvre migrante ne tisse que peu de liens avec les communautés environnantes touchées par son passage, et leur démontre tout aussi peu d'intérêt. La population développe alors de nouvelles dépendances, ce qui crée une véritable commotion au sein des familles, et les problèmes ne font que s'aggraver avec l'afflux croissant de non-Autochtones, des hommes principalement, qui consomment et vendent de la drogue alors qu'ils sont au service de l'industrie<sup>Q</sup>.

Une recherche s'intéressant à l'incidence des projets d'extraction de ressources sur les femmes inuites, que l'on doit à *Pauktuutit Inuit Women of Canada*, démontre une hausse significative de la consommation d'alcool à Baker Lake, dans le cadre de l'aménagement d'une exploitation aurifère. Cette augmentation a été associée à une montée de la violence familiale.

La consommation d'alcool à Qamani'tuaq a crû de manière considérable. La Gendarmerie royale du Canada (GRC) rapporte que le nombre de permis délivrés pour son importation est passé de 3 000 en 2009 à 6 105 en 2011, un bond de plus de 100 %. Le nombre d'incidents où les agents de la GRC ont été appelés à intervenir a lui aussi explosé, passant de 540 en 2008 à plus de 800 en 2011. C'est le cas notamment des querelles de ménage, y compris les incidents de violence familiale. Le portrait que les femmes





inuites brossent de la situation met en lumière des répercussions qui s'entrecourent. L'alternance travail-congé qui a cours toutes les deux semaines sème la jalousie et le doute, ce qui envenime les relations interpersonnelles. Les rapports qui étaient déjà fragiles avant l'arrivée de la mine sont mis à mal par la distance, et aussi par la crainte d'une liaison adultère ou d'une idylle naissante au travail. La présence d'alcool, dont l'achat est facilité grâce à une hausse du revenu disponible, tout comme la crainte, la peur et la jalousie, entraînent des incidents en milieu familial, notamment de la violence<sup>R</sup>.

Lors du témoignage qu'elle a livré devant l'Enquête nationale, Jacqueline Hansen, d'Amnesty International, a détaillé comment les horaires de travail rotatifs peuvent exacerber les problèmes de dépendance et les troubles de santé mentale en rendant problématique le traitement de ceux-ci.

Et lorsque l'on tient compte des conditions de travail de ces gens, eux qui sont parfois cloîtrés dans un camp pendant un mois, qui ont, vous savez, un travail excessivement exigeant, qui s'affairent pendant de longues heures, qui sont souvent éloignés de leur famille, de leurs amis et de leurs appuis, qui doivent s'adapter à un horaire rotatif les empêchant de se rendre à Fort St. John pour traiter leurs dépendances et obtenir de l'aide psychologique, ou même des soins de santé de base<sup>S</sup>.

Le rapprochement entre l'extraction de ressources, la toxicomanie et la violence à l'endroit des femmes autochtones est aussi analysé dans de nombreux autres ouvrages. Par exemple, un rapport préparé par *Northern Health* et la *Provincial Health Services Authority* de la Colombie-Britannique a établi un lien étroit entre la mise en valeur des richesses naturelles et la toxicomanie dans le nord de la province.

Les chercheurs font remarquer que bon nombre des travailleurs postés dans un camp allouent une grande partie de leur revenu à l'achat d'alcool et de drogues. Étant répandue chez les travailleurs logeant dans un campement du nord de la Colombie-Britannique, la consommation abusive de ces substances a été liée à un certain nombre de facteurs, notamment les conditions

et le milieu de travail (p. ex. l'isolement social et l'absence de relations familiales, « l'hypermasculinité » véhiculée de manière constante dans les camps industriels, les longues heures et les conditions d'emploi stressantes, le nombre limité d'activités sociales et récréatives). Des personnes travaillant au sein de l'industrie pétrolière et gazière depuis leur adolescence ont déclaré que leur entrée en fonction coïncide avec leur premier contact avec le monde de la drogue<sup>T</sup>.

## Précarité économique

L'extraction des ressources peut accroître l'insécurité économique des femmes autochtones, car il leur est très difficile de prendre part à l'économie qui en découle. En effet, la nature rotative des horaires de travail empêche un grand nombre de mères de conserver un emploi dans une mine ou un champ pétrolifère. Le harcèlement et les agressions sexuels, la discrimination fondée sur la race et les milieux de travail « hypermasculins » font tous obstacle à l'intégration des femmes autochtones à la main-d'œuvre<sup>U</sup>. Celles qui ne travaillent pas dans le domaine minier n'ont souvent d'autre choix que de se tourner vers des corps de métier relativement peu payants, comme l'entretien ménager, le nettoyage et les services alimentaires<sup>V</sup>. Parallèlement, l'explosion démographique qu'entraînent les boums attribuables à l'extraction des ressources peut engendrer une inflation élevée et un manque de logements<sup>W</sup>.

Les témoins entendus dans le cadre de l'Enquête nationale affirment que l'effet conjoint de cette faible participation à l'économie extractive et de la hausse du coût de la vie peut donner lieu à une précarité économique extrême chez les femmes autochtones, ce qui les expose à un risque accru d'être victimes de violence. Connie Greyeyes, à titre d'exemple, a expliqué aux commissaires que beaucoup de femmes autochtones dans le nord de la Colombie-Britannique demeurent prisonnières de relations abusives, car elles dépendent économiquement de leur conjoint.

À Fort St. John, il est presque impossible pour une femme de mettre fin à une relation sans se retrouver extrêmement pauvre. Quand on regarde les entreprises qui font tourner l'endroit,





on réalise que ce n'est pas un hasard si on l'appelle la « Ville de l'énergie ». Le développement économique étant si intense, le coût des aliments, des logements et de pratiquement tout le reste a grimpé en flèche. Vous savez, un logement délabré en très, très mauvais état comprenant une seule chambre à coucher se loue au bas mot 1 200 \$ par mois. Sinon, c'est une facture d'électricité de 400 \$ à 500 \$ que l'on doit songer à payer chaque mois, ou même tous les trois mois, parce que, vous savez, il faut qu'on paye pour ce chantier qui bafoue nos droits.

Les femmes que l'on soutient et qui souhaiteraient partir nous disent souvent : « C'est impossible. Je vais endurer ce que je vis pour que mes enfants ne grandissent pas dans la pauvreté. Il dit que si je pars, je devrai me débrouiller seule. Vous comprenez<sup>X</sup>? »

Selon le rapport d'Amnesty International, la précarité économique associée à l'extraction des ressources peut aussi pousser les femmes autochtones vers des situations dangereuses pour réussir à joindre les deux bouts.

La vie est difficile dans le nord-est de la Colombie-Britannique pour quiconque ne dispose pas d'un salaire élevé propre à l'industrie des ressources naturelles. À mesure que le secteur de l'énergie s'est développé dans la région, les prix des logements, de la nourriture, de la garderie et du transport ont augmenté proportionnellement à la généreuse rémunération versée à ses travailleurs, ce qui a diminué comme jamais auparavant la capacité des autres à subvenir à leurs besoins. Le nombre de personnes venant dans le coin pour pourvoir un poste a causé des pénuries intermittentes de biens et de services essentiels, notamment de logements et de places en garderie. Les autres qui gagnent un petit salaire ou un revenu fixe, ou encore les travailleurs qui sont remerciés par l'industrie, subissent une contrainte majeure quand vient le temps de choisir où vivre et travailler. Ces personnes peuvent alors se retrouver dans des situations précaires, habitant par exemple des logements insalubres ou travaillant pendant des quarts de nuit sans pouvoir compter sur le transport en commun. Certaines femmes ont confié au personnel

d'Amnesty International que l'absence de choix les force à s'adonner au commerce du sexe pour boucler les fins de mois<sup>Y</sup>.

L'ouvrage souligne que les rapports sexuels rémunérés peuvent poser des risques importants pour la sécurité des femmes.

La prostitution et les autres formes de commerce sexuel sont fortement stigmatisées et aussi largement criminalisées, l'achat de tels services étant illégal au Canada. La réprobation de ceux-ci jumelée à leur caractère illicite ou à l'utilisation de drogue qui les accompagnent fait que les travailleuses du sexe peuvent hésiter à dénoncer la violence par peur de représailles ou de sanctions de la part des autorités policières; les hommes profitent alors de ces circonstances pour se livrer à des actes de violence en toute impunité<sup>Z</sup>.

Un rapport préparé par Northern Health et la Provincial Health Services Authority de la Colombie-Britannique a aussi établi des liens entre l'extraction de ressources, la précarité économique, la prostitution et la violence.

La migration attribuable aux projets industriels peut contribuer à l'augmentation du nombre de personnes se livrant à la prostitution au sein des petites communautés établies à proximité des mines, des pipelines et des autres chantiers. Cela est largement attribuable à l'affluence de centaines, voire de milliers de travailleurs temporaires souvent jeunes, célibataires et de sexe masculin, ayant un revenu disponible élevé, et qui se retrouvent isolés dans des campements pendant de longues périodes. Cette perspective est particulièrement inquiétante pour les femmes et les filles, qui sont plus susceptibles de s'adonner au commerce du sexe. De plus [...] il est rapporté que la mise en valeur des ressources s'accompagne de violence familiale et d'insécurité sur les plans de l'économie et du logement; ces facteurs, on le sait, poussent certaines personnes à se livrer au commerce sexuel. La prostitution a été associée à un certain nombre de risques pour la santé et la sécurité, comme une augmentation des infections transmissibles sexuellement et de la violence<sup>AA</sup>.





## Initiatives de l'industrie et sécurité des femmes autochtones

Les représentants de l'industrie minière rappellent souvent les mesures prises par les sociétés afin de protéger les femmes autochtones. Par exemple, Alex Buchanan, vice-président de la *NWT & Nunavut Chamber of Mines*, a répondu au témoignage de T.J. Lightfoot par une lettre publiée dans le *Nunatsiaq News*. Monsieur Buchanan laisse entendre que cette dernière exagère l'ampleur du danger que représentent les sites miniers pour les femmes.

Nous mettons fortement l'accent sur la santé et la sécurité de nos employés. Nous nous sommes soumis à des évaluations environnementales rigoureuses et devons nous conformer aux modalités socio-économiques en tenant compte des préoccupations réelles de la communauté.

Nous avons tous l'obligation d'optimiser la participation inuite à nos activités, y compris celle des femmes inuites.

De plus, nos structures de gouvernance sont toutes semblables. Les normes du travail et de l'industrie prescrivent notamment des dispositions visant le signalement de toute conduite répréhensible, des mesures à prendre en cas de harcèlement, des conventions de sécurité, des mécanismes de prise en compte des réalités culturelles, et des procédures pouvant mener au licenciement en cas de comportement inadmissible.

Ces politiques sont mises en œuvre sur une base quotidienne et peuvent notamment entraîner le renvoi de tout employé masculin ayant un comportement inacceptable envers une collègue féminine.

[...]

Par notre mode de fonctionnement, et aussi en raison du cadre réglementaire et du régime foncier que nous devons respecter, les mines du Nunavut sont sécuritaires pour les femmes qui y vivent et y travaillent.

Les sociétés minières sont des sociétés humaines. Bien que nous mettions tout en œuvre pour éviter les dérapages, des incidents où les femmes sont victimes d'abus peuvent se produire, et se produisent.

Certains d'entre eux sont très médiatisés, mais il n'en reste pas moins que les femmes sont nettement plus en sûreté dans nos mines qu'elles le sont à la maison. Ce fait a été omis du témoignage de madame Lightfoot<sup>BB</sup>.

L'affirmation voulant que « les femmes soient nettement plus en sûreté dans les mines qu'elles le sont à la maison » est une déformation grossière de l'incidence que peuvent avoir les industries extractives sur la sécurité des femmes et des filles autochtones. Or, si la plupart des sociétés commerciales se sont dotées de politiques relatives au harcèlement sexuel, il reste à démontrer que celles-ci sont toutes mises en application de façon significative. Selon Amnesty International, la manière dont les superviseurs traitent les plaintes relatives au harcèlement sexuel en milieu de travail fluctue grandement dans le nord de la Colombie-Britannique.

Certaines femmes ont rapporté au personnel de l'organisme que leur supérieur a agi promptement dès le signalement des faits, renvoyant l'employé fautif et prenant des mesures pour que ce dernier ne puisse plus jamais travailler au sein de l'entreprise. D'autres, toutefois, ont affirmé que leurs doléances ont été ignorées et que le harcèlement en milieu de travail était tacitement toléré en raison de l'immobilisme des superviseurs et des autres travailleurs<sup>CC</sup>.

Amnesty International a aussi démontré que bon nombre de femmes ne rapportent pas les actes d'agression et de harcèlement sexuel par crainte de représailles.

Une femme a confié à des représentants de l'organisme qu'une de ses collègues a été agressée sexuellement sur un chantier de construction; la victime n'a rien dit, craignant de perdre son emploi. Une autre a indiqué qu'une de ses collègues, ayant rapporté avoir été victime d'agression sexuelle, a été renvoyée par





l'employeur, et qu'elle n'a plus jamais été en mesure d'obtenir un emploi dans le domaine. Enfin, une femme victime de harcèlement a déclaré ne pas en avoir informé son supérieur immédiat parce qu'elle était nouvellement en poste et ne voulait pas nuire à sa réputation ni à ses perspectives d'emploi. Elle a déclaré, en faisant référence à ses collègues de sexe masculin qui ont été témoins de ce harcèlement, que : « Personne ne s'est porté à ma défense<sup>DD</sup>. »

## Travaux d'extraction, processus décisionnel et sécurité des femmes autochtones

Les organisations et les groupes de soutien aux femmes autochtones ont demandé à maintes reprises à ce que des analyses sexospécifiques fassent partie du processus d'évaluation des impacts socio-économiques des projets envisagés d'extraction de ressources naturelles<sup>EE</sup>. Un examen des rapports d'analyse environnementale visant le nord du Québec, le Nunavut et les Territoires du Nord-Ouest démontre une variabilité considérable de la mesure selon laquelle le sexe est pris en considération lors des évaluations de telles incidences<sup>FF</sup>. Selon Amnesty International, les répercussions sexospécifiques des activités d'extraction en Colombie-Britannique ne sont pas examinées de façon adéquate afin de rendre une décision à propos de leur mise en valeur.

Chaque décision est rendue au cas par cas sans qu'une attention adéquate soit portée sur les impacts sociaux cumulatifs à long terme, y compris les effets touchant précisément les femmes et les filles autochtones. Les droits territoriaux des peuples autochtones, qui sont protégés en vertu de traités historiques et enchâssés dans la Constitution canadienne, ne sont pas formellement intégrés au processus d'approbation. Qui plus est, l'analyse des impacts distincts de telles initiatives sur les personnes de toutes identités de genre confondues, mais en particulier sur les femmes et les filles, n'est presque jamais prise en compte dans le cadre du processus décisionnel à l'échelle nationale, et elle n'a jamais fait partie du processus décisionnel concernant les projets dans le nord-est de la Colombie-Britannique. Pourtant, ce type

d'analyse est nécessaire pour les projets mis de l'avant par un pays bénéficiant d'une aide au développement international accordée par le gouvernement canadien<sup>GG</sup>.

Des travaux de recherche menés par les Premières Nations pour l'évaluation d'un gazoduc envisagé révèlent que les effets sociaux des campements de travail ne sont pas examinés convenablement dans le cadre de la planification du développement en Colombie-Britannique.

Les répercussions culturelles et sociales des camps industriels ne sont pas adéquatement évaluées au moment de planifier le développement économique. Actuellement, les Autochtones, plus particulièrement les femmes et les enfants, sont les plus vulnérables et exposés aux effets néfastes de tels camps, dont les agressions sexuelles. L'objet principal de l'évaluation environnementale doit être modifié de manière à ce que les communautés, tout comme les femmes et les enfants, n'aient pas à porter l'odieux de ces campements. Ce faisant, chaque partie doit prendre connaissance des enjeux sociaux, environnementaux et culturels au moment d'évaluer l'aménagement et l'emplacement des camps industriels. Les organismes gouvernementaux doivent planifier la prestation de services dans le Nord dans le but précis d'apporter des solutions aux problèmes soulevés par ce type de travail; ils doivent aussi financer adéquatement une telle prestation et la rendre disponible auprès des populations déjà vulnérables<sup>HH</sup>.

Certains chercheurs ont recommandé que les ententes sur les répercussions et les avantages, qui sont conclues entre l'industrie et les communautés autochtones, fassent office de mécanismes servant à minimiser les impacts négatifs que les projets d'extraction de ressources peuvent avoir sur les femmes autochtones<sup>II</sup>. Toutefois, des études révèlent que les programmes visant à accroître la contribution des Autochtones à la main-d'œuvre des secteurs miniers, pétroliers et gaziers ne réussissent souvent pas à éliminer les obstacles à l'embauche des femmes autochtones<sup>JJ</sup>. Des chercheurs s'intéressant aux impacts socio-économiques de l'industrie minière au Nunavut soutiennent qu'une entente inuite sur les répercussions et les avantages (EIRA) a finalement fait





très peu pour mitiger les incidences négatives sur les femmes inuites de Baker Lake.

Bon nombre des problèmes et des impacts négatifs qu'ont vécus les participants aux travaux de recherche furent mentionnés dans l'EIRA à titre de besoins communautaires ou de risques pour la communauté afin d'assurer un suivi de ceux-ci et le financement de mesures de soutien. Même si l'EIRA prévoyait les effets de l'exploitation minière sur les employés, leur famille et la population, aucun des besoins présentés dans cette entente n'a été évalué sur une base régulière, et aucun des programmes ni des services de portée générale visant à satisfaire ces besoins n'ont été mis en œuvre, et ce, en dépit d'un transfert de fonds effectué par la société minière à l'association inuite régionale. À ce jour, aucun rapport portant sur le mieux-être n'a été produit ni rendu public, ce qui laisse planer une grande incertitude entourant les impacts de la mine sur les habitants de Qamani'tuaq, et sur les femmes, notamment.

Les intérêts politiques ainsi que la capacité organisationnelle limitée des administrations locales, régionales et territoriales semblent avoir eu une certaine incidence dans la mise en œuvre de l'accord, tout comme la transparence et la responsabilité publiques réduites<sup>KK</sup>.

Les porte-paroles de plusieurs organisations et communautés autochtones, notamment les chefs des Premières Nations de York Factory, de War Lake et de Fox Lake, ainsi que de la Première Nation Tataskweyak<sup>LL</sup>, de même que le chef régional manitobain de l'Assemblée des Premières Nations, ont aussi demandé à ce que le gouvernement de la province mette sur pied une enquête publique sur la violence sexuelle et le racisme dans le cadre de projets hydroélectriques aménagés dans le nord du Manitoba<sup>MM</sup>.

Selon des preuves substantielles, une attention toute particulière doit être consacrée au problème grave découlant de la relation qui unit les projets d'extraction de ressources à la violence contre les femmes autochtones. L'intérêt d'une telle approche est d'aider les victimes d'actes criminels à obtenir justice et de colliger des renseignements pour établir des stratégies afin de s'attaquer à ce problème dès aujourd'hui.

## Conclusion

L'Enquête nationale est d'avis qu'il est urgent de tenir compte de la sécurité des femmes autochtones à chaque étape de la planification, de l'évaluation, de la gestion et de l'encadrement d'un projet, et ce, de façon constante. Les autorités fédérales, provinciales, territoriales et autochtones doivent adopter une approche sexospécifique pour analyser les évaluations socio-économiques et passer en revue les rapports déposés dans le cadre de chaque projet de mise en valeur des ressources sur les territoires autochtones ou à proximité de ceux-ci, qu'il soit proposé ou en cours. L'industrie et les gouvernements autochtones doivent prévoir des dispositions pour protéger les femmes et les filles autochtones au moment de négocier chaque entente sur les répercussions et les avantages.

De plus, les formes de violence rapportées par les témoins démontrent à quel point la participation de toute la population canadienne est requise pour résoudre la crise qui frappe les femmes, les filles et les personnes 2ELGBTQQIA autochtones, y compris l'apport des travailleurs qui peuvent contribuer à aggraver le problème en ayant eux-mêmes recours à la violence, ou en faisant en sorte que cette violence soit passée sous silence et normalisée comme étant partie intégrante du milieu de travail. Cela vient mettre en avant le concept véhiculé dans les pages de ce rapport final voulant que les relations sont importantes et peuvent s'avérer transformatrices. Cela indique aussi que le type de changement qui, en fin de compte, améliorera les perspectives des femmes, des filles et des personnes 2ELGBTQQIA autochtones, exige que des modifications sont apportées au système lui-même, et que des gestes positifs soient posés par toute personne faisant aujourd'hui la promotion du racisme et des structures racistes, et contribuant à assurer leur pérennité dans le cadre du statu quo existant.





## Conclusions

- Il existe des preuves substantielles d'un grave problème illustré par le lien entre les projets d'extraction de ressources et la violence contre les femmes, les filles et les personnes 2ELGBTQQIA autochtones. Les camps de travailleurs, associés à l'industrie d'extraction de ressources entraînent des taux plus élevés de violence à l'égard des femmes autochtones dans les camps mêmes et dans les communautés voisines.
- Cette augmentation du taux de violence résulte en grande partie de l'établissement de camps de jeunes hommes, la plupart non autochtones, qui touchent des salaires élevés et qui ont très peu d'intérêt, voire aucun, envers la communauté autochtone d'accueil.
- Ce secteur crée des villes champignons et des milieux remplis de camps de travailleurs qui contribuent aux taux accrus d'infractions sexuelles et de délits liés à la drogue ou à l'alcool, à la violence familiale et à celle des gangs ainsi qu'aux activités de l'industrie du sexe dans les communautés d'accueil. Ces méfaits touchent les femmes, les filles et les personnes 2ELGBTQQIA autochtones de façon disproportionnée.
- L'afflux de personnes, en raison des camps de travailleurs, à proximité ou au sein des communautés autochtones éloignées et rurales accroît la pression exercée sur une infrastructure sociale déjà limitée, par exemple les services de police, de santé et de santé mentale.
- En plus des répercussions sociales défavorables de cette industrie sur les femmes, les filles et les personnes 2ELGBTQQIA autochtones, il est évident qu'elles ne bénéficient pas des retombées économiques.
- Les femmes autochtones se heurtent à d'importants obstacles qui entravent leur participation au secteur de l'exploitation de ressources, car ce milieu de travail est souvent nettement masculin et hypersexualisé. Les femmes autochtones qui travaillent dans ces camps et dans ce secteur en général connaissent des taux élevés de racisme, de harcèlement sexuel et de violence en milieu de travail. En outre, ces camps se trouvent habituellement loin des services d'application de la loi et, par conséquent, ils échappent à la surveillance policière.
- La nature du travail, en particulier les horaires par quarts et les aller-retour entre le domicile et des endroits isolés, dissuade également les femmes de participer aux projets d'extraction. En effet, ce type de travail est incompatible avec leur vie familiale et les empêche d'y prendre pleinement part et de s'impliquer dans leur communauté. Lorsque les femmes décrochent un emploi dans ce secteur, on leur confie souvent des postes peu rémunérés, notamment au sein des services d'entretien ménager ou d'alimentation.
- La création d'une ville champignon par la présence d'un projet d'extraction engendre souvent des taux d'inflation élevés et une hausse du coût de la vie dans les communautés d'accueil. Les femmes autochtones sont touchées de façon disproportionnée par cette situation, ce qui contribue à leur insécurité économique.





- A Deneault et Sacher, *Imperial Canada Inc.*, 16; TMX Group, « Mining. »
- B Connie Greeyes (Nation Crie Bigstone), Parties II et III mixtes, Volume public 6, Québec City, Qc, pp. 58–60.
- C Amnesty International, *Out of Sight*, 44.
- D T.J. Lightfoot (Mi'kmaq), Parties II et III mixtes, Volume public 3, Iqaluit, Nt, pp. 155–156.
- E Women's Earth Alliance et 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), Parties II et III mixtes, Volume public 3, Iqaluit, Nt, p. 155.
- J Czyzewski, Tester, Aaruaq, et Blangy, *Impact of Resource Extraction*.
- K Amnesty International, *Out of Sight*, 43.
- L Aalhus, « The Social Determinants of Health Impacts. »
- M Nightingale, Czyzewski, Tester, et Aaruaq, « The Effects of Resource Extraction, » 376–77.
- N Czyzewski, Tester, Aaruaq, et Blangy, « *Impact of Resource Extraction*, » 31.
- O Organisation nationale de la santé autochtone, *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, Parties II et III mixtes, Volume public 6, Québec City, Qc, p. 57.
- T Aalhus, « The Social Determinates of Health Impacts, » 17.
- U Mills, Dowsley, and Cameron, « Gender in Research. »
- V Organisation nationale de la santé autochtone, *Resource Extraction*.
- W Ensign, Giles, et Oncescu, « Natural Resource Exploration »; Aalhus, « The Social Determinants of Health Impacts »; Nightingale, Czyzewski, Tester, et Aaruaq, « The Effects of Resource Extraction »; Rodon et Levesque, « Understanding the Social and Economic Impacts, » 41.
- X Connie Greeyes (Nation Crie Bigstone), Parties II et III mixtes, Volume public 6, Québec 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 et Crnkovich, *If Gender Mattered*; Czyzewski, Tester, Aaruaq, et Blangy, « Impacts of Resource Extraction. »
- FF Dalseg, Kuokkanen, Mills, et Simmons, « Gendered Environmental Assessments. »
- GG Amnesty International, *Out of Sight*, 5.
- HH Firelight Group, Lake Babine Nation et Nak'azdli Whut'en Nation, « Indigenous Communities and Industrial Camps, » 6.
- II O'Faircheallaigh, « Making Social Impact Assessment Count. »
- JJ Mills, Dowsley, et Cameron, « Gender in Research. »
- KK Nightingale, Czyzewski, Tester, et Aaruaq, « The Effects of Resource Extraction, » 380.
- LL CBC News, « First Nations rally. »
- MM CBC News, « AFN seeks public inquiry. »





## Les facteurs favorisant la violence: nier la capacité d’agir et l’expertise des femmes autochtones pour rétablir la sécurité

En réponse au puissant appel de Nakuset de défier la norme selon laquelle la sécurité des femmes, des filles et des personnes 2ELGBTQQIA autochtones importe peu, nous partageons maintenant les nombreux exemples fournis par les survivantes, les familles, les représentants d’organismes communautaires et les défenseurs des droits qui travaillent sans relâche pour rétablir et protéger le droit à la sécurité des femmes, des filles et des personnes 2ELGBTQQIA autochtones. Comme nous l’avons fait valoir tout au long de ce rapport, les menaces à la sécurité humaine dirigées contre les femmes, les filles et les personnes 2ELGBTQQIA autochtones sont également un facteur important de résistance, de capacité d’agir et d’expertise. Comme nous l’avons entendu à maintes reprises, les femmes, les filles et les personnes 2ELGBTQQIA autochtones savent ce dont elles ont besoin pour assurer leur sécurité et protéger leurs proches. Nous examinons ici plus attentivement les stratégies et recommandations concrètes proposées par les témoins et qui sont, selon eux, essentielles à la lutte contre la violence interpersonnelle, la pauvreté, l’itinérance, les obstacles à l’éducation et à l’emploi, et les autres formes de marginalisation sociale, économique et politique.

### **Honorer la résistance et comprendre ce qui a été perdu**

Les familles et les survivantes qui ont raconté ces histoires de violence et de manque de sécurité ont également décrit la résistance à cette violence et clairement démontré les efforts souvent extraordinaires qu’ils ont dû déployer pour protéger leur famille et leur communauté, et l’ampleur de la perte que représente la disparition ou le décès de proches.

Michele G. a expliqué de quelle façon elle a réussi à se protéger en se déplaçant et en se cachant lorsqu’elle était itinérante à 14 ans.

Souvent la nuit, je marchais simplement aux alentours toute la nuit parce que, de cette façon, j’avais l’impression d’avoir plus le contrôle. Je n’ai jamais bu toute seule. J’étais toujours sobre sauf quand j’étais avec d’autres personnes. Je n’ai jamais mendié pour boire ou pour m’acheter de la drogue. Je mendiais pour manger. Et quand je marchais la nuit, je savais toujours quand les sales types m’avaient repérée parce qu’ils commençaient à faire le tour du bloc dans leur voiture pour essayer de savoir où j’étais allée, et chaque fois, je me trouvais un endroit où me cacher jusqu’à ce qu’ils partent [...]. Et je me suis toujours souvenue de cette pensée qui m’obsédait : est-ce que il y a quelqu’un quelque part qui ne s’en fout pas<sup>148</sup>?

Chef Vivian T. a décrit les efforts qu’elle a dû déployer pour résister à la violence qu’elle a vécue étant enfant : « Je me cachais dans le grenier, je me cachais au fond du petit bois, je me cachais dans le hall hanté. » Sa propre insécurité l’a amenée à s’assurer que ses enfants ne vivaient pas la même peur à la maison.



Lorsque je suis retournée à l'école, ou au collège ou à l'université, je me suis assurée qu'on prenait bien soin d'eux [ses enfants] et qu'ils étaient protégés. Quand mon mari buvait, il sortait de la maison. Il ne revenait pas avec des gens qui font la fête et n'arrivait pas saoul. Et il respectait la règle qui interdisait de boire à la maison. Et je suis heureuse, vous savez; les enfants vivaient dans un endroit sûr<sup>149</sup>.

En réfléchissant à la vie de leurs proches disparues ou assassinées, les membres de famille ont parlé avec vénération des moyens qu'elles ont utilisés pour résister à la violence. Malgré la violence qui a dominé la vie de sa mère et, par la suite, sa propre vie, Cee-Jai a décrit celle-ci comme « son idole », car elle a fait preuve d'un grand héroïsme lorsqu'elle a essayé d'assurer sa propre sécurité et celle de ses enfants sans aucun soutien.

Je me souviendrai toujours de ma mère [...] ma mère était mon idole. Elle l'est encore aujourd'hui. Quand nous sommes allées à Vancouver en autobus Greyhound avec ma sœur et ma mère, je ne savais pas où nous allions, mais je savais que c'était un nouvel endroit. Je crois que c'est ma mère qui avait eu l'idée, si je partais d'ici, nous aurions une meilleure vie. Je vais amener mes filles avec moi. Elle a dû se battre fort contre son alcoolisme pour nous ravoir. Mais, en tant que mère monoparentale, elle n'a peut-être pas eu beaucoup de soutien<sup>150</sup>.

Pour Grace T., la preuve que sa mère désirait protéger ses enfants malgré la pauvreté et la menace constante de violence d'un mari abusif a pris la forme de riz frit aux saucisses.

À n'importe quelle occasion, il achetait tout ce qu'il voulait pour lui, et nous avions faim la plupart du temps, et nous avions l'essentiel, et je félicite toujours ma mère parce que je n'ai jamais, jamais goûté un riz frit comme le sien. C'était du riz frit aux saucisses et c'était le meilleur, et le ragoût de saucisson de Bologne au ketchup était le meilleur, et j'adore ces choses maintenant que je suis adulte, parce que c'est réconfortant pour moi parce qu'elle les faisait avec amour, et elle était très bonne cuisinière, alors ses meilleures intentions étaient toujours de veiller à ce que notre enfance soit comme son enfance : heureuse, nourrie et aimée<sup>151</sup>.

« SOUVENT LA NUIT, JE MARCHAIS SIMPLEMENT AUX ALENTOURS TOUTE LA NUIT PARCE QUE, DE CETTE FAÇON, J'AVAIS L'IMPRESSION D'AVOIR PLUS LE CONTRÔLE. JE N'AI JAMAIS BU TOUTE SEULE. J'ÉTAIS TOUJOURS SOBRE SAUF QUAND J'ÉTAIS AVEC D'AUTRES PERSONNES. JE N'AI JAMAIS MENDIÉ POUR BOIRE OU POUR M'ACHETER DE LA DROGUE. JE MENDIAIS POUR MANGER. ET QUAND JE MARCHAIS LA NUIT, JE SAVAIS TOUJOURS QUAND LES SALES TYPES M'AVAIENT REPÉRÉE PARCE QU'ILS COMMENÇAIENT À FAIRE LE TOUR DU BLOC DANS LEUR VOITURE POUR ESSAYER DE SAVOIR OÙ J'ÉTAIS ALLÉE, ET CHAQUE FOIS, JE ME TROUVAIS UN ENDROIT OÙ ME CACHER JUSQU'À CE QU'ILS PARTENT [...]. ET JE ME SUIS TOUJOURS SOUVENUE DE CETTE PENSÉE QUI M'OBSÉDAIT : EST-CE QUE IL Y A QUELQU'UN QUELQUE PART QUI NE S'EN FOUT PAS? »

Michele G.



La plupart du temps, les familles inuites ont parlé de leurs proches en des termes affectueux et avaient des souvenirs de l'amour et de la vie qu'elles ont partagés. Elles nous décrivaient leur personnalité, disaient qu'elle était extravertie ou pleine d'entrain, qu'elle plaisantait toujours, que c'était une enfant très sage qui ne faisait jamais rien de mal, qu'elle était très gentille et aidait les autres, qu'elle était belle. Le décès des proches et l'expérience de la violence et de la tragédie ont entraîné un grand sentiment de perte dans les familles qui s'est traduit, pour leurs membres, par une lutte constante pour préserver leur santé et leur bien-être personnels. Les expériences qu'ont vécues les femmes inuites et leur famille, les événements qu'elles ont vécus lorsqu'elles ont essayé de reprendre le contrôle de leur vie pour assurer leur bien-être et leur santé et pour obtenir justice et être en sécurité, ont eu une incidence sur la tournure qu'a prise celle-ci.

En reconnaissant et en nommant ces actes de résistance, les survivantes et les membres de famille ont rappelé de façon percutante la force, le courage et la créativité dont ont fait preuve les femmes, les filles et les personnes 2ELGBTQQIA autochtones pour lutter contre la violence et les autres menaces à leur sécurité. Pour Allan Wade, ces actes de résistance contredisent manifestement les croyances et les stéréotypes coloniaux qui dépeignent les peuples autochtones comme étant responsables de leur propre victimisation.

Et alors, les gens ont commencé à [...] lorsqu'ils réagissent, ils commencent à éprouver un sentiment de, à penser « J'ai fait ce que j'ai pu. Peut-être que je n'ai pas pu y mettre fin, mais ça ne signifie pas que j'ai laissé faire. » Et on commence à remarquer de quelle façon les gens prennent soin les uns des autres dans des situations épouvantables et essaient de se protéger et de protéger leurs proches. Alors c'est là que commence le processus de reconnaissance de leur capacité préexistante, de leurs compétences préexistantes, de leurs aptitudes préexistantes, et de tous les moyens qu'ils ont utilisés pour essayer de mettre fin à la violence et d'améliorer leur vie<sup>152</sup>.



*À Toronto, le témoin expert Tanya Talaga partage son expertise sur les expériences de discrimination dans le domaine du journalisme qui engendrent la violence à l'égard des femmes, des filles et des personnes 2ELGBTQQIA autochtones*





## Honorer la capacité d’agir

Les histoires comme celles que nous avons entendues précédemment démontrent que, lorsque leur sécurité était menacée, les femmes, les filles et les personnes 2ELGBTQQIA autochtones ont elles-mêmes pris des mesures pour faire face à cette menace. Comme nous l’avons vu tout au long de ce chapitre, après avoir vécu pendant des années dans des relations et des systèmes qui demeurent indifférents à la violence qu’elles subissent, les femmes, les filles et les personnes 2ELGBTQQIA autochtones qui travaillent au sein de leur famille et de leur communauté, et dans les organismes communautaires, la police et d’autres professions en relation d’aide, regardent au-delà des systèmes coloniaux pour trouver leurs propres solutions à la pauvreté, à l’itinérance, à l’insécurité alimentaire, au manque d’éducation et à l’insuffisance des services de lutte contre la violence, afin de rétablir la sécurité et d’accroître la protection contre la violence. Au cœur de ces efforts figurent des solutions qui visent à s’attaquer aux causes profondes de la violence et qui ont été conçues et mises en œuvre par les peuples autochtones.

En parlant de leurs expériences et de leurs efforts pour améliorer la sécurité dans leur propre vie et dans la vie d’autres femmes, filles et personnes 2ELGBTQQIA autochtones, les témoins ont livré de puissants récits de transformation démontrant les possibilités de changement qui existent lorsque la capacité d’agir et l’expertise acquise par les femmes, les filles et les personnes 2ELGBTQQIA autochtones sont intégrées et honorées au sein des structures dans lesquelles elles vivent et des services qu’elles reçoivent.

Dans son témoignage, Jocelyn K. explique que le fait d’avoir eu accès à une maison d’hébergement à un moment crucial de sa relation avec un partenaire violent qui menaçait de la tuer lui a non seulement sauvé la vie, mais l’a également amenée à s’engager sur une nouvelle voie où elle a pu mettre en place les protections dont elle avait besoin pour réduire le niveau de violence dans sa vie.

Je l’ai [la fille de Jocelyn] sortie de Squamish en une fin de semaine pour aller à Kelowna. Nous sommes restées dans un refuge. En 30 jours, je me suis trouvé un emploi, un logement, j’ai eu de l’aide sociale, je l’ai inscrite à l’école, j’ai obtenu des services de consultation pour elle et pour moi, le tout en moins de 30 jours. On a quitté le refuge pour habiter notre propre logement. Bon, ce n’était pas facile. Disons qu’il a rendu notre vie très difficile<sup>153</sup>.

Cee-Jai a elle aussi terminé son témoignage en donnant un exemple inspiré de sa propre vie qui démontre bien ce que plusieurs chercheurs et défenseurs du droit au logement ont déclaré devant l’Enquête nationale : l’accès à un logement sécuritaire et abordable est une première étape essentielle pour rétablir la sécurité dans la vie des femmes et des filles autochtones. Pour Cee-Jai, le fait d’avoir enfin accès à un appartement, une chose pour laquelle elle a travaillé sans relâche pendant des années, a été un événement important qui l’a amenée à s’engager sur une autre voie, où elle a pu arrêter de boire, obtenir un emploi et finalement déménager de la maison de



chambres pour avoir son propre logement. Elle travaille actuellement pour des services de proximité destinés aux femmes vivant des expériences semblables à la sienne. Elle a terminé son témoignage percutant par les mots suivants :

J'ai trouvé les herbes médicinales et [...] je suis sobre et je ne consomme plus de drogues aujourd'hui. Je suis une femme forte aujourd'hui. Je crois au Créateur. Je crois que j'ai survécu pour que ce moment, ici et maintenant, puisse arriver. Je suis partie du Downtown Eastside de Vancouver pour venir à Thunder Bay [...] j'ai quitté la province pour venir ici pour vous dire de m'écouter, d'écouter ma voix, j'ai survécu. Mes sœurs, mes amies, elles sont parties pour un monde meilleur, mais je suis ici pour vous parler de mon expérience vécue. Pour partager leur histoire, mon histoire avec vous<sup>154</sup>.

Elle a poursuivi en ces termes :

J'ai peut-être eu de la misère, je suis peut-être tombée dans les endroits les plus sombres [...] vous n'en avez aucune idée. Mais, au début de mon témoignage, au début, je vous ai dit mon nom « Femme de l'aigle brillant ». Aujourd'hui [...] aujourd'hui, je suis une personne forte. Je suis tellement forte que je dois me lever, utiliser ma voix. Je vois des conseillers en traumatisme. J'essaie de m'aider. Je m'entoure de personnes sécuritaires. Croyez-moi. Priez pour moi. Ne m'oubliez pas<sup>155</sup>.

« JE PEUX VOUS DIRE QU'IL N'Y A PAS ASSEZ DE RESSOURCES, QUELLES QU'ELLES SOIENT, SURTOUT POUR LES FEMMES AUTOCHTONES. IL EXISTE DES PROGRAMMES, MAIS AUCUNE GUÉRISON. IL N'Y A AUCUN PAVILLON DE RESSOURCEMENT. IL N'EXISTE AUCUN ENDROIT OÙ ELLES POURRAIENT ALLER. DANS LE QUARTIER DOWNTOWN EASTSIDE, OÙ SE TROUVE CETTE CONCENTRATION DE LA PAUVRETÉ, ET OÙ VOUS AVEZ DE LA TOXICOMANIE, ET OÙ SONT INFLIGÉS CERTAINS DES PIRES SÉVICES, VOUS SAVEZ, POUR LES ENVOYER AU COIN DE LA RUE POUR QU'ELLES TROUVENT DE L'AIDE, ELLES ONT BESOIN DE SOUTIEN. ELLES ONT BESOIN QUE QUELQU'UN LEUR TIENNE LA MAIN ET SOIT LÀ PHYSIQUEMENT, JE NE FAIS PAS DE BLAGUE, QUELQU'UN DOIT ÊTRE LÀ PHYSIQUEMENT POUR LES AMENER JUSTE AU PROCHAIN PÂTÉ DE MAISONS PARFOIS, SINON ELLES SE PERDENT DANS CE PÂTÉ DE MAISONS. QUELQU'UN VA S'EN APPROCHER. QUELQU'UN VA LES FAIRE DÉVIER DE LEUR CHEMIN. ELLES ONT BESOIN QUE NOS AÎNÉS, NOS TANTES ET NOS FEMMES, ET NOTRE PEUPLE SOIENT LÀ POUR ELLES. »

Halie B.

Michele G., qui a été placée pendant des années dans des familles d'accueil non autochtones, nous a raconté comment le fait de pouvoir demeurer dans des familles autochtones lui a offert le type de relations dont elle avait besoin.

Beaucoup de familles aimantes m'ont permis de rester dans leur foyer. Même celles qui avaient de petites maisons m'ont fait une place. Ces familles sont celles de Mary [C.], de Grace [M.], de Margaret et Dave [L.], et de June [S.]. Muggy, qui était Margaret [L.], m'a laissée nettoyer son grenier pour que je puisse m'y aménager une chambre. Ces familles aimantes ont partagé tout ce qu'elles avaient avec moi simplement par amour et



compassion [...] Elles étaient aimantes et à l'aise, et leur attitude donnait l'impression que m'avoir chez eux était simplement comme ajouter une boîte de haricots dans la soupe ou une tasse de riz dans l'autocuiseur. Je me sentais bienvenue dans leur maison.

Ces familles n'avaient aucune formation spéciale pour composer avec des jeunes à risques élevés, elles avaient la culture, elles avaient l'amour et la compassion. Je me suis sentie entourée de beaucoup d'amour pendant certaines années assez tumultueuses. C'est pourquoi je crois que nos Nations peuvent faire mieux. Notre culture, nos enseignements, le fait d'être entouré par de grandes familles élargies remplies d'amour sont ce qui aide nos enfants à s'épanouir, et nous devrions être responsables du bien-être de nos propres enfants<sup>156</sup>.

Comme l'a démontré Michele, le fait de reconnaître l'expertise non pas comme une « formation spéciale », mais comme une « culture », « de l'amour et de la compassion », c'est-à-dire en honorant l'expertise et la capacité d'agir des familles autochtones, est essentiel pour guérir les blessures causées par la violence et rétablir la sécurité.

Au cours de l'audience communautaire tenue à Vancouver, Halie nous a décrit de quelle façon, à son avis, nous pouvons rétablir la sécurité dans la vie des femmes, des filles et des personnes 2ELGBTQQIA autochtones.

Je peux vous dire qu'il n'y a pas assez de ressources, quelles qu'elles soient, surtout pour les femmes autochtones. Il existe des programmes, mais aucune guérison. Il n'y a aucun pavillon de ressourcement. Il n'existe aucun endroit où elles pourraient aller. Dans le quartier Downtown Eastside, où se trouve cette concentration de la pauvreté, et où vous avez de la toxicomanie, et où sont infligés certains des pires sévices, vous savez, pour les envoyer au coin de la rue pour qu'elles trouvent de l'aide, elles ont besoin de soutien. Elles ont besoin que quelqu'un leur tienne la main et soit là physiquement, je ne fais pas de blague, quelqu'un doit être là physiquement pour les amener juste au prochain pâté de maisons parfois, sinon elles se perdent dans ce pâté de maisons. Quelqu'un va s'en approcher. Quelqu'un va les faire dévier de leur chemin. Elles ont besoin que nos Aînés, nos tantes et nos femmes, et notre peuple soient là pour elles<sup>157</sup>.

Comme de nombreux autres enseignements fournis tout au long de l'Enquête, Michele et Halie considèrent que l'absence de relations fait disparaître toute sécurité mais que ces mêmes relations, lorsqu'elles sont présentes, permettent de rétablir la sécurité.

La survivante Mealia Sheutiapak a expliqué avoir puisé dans sa propre expérience en tant que femme inuite et survivante pour aider d'autres Inuits qui demeurent à Ottawa et vivent de l'insécurité alimentaire, en utilisant des moyens qui reflètent les valeurs et les besoins de son peuple.





J'aime ce que je fais aujourd'hui. Je nourris la communauté dans la communauté inuite, pas seulement les Inuits, tout le monde est bienvenu à l'église. Je nourris les gens le dimanche, et j'ai ce programme de repas du midi les mercredis, et il y a de nombreuses personnes qui viennent à ce repas du midi. Et, je me sens dépassée aussi, parfois, et je pense à comment j'étais avant, mais je ne pensais pas à ce moment-là que je serais là où j'en suis aujourd'hui, où je suis arrivée.

Je veux juste rendre à la communauté tout ce que je peux, et ne pas penser à ce que j'étais avant, parce que je veux juste continuer d'avancer. Et, je n'arrêterai pas, comme, de donner à la communauté, parce que je me sens bien quand je le fais au lieu de, par exemple, comment j'avais l'habitude d'abuser de moi-même et de me sentir mal dans ma peau après. Je me réveillais et me sentais coupable, j'avais ce sentiment horrible dans mon ventre. Mais, aujourd'hui, je suis une personne très différente. J'essaie juste d'être meilleure comme tout le monde<sup>158</sup>.

## Définir l'expertise

Il faut compléter les approches visant à honorer la capacité d'agir et l'expertise nécessaire en fournissant les ressources pour le faire. Lorsqu'ils ont partagé leur vision des relations, des services et des événements qui permettront de rétablir la sécurité dans la vie des femmes, des filles et des personnes 2ELGBTQQIA autochtones, les témoins se sont basés sur les expériences qu'ils ont vécues et les connaissances acquises par la pratique pour déterminer un ensemble commun de valeurs, d'exigences et de besoins sous-jacents qui respectent le droit à la sécurité au lieu de l'enfreindre. Cet ensemble, s'il avait été accessible, aurait pu prévenir les blessures, la disparition ou le décès de leurs proches. Pour les témoins, la mise en œuvre de ces recommandations est une première étape nécessaire pour mettre fin à la violence. Ici, nous résumons certains de ces principaux enseignements sur les étapes nécessaires au respect et au rétablissement du droit à la sécurité.

Pour améliorer la sécurité des femmes, des filles et des personnes 2ELGBTQQIA autochtones, les initiatives doivent être axées sur les connaissances et l'expérience des personnes dont les vies ont été façonnées par la violence coloniale et ses diverses formes de marginalisation politique, économique et sociale. En décrivant son rôle dans la création d'un centre d'accueil et d'une boutique de vêtements pour les travailleuses du sexe autochtones à Vancouver, qui a mené à la création de Grandma's House, Jamie L. H. a souligné que les femmes autochtones connaissent leurs communautés et les lacunes, les défis et les obstacles au soutien auxquels elles sont confrontées.

Il n'y avait aucun soutien pour les transgenres, les bispirituels travaillant dans le commerce du sexe dans le Downtown Eastside. Et donc, j'ai mis sur pied, à partir de l'église First United, à laquelle ma mère appartenait, j'ai mis sur pied une banque alimentaire et un programme de repas chauds. Et puis, puis au fur et à mesure, j'ai commencé, c'est aussi devenu un magasin de vêtements. Encore une fois, sur la rue



Hastings. Et beaucoup de travailleuses venaient et magasinait, et même volaient. Mais elles étaient merveilleuses. Des fois, elles venaient simplement s'asseoir et juste, vous savez, on avait des belles conversations. Et j'ai pu connaître beaucoup de femmes. Et beaucoup de femmes autochtones. Et vous savez, elles me parlaient de leurs amies disparues<sup>159</sup>.

La Grandma's House devient le premier organisme ouvert la nuit qui fournit un soutien aux femmes, aux femmes transgenres et aux personnes bispirituelles qui vivent dans la rue dans le quartier Downtown Eastside à Vancouver. Elle offre aussi un service de consultation par les pairs, une bibliothèque, des vitamines, des collations, des cours d'informatique et un bulletin d'information.

« LES FEMMES ELLES-MÊMES NOUS DIRONT CE QUI DOIT FAIRE PARTIE DU PROGRAMME. AINSI, LORSQUE NOUS ÉLABORONS CHACUNE DE NOS RESSOURCES, NOUS LE FAISONS EN CONSULTATION AVEC LES PERSONNES QUI BÉNÉFICIERONT DE CE SERVICE. »

Diane Redsky

Les témoins ont souligné que ces connaissances et les voix des femmes autochtones doivent, dès le départ, faire partie de toute initiative visant à améliorer leur vie. Diane Redsky est directrice générale du Centre Ma Mawi Wi Chi Itata à Winnipeg, qui s'occupe du seul refuge et pavillon de ressourcement traditionnel en milieu rural au Canada pour les filles et les personnes transgenres âgées de 13 à 17 ans qui sont victimes d'exploitation sexuelle et de traite des personnes. Elle a décrit ce que signifie vraiment mettre au cœur des initiatives les connaissances et l'expertise des femmes autochtones et des personnes qui ont une expérience vécue.

Les femmes elles-mêmes nous diront ce qui doit faire partie du programme. Ainsi, lorsque nous élaborons chacune de nos ressources, nous le faisons en consultation avec les personnes qui bénéficieront de ce service. Et alors quand nous avons mis sur pied le refuge et le foyer Hands of Mother Earth, nous avons un groupe de survivantes qui avaient de l'expérience, et dans ce groupe, nous nous assurons toujours d'avoir des femmes transgenres ou bispirituelles qui participaient à la prise de décision et à la planification des ressources, à quoi elles allaient ressembler et ce qu'elles devaient contenir. Et c'est une étape essentielle et vitale pour élaborer n'importe quel genre de programme, n'importe quelle sorte de ressources qui seront mis sur pied, surtout lorsqu'on parle de services adaptés aux traumatismes<sup>160</sup>.

Toutefois, les témoins ont également déclaré qu'il est important que l'intégration des voix des personnes qui ont une expérience vécue se fasse « de façon significative, durable et aussi de façon à ce qu'elles ne racontent pas seulement leur histoire, mais qu'elles deviennent aussi des membres actifs de la création des services de soutien destinés aux autres survivantes<sup>161</sup>. »



Pour Jennisha Wilson, cela signifie qu'il faut s'assurer que les femmes, les filles et les personnes 2ELGBTQQIA autochtones occupent des postes de direction et soient rémunérées équitablement pour leurs connaissances et leur expertise.

On doit faire une place aux survivantes pour qu'elles occupent des postes de direction. L'une des choses que je vois couramment dans les programmes de lutte contre la traite des personnes et contre l'exploitation sexuelle est que l'on donne aux survivantes seulement l'occasion d'apprendre comment militer en utilisant leur voix et en racontant leur histoire. Et je pense que nous causons beaucoup de tort à ces personnes et à la communauté si c'est tout ce qu'on fait pour leur faire une place. Elles doivent occuper des postes de direction. Il faut créer des emplois durables. Il doit y avoir de meilleures occasions pour elles de participer aux systèmes socioéconomiques qui sont autour au lieu d'être juste des survivantes avec une histoire à raconter<sup>162</sup>.

Diane Redsky abonde dans le même sens et c'est pourquoi elle fait participer des personnes transgenres et bispirituelles autochtones de façon beaucoup plus que symbolique.

Et il est vraiment important qu'elles [les personnes transgenres et bispirituelles] s'assoient à la table et participent de façon significative, qu'elles travaillent au refuge, en tant que ressource, et qu'elles soient rémunérées adéquatement pour leur voix et pour [...] et qu'on en prenne soin en tenant compte de leurs traumatismes. Toutes ces choses sont vraiment importantes, et nous devons valoriser et respecter ce qu'elles apportent parce que ce sont elles les expertes<sup>163</sup>.

Shae-Lynn Noskye a évoqué les services qu'elle a reçus de Aunt Leah's Place, un programme qui contribue à préparer les jeunes sur le point de sortir du système de foyers d'accueil en raison de leur âge et ceux qui ont atteint l'âge maximal, ainsi que les jeunes qui arrivent du programme de transition STRIVE à Vancouver. Ce programme fournit du soutien et enseigne des compétences de vie aux jeunes de 17 à 24 ans qui vivent en foyer d'accueil, qui en sortent ou qui y ont déjà vécu. Et elle a expliqué pourquoi il est important de rencontrer des personnes qui comprennent et qui ont vécu votre réalité :

Parce que la présence des gens qui ont de l'expérience vécue est très importante; c'est ce qui permet d'apporter mon soutien et de pouvoir dire, vous savez : « J'étais exactement là où tu es aujourd'hui, et ça va aller mieux. » Ça prend du temps. Mais la seule chose qui t'empêche d'avancer c'est, je pense [...] ce sont tes propres limites.

Shae-Lynn a l'intention de devenir l'une de ces précieuses défenseuses et d'appuyer le changement; elle commencera à étudier en travail social au printemps et poursuivra ses études à l'université dans le même domaine. Comme elle le dit, « je veux simplement continuer à défendre les droits des jeunes<sup>164</sup> ».





## La question du financement

Les initiatives dirigées par des Autochtones ou au service des Autochtones qui sont axées sur la lutte contre la violence, la pauvreté, l'itinérance et d'autres problèmes touchant la sécurité sociale nécessitent un financement stable et à long terme. À maintes reprises, des témoins ont associé le manque de financement pour les services dirigés par des Autochtones et destinés aux Autochtones, surtout les services visant les besoins des femmes, des filles et des personnes 2ELGBTQQIA autochtones qui subissent de la violence, à un exercice permanent de contrôle colonial qui nuit à la capacité des Autochtones d'assurer leur sécurité. La pratique courante qui consiste à accorder un financement à court terme pose de sérieuses difficultés aux organismes, met beaucoup de pression sur le personnel qui doit chercher constamment du financement, crée de l'incertitude quant à la capacité de continuer de fournir des services et cause des problèmes de maintien en poste et de roulement de personnel. Les témoins provenant d'organismes qui œuvrent directement dans le domaine de la violence et de la sécurité auprès des femmes, des filles et des personnes 2ELGBTQQIA autochtones vivent tous avec la crainte de voir le financement à court terme de leur programme fourni par le gouvernement prendre fin. Josie Nepinak a expliqué qu'ils ont ouvert un casino pour recueillir des fonds servant à payer une infirmière praticienne qui offre des soins de santé immédiats aux familles qui viennent au refuge<sup>165</sup>. En plus des problèmes liés à l'accès limité au financement à long terme, les témoins ont parlé de la façon dont les restrictions générales sur le financement obligent des organismes œuvrant dans le même domaine à se faire concurrence. Selon Jennisha Wilson, cette structure entre en conflit avec la volonté des organisations œuvrant auprès des femmes autochtones de collaborer et d'établir des relations entre elles.

Alors, la structure actuelle d'accès au financement pour les Autochtones ne pousse pas seulement les organismes à se livrer concurrence, mais intensifie cette concurrence en ce qui concerne la façon dont nous pouvons collaborer, n'est-ce pas? Et alors, en reprenant certaines demandes, c'est que nous voulons pouvoir faire un travail collaboratif, mais nous ne voulons pas avoir à livrer concurrence aux autres organismes ou à discréditer leur travail, parce que tout ce travail est important pour arriver à régler ces problèmes<sup>166</sup>.

De même, comme l'a affirmé Allan Wade, en raison des exigences obligeant les organismes à adopter une approche précise ou à constamment démontrer leur besoin de financement, les organismes doivent « passer beaucoup de temps et dépenser beaucoup d'énergie à essayer de justifier leur existence<sup>167</sup>. » Jennisha Wilson a parlé de la façon dont ce processus de financement « à contrôle interne » peut restreindre l'action des organismes œuvrant auprès des femmes autochtones travailleuses du sexe ou qui sont survivantes de la traite des personnes en les obligeant à adopter une approche abolitionniste plutôt qu'une approche de réduction des dommages pour leurs programmes – ce qui signifie que leurs programmes reproduisent une approche particulière de la prestation de services contraire aux croyances des organismes qui reconnaissent la complexité du problème<sup>168</sup>.



En soulevant leurs préoccupations concernant un financement à court terme, concurrentiel, limité et tributaire de certains critères définis par le gouvernement, les témoins ont insisté sur le fait que l'amélioration des ressources des organismes dirigés par des Autochtones et au service des Autochtones qui luttent contre la violence et œuvrent dans des domaines connexes passe par le financement, mais qu'il ne s'agit pas seulement d'augmenter le financement. Il faut également reconnaître et modifier les mécanismes par lesquels les modèles de financement deviennent eux-mêmes une autre façon d'exercer la violence coloniale et de nier la véritable dynamique de la violence dans la vie des femmes, des filles et des personnes 2ELGBTQQIA autochtones. Lorsqu'il a parlé du lien entre les modèles de financement actuels des organismes qui œuvrent auprès des femmes autochtones et la violence coloniale, Allan Wade a fait observer ce qui suit :

Vous [les organismes œuvrant auprès des femmes autochtones] êtes inquiets, c'est imprévisible. Et l'imprévisibilité est l'une des stratégies propres à la violence. C'est comme, vous savez quoi, si vous ne faites pas ce qu'on veut que vous fassiez, nous n'allons pas vous donner d'argent. Alors comment êtes-vous censés établir un plan à long terme sur cette base? Comment êtes-vous supposés être là, vous savez, à travailler avec les enfants pris en charge [...] et les familles<sup>169</sup>?

Jennisha Wilson a fait une observation semblable.

Je pense que lorsqu'il est question de financement, et c'est aussi [...] c'est comme ça que je pense aussi que, lorsque différents organismes reçoivent du financement pour travailler dans les communautés autochtones, il est temps que les gens arrêtent de contrôler ce financement et de décider à quel moment et de quelle façon les Autochtones peuvent participer; ils devraient plutôt considérer les communautés autochtones comme des contributeurs égaux grâce à leurs connaissances, comme des experts de leurs propres droits et comme des gens qui savent ce qui est bon pour leur communauté, et [...] de supprimer ces obstacles qui nous empêchent d'avoir accès au financement<sup>170</sup>.

## Rétablir le lien à l'aide de la culture

On a remarqué que, pour les témoins qui ont raconté leur histoire de guérison et qui ont trouvé des moyens de rétablir la sécurité dans leur vie, le fait de découvrir leur culture, de s'en rapprocher et de la pratiquer a souvent coïncidé avec des moments importants et des rencontres décisives qui les ont aidés à régler d'autres problèmes liés à la violence, à la pauvreté et à l'itinérance, et d'autres problèmes connexes. L'importance d'offrir des services qui reconnaissent et reflètent le caractère central du lien culturel dans le rétablissement de la sécurité à la suite d'épisodes de violence conjugale est également évidente dans la description qu'a donnée Josie Nepinak du fait que certaines femmes attendent deux ou trois mois pour aller au Awo Taan Healing Lodge, « parce qu'elles favorisent la pratique du savoir et de la sagesse autochtones ainsi que des façons d'accumuler le savoir, par opposition peut-être à un modèle courant<sup>171</sup> ».

Une recherche présentée à l'Enquête nationale insiste sur le fait que l'accès à des services axés sur la réappropriation de la culture est l'une des exigences essentielles pour guérir d'un



traumatisme à la suite de différentes formes de violence. En outre, le lien culturel est également reconnu comme étant un facteur de protection contre la violence. Dans sa recherche sur le traumatisme intergénérationnel, Amy Bombay a fait remarquer que « de nombreuses personnes ont fait preuve d'une résilience extraordinaire, malgré les expériences qu'elles ont vécues, et nous avons constaté que ce sont souvent les personnes qui nous ont dit qu'elles s'accrochaient à leurs traditions, à leur identité et à leur fierté en grandissant, qui étaient les moins susceptibles de rapporter avoir vécu des expériences négatives<sup>172</sup> ».



*Becky Kilabuk et sa partenaire de chant guttural se préparent à chanter à Iqaluit, au Nunavut.*

Selon des témoins, la compréhension des caractéristiques culturelles est également nécessaire pour élaborer des services de lutte contre la violence et des services connexes qui reflètent et intègrent le rôle central de la culture traditionnelle. À l'aide d'un exemple où elle raconte qu'elle a accompagné une cliente inuite à un rendez-vous avec un travailleur social, Nakuset illustre à quel point cette compréhension est importante.

Nous parlions donc d'une cliente inuite en particulier dont ils avaient écrit qu'elle était Crie. Un des travailleurs sociaux a reconnu le nom et l'a interprété comme étant inuit. Nous étions donc à une réunion, il m'a regardé et il m'a dit : « Comment se fait-il que telle personne ne m'ait pas expliqué qu'elle était Inuite? J'ai été assis avec elle tout ce temps, je lui parlais et j'ai mentionné qu'elle était Crie et elle ne m'a jamais dit le contraire. » J'ai dit : « Eh bien, vous avez son enfant. Vous pensez qu'elle va vous contredire? Vous pensez qu'elle va dire comment faire votre travail? Vous êtes censé poser la question. Pourquoi ne prenez-vous pas le temps de poser la question correctement? » Ce n'est pas difficile de poser ces questions. Mais, pour une raison ou une autre, certains organismes ont de la difficulté à sortir de leur zone de confort pour le faire<sup>173</sup>.

Comme l'a fait observer Jennisha Wilson, plutôt que de faire sentir aux gens qu'ils ne sont pas à leur place, il est essentiel de démontrer que l'on comprend leur culture et leur identité pour établir des relations basées sur la confiance et la sécurité, et cela peut contribuer à amener un changement positif<sup>174</sup>.





# La question des sages-femmes dans l'Inuit Nunangat

Dans l'Inuit Nunangat, la santé des femmes inuites est étroitement liée à la santé des familles et des communautés. Les femmes représentent la moitié de la population inuite adulte. Lorsqu'elles portent un enfant, elles doivent recevoir des soins prénatals, natals et postnatals. Dans l'Inuit Nunangat, les soins médicaux sont offerts dans les centres de santé qui desservent différentes régions : le Centre de santé de Rankin Inlet/Kangirlliniq dessert la région de Kivalliq, l'Hôpital général de Qikiqtani à Iqaluit dessert la région de Qikiqtani (Baffin) au Nunavut, le Centre de santé Inuulitisivik à Puvirnituk dessert la région de la baie d'Hudson et le Centre de santé Tulattavik de l'Ungava à Kuujuaq dessert la région de la baie d'Ungava au Nunavik. Dans les communautés du Nunatsiavut, ces services sont assurés par l'autorité régionale de la santé de Labrador-Grenfell établie à Happy Valley-Goose Bay. L'Administration des services de santé et des services sociaux des Territoires du Nord-Ouest est chargée des Inuvialuits de la région Beaufort-Delta. Habituellement, en cas d'urgence médicale, les Inuits doivent quitter l'Inuit Nunangat pour recevoir des soins immédiats dans des villes comme Yellowknife, Winnipeg, Ottawa et Montréal. Cependant, il existe un nombre très limité de centres de naissance au service des 53 communautés de l'Inuit Nunangat.

Les 26 communautés du Nunavut ne peuvent compter que sur le seul Centre de naissance de Rankin Inlet/Kangirlliniq. Les deux sages-femmes du centre voient de 80 à 90 patientes par année, la plupart provenant de Kangirlliniq. Toutefois, les mères enceintes des 25 autres communautés doivent se déplacer dans les villes du sud pour mettre leurs bébés au monde, et très peu d'entre elles se rendent à Kangirlliniq en raison de la pénurie de logements<sup>1</sup>. Annuellement, plus de 200 mères de Kivalliq partent de chez elles pour accoucher à Winnipeg.

Au Nunavik, où se trouvent 14 communautés, le Centre de naissance de Puvirnituk a commencé à former des sages-femmes inuites en 1986. Le programme de formation et des centres de naissance des communautés inuites ont ensuite été mis en place à Inukjuak et à Salluit. Sur une population de plus de 13 000 personnes, la majorité des mères

enceintes des 11 autres communautés se rendent dans ces trois lieux pour la naissance de leurs enfants. Elles doivent donc quitter leur famille et leur maison, mais elles restent dans l'Inuit Nunangat et reçoivent des soins dans leur région, dans leur langue et adaptés à leur culture, entourées d'amis et de proches.

Ces trois centres de naissance sont les seuls de l'Inuit Nunangat où les sages-femmes sont des Inuites formées pour prodiguer des soins aux femmes qui portent un enfant. Les sages-femmes sont chargées des « soins à donner aux femmes et aux enfants, de la promotion de la santé au sein de la communauté et de la gestion des urgences en tant que principales professionnelles de la santé<sup>11</sup> ». Elles représentent un modèle à suivre ailleurs dans l'Inuit Nunangat, où les politiques gouvernementales entraînent l'évacuation de toutes les femmes avant leur accouchement, leur



séparation des enfants dont elles prennent soin et de leur époux, de leur famille et de leur communauté. Ces pratiques ont encore cours et se traduisent par des responsabilités accrues pour les membres de famille qui prennent soin des enfants et des ménages de ces femmes.

Pourtant, les centres de naissance et leurs programmes de formation des sages-femmes sont à même de fournir tous les soins requis par les femmes enceintes, en plus d'offrir des soins de base dans l'Inuit Nunangat. Comme il n'existe que quatre centres de naissance et que leur capacité de service se limite à deux régions, il est évident que des mesures doivent être prises pour établir d'autres centres de naissance dans l'Inuit Nunangat.

- I Sage-femmes au Kangirliq Birthing Centre, communication personnelle à Mme. Lisa Koperqualuk, le 13 février 2018.
- II Epoo et Van Wagner, *Bringing Birth Back to the Community*, 3.





## Comprendre l'interdépendance

La lutte contre la violence subie par les femmes, les filles et les personnes 2ELGBTQQIA autochtones nécessite une approche qui reflète une compréhension de la nature structurelle et interdépendante des facteurs à l'origine de la violence. Dans son témoignage, Erin Pavan a analysé le programme d'ententes avec les jeunes adultes, qui offre un soutien financier à ceux qui sont trop âgés pour être pris en charge afin de s'assurer qu'ils vont à l'école. Bien qu'elle voie ce programme comme une étape positive, il ne suffit pas à lui seul à répondre aux autres besoins et difficultés auxquels sont confrontés les jeunes autochtones vivant dans la pauvreté, inquiets de savoir où ils vont demeurer et ayant un accès restreint aux services d'aide en santé mentale pour prendre en charge les conséquences souvent importantes des traumatismes découlant de la violence subie, qui peuvent compliquer la fréquentation de l'école. Comme elle l'a fait observer :

Si on essaie de récupérer les jeunes les plus vulnérables, les jeunes qui passent, par exemple, à travers les mailles du filet ou peu importe comment on appelle ça, les jeunes femmes qui finissent par être portées disparues ou assassinées [...] ce sont souvent les jeunes qui ne sont pas capables d'aller à l'école ou de se trouver un programme, comme, les jeunes vraiment vulnérables. Il se peut qu'ils ne soient pas capables de respecter cette entente avec les jeunes adultes<sup>175</sup>.

Selon Jennisha Wilson, pour mettre fin à la violence dans la vie des femmes, des filles et des personnes 2ELGBTQQIA autochtones, nous avons besoin d'une approche coordonnée, intégrée et structurelle, qu'elle a décrite en ces termes :

Il y a beaucoup de choses en jeu. Il y a un manque de logements, un manque [...] il y a la pauvreté, non? La pauvreté est un signe avant-coureur de la vulnérabilité. Il y a le racisme, la discrimination et les représentations stéréotypées des femmes autochtones qui viennent constamment teinter notre perception de qui est considérée comme une victime et mérite de l'aide par rapport à qui ne l'est pas. Les femmes sont sans cesse exclues des postes de direction et de la prise de décision en matière de santé et de bien-être des femmes autochtones, n'est-ce pas<sup>176</sup>?

Et elle poursuit ainsi :

Alors, oui, nous pouvons réduire la pauvreté. Oui, nous pouvons sensibiliser les personnes à l'exploitation sexuelle et leur fournir un appui dans leurs démarches pour obtenir des services dans les différents systèmes et enseigner des compétences culturelles, mais nous devons aussi regarder comment l'État refuse d'investir dans les communautés, exagère dans le maintien de l'ordre, exerce une surveillance excessive et crée de la violence géographiquement pour ces personnes également<sup>177</sup>.





Comme l'indiquent ces enseignements, l'écoute des femmes autochtones est essentielle. Comme l'a expliqué Nakuset :

Je n'aurais jamais pensé, vous savez, être ici un jour. C'est le genre de choses que nous devons faire. Nous devons être une voix pour nos femmes. Et [...] nous, qui sommes assez forts pour changer le système ou essayer de le changer, nous devons aller de l'avant. Et si je ne peux pas changer le système, peut-être que quelqu'un derrière moi peut le faire<sup>178</sup>.

Comme nous l'avons vu aux chapitres 2 et 3, les éléments permettant d'accéder aux outils de lutte contre les obstacles à la sécurité font déjà partie du travail d'innombrables femmes, filles et personnes 2ELGBTQQIA autochtones, qui ont dû se battre elles-mêmes pour leurs droits, souvent avec peu de soutien, en raison de ce qu'elles perçoivent comme une guerre contre les femmes, les filles et les personnes 2ELGBTQQIA autochtones. Comme l'explique Tamara S. :

C'est vraiment déchirant de voir que ça arrive encore et encore. Ce n'est pas juste notre famille. Après Jen, il y a eu tellement d'autres histoires concernant d'autres [...] d'autres femmes. C'est juste tellement [...] ça devient un problème de plus en plus évident là-bas. Ce n'est pas juste arrivé par hasard. C'est un vrai fléau. C'est un vrai génocide. Une autre forme de génocide contre les femmes<sup>179</sup>.

De même, Josie Nepinak a expliqué ce qui suit : « Lorsque nous regardons cette enfant et que nous pensons à l'avenir des femmes autochtones, je pense que nous devons être très, très conscients du fait, monsieur et mesdames les commissaires, qu'il y a une guerre contre les femmes autochtones dans notre pays<sup>180</sup>. »

« J'AI L'ESPOIR QUE QUELQUE CHOSE DE POSITIF RESSORTIRA DE TOUT ÇA, QU'EN TANT QUE FEMME AUTOCHTONE, JE N'AIE PAS À MARCHER DANS LES RUES ET À AVOIR PEUR PARCE QUE, AUJOURD'HUI, LORSQUE JE VAIS QUELQUE PART, J'AI PEUR, ET C'EST UNE CRAINTE QU'ON A TOUTES EN NOUS TOUS LES JOURS ET ON EST TELLEMENT HABITUÉES QUE ÇA FAIT COMME PARTIE DE NOUS, ET ÇA NE DEVRAIT PAS ÊTRE AINSI PARCE QUE TOUT LE MONDE DANS LA SOCIÉTÉ ACTUELLE N'A PAS À SE PROMENER ET À AVOIR PEUR COMME LES FEMMES ET LES FILLES AUTOCHTONES. J'AI SEPT FILLES ET BEAUCOUP DE PETITES-FILLES DONT JE M'INQUIÈTE CONSTAMMENT TOUTE LA JOURNÉE. JE NE VEUX PAS QU'ELLES DEVIENNENT UNE STATISTIQUE. »

Danielle E.



## Les instruments internationaux relatifs aux droits de la personne et à la sécurité humaine

Les outils et les instruments relatifs aux droits de la personne peuvent aider à tenir le gouvernement responsable de ce qu'il a, ou n'a pas, mis en œuvre, et à s'assurer que les institutions, autochtones et non autochtones, travaillent pour que la sécurité des femmes, des filles et des personnes 2ELGBTQQIA autochtones soit au cœur des initiatives. Taylor Owen indique également qu'il est important de définir le seuil de ce qui devrait être considéré comme un problème de sécurité humaine, ce qui comprend l'idée de protéger « le noyau vital de toute vie humaine contre les menaces sérieuses et omniprésentes<sup>181</sup> ». Ainsi, la prévention des violations des droits de la personne constitue un critère visant à assurer la sécurité humaine, mais n'est pas une condition suffisante pour garantir la sécurité humaine pour tous.

Ces outils comprennent les instruments internationaux relatifs aux droits de la personne, ainsi que des principes directeurs comme ceux qui ont été intégrés à la *Déclaration des Nations Unies sur les droits des peuples autochtones* (DNUDPA), qui renferme d'importantes dispositions interreliées sur les droits économiques, sociaux et culturels, et des références sur l'importance de ces droits pour maintenir la sécurité. Comme les chercheurs Celeste McKay et Craig Benjamin l'ont affirmé, « les droits économiques, sociaux et culturels des femmes autochtones sont indissociables de leur droit d'avoir une vie exempte de violence et de discrimination<sup>182</sup> ».

Plus précisément, en ce qui a trait à la sécurité, les instruments suivants offrent un point de départ utile. Bien que cette liste ne soit pas exhaustive, nous fournissons des exemples sur la façon de préserver la sécurité des femmes, des filles et des personnes 2ELGBTQQIA autochtones à l'aide des instruments relatifs aux droits de la personne.

Du point de vue de la sécurité physique, le *Pacte international relatif aux droits civils et politiques* (PIDCP) stipule que nul ne sera soumis à la torture ni à des peines ou traitements cruels, inhumains ou dégradants. Plus précisément, il est interdit de soumettre une personne sans son libre consentement à une expérience médicale ou scientifique. C'est assez bouleversant quand on réfléchit à la stérilisation forcée, qui a été abordée brièvement dans l'analyse historique du présent rapport. Des mesures de protection sont accordées aux enfants en vertu de l'article 24 du PIDCP, qui stipule que tout enfant, sans discrimination aucune fondée sur la race, la couleur, le sexe, la langue, la religion, l'origine nationale ou sociale, la fortune ou la naissance, a droit, de la part de sa famille, de la société et de l'État, aux mesures de protection qu'exige sa condition de mineur.

Le *Pacte international relatif aux droits économiques, sociaux et culturels* (PIDESC) privilégie la sécurité dans la protection de la famille, qui est « l'élément naturel et fondamental de la société »; il stipule en outre que des mesures spéciales de protection doivent être prises en faveur de tous les enfants et adolescents, sans discrimination aucune (article 10). Il cite l'exploitation sociale et économique et les principaux problèmes relatifs à la défense des droits à la sécurité. Il fait également précisément référence à la sécurité sociale comme un droit universel (article 9).



En plus d'une disposition générale sur la protection des femmes contre la discrimination, la *Convention sur l'élimination de toutes les formes de discrimination à l'égard des femmes* (CEFD) cite plus précisément la responsabilité de l'État dans la modification des schémas et modèles de comportement socioculturel au sein de la société en vue d'éliminer le racisme et la discrimination fondés sur l'idée de l'infériorité des femmes ou sur des stéréotypes concernant les femmes (article 5). La Convention stipule également que les gouvernements sont tenus d'éliminer la traite des personnes sous la forme de l'exploitation et de la prostitution des femmes, parmi d'autres situations préoccupantes (article 6).

La *Convention relative aux droits de l'enfant (CRDE)* des Nations Unies porte principalement sur la sécurité des enfants, aussi bien physique que sociale, en insistant sur le bien-être de l'enfant à l'article 3. L'article 19 appelle les États parties à prendre toutes les mesures possibles pour protéger les enfants contre toute forme de violence, d'atteinte ou de brutalités physiques ou mentales, d'abandon ou de négligence, de mauvais traitements ou d'exploitation, que ce soit chez eux ou dans les familles d'accueil. L'article 26 de la CRDE comprend le droit de tout enfant de bénéficier de la sécurité sociale, y compris les assurances sociales, ajoutant que les prestations accordées à l'enfant doivent tenir compte des personnes responsables de son entretien et de son éducation. Aux yeux de nombreuses jeunes femmes qui ont la garde d'enfants, il est important d'offrir aux parents un meilleur appui, sur le plan matériel et culturel, afin de s'assurer qu'ils prennent soin de leurs enfants sans les mettre dans des situations dangereuses.

La CRDE comprend également un article sur les conditions de vie nécessaires au développement physique, mental, spirituel, moral et social de l'enfant. Les enfants qui sont victimes de traite ou d'exploitation sexuelle ne bénéficient pas de ces conditions de vie, comme le garantit la CRDE, qui exhorte également les États parties à jouer un rôle actif afin de s'assurer que les parents et autres personnes ayant la charge d'enfants reçoivent l'assistance et les programmes d'appui dont ils ont besoin, notamment en ce qui concerne l'alimentation, l'habillement et le logement.

L'article 35 de la CRDE, portant précisément sur la traite des enfants, stipule que les États conviennent de prendre toutes les mesures appropriées pour empêcher l'enlèvement, la vente ou la traite d'enfants, alors que l'article 36 stipule que les États conviennent de protéger les enfants contre toutes autres formes d'exploitation préjudiciable à leur sécurité.





## CONVENTIONS CLÉS : DROIT À LA SÉCURITÉ

L'Enquête nationale considère comme fondement la convention associée au génocide pour plusieurs violations des droits de la personne et des peuples autochtones. Dans le domaine de la sécurité, il s'agit de toutes les prévisions de l'article II.

Pour référence, l'article II de la *Convention pour la prévention et la répression du crime de génocide* présente une définition du génocide, qui s'entend de « l'un des actes ci-après commis dans l'intention de détruire, en tout ou en partie, un groupe national, ethnique, racial ou religieux :

- a) Meurtre de membres du groupe;
- b) Atteinte grave à l'intégrité physique ou mentale de membres du groupe;
- c) Soumission intentionnelle du groupe à des conditions de vie devant entraîner sa destruction physique totale ou partielle;
- d) Mesures visant à entraver les naissances au sein du groupe;
- e) Transfert forcé d'enfants du groupe vers un autre groupe ».

<p><b>PIDESC :</b></p> <ul style="list-style-type: none"><li>- droit à la sécurité sociale</li><li>- droit à un niveau de vie adéquat, notamment à de la nourriture, à des vêtements et à un logement adéquats, et à l'amélioration continue des conditions de vie</li></ul>	<p><b>PIDCP :</b></p> <ul style="list-style-type: none"><li>- tout enfant a le droit, sans discrimination, aux mesures de protection que la famille, la société et l'État offrent aux mineurs</li></ul>	<p><b>CEDEF :</b></p> <ul style="list-style-type: none"><li>- les États doivent prendre toutes les mesures appropriées pour supprimer, sous toutes leurs formes, le trafic et l'exploitation des femmes</li><li>- les États doivent prendre des mesures dans tous les domaines, notamment social, politique et économique, pour assurer le plein développement et le progrès des femmes</li></ul>	<p><b>CIETFDR :</b></p> <ul style="list-style-type: none"><li>- les États parties doivent examiner toutes les politiques et abroger ou invalider toutes les lois qui créent ou perpétuent la discrimination raciale et ses conséquences</li></ul>	<p><b>CDE :</b></p> <ul style="list-style-type: none"><li>- les États parties doivent garantir que les services responsables des soins sont conformes aux normes de santé et de sécurité</li><li>- les États parties doivent prendre des mesures pour protéger les enfants contre la violence</li><li>- inclut le droit de tout enfant à un niveau de vie adéquat</li><li>- les États doivent fournir une assistance matérielle aux parents</li></ul>
------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

PIDESC : Pacte international relatif aux droits économiques, sociaux et culturels

PIDCP : Pacte international relatif aux droits civils et politiques

CEDEF : Convention sur l'élimination de toutes les formes de discrimination à l'égard des femmes

CIETFDR : Convention internationale sur l'élimination de toutes les formes de discrimination raciale

CDE : Convention relative aux droits de l'enfant



## DÉCLARATIONS CLÉS : DROIT À LA SÉCURITÉ

**DEVEF :**  
- inclut le droit de ne pas être soumise à la torture ou à tout autre traitement cruel, inhumain ou dégradant  
- favorise la recherche, la collecte de données et les statistiques pour comprendre, prévenir et contrer la violence à l'égard des femmes

**DNUDPA :**  
- les peuples autochtones ont droit à la vie, à la liberté et à la sécurité  
- affirme le droit de disposer en toute sécurité de moyens de subsistance et de développement, le droit de se livrer librement à des activités traditionnelles et à d'autres activités économiques ainsi que le droit à une indemnisation lorsque ces droits sont mis en péril

**DPAV :**  
- le manque de développement des infrastructures ne peut pas justifier l'absence de droits de la personne reconnus à l'échelle internationale  
- la pauvreté et l'exclusion sociale représentent une menace à la jouissance des droits de la personne  
- qualifie d'obstacles la pauvreté, la faim et la négation des droits économiques, sociaux et culturels

**BEIJING :**  
- indique que la pauvreté des femmes et des enfants est un problème clé en ce qui concerne les droits de la personne  
- affirme que l'éradication de la pauvreté basée sur la croissance économique durable, le développement social, la protection de l'environnement et la justice sociale requièrent l'entière participation des femmes à un « développement durable au service de l'individu »

DEVEF : Déclaration sur l'élimination de la violence à l'égard des femmes

DNUDPA : Déclaration des Nations Unies sur les droits des peuples autochtones

DPAV : Déclaration et programme d'action de Vienne

Beijing : Déclaration de Beijing

## Conclusion : remettre en question la perception selon laquelle « c'est comme ça que ça se passe »

En parlant du meurtre de sa sœur, Laney E., Danielle E. a rapporté une conversation avec son oncle dans laquelle celui-ci lui a dit, à propos du décès de sa sœur en tant que femme autochtone, que c'était « comme ça que ça se passait » :

Et j'ai appris très jeune que, vous savez, les femmes autochtones étaient remplaçables et je l'ai appris à l'âge de 18 ans quand ma sœur, Eleanor [E.], a été assassinée. Et je demandais toujours à mon oncle : « Bien, pourquoi personne ne s'occupe [...] comme



pourquoi la police ne prend-elle aucune mesure? Comme, qu'est-ce qui se passe? » Et on m'a répondu que c'est comme ça que les choses se passaient. C'était juste accepté, un mode de vie pour nos sœurs et notre famille, surtout les femmes, dans la violence. Je ne pouvais pas [...] c'était difficile pour moi d'accepter ça<sup>183</sup>.

Dans le présent chapitre nous avons analysé les témoignages produits devant l'Enquête nationale sur le plan de la sécurité humaine, telle que définie par les organismes internationaux et les défenseurs des droits ainsi que les femmes, les filles et les personnes 2ELGBTQQIA autochtones que nous avons entendues nous-mêmes. Nous avons énoncé clairement de quelle façon le concept de sécurité humaine, ainsi que les obstacles qui en empêchent l'accès, se manifestent selon quatre principaux facteurs visant à maintenir la violence coloniale : le traumatisme intergénérationnel qui demeure non résolu; la marginalisation économique et sociale; l'absence de volonté politique, institutionnelle et publique pour régler le problème; le refus persistant de reconnaître la capacité d'agir et l'expertise des femmes autochtones elles-mêmes.

Ce faisant, ce chapitre a révélé à quel point les valeurs coloniales sont intégrées à la prestation de services aux niveaux organisationnel et opérationnel de manière à créer des obstacles pour les femmes, les filles et les personnes 2ELGBTQQIA autochtones qui cherchent à obtenir du soutien dans leur lutte contre la violence, l'itinérance, le trafic sexuel et le commerce du sexe, et à obtenir d'autres services d'assistance sociale, d'éducation et de formation. En outre, ces services, qui ne reconnaissent pas les réalités des femmes autochtones vivant avec un traumatisme intergénérationnel, viennent compromettre davantage la sécurité des femmes et des filles.

Les témoins qui se sont présentés devant l'Enquête nationale ont affirmé qu'il est important de changer radicalement les politiques et les attitudes envers les personnes ciblées quotidiennement par la violence, et ce changement commence à la base même du problème par la transformation des relations et la lutte contre la discrimination, le racisme et la misogynie. Dans la plupart des témoignages, les membres de famille et les survivantes ont déclaré que les croyances racistes et stéréotypées sur les femmes, les filles et les personnes 2ELGBTQQIA autochtones sont l'un des obstacles les plus évidents rencontrés par les femmes autochtones à la recherche de services, et que ces attitudes sont la cause directe de leur incapacité à rétablir la sécurité dans leur vie.

Comme l'a expliqué Ina C. :

Je me souviens quand je vivais dans les bois avec ma grand-mère et que ma grand-mère n'avait jamais vu de Blanc avant que je ne sois emmenée pour aller à l'école. Et elle me cachait sous ses jupes. Réclamant de mon père [...] que je ne sois pas emmenée. Et on vivait dans les bois dans une tente, même en hiver. Je me souviens de ça. Et j'avais toujours bien chaud. Jamais faim. Juste moi et ma grand-mère.

Puis mon père nous a emmenées à la mine Pickle Crow, où il était mineur, et c'est là que les choses ont changé. Et ils ont découvert l'alcool. Ils ont appris à battre leurs femmes. Des choses comme ça. Ce n'était jamais comme ça avant. Je ne me souviens même pas





d'avoir été frappée par mes parents ou même par ma grand-mère. Je garde de très bons souvenirs de ça et je [...] je ne souhaite que ça. Le temps où nous nous aimions. Je n'aurais jamais, jamais pensé à blesser une autre personne. Et pourtant, on est encore blessé par la force et [...] et ça vire au meurtre<sup>184</sup>.

« ET J'AI APPRIS TRÈS JEUNE QUE, VOUS SAVEZ, LES FEMMES AUTOCHTONES ÉTAIENT REMPLAÇABLES ET JE L'AI APPRIS À L'ÂGE DE 18 ANS QUAND MA SŒUR, ELEANOR [E.], A ÉTÉ ASSASSINÉE. ET JE DEMANDAIS TOUJOURS À MON ONCLE : "BIEN, POURQUOI PERSONNE NE S'OCCUPE [...] COMME POURQUOI LA POLICE NE PREND-ELLE AUCUNE MESURE? COMME, QU'EST-CE QUI SE PASSE?" ET ON M'A RÉPONDU QUE C'EST COMME ÇA QUE LES CHOSES SE PASSAIENT. C'ÉTAIT JUSTE ACCEPTÉ, UN MODE DE VIE POUR NOS SŒURS ET NOTRE FAMILLE, SURTOUT LES FEMMES, DANS LA VIOLENCE. JE NE POUVAIS PAS [...] C'ÉTAIT DIFFICILE POUR MOI D'ACCEPTER ÇA. »

Danielle E.

Ce n'est qu'en suivant la sagesse et l'expertise offertes par les survivantes et les familles des personnes dont la vie a été emportée par la violence que l'on peut vaincre la peur qui accompagne et façonne la vie des femmes, des filles et des personnes 2ELGBTQQIA autochtones. Danielle E. a résumé cet espoir de vivre dans un monde où le droit à la sécurité des femmes, des filles et des personnes 2ELGBTQQIA autochtones est respecté et protégé.

J'ai l'espoir que quelque chose de positif ressortira de tout ça, qu'en tant que femme autochtone, je n'aie pas à marcher dans les rues et à avoir peur parce que, aujourd'hui, lorsque je vais quelque part, j'ai peur, et c'est une crainte qu'on a toutes en nous tous les jours et on est tellement habituées que ça fait comme partie de nous, et ça ne devrait pas être ainsi parce que tout le monde dans la société actuelle n'a pas à se promener et à avoir peur comme les femmes et les filles autochtones. J'ai sept filles et beaucoup de petites-filles dont je m'inquiète constamment toute la journée. Je ne veux pas qu'elles deviennent une statistique<sup>185</sup>.

Cette inquiétude et cette peur constantes, comme l'a entendu l'Enquête nationale, illustrent un besoin profond de raviver la signification de la sécurité afin que les familles puissent faire confiance aux systèmes qui, selon elles, les ont si longtemps laissé tomber. Il faut donc déterminer ce que signifie la sécurité, dans les communautés et les familles, et comprendre que le besoin le plus pressant est d'améliorer nos relations avec les survivantes, les familles et les communautés, et d'appuyer ce processus en fournissant les ressources, la formation et le soutien adéquats aux personnes qui travaillent pour améliorer la sécurité des femmes, des filles, et des personnes 2ELGBTQQIA autochtones.



## Conclusions : droit à la sécurité

- Les femmes, les filles et les personnes 2ELGBTQQIA autochtones continuent d'être marginalisées et exclues sur le plan social et économique, une situation qui découle directement du colonialisme ainsi que des politiques gouvernementales racistes et sexistes. Cette marginalisation et cette exclusion sont les objectifs des politiques coloniales de l'État canadien, qui portent atteinte aux droits sociaux, économiques et politiques des femmes, des filles et des personnes 2ELGBTQQIA autochtones, en plus de menacer leurs droits à la sécurité humaine et, par conséquent, leur sûreté. Il s'agit d'outils génocidaires.
- À cause de l'État canadien, les femmes, les filles et les personnes 2ELGBTQQIA autochtones ont dû quitter leurs terres ancestrales, leur territoire, leur famille et leur communauté. Elles connaissent des taux de pauvreté disproportionnellement élevés et rencontrent des obstacles insurmontables lorsqu'elles tentent de répondre à leurs besoins fondamentaux, notamment un logement sûr, de la nourriture, une éducation, un emploi, un moyen de transport. Les enfants et les Aînés autochtones sont particulièrement vulnérables dans ces circonstances. La marginalisation et l'exclusion réduisent la sécurité et augmentent le risque de violence. De plus, elles forcent souvent les femmes, les filles et les personnes 2ELGBTQQIA autochtones à rester dans des environnements violents et dangereux ou à se retrouver dans une telle situation en tentant de satisfaire leurs besoins fondamentaux.
- Afin d'éviter la marginalisation sociale et économique, aggravée par le traumatisme complexe et intergénérationnel, et pour répondre à leurs besoins de base, plusieurs femmes, filles et personnes 2ELGBTQQIA autochtones sont forcées de se tourner vers l'industrie du sexe, de demeurer dans des relations violentes ou de se joindre à des gangs. Toutefois, elles se retrouvent alors plus exposées à la marginalisation et au danger. Le placement en établissement des femmes, des filles et des personnes 2ELGBTQQIA autochtones dans le système de justice pénale et dans le système de protection de l'enfance est souvent dû à la marginalisation et au traumatisme.
- La sécurité des femmes, des filles et des personnes 2ELGBTQQIA autochtones dépend du respect et de la mise en œuvre de leurs droits sociaux, économiques et politiques, ainsi que de leurs droits en matière de culture, de santé, de bien-être et de justice. Il est nécessaire que les femmes, les filles et les personnes 2ELGBTQQIA autochtones aient un revenu fiable et constant leur permettant de vivre et de remédier à la situation de crise liée à leur bien-être ainsi qu'à leurs besoins socioéconomiques et de sécurité.
- Les femmes, les filles et les personnes 2ELGBTQQIA autochtones connaissent des taux de surpeuplement et de sans-abrisme démesurés. Le manque de logements sûrs, de foyers de transition et de maisons d'hébergement a une incidence sur la santé, sur le bien-être et sur la sécurité des femmes, des filles et des personnes 2ELGBTQQIA autochtones. La crise du logement contribue grandement à la violence.



- Les services sociaux et économiques actuels offerts aux femmes, aux filles et aux personnes 2ELGBTQQIA autochtones comportent souvent d'énormes lacunes en matière de ressources et d'infrastructure. Par ailleurs, ces services sont souvent fournis dans des endroits peu sûrs et ne sont pas adaptés à leur culture, ce qui perpétue l'insécurité.
- Les femmes, les filles et les personnes 2ELGBTQQIA autochtones continuent de connaître des taux de scolarité disproportionnellement bas et des taux de chômage élevés. Il est nécessaire et urgent de créer des possibilités et des services d'emploi, ainsi que de mettre en place des ressources pour encourager la réussite scolaire et professionnelle, pour lutter contre la marginalisation sociale et économique, pour éradiquer la violence et pour assurer la sécurité des communautés et des individus.





## Notes

- 1 Bernice C. (Première Nation Sagkeeng ), Partie 1, Volume public 15, Winnipeg, Man., p. 68. Dans ce chapitre, comme dans tous nos chapitres, la citation est tirée de la transcription officielle de la langue dans laquelle la personne a témoigné, même si la citation a été traduite.
- 2 Cee-Jai J. (Clan du castor, Nak'azdli Whut'en, Nation Carrier), Partie 1, Volume public 39, Thunder Bay, Ont., p. 6. Pour un examen récent des expériences spécifiques des femmes autochtones survivantes dans le centre-ville de Vancouver, voir Martin et Walia, « Red Women Rising ». Ce rapport fournit un aperçu détaillé des expériences des femmes autochtones du DTES, des défis auxquels elles sont confrontées, et les forces qu'elles détiennent.
- 3 Cee-Jai J. (Clan du castor, Nak'azdli Whut'en, Nation Carrier ), Partie 1, Volume public 39, Thunder Bay, Ont., pp. 6-7.
- 4 Gregoratti, « Human Security. »
- 5 Owen, « Challenges and Opportunities, » 17. Voir aussi Human Security Unit, Office for the Coordination of Humanitarian Affairs, « Human Security. »
- 6 Gregoratti, « Human Security. »
- 7 Owen, « Challenges and Opportunities, » 18.
- 8 Gómez et Des Gasper, « Human Security, » 2.
- 9 Deputy Secretary-General, « Human Security, » cité dans Owen, « Challenges and Opportunities, » 18.
- 10 Assemblée Générale des Nations Unies, « Resolution. »
- 11 Vice-Secrétaire générale, « Human Security is More Than an Abstract Concept. »
- 12 Tang et Browne, « 'Race' Matters » et D<sup>re</sup> Amy Bombay (Ojibway, Premières Nations Rainy River), Parties II et III mixtes, Volume public 10, Winnipeg, Man., p. 142.
- 13 Josie Nepinak (Anishinaabe, Première Nation Crie Pine), Partie 2, Volume public 4, Calgary, Alb., p. 175.
- 14 Marlene J., Partie 1, Volume public 6, Smithers, C.-B., pp. 28-29.
- 15 Marlene J., Partie 1, Volume public 6, Smithers, C.-B., p. 29.
- 16 Marlene J., Partie 1, Volume public 6, Smithers, C.-B., pp. 34, 35.
- 17 Cee-Jai J. (Clan du castor, Nak'azdli Whut'en, Nation Carrier ), Partie 1, Volume public 39, Thunder Bay, Ont., pp. 11-12.
- 18 Cee-Jai J. (Clan du castor, Nak'azdli Whut'en, Nation Carrier), Partie 1, Volume public 39, Thunder Bay, Ont., p. 12.
- 19 Cee-Jai J. (Clan du castor, Nak'azdli Whut'en, Nation Carrier), Partie 1, Volume public 39, Thunder Bay, Ont., p.14.
- 20 Cee-Jai J. (Clan du castor, Nak'azdli Whut'en, Nation Carrier), Partie 1, Volume public 39, Thunder Bay, Ont., p. 15.
- 21 Michele G. (Musqueam), Partie 1, Volume public 84, Vancouver, C.-B., pp. 50-51.
- 22 Monique F. H. (Crie), Partie 1, Volume public 17, Membertou, N.-É., p. 91.
- 23 D<sup>r</sup> Allan Wade, Parties II et III mixtes, Volume public 14, Winnipeg, Man., pp. 21, 20.
- 24 Josie Nepinak (Anishinaabe, Première Nation Crie Pine), Partie 2, Volume public 4, Calgary, Alb., p. 175.
- 25 D<sup>r</sup> Allan Wade, Parties II et III mixtes, Volume public 14, Winnipeg, Man., p. 29.
- 26 Cee-Jai J. (Clan du castor, Nak'azdli Whut'en, Nation Carrier), Partie 1, Volume public 39, Thunder Bay, Ont., p. 6.
- 27 Cee-Jai J. (Clan du castor, Nak'azdli Whuten, Nation Carrier), Partie 1, Volume public 39, Thunder Bay, Ont., p. 9.
- 28 Bombay et al., « The Intergenerational Effects, » 51.
- 29 Grace T. (Clan de l'aigle, Tsimshian), Partie 1, Volume public 118, Vancouver, C.-B., p. 11.
- 30 Michele G. (Musqueam), Partie 1, Volume public 84, Vancouver, C.-B., pp. 2-3, 5.
- 31 D<sup>r</sup> Allan Wade, Mixed Parties II et III mixtes, Volume public 14, Winnipeg, Man., pp. 53-54.
- 32 D<sup>re</sup> Amy Bombay (Ojibway, Premières Nations Rainy River), Parties II et III mixtes, Volume public 10, Winnipeg, Man.
- 33 D<sup>re</sup> Amy Bombay (Ojibway, Premières Nations Rainy River), Parties II et III mixtes, Volume public 10, Winnipeg, Man., p. 140.



- 34 D<sup>re</sup> Amy Bombay (Ojibway, Premières Nations Rainy River), Parties II et III mixtes, Exposition 18, fiche 15.
- 35 D<sup>r</sup> Allan Wade, Parties II et III mixtes, Volume public 14, Winnipeg, Man., p. 10.
- 36 D<sup>re</sup> Amy Bombay (Ojibway, Premières Nations Rainy River), Parties II et III mixtes, Volume public 10, Winnipeg, Man., p. 159.
- 37 Josie Nepinak (Anishinaabe, Première Nation Crie Pine), Partie 2, Volume public 4, Calgary, Alb., p. 162.
- 38 Paul T. (Nation Mikisew Crie), Partie 1, Volume public 20, Edmonton, Alb., pp. 8-9.
- 39 D<sup>re</sup> Amy Bombay (Ojibway, Premières Nations Rainy River), Parties II et III mixtes, Volume public 10, Winnipeg, Man., p. 174.
- 40 D<sup>re</sup> Amy Bombay (Ojibway, Premières Nations Rainy River), Parties II et III mixtes, Volume public 10, Winnipeg, Man., p. 170.
- 41 D<sup>re</sup> Amy Bombay (Ojibway, Premières Nations Rainy River), Parties II et III mixtes, Volume public 10, Winnipeg, Man., pp. 175-176.
- 42 D<sup>re</sup> Amy Bombay (Ojibway, Premières Nations Rainy River), Parties II et III mixtes, Volume public 10, Winnipeg, Man., p. 176.
- 43 D<sup>re</sup> Pertice Moffitt, Mixed Parties II et III mixtes, Volume public 16, St. John's, T.-N.-L. pp. 75-76, 81.
- 44 Michele G. (Musqueam), Partie 1, Volume public 84, Vancouver, C.-B., p. 63.
- 45 D<sup>r</sup> Allan Wade, Parties II et III mixtes, Volume public 14, Winnipeg, Man., p. 30.
- 46 Jeffrey McNeil-Seymour (Tk'emlups te Secwepemc/English), Parties II et III mixtes, Volume public 4, Iqaluit, Nt, p. 218.
- 47 Canadian Poverty Institute, « Poverty in Canada. »
- 48 Fonds d'action et d'éducation juridiques pour les femmes, « Women and Poverty, » 1.
- 49 Duhaime and Édouard, « Monetary Poverty, » 224.
- 50 Ibid., 225.
- 51 Arrigada, « Food Insecurity, » 1.
- 52 Ibid.
- 53 Inuit Tapiriit Kanatami, « Inuit Statistical Profile 2018, » 16.
- 54 Canada, Statistique Canada, « Les Autochtones et le marché du travail »
- 55 Moyser, « Aboriginal People Living Off-Reserve, » 13.
- 56 Ibid., 8.
- 57 Press, « Over 80% of reserves. »
- 58 Ibid.
- 59 Canada, Statistique Canada, « Labour Market Experiences, » 5.
- 60 Ibid., 10.
- 61 Inuit Tapiriit Kanatami, « Inuit Statistical Profile 2018, » 17.
- 62 Mavis Windsor (Nation Heiltsuk), Partie 1, Volume public 90, Vancouver, C.-B., p. 21.
- 63 Jennisha Wilson, Parties II et III mixtes, Volume public 16, St. John's, T.-N.-L., p. 158.
- 64 Canada, Statistique Canada, « The Housing Conditions, » 3.
- 65 Ibid., 3-4.
- 66 Ibid., 3.
- 67 Inuit Tapiriit Kanatami, « Inuit Statistical Profile 2018, » 13.
- 68 Ibid.
- 69 Ibid., 4.
- 70 Lance S. (Nation Nakota), Partie 1, Volume public 26, Saskatoon, Sask., p. 150.
- 71 Minnie K. (Shuswap, Salman Arm), Partie 1, Volume public 86, Vancouver, C.-B., p. 43.
- 72 Mavis Windsor (Nation Heiltsuk ), Partie 1, Volume public 90, Vancouver, C.-B., p. 65.
- 73 Rebecca M. (Première Nation Pictou Landing), Partie 1, Volume public 17, Membertou, N.-É., p. 150.
- 74 Peach et Ladner, « Missing Out and Missing, » 91.
- 75 D<sup>re</sup> Pertice Moffitt, Parties II et III mixtes, Volume public 16, St. John's, T.-N.-L., pp. 89-90.
- 76 Michele G. (Musqueam), Partie 1, Volume public 84, Vancouver, C.-B., pp. 69-70.
- 77 Jennisha Wilson, Parties II et III mixtes, Volume public 16, St. John's, T.-N.-L., p. 48.
- 78 Rebecca M. (Première Nation Pictou Landing), Partie 1, Volume public 17, Membertou, N.-É., pp. 146-147.
- 79 Rebecca M. (Première Nation Pictou Landing), Partie 1, Volume public 17, Membertou, N.-É., pp. 150-151.



- 80 Marge H. (Ka:’yu:’k’t’h’/Nation Heiltsuk ), Partie 1, Volume public 110, Vancouver, C.-B., pp. 8-9.
- 81 Viola Thomas (Kamloops Tk’emlúps te Secwepemc), Partie 1, Volume public 104, Vancouver, C.-B., pp. 18-19.
- 82 Jamie Lee Hamilton (Autochtone/Irlandaise), Partie 1, Volume public 104, Vancouver, C.-B., p. 21.
- 83 Monique F. H. (Crie), Partie 1, Volume public 17, Membertou, N.-É., pp. 94-95.
- 84 Marlene J., Partie 1, Volume public 6, Smithers, C.-B., p. 42
- 85 Marlene J., Partie 1, Volume public 6, Smithers, C.-B., p. 43.
- 86 Mealia Sheutiapik (Inuite, Frobisher Bay), Mixed Partie II et III mixtes, Volume public 16, St. John’s, T.-N.-L. pp. 12-13.
- 87 Daoud, et al., « The Contribution of Socio-Economic Position. »
- 88 D<sup>re</sup> Robyn Bourgeois (Crie), Parties II et III mixtes, Volume public 17, St. John’s, T.-N.-L., pp. 15-16.
- 89 Cheylene Moon (Écossaise/Upper Nicola), Partie 1, Volume public 96, Vancouver, C.-B., p. 27.
- 90 Canada, Statistique Canada, « Peuples autochtones – Faits saillants en tableaux »
- 91 D<sup>re</sup> Amy Bombay (Ojibway, Premières Nations Rainy River), Parties II et III mixtes, Volume public 10, Winnipeg, Man., p. 146.
- 92 Centre de Collaboration Nationale de la Santé Autochtone, « Education as a Social Determinant, » 4.
- 93 Ibid., 5.
- 94 Chef Roddy S. (Clan de la grenouille, Première Nation Gitsegukla), Partie 1, Volume public 7, Smithers, C.-B., p. 62.
- 95 Assemblée des Premières Nations, Chiefs Assembly on Education, « A Portrait. »
- 96 Ibid.
- 97 D<sup>re</sup> Pertice Moffitt, Parties II et III mixtes, Volume public 16, St. John’s, T.-N.-L., pp. 99-100.
- 98 Lisa B. J. (Crie, Première Nation O’Chiese), Partie 1, Volume public 89, Vancouver, C.-B., pp. 43-44.
- 99 Mealia Sheutiapik (Inuite, Frobisher Bay), Parties II et III mixtes, Volume public 16, St. John’s, T.-N.-L., pp. 19-20.
- 100 Connie L. (Première Nation Onion Lake), Partie 1, Volume public 27, Saskatoon, Sask., pp. 145-146.
- 101 Eva P. (Nation Alexis Nakota Sioux ), Partie 1, Volume public 31, Saskatoon, Sask., p. 22.
- 102 Leslie K., Partie 1, Volume public 27, Saskatoon, Sask., pp. 83-84.
- 103 Raylene K., Partie 1, Volume public 27, Saskatoon, Sask., p. 88.
- 104 Jenny L. (Nation Crie Nisichawayasihk), Partie 1, Volume public 13, Winnipeg, Man., pp. 152-153.
- 105 Jennisha Wilson, Parties II et III mixtes, Volume public 16, St. John’s, T.-N.-L., p. 38.
- 106 Monique F. H. (Crie), Partie 1, Volume public 17, Membertou, N.-É., p. 88.
- 107 Monique F. H. (Crie), Partie 1, Volume public 17, Membertou, N.-É., pp. 105-106.
- 108 Jennisha Wilson, Parties II et III mixtes, Volume public 16, St. John’s, T.-N.-L., pp. 151-152.
- 109 Josie Nepinak (Anishinaabe, Première Nation Crie Pine), Partie 2, Volume public 4, Calgary, Alb., p. 172.
- 110 Jenny L. (Nation Crie Nisichawayasihk), Partie 1, Volume public 13, Winnipeg, Man., p. 148.
- 111 Diane Redsky (Première Nation Shoal Lake 40), Parties II et III mixtes, Volume public 18, St. John’s, T.-N.-L., p. 87.
- 112 Jennisha Wilson, Parties II et III mixtes, Volume public 16, St. John’s, T.-N.-L., p. 60.
- 113 Jamie Lee Hamilton (Autochtone/Irlandaise), Partie 1, Volume public 104, Vancouver, C.-B., pp. 17-18.
- 114 Danielle E. (Première Nation Kawacatoose ), Partie 1, Volume public 31, Saskatoon, Sask., p. 86.
- 115 Erin Pavan (Anishinaabe), Partie 1, Volume public 96, Vancouver, C.-B., p. 10.
- 116 Fialka Jack (Mowachaht), Partie 1, Volume public 96, Vancouver, C.-B., pp. 5-6.
- 117 Erin Pavan (Anishinaabe), Partie 1, Volume public 96, Vancouver, C.-B., pp. 29-30.
- 118 Erin Pavan (Anishinaabe), Partie 1, Volume public 96, Vancouver, C.-B., pp. 11-12.
- 119 Josie Nepinak (Anishinaabe, Première Nation Crie Pine), Partie 2, Volume public 4, Calgary, Alb., p. 178.





- 120 Canada, Bilan annuel de 2017-2018: Stratégie du Canada pour prévenir et contrer la violence fondée sur le sexe, 2018. <https://cfc-swc.gc.ca/violence/strategy-strategie/report-rapport2018-fr.pdf>.
- 121 Ibid.
- 122 Beattie et Hutchins, « Shelters for Abused Women, » 5.
- 123 Amnesty International, « Canada: Close the Funding Gap. »
- 124 Ibid.
- 125 Ibid.
- 126 Susan Aglukark (Inuite, Arviat), Parties II et III mixtes, Volume public 12, Winnipeg, Man., pp. 203-204.
- 127 Josie Nepinak (Anishinaabe, Première Nation Crie Pine), Partie 2, Volume public 5, Calgary, Alb., p. 202
- 128 Sandra Montour (Clan de la tortue, Mohawk), Partie 2, Public, Volume 4, Calgary, Alb., p. 213.
- 129 Barbara H. (Première Nation Ebb and Flow), Partie 1, Volume public 10, Winnipeg, Man., p. 114.
- 130 Charlotte M. (Première Nation Kitchenuhmaykoosib Inninuwug), Partie 1, Volume public 38, Thunder Bay, Ont., pp. 98-99.
- 131 Chef Vivian T. (Wet'suwet'en), Partie 1, Volume public 4, Smithers, C.-B., p. 82.
- 132 Halie B. (Namgis/Kwa'kwa'kawakw/Tlingit/Écossaise), Partie 1, Volume public 111(a), Vancouver, C.-B., p. 55.
- 133 Josie Nepinak (Anishinaabe, Première Nation Crie Pine), Partie 2, Volume public 4, Calgary, Alb., p. 163.
- 134 Nakuset (Crie), Partie 2, Volume public 4, Calgary, Alb., p. 107.
- 135 Cee-Jai J. (Clan du castor, Nak'azdli Whut'en, Nation Carrier), Partie 1, Volume public 39, Thunder Bay, Ont., p. 29.
- 136 Sandra Montour (Turtle Clan, Mohawk), Partie 2, Volume public 4, Calgary, Alb., p. 223.
- 137 Josie Nepinak (Première Nation Crie Pine), Partie 2, Volume public 4, Calgary, Alb., p. 169.
- 138 Nakuset (Crie), Partie 2, Volume public 4, Calgary, Alb.
- 139 Nakuset (Crie), Partie 2, Volume public 4, Calgary, Alb., p. 101.
- 140 Nakuset (Crie), Partie 2, Volume public 4, Calgary, Alb., pp. 142-143.
- 141 Nakuset (Crie), Partie 2, Volume public 4, Calgary, Alb., p. 115.
- 142 Gladys R. (Gitxsan/Wet'suwet'en), Partie 1, Volume public 4, Smithers, C.-B., pp. 168-169.
- 143 Josie Nepinak (Anishinaabe, Première Nation Crie Pine), Partie 2, Volume public 4, Calgary, Alb., pp. 192-196.
- 144 Sandra Montour (Turtle Clan, Mohawk), Partie 2, Volume public 4, Calgary, Alb., p. 216.
- 145 Lanna Moon Perrin (Anishinaabe), Parties II et III mixtes, Volume public 17, St. John's, T.-N.-L., pp. 186-187.
- 146 Cee-Jai J. (Clan du castor, Nak'azdli Whut'en, Nation Carrier), Partie 1, Volume public 39, Thunder Bay, Ont., pp. 28-29.
- 147 Nakuset (Crie), Partie 2, Volume public 4, Calgary, Alb., pp. 99-100.
- 148 Michele G. (Musqueam), Partie 1, Volume public 84, Vancouver, C.-B., p. 37.
- 149 Chief Vivian T. (Wet'suwet'en), Partie 1, Volume public 4, Smithers, C.-B., p. 83.
- 150 Cee-Jai J. (Clan du castor, Nak'azdli Whut'en, Nation Carrier), Partie 1, Volume public 39, Thunder Bay, Ont., p. 12.
- 151 Grace T. (Eagle Clan, Tsimshian), Partie 1, Volume public 118, Vancouver, C.-B., p. 14.
- 152 Dr Allan Wade, Parties II et III mixtes, Volume public 14, Winnipeg, Man., pp. 16-17.
- 153 Jocelyn K. (Nation Cheslatta Carrier), Partie 1, Volume public 5, Smithers, C.-B., pp. 55-56.
- 154 Cee-Jai J. (Clan du castor, Nak'azdli Whut'en, Nation Carrier), Partie 1, Volume public 39, Thunder Bay, Ont., p. 32.
- 155 Cee-Jai J. (Clan du castor, Nak'azdli Whut'en, Nation Carrier), Partie 1, Volume public 39, Thunder Bay, Ont., pp. 33-34.
- 156 Michele G. (Musqueam), Partie 1, Volume public 84, Vancouver, C.-B., pp. 57-58.
- 157 Halie B. (Namgis/Kwa'kwa'kawakw/Tlingit/Écossaise), Partie 1, Volume public 111(a), Vancouver, C.-B., pp. 54-55.
- 158 Mealia Sheutiapak (Inuite, Frobisher Bay), Parties II et III mixtes, Volume public 16, St. John's, T.-N.-L. p. 22.



- 159 Jamie L. H. (Autochtone/Irlandaise), Partie 1, Volume public 78, Vancouver, C.-B., p. 21.
- 160 Diane Redsky (Première Nation Shoal Lake 40), Parties II et III mixtes, Volume public 18, St. John's, T.-N.-L., p. 206.
- 161 Jennisha Wilson, Parties II et III mixtes, Volume public 16, St. John's, T.-N.-L., p. 53.
- 162 Jennisha Wilson, Parties II et III mixtes, Volume public 16, St. John's, T.-N.-L., pp. 55-56.
- 163 Diane Redsky (Première Nation Shoal Lake 40), Parties II et III mixtes, Volume public 18, St. John's, T.-N.-L., p. 207.
- 164 Shae-Lynn Noskye (Première Nation), Partie 1, Volume public 96, Vancouver, C.-B., p. 43.
- 165 Josie Nepinak (Anishinaabe, Première Nation Crie Pine), Partie 2, Volume public 4, Calgary, Alb., p. 169.
- 166 Jennisha Wilson, Parties II et III mixtes, Volume public 16, St. John's, T.-N.-L., pp. 54-55.
- 167 Dr Allan Wade, Parties II et III mixtes, Volume public 14, Winnipeg, Man., p. 143.
- 168 Jennisha Wilson, Parties II et III mixtes, Volume public 16, St. John's, T.-N.-L., p. 50.
- 169 Dr Allan Wade, Parties II et III mixtes, Volume public 14, Winnipeg, Man., pp. 197-198.
- 170 Jennisha Wilson, Parties II et III mixtes, Volume public 16, St. John's, T.-N.-L., p. 154.
- 171 Josie Nepinak (Anishinaabe, Première Nation Crie Pine), Partie 2, Volume public 4, Calgary, Alb., p. 186.
- 172 Dr Amy Bombay (Ojibway, Premières Nations Rainy River), Parties II et III mixtes, Volume public 10, Winnipeg, Man., p. 173.
- 173 Nakuset (Crie), Partie 2, Volume public 4, Calgary, Alb., p. 142.
- 174 Jennisha Wilson, Parties II et III mixtes, Volume public 16, St. John's, T.-N.-L., p. 41.
- 175 Erin Pavan (Anishinaabe), Partie 1, Volume public 96, Vancouver, C.-B., p. 31.
- 176 Jennisha Wilson, Parties II et III mixtes, Volume public 16, St. John's, T.-N.-L., pp. 47-48.
- 177 Jennisha Wilson, Parties II et III mixtes, Volume public 16, St. John's, T.-N.-L., p. 49.
- 178 Nakuset (Crie), Partie 2, Volume public 4, Calgary, Alb., p. 133.
- 179 Tamara S., Partie 1, Volume public 15, Winnipeg, Man., pp. 51-52.
- 180 Josie Nepinak (Anishinaabe, Première Nation Crie Pine), Partie 2, Volume public 4, Calgary, Alb., p. 177.
- 181 Owen, « Challenges and Opportunities, » 20.
- 182 McKay and Benjamin, « A Vision for Fulfilling the Indivisible Rights, » 156.
- 183 Danielle E. (Première Nation Kawacatoose), Partie 1, Volume public 31, Saskatoon, Sask., pp. 95-96.
- 184 Ina C. (Première Nation Serpent River), Partie 1, Volume public 38, Thunder Bay, Ont., pp. 24-25.
- 185 Danielle E. (Première Nation Kawacatoose), Partie 1, Volume public 31, Saskatoon, Sask., p. 117.







## Combattre l’oppression : le droit à la justice

Introduction : « La sécurité et la justice ne sont pour nous que des mots »

Bernice et son mari, Wilfred C., tentent par tous les moyens de retrouver leur fille Jennifer, disparue le 19 juin 2008, le jour de son 18<sup>e</sup> anniversaire<sup>1</sup>. Ils ont interrompu leurs recherches afin de participer au processus de consignation de la vérité de l’Enquête nationale. Pendant l’audience communautaire de Winnipeg, Bernice est venue livrer l’histoire de Jennifer aux commissaires, décrivant à ces derniers les actions qu’elle et Wilfred menaient tout juste avant de se présenter sur place ainsi que l’étendue de leurs recherches.

Pour pouvoir nous joindre à vous, nous avons dû quitter l’endroit où nous faisons des recherches. Nous avons trouvé un puits au milieu de nulle part, à proximité de l’endroit où nos recherches nous avaient menés. J’ai dit : « Oh! Mon Dieu! » Mon mari, ... il n’a plus la même vigueur qu’auparavant. Ce n’est pas pour lui manquer de respect, car il est toujours fort. Il est ma forteresse.

Je vous explique cela parce que la profondeur de ce puits atteint dix pieds. Quand nous avons soulevé le couvercle, ça grouillait de rats musqués, c’était rempli de carcasses de castors et ça puait. C’est un puits et c’est contaminé, mais ça n’a pas arrêté mon mari. Nous avons appuyé une échelle de 10 pieds au fond et il est descendu, armé d’une pelle. Il a commencé à retirer ces carcasses puantes. C’était pénible : il devait les soulever au-dessus de sa tête. Il a hissé à la surface tout ce qu’il a trouvé, car on pensait que notre fille aurait pu être dans le puits. Il a creusé deux pieds dans le sol avant de sonder la base avec une perche, et il restait encore deux pieds de plus; il était exténué<sup>2</sup>.



Voilà maintenant dix ans que Bernice et Wilfred entretiennent l'espoir qu'ils vont trouver des réponses à leurs questions, menant de leur propre chef des recherches ardues et parfois dangereuses pour retrouver Jennifer, toujours prêts à creuser encore, malgré un épuisement tant physique qu'émotionnel. Lorsqu'ils se sont présentés au détachement de la GRC à Portage la Prairie où Bernice a signalé la disparition de leur fille, on a refusé de les entendre. Ils se sont ajoutés aux nombreuses familles et aux nombreux amis de proches disparues ou assassinées, qui ont été laissés à eux-mêmes pour tenter d'obtenir justice pour la violence infligée à leurs filles, à leurs mères, à leurs sœurs, à leurs tantes, à leurs grands-mères et aux membres de leur famille du cœur. Ils ont donc joint leurs forces et se sont appuyés sur les liens solides qui les unissent aux familles et aux membres de leur communauté pour remplir un mandat qui incombe, à la base, au système de justice pénale. Ce système, qui bafoue depuis toujours (et qui continue de bafouer) le droit à la justice des familles autochtones comme celle de Bernice et Wilfred est d'ailleurs l'un des principaux thèmes du présent chapitre.

Il y a aussi Victoria, une femme des Premières Nations qui a trouvé la mort alors qu'elle était détenue par le corps de police de Truro, en Nouvelle-Écosse. Les témoignages de ses parents et amis ont mis en lumière un autre aspect de la relation qui lie les peuples autochtones au système de justice pénale, relation si souvent dénoncée lors de l'Enquête nationale. Ils ont permis de mieux comprendre comment cette relation se manifeste dans le quotidien des femmes, des filles et des personnes 2ELGBTQQIA autochtones au sein des établissements correctionnels provinciaux, territoriaux et fédéraux.

À l'instar de la famille de Jennifer, Victoria a été privée de son droit à la justice alors qu'elle gisait dans une cellule, présentant des signes de détresse physique importante et en besoin d'aide. Cheryl Maloney, intervenante en soutien aux familles, militante et ancienne présidente de la Nova Scotia Native Women's Association a décrit les événements qui ont mené au décès de cette femme. À ce propos, elle a insisté sur une interaction précise qui s'est produite entre cette dernière et les policiers en service au cours de laquelle un des agents, manifestant son inquiétude envers l'état de santé de Victoria, s'est fait répondre par son supérieur : « Si elle gémit, elle est en vie<sup>3</sup>. »

La famille de Victoria et ses proches ont assisté à l'audience communautaire de Membertou, en Nouvelle-Écosse, pour livrer l'histoire de celle-ci. Le commentaire du policier illustre pour ces personnes, mais aussi pour les survivantes, les familles, les amis et les proches autochtones qui ont pu entendre son témoignage, une attitude qui revient constamment dans les témoignages entendus dans le cadre de l'Enquête nationale faisant état du système de justice : ce système n'accorde pas la moindre valeur à la vie d'une femme autochtone. Comme l'a mentionné Cheryl M. : « Personne n'écoute. Personne ne semble se soucier de ce qui se passe. La police est au dessus de tout soupçon dans ce pays<sup>4</sup>. »

Victoria est morte quelques jours après avoir subi un accident vasculaire cérébral alors qu'elle était sous la responsabilité des autorités policières. Cheryl a souligné : « [Victoria] a été enfermée dans une cellule du poste de police de Truro dont elle est ressortie branchée à un respirateur



artificiel avant de rendre l'âme. » Un rapport d'enquête publié par la suite indique que les policiers, dans l'exercice de leurs fonctions, n'ont pas accordé une attention adéquate à l'état de santé de Victoria<sup>5</sup>. Jennifer, pour sa part, demeure portée disparue; ses parents, Bernice et Wilfred, restent dans l'incertitude la plus totale<sup>6</sup>.

Dans le présent chapitre, nous cherchons à définir ce qu'est la « justice », de l'avis des personnes qui ont témoigné devant l'Enquête nationale, en premier lieu, et selon les normes relatives aux droits de la personne, en second lieu. Nous examinons ensuite les témoignages portant sur l'accès à la justice ainsi que les liens qui rattachent la justice aux autres droits sous l'angle des quatre facteurs contribuant au maintien de la violence coloniale. Enfin, nous relierons le droit à la justice aux normes et aux instruments internationaux des droits de la personne, et à la nécessité d'établir de nouvelles relations fondées sur une perspective partagée de la forme que doit revêtir la justice lorsqu'elle tient compte de la réalité des personnes qu'elle cible le plus

## Définir la « justice »

Caractéristique déterminante de l'état de droit, l'accès à la justice joue aussi un rôle essentiel pour assurer le respect des droits de la personne fondamentaux. Ces droits sont définis à l'échelle internationale et nationale par des instruments juridiques, et les personnes qui ont témoigné devant l'Enquête nationale les définissent aussi à leur manière, selon la compréhension qu'elles en ont.

Le World Justice Project est une organisation multidisciplinaire indépendante œuvrant à promouvoir la primauté du droit dans le monde. Elle établit que quatre principes universels sont essentiels pour comprendre ce qu'est l'état de droit, à savoir la responsabilisation, des lois justes, un gouvernement ouvert et un mécanisme de résolution des litiges accessible et impartial.

La « responsabilisation » vise à ce que les gouvernements et les intervenants privés soient tenus responsables des gestes qu'ils posent, ou qu'ils ne posent pas. Par « lois justes », on entend des lois qui sont claires, accessibles publiquement et appliquées également à tout le monde. Ce sont également des lois qui assurent le respect des droits fondamentaux concernant la sécurité et des autres droits de la personne. Un « gouvernement ouvert », quant à lui, permet d'adopter et de mettre en application les lois de manière accessible, juste et efficace. Enfin, un « mécanisme de résolution des litiges accessible et impartial » sert les personnes qui cherchent à obtenir justice pour elles-mêmes ou pour leurs proches. Il comprend une représentation et un processus décisionnel équitables, à l'image des communautés desservies<sup>7</sup>.

Aux termes de la *Déclaration des principes fondamentaux de justice relatifs aux victimes de la criminalité et aux victimes d'abus de pouvoir* de l'Assemblée générale des Nations Unies, adoptée en 1985, l'ONU incite les États membres à prendre les mesures nécessaires pour réduire la victimisation. Pour ce faire, ils doivent mettre en œuvre « des mesures dans les domaines des services sociaux, de la santé, y compris la santé mentale, de l'éducation et de l'économie, ainsi que des mesures spéciales de prévention du crime pour réduire la victimisation et encourager





l'aide aux victimes en détresse ». Ils sont également priés de promouvoir la prévention communautaire du crime, d'examiner les lois afin qu'elles respectent les normes internationales en matière de droits de la personne, et d'« interdire les pratiques et les procédures qui favorisent les abus », entre autres choses<sup>8</sup>.

Dans le même ordre d'idées, la *Déclaration de la réunion de haut niveau de l'Assemblée générale sur l'état de droit aux niveaux national et international* des Nations Unies, adoptée plus récemment, en 2012, insiste sur l'importance que tous les membres de la société, particulièrement les plus ciblés et les plus vulnérables, aient accès à la justice. Elle met également l'accent sur la nécessité que les gouvernements prennent « toutes les mesures nécessaires pour assurer que des services visant à faciliter l'accès de tous à la justice soient offerts de manière efficace, transparente, sans discrimination et qu'ils soient assortis de mécanismes de reddition de compte<sup>9</sup> ». Elle précise enfin que l'administration de la justice doit être neutre et non discriminatoire, au sein d'un système judiciaire indépendant et impartial<sup>10</sup>.

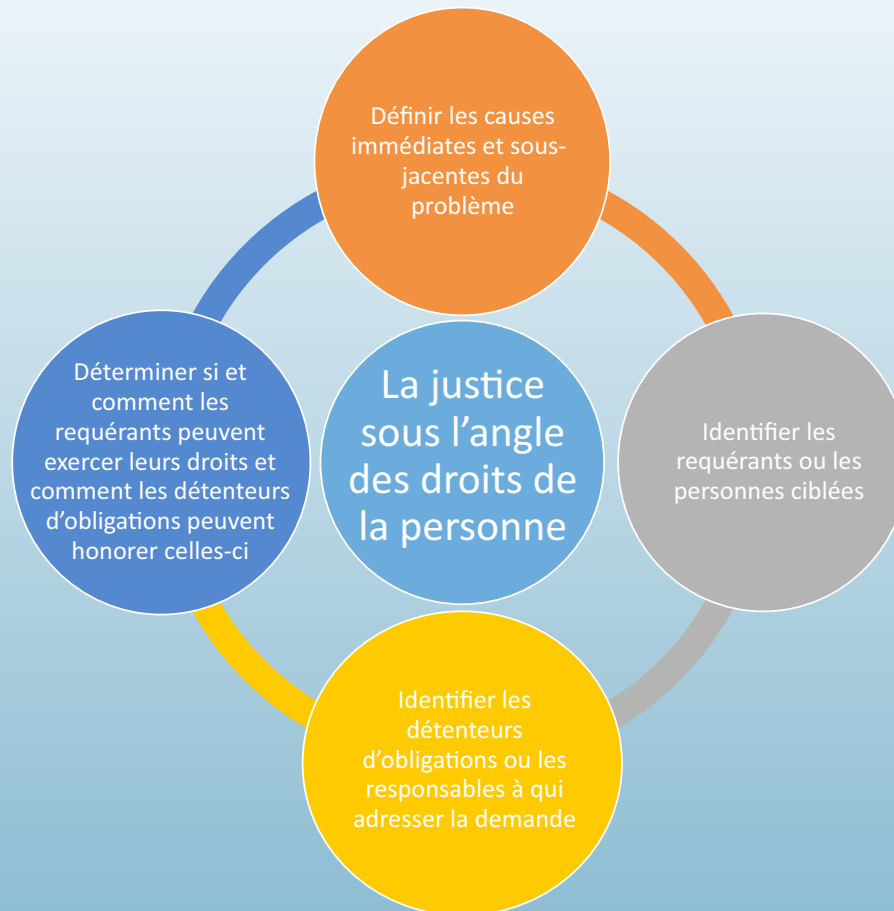
Cela dit, l'accès à la justice ne se limite pas à l'administration des tribunaux ou à l'encadrement des pratiques des corps policiers. Le Programme des Nations Unies pour le développement, qui axe ses activités sur les défis relatifs au développement et notamment sur l'élimination de la pauvreté, les transformations structurelles et la consolidation de la résilience, précise que l'accès à la justice est essentiellement lié à la réduction de la pauvreté et au renforcement de la gouvernance démocratique. En outre, cet accès « doit être défini de façon à ce que les résultats des démarches juridiques et judiciaires soient justes et équitables<sup>11</sup> ». Le rapport du Programme ajoute que « la création d'un environnement durable offrant un accès égal à la justice exige de travailler avec différents types d'institutions et divers intervenants, comme la police, les tribunaux, les procureurs, les travailleurs sociaux, les agents correctionnels, les leaders communautaires, les parajuristes, les conseils traditionnels et les autres arbitres locaux; et il faut tenir compte des liens entre eux<sup>12</sup> ».

Une approche de justice fondée sur les droits de la personne demande de concevoir la justice dans une perspective large, qui dépasse le simple fonctionnement du système. Pour ce faire, il est essentiel de :

- mettre l'accent sur les causes immédiates et sous-jacentes du problème;
- considérer celles qui revendiquent des droits comme étant les personnes les plus vulnérables ou, comme l'a entendu l'Enquête nationale, celles qui sont ciblées;
- déterminer qui sont les « détenteurs d'obligations », soit les personnes qui doivent régler les problèmes ou les conflits, comme les institutions gouvernementales, les groupes, les dirigeants communautaires, etc.;
- évaluer et analyser la capacité de celles qui revendiquent des droits à faire valoir leurs droits ainsi que celle des détenteurs d'obligations à respecter leurs propres engagements et obligations relativement à ces droits, puis mettre en place des systèmes qui permettent à tous ces acteurs de s'acquitter de leurs responsabilités<sup>13</sup>.



## LA JUSTICE SOUS L'ANGLE DES DROITS DE LA PERSONNE



L'histoire du système de justice canadien au sein des communautés autochtones et sa capacité à remplir son rôle de manière équitable et efficace font l'objet de débats et de discussions. Si l'on prend en considération les « virées sous les étoiles » menées par le service de police de Saskatoon dans les années 1990 et 2000 en Saskatchewan ou encore l'acquittement récent de l'agriculteur saskatchewanais accusé du meurtre de Colten Boushie<sup>14</sup>, on peut comprendre pourquoi les Autochtones ont tendance à douter que le système de justice travaille pour eux<sup>15</sup>. De nombreux témoignages entendus lors de l'Enquête nationale ont montré que, partout au pays, le droit à la justice des femmes, des filles et des personnes 2ELGBTQQIA autochtones est mis à mal.

Voilà pourquoi il importe de considérer la façon dont les Autochtones définissent la « justice » qui, fondée sur le principe de respect, demeure essentielle au bien-être des Nations et des communautés. Une telle représentation prend en compte les efforts investis par tout un chacun pour assurer la sécurité de chaque membre de la communauté. Grand-mère Blu a raconté que,



jeune fille, elle a assisté au procès de l'homme ayant assassiné sa grand-mère. Elle a défini de manière probante les éléments qui opposent l'application de la justice, telle qu'elle est conceptualisée dans le système pénal canadien, aux notions traditionnelles de justice autochtone.

Ce jour-là, j'ai entendu toutes ces choses dans la salle d'audience et j'ai finalement vu qui ... qui il était et comment il était vraiment. Il a été condamné à purger une peine de 15 ans, dont 10 ans au centre de santé mentale de Penetanguishene. Il s'est donc retrouvé là-bas, à se la couler douce et à regarder la télévision, au lieu d'être derrière les barreaux comme ça aurait dû être le cas. On a mis cet homme dans un établissement pour lui administrer des médicaments euphorisants, lui qui savait lire et écrire, mais qui a prétendu le contraire et qui s'en est tiré grâce à notre système pénal. Dans les faits, ce n'est pas notre système. Ce système n'est pas à nous. Si ça avait été le cas, on aurait amené cette personne devant les Grands-mères. On l'aurait fait asseoir et on lui aurait expliqué les conséquences de ses actes non seulement sur la famille immédiate, mais aussi sur la famille élargie, sur la communauté et sur toute la Nation, vous comprenez? Il aurait eu à présenter ses excuses à tout le monde, devant tout le monde; il aurait eu à s'adresser à moi directement et à me demander pardon. Il aurait également eu à démontrer par ses agissements qu'il était repentant et qu'il avait vraiment compris la leçon. Dans les faits, je n'ai jamais eu l'occasion de lui dire ce que je ressentais. Je n'ai jamais pu lui parler des répercussions qu'il a engendrées sur ma vie et sur le reste de ma famille<sup>16</sup>.

Les violations des droits de la personne en matière de justice perpétrées contre les Autochtones ont été largement démontrées. En ce qui concerne la question des femmes, des filles et des personnes 2ELGBTQQA autochtones disparues et assassinées, plus particulièrement, des organisations comme Amnistie internationale et les Nations Unies ont critiqué le Canada pour avoir omis de remédier à de telles violations, et aussi pour la façon dont le système de justice réprimande ces actes<sup>17</sup>. En outre, divers organismes et organisations voués à la défense des personnes, dont le Bureau de l'enquêteur correctionnel et l'Association canadienne des Sociétés Elizabeth Fry, ont aussi souligné les importantes violations des droits fondamentaux des femmes autochtones qui surviennent pendant leur incarcération<sup>18</sup>.

Les témoignages entendus lors de l'Enquête nationale mettent en cause les policiers, les tribunaux, les établissements correctionnels et les autres représentants du système de justice pénale, rendant ceux-ci responsables ou complices des violations du droit à la justice des femmes, des filles et des personnes 2ELGBTQQA autochtones qui subissent de la violence.

Les femmes autochtones sont également beaucoup plus susceptibles d'avoir des démêlés avec le système de justice pénale que les femmes non autochtones. Par exemple, même si les femmes autochtones représentent seulement 4 % de la population totale du Canada, elles comptent pour près de 40 % de l'ensemble des femmes purgeant une peine prononcée par un tribunal de compétence fédérale<sup>19</sup>. En outre, tout indique que le nombre de femmes autochtones condamnées





à une peine de détention dans un établissement fédéral augmente. En effet, au cours des 10 dernières années, le nombre de femmes autochtones détenues dans les établissements correctionnels fédéraux a bondi de 60 %, ce qui en fait la population enregistrant la croissance la plus rapide dans les pénitenciers fédéraux<sup>20</sup>. Dans de nombreux cas, les femmes autochtones sont mises en cause pour avoir tenté de protéger leur propre personne ou leurs enfants contre la violence. Autrement dit, le système de justice les accuse d'un crime contre lequel il est censé les protéger<sup>21</sup>. Comme nous l'avons vu, l'étendue de la violence qui se manifeste dans la vie des femmes et des filles autochtones va de pair avec leur criminalisation<sup>22</sup>.

En plus des violations du droit à la justice liées précisément à la violence interpersonnelle, les membres de famille, les survivantes, les Gardiens du savoir et les autres intervenants ont également souligné l'importance d'examiner les questions de nature judiciaire à la lumière des actes de violence commis contre les cultures, les cérémonies, les terres et les territoires traditionnels. Lors de son témoignage, Marilyn W. a notamment établi un lien entre l'absence de justice lors du procès du meurtrier de sa sœur et celle caractérisant la lutte de sa communauté pour mettre un terme aux essais sismiques sur ses terres cérémoniales de Sundance. Elle a affirmé : « Mes propos peuvent ne sembler avoir aucun lien avec la mort de ma sœur, mais c'est tout le contraire; ces problèmes sont étroitement liés<sup>23</sup>. »

Comme tous les autres droits mis de l'avant jusqu'à maintenant dans le présent rapport, les récits et les enseignements relatifs à la justice exprimés dans le cadre de l'Enquête nationale portent sur des manifestations précises du système de justice lorsqu'est survenue la disparition ou la mort d'une femme, d'une fille ou d'une personne 2ELGBTQQIA autochtone. Toutefois, il faut aller beaucoup plus loin que cela. Les témoignages entendus indiquent que les femmes et les filles autochtones disparues et assassinées ne sont pas les seules à avoir fait les frais de l'échec du système justice. Dans les faits, l'absence de justice, la lutte pour celle-ci et son usage abusif dans les relations qui lient ce système aux peuples autochtones compromettent régulièrement les droits de ces derniers et permettent à la violence de suivre son cours, et ce, sans rencontrer une quelconque forme d'opposition.



*Une robe rouge brodée de perles est déposée dans le Miskwaabimaag, ou panier en osier rouge, à St. John's, Terre-Neuve.*



## Les facteurs favorisant la violence : le traumatisme intergénérationnel et multigénérationnel

Lorsque l'impensable se produit et que les familles métisses, inuites et des Premières Nations redoutent qu'une de leur proche soit disparue ou qu'elle subisse de la violence, elles font face à un terrible dilemme : demander – ou non – de l'aide pour trouver cette personne en faisant appel à une institution, c'est-à-dire le système de police et de justice pénale, qui, historiquement, a ignoré leurs craintes, et qui, encore aujourd'hui, continue de le faire. Pire encore, ces familles sont contraintes de s'adresser à une institution qui est directement responsable de la douleur, de la division, de la destruction culturelle et des traumatismes importants vécus dans leur famille et peut-être même vécus par la proche recherchée pour laquelle elles demandent de l'aide. Comme si ce n'était pas assez, les membres de ces familles sont parfois forcés de s'en remettre aux personnes qui ont commis des actes de violence physique et sexuelle envers eux ou à l'endroit de leurs proches.

### La méfiance et les stéréotypes

Les familles qui décident de demander l'aide des policiers ou d'autres intervenants du système de justice pénale se butent trop souvent à une personne, une politique, une procédure ou une conception qui ne tient pas compte, ou qui tient très peu compte, de la complexité historique des relations qui se sont instaurées entre les peuples autochtones et les forces de l'ordre. En effet, les membres de famille et leurs proches disparues sont considérés, au sein d'une telle institution, à travers le prisme des stéréotypes racistes et sexistes généralisés. Ces stéréotypes rejettent le blâme sur les Autochtones, et particulièrement sur les femmes, les filles et les personnes 2ELGBTQQIA, pour expliquer la violence qu'elles subissent et les difficultés auxquelles elles sont confrontées, allant même jusqu'à trouver ces dernières coupables d'actes de violence ou d'autres crimes.

Kassandra Churcher, directrice générale de l'Association canadienne des Sociétés Elizabeth Fry, décrit en ces mots le dilemme en question :

Les femmes autochtones doivent s'appuyer sur un système de justice qui, en aucun cas, ne reflète leurs racines et leurs réalités culturelles. Il n'est pas adapté à elles. La longue histoire de colonialisme et d'abus au Canada [...] représente le cœur du problème, évidemment. Lorsqu'une femme métisse, inuite ou des Premières Nations se présente devant les tribunaux, elle est jugée par le même système de justice qui a établi les réserves et les pensionnats indiens, et qui continue de retirer des enfants autochtones de leur milieu familial. C'est à ces tribunaux qu'elle doit s'adresser pour demander justice<sup>24</sup>.

Les systèmes mis en place pour appliquer la loi ont joué un rôle fondamental dans la création et le maintien de conditions menant à une profonde méfiance à l'égard du système de justice pénale, et cette méfiance perdure. Les histoires d'agressions perpétrées par la police contre les peuples autochtones pour appliquer des politiques coloniales, celles recensées au chapitre 4 notamment, combinées aux actes de violence explicites contre ces peuples qui subsistent de nos jours, doivent être reconnues, car il s'agit du cadre au sein duquel les familles et les survivantes autochtones parlent de leurs expériences à même ce système de justice.



Audrey S. a expliqué ainsi les racines de cette relation :

La GRC a été mise sur pied pour écraser les rébellions indiennes du Nord-Ouest. Elle a été créée pour protéger et servir l'État colonial, ses propriétés et ses représentants, qui représentent à leur tour la Reine; ils ne représentent pas la terre. La Reine n'a jamais, en toute bonne foi, négocié avec nous, peuples autochtones, de ce qui est connu sous le nom de « Canada ». Son représentant n'est jamais venu ici. Ce que le Canada fait sur son propre territoire est illégal en vertu de ses propres normes d'administration et de ses propres systèmes législatifs, mais le pays refuse que nous soulignons tout cela, que cette vérité soit rendue publique<sup>25</sup>.

### **La violence interpersonnelle et les traumatismes intergénérationnels : la réticence à signaler**

L'Enquête nationale a entendu de nombreux témoins parler de leur réticence à demander l'aide des policiers. Au Canada, le sous-signallement de la violence interpersonnelle, comme la violence sexuelle et conjugale, par les victimes de ces crimes, est bien documenté<sup>26</sup>. Si nous reprenons le



*Un article du National Post de 2000 rapporte l'utilisation de la photo d'une femme autochtone comme cible dans une salle de tir de la police de Saskatoon. Présenté par Muriel Stanley Venne de l'Institute for the Advancement of Aboriginal Women (IAAW) conformément à l'article 33.*

cas de Bernice C. et de sa fille, par exemple, il faut rappeler que le personnel de la GRC n'a consigné la déposition d'aucun des parents lorsqu'ils se sont présentés au poste pour signaler la disparition de Jennifer. De plus, les policiers avaient toute la latitude nécessaire pour interroger l'homme avec qui leur fille a été vue pour la dernière fois, mais ils ont tardé à agir, et cet homme a lui-même été assassiné. Il a donc été impossible d'entendre sa version des faits<sup>27</sup>. Au sein d'un système de justice qui, comme l'a exprimé Cassandra Churcher, « ne reconnaît pas les abus historiques dont il est lui-même responsable ni les répercussions des traumatismes intergénérationnels sur les communautés autochtones<sup>28</sup> », choisir de signaler la violence peut accentuer le danger plutôt que l'écarter. C'est, du moins, l'avis de nombreuses survivantes et familles autochtones qui ont exprimé leur vérité.

Pendant le processus de consignation de la vérité, les familles et les survivantes ont présenté avec franchise les raisons pour lesquelles elles n'ont ni signalé la violence subie ni demandé l'aide du système de justice pénale, et ce, même si de graves actes de violence avaient été commis à leur endroit, comme celui décrit par la survivante Marlene J. En expliquant pourquoi elle ne s'était pas tournée vers la police après avoir été battue,





jetée d'une voiture puis écrasée par une automobile, elle affirmé : « Je n'ai pas demandé l'aide des policiers parce que je sais qu'ils ne feront rien, qu'ils vont me demander d'identifier mon agresseur, de décrire notre relation et de fournir ses coordonnées. Je vais ... Je ne me souviens pas de lui. J'étais saoule, moi aussi. Je sais quelle voiture il conduit, mais je ne me souviens pas de son nom<sup>29</sup>. » Jennisha Wilson a également expliqué que les interactions antérieures négatives des femmes autochtones avec les services de police expliquent pourquoi ces dernières hésitent à signaler les cas de violence ou la traite des personnes : « Il y a une grande réticence chez les femmes autochtones, particulièrement les Inuites, à aller voir la police. Cela s'explique par des situations passées où on les a considérées comme des criminelles, où on les a blâmées et jugées non comme des victimes, mais comme des instigatrices<sup>30</sup>. »

Michele G. a relaté une expérience semblable qui l'a menée à ne plus signaler la violence physique que lui faisait subir son partenaire : « Au début, j'appelais la police, mais j'ai arrêté. Cela semblait ne servir à rien, sauf une fois, où il m'avait cassé le nez. Les policiers l'ont alors forcé à s'en aller. Habituellement, ils me disaient de partir avec mes six enfants, ce qui me causait tellement de frustration. Bon Dieu<sup>31</sup>! »

Alexandria B. raconte une histoire semblable :

Ma mère a fréquenté plusieurs hommes, qui l'ont tous battue. J'appelais la police chaque fois, mais elle n'a jamais rien fait. À l'époque, la maison d'un homme était son château. Les partenaires de ma mère ouvraient toujours la porte aux policiers, se tenant devant eux en les injuriant. « Vous pensez faire quoi? », leur disaient-ils, alors que je n'étais qu'une enfant. Les policiers disaient tous à ma mère : « Nous allons attendre cinq minutes avant de vous escorter en sécurité. » Ma mère avait six enfants, dont un ou deux bébés. Que peut-on rassembler en cinq minutes pour sortir d'une telle situation et assurer sa sécurité? J'ai donc grandi sans croire aux balivernes voulant que la police sauve des vies ou aide les citoyens<sup>32</sup>.

De nombreuses survivantes se sont remémoré l'indifférence de longue date manifestée par les corps policiers à l'égard de la violence vécue par leurs parents ou leurs grands-parents alors qu'elles étaient enfants. Cette indifférence continue, à juste titre, de façonner la perception qu'ont les peuples autochtones du système de justice pénale et des services de police en général.

Farida Deif, témoin expert, est la directrice de Human Rights Watch Canada, une organisation non gouvernementale internationale qui mène des recherches sur les droits de la personne et qui vise à défendre ces droits. Elle a expliqué : « C'est comme si on faisait perdurer une relation disloquée, à cause de l'histoire d'abord, et aussi à cause du colonialisme de peuplement, sans oublier les politiques d'assimilation racistes du système des pensionnats, et aussi l'inaptitude des services de police actuels<sup>33</sup>. »



*La commissaire de la GRC Brenda Lucki témoigne à Regina, en Saskatchewan, présente ses excuses aux familles et leur promet de faire mieux.*

À plus grande échelle, le refus et la réticence historiques à enquêter sur la disparition ou sur la mort de nombreuses femmes, filles et personnes 2ELGBTQQIA autochtones ont laissé sous-entendre, pendant longtemps, que la police est indifférente à cette violence. Jamie L. H. a décrit comment les forces de l'ordre ont réagi à l'égard des premiers efforts déployés à l'époque pour attirer l'attention sur les femmes disparues et assassinées : « Nous voulions [qu'une récompense soit offerte] en échange [d'information en lien avec] les disparitions et les meurtres de ces femmes, mais les policiers s'y opposaient. Ils nous disaient : "Ces femmes ont peut-être seulement déménagé. Il ne s'est rien passé. Il n'y a aucune preuve de quoi que ce soit." » Elle observe :

J'ai l'impression que ces femmes étaient considérées comme bonnes à jeter, ce qui est très, très tragique; leur vie a été une tragédie. Vous savez, on parle d'êtres humains, de sœurs, de mères, de filles, de proches, d'épouses, de partenaires, de tantes, de grand-mères. Elles étaient des êtres humains qui avaient droit à la dignité et au respect, ce qu'on leur a refusé de leur vivant<sup>34</sup>.

Encore une fois, les commentaires de Jamie font écho aux vérités consignées préalablement voulant que la police justifie son immobilisme à l'égard des femmes autochtones en se fondant sur des stéréotypes racistes et sexistes. Selon Robyn Bourgeois, chercheuse crie et témoin expert, les stéréotypes présentant les femmes autochtones comme des personnes hypersexualisées et des travailleuses du sexe, conception qu'admet le système de justice pénale, soustraient dans les faits les actes de violence.



S'il est démontré qu'il existe un lien, perçu ou réel, entre une femme ou une fille autochtone qui a vécu un acte d'une grande violence et la prostitution ou l'hypersexualisation, les auteurs du crime obtiennent alors une peine réduite s'ils ne sont pas tout simplement absous. Il s'agit d'un enjeu très important qui ne concerne pas seulement les agresseurs; l'État aussi utilise ce mécanisme.

Ce que je veux dire, c'est que c'était l'excuse invoquée pour les femmes disparues. Pourquoi les policiers ne menaient-ils pas d'enquête? Pourquoi ont-ils attendu près de 20 ans avant d'aborder le problème avec sérieux? C'est justement à cause de cette croyance selon laquelle les femmes étaient des travailleuses du sexe et que, pour cette raison, elles n'étaient probablement pas des victimes. Ainsi, cette vision justifiait l'inaction générale à l'égard de la violence perpétrée envers les femmes et les filles autochtones. C'est quelque chose de très préoccupant pour moi<sup>35</sup>.

Même si les forces policières veulent que les femmes dénoncent la violence qu'elles subissent, il n'en demeure pas moins que de sérieuses lacunes sur les plans de la confiance et de la sensibilisation doivent être corrigées. De nombreux obstacles s'opposant aux Autochtones découlent des mesures d'intervention que mettent en œuvre les policiers et l'appareil judiciaire. Ces derniers tiennent compte de manière limitée, voire inexistante, de la complexité des relations historiques ainsi que des traumatismes intergénérationnels vécus par les Autochtones. Les agents qui ont pris part à l'Enquête nationale ont notamment mentionné que la formation qu'ils ont reçue à ce sujet était insuffisante. Pourtant, leur intervention est déterminante pour que l'interaction d'une victime avec les forces de l'ordre soit sécuritaire et qu'elle s'inscrive dans le cadre d'une relation manifestant une telle compréhension<sup>36</sup>.

« MA MÈRE A FRÉQUENTÉ PLUSIEURS HOMMES, QUI L'ONT TOUS BATTUE. J'APPELAIS LA POLICE CHAQUE FOIS, MAIS ELLE N'A JAMAIS RIEN FAIT. À L'ÉPOQUE, LA MAISON D'UN HOMME ÉTAIT SON CHÂTEAU. LES PARTENAIRES DE MA MÈRE OUVRAIENT TOUJOURS LA PORTE AUX POLICIERS, SE TENANT DEVANT EUX EN LES INJURIAINT. « VOUS PENSEZ FAIRE QUOI? », LEUR DISAIENT-ILS, ALORS QUE JE N'ÉTAIS QU'UNE ENFANT. LES POLICIERS DISAIENT TOUS À MA MÈRE : « NOUS ALLONS ATTENDRE CINQ MINUTES AVANT DE VOUS ESCORTER EN SÉCURITÉ. » MA MÈRE AVAIT SIX ENFANTS, DONT UN OU DEUX BÉBÉS. QUE PEUT-ON RASSEMBLER EN CINQ MINUTES POUR SORTIR D'UNE TELLE SITUATION ET ASSURER SA SÉCURITÉ? J'AI DONC GRANDI SANS CROIRE AUX BALIVERNES VOULANT QUE LA POLICE SAUVE DES VIES OU AIDE LES CITOYENS. »

Alexandria B.

## Les facteurs favorisant la violence : marginalisation sociale et économique

La marginalisation sociale et économique des Autochtones nuit nettement à leur accès à la justice et aux ressources connexes nécessaires pour lutter contre la violence. Lorsque nous examinons de plus près les vérités communiquées par les familles à propos de leurs relations avec la police,





nous voyons comment les femmes, les filles et les personnes 2ELGBTQQIA autochtones, qui ont fait appel au système de justice pénale pour bénéficier de sa protection, pour obtenir de l'aide ou pour demander que justice soit faite, se sont heurtées à des obstacles majeurs. Elles ont également fait les frais de la discrimination et du racisme institutionnels qui entravent l'accès à de telles mesures protectrices.

## **Les représailles institutionnelles**

Parmi les raisons qui les font hésiter à signaler la violence ou à demander de l'aide, les femmes, les filles et les personnes 2ELGBTQQIA autochtones ont mentionné craindre de subir des représailles institutionnelles. Certaines d'entre elles redoutent que le fait de communiquer avec les policiers entraîne l'intervention des services de protection de l'enfance; elles choisissent donc de composer avec la violence. En décrivant la recherche qu'elle a effectuée auprès de femmes autochtones de la Saskatchewan et du Nord de la Colombie-Britannique, Farida Deif a mentionné que, pour bon nombre de celles-ci, la crainte de communiquer avec la police pour signaler la violence est souvent ancrée dans la peur que leur dénonciation mène les services de protection de l'enfance tout droit chez elles. Deif a partagé l'histoire qui suit, tirée de ses recherches :

L'autre chose qui nous a frappés, c'est quand une femme nous a raconté qu'elle ... que sa mère était victime de violence familiale aux mains de son partenaire de race blanche. Lorsque la fille a demandé l'intervention des policiers, ces derniers ont accusé la mère d'avoir réagi aux actes de violence que son partenaire intime, comment dire, lui a infligés. Or, quand la fille a protesté en affirmant : « Cet homme a maltraité ma mère. Je détiens des vidéos qui le prouvent. J'ai des preuves de tous les abus qu'il lui a infligés. » La première question que les policiers ont alors posée à la fille fut : « Où se trouvent vos enfants? »

Cette fille nous a expliqué, par la suite, que la meilleure façon de menacer et d'intimider une femme autochtone, c'est de lui demander où se trouvent ses enfants. Ce faisant, l'agent de police veut la réduire au silence. « Vos enfants sont-ils dans un milieu convenable? Les soins qu'on leur prodigue sont-ils appropriés? Devrions-nous vous en retirer la garde? » Ce sont tous des messages implicites qui avaient pour but de la faire taire<sup>37</sup>.

## **La présomption de criminalité**

Comme nous l'avons vu, les femmes, les filles et les personnes 2ELGBTQQIA autochtones appréhendent l'intervention des services de protection de l'enfance lorsqu'elles dénoncent aux forces de l'ordre la violence qui les afflige. Elles ont également exprimé la crainte réelle d'être arrêtées ou mises en accusation en demandant l'assistance des corps policiers, convaincues que ceux-ci les croient déjà coupables. Dans l'esprit des entrevues menées par l'organisation Human Rights Watch auprès de femmes autochtones de la Saskatchewan et du Nord de la Colombie-Britannique, entrevues qui portaient sur le traitement réservé à ces femmes par les policiers, Farida Deif indique : « Les policiers présument [que les femmes autochtones] ont un comportement criminel et quand cette présomption existe, ça a énormément de répercussions », y compris « le recours excessif à la force<sup>38</sup> ».



Les vérités exprimées par les témoins devant l'Enquête nationale exposent le problème plus vaste de la brutalité policière, y compris la violence sexuelle, perpétrée contre les femmes, les filles et les personnes 2ELGBTQQIA autochtones. Ce problème a déjà été décrit et examiné dans le cadre d'autres enquêtes et commissions. À ce sujet, Farida Deif explique que ses travaux de recherche portant sur les liens qui unissent les femmes autochtones et la police en Saskatchewan démontrent que ces dernières ont subi plusieurs formes de violence perpétrées par des policiers.

Les femmes autochtones ont été victimes, assez fréquemment, d'un usage excessif de la force par les policiers. Les fouilles à nu et à caractère inapproprié, effectuées par des agents de sexe masculin, étaient également courantes, tant dans le cadre des arrestations régulières que dans les lieux de détention. Nous avons également constaté que les femmes étaient victimes de harcèlement sexuel. Dans certains cas, elles étaient aussi victimes d'agressions sexuelles commises par des agents<sup>39</sup>.

Lise J. a raconté ceci : « Mon amie a déposé une plainte pour agression sexuelle contre le policier. Quelques jours plus tard, le procureur lui a dit : « Nous avons discuté avec le policier. Vous faites erreur. » Finalement, sa plainte n'a pas été reçue<sup>40</sup>. »

Selon Deif, la police se garde souvent de protéger et d'aider comme il se doit les femmes autochtones victimes de violence. La description que fait Mealia Sheutiapik de la relation entre les services de police et les Autochtones vivant dans la pauvreté ou dans des milieux précaires démontre comment la criminalisation de ces derniers par les forces de l'ordre est proportionnelle à leur marginalisation socioéconomique.

La plupart du temps, quand les policiers regardent les gens de haut, surtout des personnes autochtones ou inuites, j'ai l'impression qu'ils aiment ça; ils commencent à vous interroger sans avoir en main les autorisations nécessaires, allant parfois jusqu'à vous harceler. J'ai aussi remarqué, ces dernières années, même si je ne suis plus dans la rue depuis ... j'ai perdu le compte. Il y a peut-être cinq ou six ans que j'ai parlé à l'un d'eux. Mais lorsqu'un policier m'interpellait, je sentais qu'il me méprisait. Il me disait : « Rentre chez toi » ou « Tu ne peux pas te trouver ici. » Tu n'as pas le choix d'obéir, parce qu'ils sont au-dessus de toi, ou quelque chose comme ça, ou juste parce que tu es ... J'ai bien réfléchi, je ne veux pas aller en prison. Et c'est injuste que les policiers agissent ainsi<sup>41</sup>.

Relatant son expérience comme travailleuse du sexe, Lanna Moon Perrin a expliqué pourquoi elle et les autres femmes du milieu hésitent à porter plainte à la police, de peur d'être ridiculisées ou d'être la cible de commentaires racistes ou sexistes et aussi de harcèlement, sans oublier la possibilité d'être arrêtées.

Vous savez, j'aimerais bien pouvoir signaler aux policiers un mauvais client sans ... sans avoir à entendre leurs commentaires désobligeants, du genre : « Savais-tu qu'une femme court plus vite la jupe retroussée qu'un homme qui a les pantalons aux chevilles? » Un policier m'a déjà dit ça. Et quand on parle de décriminalisation, c'est ... Cela permettrait aux clients de négocier pour obtenir des services qui seraient clairement définis, vous ne pensez pas<sup>42</sup> ?



## Les doubles arrestations

Comme Mealia et d'autres femmes l'ont exprimé, la crainte d'être criminalisées quand elles dénoncent la violence est aussi partagée par celles qui ont raconté avoir été arrêtées après avoir signalé la violence conjugale. Ainsi, les femmes autochtones peuvent avoir peur de rapporter la violence parce qu'elles-mêmes risquent de se voir arrêtées ou accusées de mauvais traitement ou de violence. Des travaux de recherche menés par Human Rights Watch démontrent la fréquence élevée des doubles arrestations effectuées par la police appelée à intervenir lors de situations de violence familiale impliquant des femmes autochtones. Le processus de consignation de la vérité a également permis d'entendre des histoires semblables. Comme l'a expliqué Deif :

Les femmes victimes de violence et les personnes à risque ont également déclaré que les policiers se sont montrés insensibles à leur bien-être, à leur vulnérabilité et à leurs antécédents culturels. Certaines femmes ont affirmé que lorsqu'elles avaient signalé un cas de violence familiale, les agents avaient menacé de les arrêter pour possession de drogue, intoxication en public ou non-respect des exigences de leur libération conditionnelle<sup>43</sup>.

Dans le cadre de ses efforts pour en apprendre davantage sur les politiques de doubles arrestations, Human Rights Watch a démontré qu'aucun des services de police consultés ne pouvait, dans les faits, nommer une politique en la matière dans les cas de violence familiale. Comme l'a expliqué Farida Deif :

Lorsqu'il est question des pratiques exemplaires lors d'interventions policières auprès des victimes de violence, la police doit répondre aux besoins de la victime et identifier le principal agresseur, et ce, sans porter attention, à cette étape, aux autres facteurs pouvant entrer en ligne de compte. Toutefois, ce que nous avons constaté à maintes reprises, c'est que la victime de violence risque elle aussi d'être accusée pour un certain nombre de motifs qui n'ont rien à voir avec la violence familiale et dont la gravité est beaucoup moindre<sup>44</sup>.

Si on prend en considération les vérités que les témoins ont exprimées au sujet des conséquences qu'elles ont vécues, comme victimes de violence, après avoir fait appel aux policiers, il faut reconnaître l'omniprésence du problème, qui est palpable dans les établissements correctionnels fédéraux, où 90 % des femmes purgeant une peine ont subi une agression physique, et 68 % ont fait l'objet de violence sexuelle<sup>45</sup>. Comme l'a observé Cassandra Churcher, et comme de nombreux témoins hésitant à dénoncer la violence l'ont rapporté, les services de police et le système de justice pénale ne sont pas là pour offrir aux femmes, aux filles et aux personnes 2ELGBTQQIA autochtones la sécurité et la protection dont elles ont besoin, mais pour « continuer à les traumatiser, à les maltraiter et à les contrôler<sup>46</sup> ».

Encore une fois, comme l'ont répété nombre de survivantes, de défenseurs des droits des victimes et de militants communautaires, ces inquiétudes ne sont pas sans fondement. Dans un contexte où la violence et la discrimination exercées à l'endroit des Autochtones par les forces de l'ordre sont constantes, choisir de protéger sa personne et de protéger sa famille revient à choisir de ne pas rapporter cette violence à la police.





## RÉFLEXION APPROFONDIE

# L'incarcération des femmes autochtones

## Introduction

L'objectif de cette réflexion approfondie est de mettre en lumière les problèmes systémiques liés à l'incarcération soulevés pendant les témoignages que nous avons entendus à toutes les étapes de notre processus de consignation de la vérité ainsi que dans le cadre de nos huit visites d'établissements pénitentiaires fédéraux pour femmes tôt en 2019. Nous déplorons de ne pas avoir eu suffisamment de temps pour plonger plus profondément dans ce domaine très important qui représente, sous de nombreux aspects, les conséquences et les séquelles de la colonisation, telle qu'elle a été vécue par les femmes, les filles et les personnes 2ELGBTQQIA autochtones.

Cette réflexion approfondie explore comment la surreprésentation des femmes autochtones dans les prisons canadiennes est étroitement liée à la colonisation, précisément par l'intermédiaire de la violence, de la pauvreté ainsi que de la dislocation de la famille et de la vie communautaire. Nous y exposons la façon dont l'actuel système carcéral canadien suscite et entretient la violence que subissent plusieurs femmes, filles et personnes 2ELGBTQQIA autochtones. En outre, nous y décrivons certaines étapes et difficultés à l'égard de la mise en liberté. Enfin, nous y discutons des solutions de rechange potentielles à offrir aux femmes autochtones incarcérées et à intégrer au système pénal canadien.

## Colonialisme et criminalisation : les facteurs qui facilitent l'emprisonnement

Les femmes et les filles autochtones sont surreprésentées de façon disproportionnée dans les prisons provinciales et fédérales canadiennes. En effet, même si les femmes autochtones comptent

pour moins de 4 % de la population canadienne, elles représentent pourtant environ 40 % de la population carcérale fédérale<sup>A</sup>. Le nombre alarmant de femmes autochtones incarcérées est aggravé par le fait que leurs taux d'incarcération sont ceux qui augmentent le plus rapidement dans les différents groupes démographiques au Canada. De 2005 à 2015, le nombre de femmes autochtones incarcérées a doublé<sup>B</sup>.

Dans une lettre du 29 juin 2018 adressée au ministre Goodale, l'enquêteur correctionnel, Dr I. Zinger, écrivait ce qui suit :

Selon un profil de données en date du 20 juin 2018, le Bureau signale qu'il y avait 61 femmes exigeant une sécurité maximale en milieu fédéral, dont 41 (ou 67,2 %) sont autochtones. Les femmes autochtones les plus jeunes sont surreprésentées dans les unités de garde en milieu fermé. En effet, il existe une forte corrélation entre le jeune âge et l'identité autochtone, particulièrement dans la cohorte des 18 à 25 ans.

Dans ce rapport de 2016-2017, Zinger a également indiqué ce qui suit : « De plus, la moitié des femmes détenues dans les unités de garde en milieu fermé étaient autochtones au moment de mon enquête. Ces femmes ne pouvaient pas accéder à la gamme de services, de programmes et de soutiens auxquels les femmes autochtones détenues en milieu fédéral ont droit en vertu de la loi. »

Les Aînés et le personnel du Service correctionnel du Canada nous ont dit avoir remarqué que le profil des femmes autochtones incarcérées change également : les femmes autochtones sont admises de plus en plus jeunes, elles sont peu instruites, elles ont un lien plus étroit avec la violence à l'intérieur comme à l'extérieur de la prison et elles souffrent de problèmes de santé mentale et de toxicomanie. Plusieurs femmes nous ont décrit comment elles sont passées de leur famille d'accueil, à un centre de détention pour les jeunes, aux établissements correctionnels provinciaux puis





fédéraux. Ces « passages » montrent une tendance troublante qui exige une analyse plus approfondie, à effectuer hors du cadre de l'Enquête nationale.

Si l'on compare avec les femmes non autochtones détenues en milieu fédéral, les femmes autochtones sont surreprésentées en termes d'épisodes d'automutilation, de ségrégation, d'incidents de recours à la force et de sécurité maximale. Les femmes autochtones sont jugées à haut risque et sont plus susceptibles d'enfreindre les règles institutionnelles. On leur accorde moins souvent une semi-liberté ou une libération conditionnelle totale et elles risquent plus d'être réincarcérées en raison de la suspension ou de la révocation de leur liberté conditionnelle<sup>c</sup>.

Les femmes autochtones sont surreprésentées au sein de la population carcérale canadienne, car elles subissent la violence de façon disproportionnée, entre autres. Il y a manifestement un lien entre la violence vécue par les femmes et les filles autochtones disparues et assassinées et le recours excessif à leur incarcération. Lorsque les femmes autochtones sont incarcérées en raison d'un crime violent, leur acte est souvent une réponse à la violence qu'elles ont endurée<sup>p</sup>.

## Colonisation et incarcération

Par leur nature même, le système correctionnel et le système de justice perçoivent les femmes et la culture autochtones d'un point de vue profondément enraciné dans le colonialisme ainsi que dans les valeurs et les attitudes occidentales. Les femmes autochtones doivent compter sur un système de justice qui ne reflète en rien leur histoire et leur réalité culturelles, et qui n'est pas adaptable à celles-ci<sup>e</sup>. Comme le mentionne Kassandra Churcher, la directrice générale de l'Association canadienne des sociétés Elizabeth Fry, le fondement de ce type de système « calque les mêmes modèles de contrôle et d'assimilation sanctionnés par l'État et engendre des traumatismes identiques à ceux que subissent depuis des siècles les Autochtones<sup>f</sup> ». « Lorsque des femmes autochtones doivent comparaître devant les tribunaux, avance Churcher, « elles cherchent à obtenir justice auprès d'un système qui a mis sur pied les pensionnats indiens et le système des réserves et qui continue de leur enlever leurs enfants<sup>g</sup> ». Elle a remarqué ce qui suit : « Un élément important du

problème de surreprésentation est lié à ce système de justice qui ne reconnaît pas les abus qu'il a perpétrés au cours de l'histoire ni les séquelles du traumatisme intergénérationnel au sein des communautés autochtones<sup>h</sup> ». La notion de prison comme sanction et la surcriminalisation des femmes autochtones contredisent tous deux l'élaboration de programmes visant à éviter que les femmes ne se retrouvent en prison.

Dans un de ses essais, Robert Ross, le procureur adjoint à la Couronne à Kenora, en Ontario, affirme que les Autochtones détenus dans des établissements correctionnels sont aux prises avec un système qui contrevient directement à leurs propres notions de justice et de sécurité. Il remarque que, dans plusieurs cas, le stress post-traumatique complexe qui découle de processus de colonisation comprend des histoires familiales et communautaires qui reflètent l'incidence de la « soumission [au monde non autochtone] et de l'isolement de celui-ci » aux niveaux économique, social, politique et juridique. Par ailleurs, il constate que plusieurs détenus autochtones, femmes et hommes, ont subi un traumatisme complexe pendant l'enfance qui est, par sa nature même, intergénérationnel. Ils sont forcés de faire face à un système pénal au sein duquel les carences physique, émotionnelle, mentale et spirituelle sont courantes<sup>i</sup>.

La surcriminalisation des femmes autochtones est en grande partie attribuable au colonialisme, qu'on retrouve dans le système pénal ou à l'extérieur de celui-ci. La pauvreté, l'insécurité alimentaire, les problèmes de santé mentale, la toxicomanie et la violence font tous partie de l'héritage colonial historique et actuel du Canada. Ils sont également les facteurs systémiques qui mènent à l'incarcération des femmes autochtones. Pour plusieurs détenues autochtones, la violence est un signe précurseur. Quatre-vingt-dix pour cent des femmes autochtones incarcérées ont déjà subi de la violence physique familiale et 68 % ont été victimes de violence sexuelle intrafamiliale<sup>j</sup>. De plus, 61 % des femmes autochtones qui signalent un incident de violence familiale vivent une situation de violence physique et sexuelle, par rapport à 32 % des femmes non autochtones<sup>k</sup>. De même, 53 % des femmes autochtones, comparativement à 29 % des femmes non autochtones, rapportent qu'elles ont craint pour leur vie lors d'incidents de violence familiale<sup>l</sup>. Bien





que ces statistiques soient frappantes, il est important de mettre en contexte les crimes violents pour lesquels les femmes autochtones sont accusées et déclarées coupables la plupart du temps. Selon Churcher, les crimes violents commis par des femmes autochtones sont « un moyen de défense ou une réaction vis-à-vis une violence à leur endroit ou à celui de leurs enfants ou d'un tiers<sup>M</sup> ».

Dans le cadre de notre visite de l'Établissement d'Edmonton pour femmes, certaines femmes nous ont décrit la raison de leur incarcération et ont établi un lien entre la cause profonde de leurs problèmes et la violence. L'une des femmes a raconté aux commissaires : « J'ai grandi dans un milieu très violent. Mon père a essayé de tuer ma mère. Ensuite, ma mère a toujours vécu des relations violentes. Il y avait toujours beaucoup d'alcool et de drogues. » Dans plusieurs cas, il a été déterminé que les histoires de violence étaient la raison pour laquelle les femmes avaient commis un acte violent avant leur emprisonnement ou en prison, où le comportement violent est normalisé.

En outre, plusieurs de ces détenues se sont retrouvées dans ces établissements, car elles ont adhéré à des gangs. Toutefois, comme le mentionne l'honorable Kim Beaudin, la chef adjointe nationale du Congrès des peuples autochtones et travailleuse des services d'approche auprès de STR8UP, un programme conçu pour empêcher les gens de se joindre à des gangs à Saskatoon : « Les gens se joignent habituellement à des gangs en raison des logements insuffisants, de la pauvreté, bien entendu, du manque de nourriture. Ils ont de la difficulté à nourrir leurs enfants. Ce genre de situation crée une spirale d'effets négatifs sur eux-mêmes ... C'est un cercle vicieux<sup>N</sup> ».

Cependant, la majorité des crimes commis par des femmes autochtones ne sont pas de nature violente. En effet, la plupart du temps, les femmes autochtones sont accusées d'infractions relatives à la propriété ou à la drogue. Les principaux crimes commis par les femmes autochtones sont les suivants : vol de moins de 5 000 \$, 23 %; vol de plus de 5 000 \$, 37 %; fraude, 32 %; trafic de biens volés, 21 %<sup>O</sup>. Une fois de plus, ces crimes doivent être compris dans le contexte entourant la réalité de plusieurs femmes autochtones. Trente-sept pour cent des femmes des Premières Nations résidant à l'extérieur de leur communauté vivent dans la

pauvreté, de 30 % à 70 % souffrent d'insécurité alimentaire et 40 % des femmes inuites habitent dans des logements surpeuplés<sup>P</sup>.

Une nette tendance se dessine. Dans le cas de plusieurs femmes autochtones, le système de justice canadien criminalise les actes qui découlent directement de leur instinct de survie<sup>Q</sup>. Cette situation recrée les modèles du colonialisme, car on jette le blâme et la responsabilité sur les femmes autochtones et sur les choix qu'elles ont faits, et on ignore les injustices systémiques qu'elles subissent et qui les amènent souvent à commettre des crimes<sup>R</sup>. L'État canadien ne répond pas de la façon dont ses politiques coloniales contribuent à la victimisation et à l'incarcération des femmes autochtones<sup>S</sup>. Dans ce contexte, soutient Churcher, « Le système correctionnel, par sa nature même, n'a aucun intérêt à s'attaquer aux causes profondes de la criminalisation. Par conséquent, il n'est pas en mesure de faire du traitement efficace de la réhabilitation et de la réinsertion son mandat principal<sup>T</sup>. »

## Incarcération et traumatisme intergénérationnel

L'Enquête nationale a également fait un lien entre le traumatisme intergénérationnel, une séquelle du colonialisme, et l'incarcération. Churcher a affirmé ce qui suit : « Malheureusement, les effets à long terme de la colonisation et le traumatisme intergénérationnel que notre pays a perpétrés à l'égard des femmes autochtones continuent d'être le principal facteur de leur disparition, de leur assassinat ou de leur incarcération<sup>U</sup>. » Dans la grande majorité des cas, les femmes incarcérées sont des survivantes des pensionnats indiens ou ont des membres de famille qui y ont survécu. Au cours d'une visite de l'Établissement de la vallée du Fraser, l'Enquête nationale a discuté avec neuf femmes autochtones incarcérées, qui étaient toutes des survivantes des pensionnats indiens. À l'Établissement Joliette, la plupart des femmes ont reconnu que leurs parents ou leurs grands-parents avaient souffert d'un traumatisme en raison des pensionnats indiens et que cette réalité avait une incidence directe sur leur vie. De même, pendant les entrevues réalisées partout au pays auprès de femmes incarcérées, nous avons découvert qu'il existe un lien entre





l'incarcération et les femmes et les filles autochtones disparues et assassinées. Lorsque l'Enquête nationale a discuté avec les femmes incarcérées au pavillon de ressourcement Okimaw Ohci, la majorité d'entre elles ont dit avoir eu des membres de famille ou des amies proches qui sont disparues ou qui ont été assassinées. L'ensemble des patientes du centre psychiatrique régional de Saskatoon ont un lien avec une femme disparue ou assassinée.

Malheureusement, le recours excessif à l'incarcération des femmes autochtones fait perdre les effets du traumatisme intergénérationnel. Soixante-quatre pour cent des femmes autochtones incarcérées sont des mères monoparentales, ce qui signifie qu'elles sont les principales responsables de leurs enfants<sup>V</sup>. Comme l'a remarqué Churcher, « Les effets secondaires du recours excessif à leur incarcération sont multiples. Les conséquences se font sentir au-delà des 39 % incarcérées<sup>W</sup>. » Les enfants autochtones représentent seulement 7 % de tous les enfants au Canada. Toutefois, ils comptent pour 48 % des enfants pris en charge par le système de placement familial<sup>X</sup>. En raison du recours excessif à l'incarcération des femmes autochtones, les enfants autochtones sont placés dans un autre système colonial institutionnalisé<sup>Y</sup>.

## Expériences en prison : entretenir la violence

### La violence sexuelle

Comme mentionné précédemment, la grande majorité des femmes autochtones incarcérées ont été victimes de violence sexuelle et pourtant, elles sont continuellement soumises à des fouilles à nu. Une fouille à nu exige le retrait ou le déplacement des vêtements pour permettre l'inspection visuelle des parties génitales, de la poitrine ou des fesses d'un prisonnier ou d'une prisonnière. Cependant, jusqu'à 30 % des fouilles à nu ne sont pas effectuées conformément à la politique<sup>Z</sup>. Lors d'une fouille à nu, une femme est censée porter son haut ou son bas de vêtement en tout temps, mais l'Enquête nationale a entendu que la plupart du temps, les femmes autochtones incarcérées sont totalement nues pendant la fouille<sup>AA</sup>. Comme l'ont entendu les commissaires, les fouilles à nu sont extrêmement

traumatisantes pour plusieurs femmes autochtones. De plus, elles sont perçues comme une forme d'agression sexuelle sanctionnée par l'État. Kassandra Churcher a dit à l'Enquête nationale ce qui suit :

Les responsables de la sécurité des prisons savent que les fouilles à nu se soldent rarement, voire jamais, par la découverte de contrebande ou d'armes, mais traumatisent grandement et régulièrement les femmes déjà traumatisées. Les prisonnières, dont la majorité ont été victimes de violence physique ou sexuelle, vivent souvent les fouilles à nu comme une forme d'agression sexuelle. Comme 90 % des femmes autochtones sont des survivantes de la violence physique, sexuelle ou familiale, cette mesure du gouvernement fédéral les traumatise à nouveau et de façon efficace, régulière et continue.

Lorsque les femmes refusent de se soumettre aux fouilles à nu, elles « [se voient alors ôter] la possibilité de visiter leurs enfants et leur famille. Certaines femmes évitent intentionnellement de poser leur candidature à des postes ou à des emplois ou de participer à des occasions de bénévolat dans la communauté, ce qui est leur droit, simplement parce qu'elles ne veulent pas composer avec le traumatisme lié à la fouille à nu effectuée par le Service correctionnel du Canada<sup>BB</sup>. »

Les fouilles à nu peuvent causer des préjudices supplémentaires aux femmes et aux femmes transgenres également. Comme l'a raconté à l'Enquête nationale Fallon Andy, qui défend les personnes 2ELGBTQQIA :

Si une personne dit qu'elle est une femme transgenre et qu'elle ne devrait pas être incarcérée dans un établissement pour hommes, la prison devrait modifier ses directives et ses règlements. Elle devrait être en mesure de statuer que cette personne ne se trouve pas dans la bonne prison et qu'elle devrait être déplacée, car il ne faut pas l'exposer à un risque accru de violence sexuelle ou à de graves problèmes de santé mentale en la gardant dans une prison pour hommes. Ce ne serait pas correct<sup>CC</sup>.

Il faut tenir compte de l'enjeu important qu'est le risque de mégenrage, particulièrement dans un





milieu correctionnel, pour comprendre comment assurer la sécurité de l'ensemble des détenus.

## Les problèmes de santé émotionnelle et mentale

La majorité des femmes autochtones incarcérées souffrent de problèmes de santé mentale et pourtant, elles ont un accès limité aux programmes de santé mentale appropriés. La plupart des programmes de santé mentale offerts en prison s'adressent à la population carcérale générale. Cependant, 50 % des femmes autochtones qui sont incarcérées se trouvent dans des prisons à sécurité maximale<sup>DD</sup>. Savannah Gentile, la directrice de la Mobilisation et des affaires juridiques à l'Association canadienne des sociétés Elizabeth Fry, a révélé à l'Enquête nationale qu'au cours d'une visite de l'Établissement de la vallée du Fraser au nom du groupe de défense, 100 % des femmes qui étaient dans les unités de garde en milieu fermé étaient autochtones<sup>EE</sup>. Elle a également déclaré que les femmes aux prises avec des problèmes de santé mentale étaient surreprésentées dans ces milieux<sup>FF</sup>. Par conséquent, les femmes autochtones incarcérées qui ont le plus besoin d'aide ont l'accès le plus restreint à ces programmes<sup>GG</sup>. En plus des ressources minimales en matière de santé mentale dans les prisons à sécurité maximale, comme le soutient Gentile, « Quand il y a un confinement aux cellules, ce qui se produit souvent chaque mois, les femmes en milieu fermé sont totalement confinées à leur cellule et se voient refuser l'accès aux programmes, à l'école, aux soutiens en santé mentale et, parfois même, aux douches. Souvent les femmes ne savent pas quand le confinement aux cellules prendra fin<sup>HH</sup>. »

L'Enquête nationale a également eu le privilège d'écouter des femmes autochtones incarcérées actuellement ou antérieurement parler de leurs problèmes de santé mentale. Diane Sere, une ancienne détenue et actuellement une employée de l'Association canadienne des sociétés Elizabeth Fry, a raconté à l'Enquête nationale ce qui suit : « J'ai passé la première nuit sur le plancher d'une cellule de détention provisoire infestée de fourmis. Mon pire cauchemar a alors commencé. J'ai perdu ma dignité, mon individualité. Pendant quatre ou cinq semaines, j'ai passé mon temps en isolement protecteur, ce qui est de la ségrégation. Je souffrais d'anxiété, de dépression. Je n'arrivais pas à avoir les idées claires<sup>II</sup>. »

D'autres femmes ont partagé avec nous des histoires semblables au cours de nos visites d'établissements.

Plusieurs femmes, Aînés et membres du personnel ont soulevé les nombreuses lacunes des services en santé mentale. Essentiellement, les services en santé mentale, constants et adaptés à la culture, sont insuffisants. Deux secteurs problématiques ont été soulignés à maintes reprises. D'abord, les femmes qui sont en état de crise doivent être transférées à un hôpital. Pour plusieurs établissements, il y a peu, voire aucun, hôpital local où faire hospitaliser les détenues. Ce transfert peut donc prendre plusieurs jours, ce qui engendre beaucoup de détresse chez les femmes. Ensuite, ces femmes qui exigent des services en santé mentale autres que ceux qui leur sont offerts, mais qui ne sont pas en état de crise, ne peuvent pas accéder aux services qui répondraient à leurs besoins en matière de santé mentale. Ces circonstances peuvent entraîner des problèmes de sécurité et d'attribution de cote de sécurité.

## La violence spirituelle

En plus de subir la violence sexuelle et émotionnelle, les femmes autochtones incarcérées souffrent également de la perte de leur identité culturelle et de leur bien-être spirituel. Patricia Tate, une employée de l'Association canadienne des sociétés Elizabeth Fry, a déclaré à l'Enquête nationale que les programmes culturels offerts aux détenues autochtones et axés sur la diversité des cultures autochtones étaient insuffisants. Elle a également évoqué le lien important avec l'identité et le bien-être : « Notre plus grand défi, et notre rôle le plus important [en prison], est de nous assurer d'établir un réseau avec d'autres services, d'autres Aînés, d'autres enseignants et d'autres cérémonies culturelles pour que les femmes puissent célébrer ces cérémonies et s'épanouir<sup>JJ</sup>. »

Toutefois, Tate a souligné qu'il est très difficile de leur offrir des ressources adaptées à leur culture en prison, car « on ne propose qu'un type de cérémonie ... les femmes détenues au sein d'un établissement représentent une variété de cultures et de traditions, mais malheureusement, ces traditions ne sont pas toujours respectées, voire rarement, pour être franche<sup>KK</sup> ». Comme l'Enquête nationale l'a observé dans le cadre de ses visites, chaque établissement possède un espace spécial et sacré qui est consacré





aux cérémonies, dont la cérémonie de la sudation. De plus, dans certains établissements, on retrouve même cet espace dans les unités à haute sécurité. Ces endroits servent souvent à attirer des Autochtones de diverses identités ou sont axés sur les pratiques de l'Aînée ou du guide spirituel qui y travaille.

Les commissaires ont également entendu que des femmes autochtones ont été transférées dans un établissement situé ailleurs au pays où les Aînés ne connaissent pas leurs traditions. Dans une telle situation, la pertinence de la participation des Aînés et des programmes culturels est réduite. Comme le mentionne Tate, en particulier : « bien qu'elles vivent aussi dans l'établissement et qu'elles prennent part aux cérémonies, les femmes inuites n'y arrivent pas sans peine, car il n'y a pas d'Aîné inuit et il n'existe pratiquement aucune cérémonie ou aucun enseignement qui reflète leur héritage, fort différent de celui des Premières Nations ou des Métis<sup>LL</sup> ». Les programmes destinés aux femmes inuites tardent à être développés, car les femmes inuites peuvent être envoyées loin de chez elles et ne sont pas centralisées dans un établissement. Ainsi, elles ne représentent qu'un petit pourcentage des femmes autochtones incarcérées<sup>MM</sup>. Tate a également raconté à l'Enquête nationale que « les femmes autochtones non-inscrites forment l'autre population qui se perd dans le système de justice. Elles ne comptent pas lorsqu'il est question de programmes et de ressources pour les services aux Autochtones ... ces services sont offerts uniquement, au mieux, aux personnes qui s'identifient comme Métisses, Inuites ou membres des Premières Nations<sup>NN</sup>. » Dans le pire des cas, plusieurs femmes sont jugées inadmissibles.

La valeur des programmes culturels autochtones a été signalée à l'Enquête nationale lors de ses visites d'établissements où étaient incarcérées des femmes autochtones. À l'Établissement de la vallée du Fraser, quelques femmes ont expliqué comment, d'une certaine manière, la prison les avait aidées. Une femme a dit à l'Enquête nationale que la prison était le seul endroit où elle se sentait en sécurité. Plusieurs autres femmes présentes étaient d'accord avec elle. Une autre femme a dit avoir appris en prison la valeur de son corps et que la violence n'était pas acceptable. Elle a obtenu du soutien en prison et a pu y établir un lien avec sa culture. La majorité des femmes ont insisté sur le rôle important assumé par les Aînés dans le système carcéral. Pour plusieurs femmes

autochtones, les Aînés offrent un soutien important, un lien avec leur culture et la guérison. Une femme a affirmé ce qui suit : « Je dois accepter ce que j'ai vécu pendant mon enfance et j'ai besoin du soutien d'un Aîné pour y arriver. J'ai besoin d'un lien personnel et de cérémonies. » De même, une femme au pavillon de ressourcement Okimaw Ohci a déclaré : « Les Aînés sont les seuls qui m'ont aidée. »

Les témoignages publics et les visites d'établissements par l'Enquête nationale ont démontré l'importance du rôle des Aînés dans un établissement. Cependant, nous avons également découvert qu'ils ne sont pas assez nombreux pour soutenir la population autochtone incarcérée excessivement. La plupart des Aînés avec qui nous avons discuté nous ont raconté qu'on leur confie un nombre extrêmement élevé de cas. Par conséquent, ils ont de la difficulté à répondre aux besoins de plusieurs femmes. Plusieurs Aînés ont mentionné que le Service correctionnel du Canada (SCC) n'avait pas recruté et maintenu un effectif suffisant d'Aînés. Cela signifie que certaines détenues ont dû attendre pour profiter de programmes auxquels participaient les Aînés et, par conséquent, elles ont dû attendre avant de présenter une demande de libération conditionnelle. De plus, un certain nombre d'Aînés ont remarqué les taux élevés en matière d'épuisement professionnel et de traumatisme au sein de leur équipe, car ils ne disposent pas d'assez de temps pour bénéficier des soutiens favorisant leur propre santé mentale. Par ailleurs, et en raison du nombre insuffisant d'Aînés, le nombre de programmes dont le contenu a été élaboré à l'aide des Aînés a diminué. Il s'agit là d'un autre facteur qui fait en sorte que plusieurs femmes autochtones doivent attendre avant de pouvoir soumettre une demande de libération conditionnelle ou n'assistent pas aux enseignements culturels.

## Initiatives et programmes existants

Certains programmes, soulevés par le personnel du SCC et par les femmes avec qui les commissaires ont discuté, ont une incidence directe sur la nature de leurs expériences au sein du système pénal. Ces programmes sont nés dans la foulée des vives critiques dont ont fait l'objet les services correctionnels à l'égard des Autochtones.





Précisément, *La création de choix*, un rapport du groupe d'étude sur les femmes purgeant une peine fédérale publié en 1990, a constaté que « seuls ceux qui sont traités avec respect et jouissent d'un minimum de pouvoir peuvent assumer la responsabilité de leurs gestes et faire des choix valables ». Les auteurs du rapport recommandaient l'établissement d'un plan à long terme dont l'objectif ultime serait la prévention.

Pour apaiser la souffrance qui en porte certains à agir de façon à nuire aux autres, nous devons supprimer les injustices qui réduisent les choix et prévenir la violence qui engendre la violence. La création de stratégies préventives qui donneront des choix valables aux femmes purgeant une peine fédérale réduira la criminalité et donnera plus de choix à tous les Canadiens. Notre société deviendra par conséquent un milieu plus sûr<sup>oo</sup>.

Certains programmes développés au lendemain de la publication de *La création de choix* étaient directement attribuables aux travaux du groupe de travail, y compris notamment les pavillons de ressourcement, même si la portée de ce programme demeure limitée. La plupart des pavillons de ressourcement sont offerts uniquement à la population carcérale masculine et dans les établissements à sécurité minimale ou moyenne seulement. Il existe des programmes au sein desquels les valeurs, les traditions et les enseignements autochtones s'appliquent à d'autres milieux que celui des pénitenciers. Ces programmes ont été élaborés avec l'aide d'Aînés et de communautés locales.

Par ailleurs, certains établissements parmi ceux que nous avons visités comportent un « sentier » ou une unité équivalente où vivent des femmes. Des activités et des services spécialisés y sont proposés aux femmes, mais ceux-ci sont limités et offerts uniquement dans les unités à sécurité moyenne ou minimale. Quelques activités et programmes font partie de l'initiative des Sentiers autochtones, présentée il y a près de 20 ans, en 2000, sous forme de programme pilote dont l'objectif est de « créer un milieu propice pour les délinquants autochtones qui choisissent une voie de guérison plus traditionnelle, notamment le counseling par des Aînés, la participation à des cérémonies autochtones et la redécouverte de la culture<sup>pp</sup> ». Au départ, ces unités,

qui se trouvent dans des établissements correctionnels fédéraux, étaient accessibles aux hommes seulement. Maintenant, il y en a deux pour femmes dans l'Ouest canadien (à l'Établissement d'Edmonton pour femmes et au centre correctionnel communautaire de Fraser Valley). Certains établissements offrent des programmes semblables, bien qu'ils ne soient pas considérés comme des unités officielles des Sentiers autochtones.

Les commissaires ont également entendu parler de l'outil des antécédents sociaux des Autochtones (ASA) du Service correctionnel du Canada, un outil qui doit être pris en compte dans les évaluations de toute personne qui s'identifie comme Inuite, Métisse ou membre des Premières Nations. Il s'agit d'un processus de quatre étapes qui examine les « facteurs historiques contextuels qui ont contribué à la surreprésentation des Autochtones dans le système de justice pénale, ainsi que la spécificité et les circonstances uniques de l'individu<sup>qq</sup>. » Précisément, l'outil des ASA tient compte des facteurs importants qui mènent à la violence, auxquels se rapporte ce rapport, ainsi que des nombreuses formes de traumatismes intergénérationnels et multigénérationnels évoqués par les femmes incarcérées. Ultimement, l'outil des ASA est utilisé pour déterminer et pour considérer les approches réparatrices et adaptées à la culture pouvant contribuer à atténuer le risque et fournir des renseignements pour orienter le placement des détenus, par exemple dans un pavillon de ressourcement.

## Maintenir le statu quo : le rapport Gladue

Le rapport Gladue était souvent perçu comme une panacée pour contrer le recours excessif à l'incarcération des femmes autochtones. Toutefois, ses effets sont maintenant considérés comme mitigés, en quelque sorte. Ce rapport découle de la décision de la Cour suprême du Canada dans l'affaire *R. c. Gladue*, [1999] 1 S.C.R. 688. L'arrêt Gladue établit les principes de détermination de la peine d'un délinquant autochtone, conformément à l'alinéa 718.2(e) du *Code criminel* prévoyant « l'examen, plus particulièrement en ce qui concerne les délinquants autochtones, de toutes les sanctions





substitutives qui sont raisonnables dans les circonstances et qui tiennent compte du tort causé aux victimes ou à la collectivité » (soulignement ajouté). L'arrêt Gladue visait à réduire la surreprésentation des Autochtones dans les prisons en fournissant aux juges un nouveau cadre pour déterminer la peine. L'arrêt Gladue a reconnu que les Autochtones étaient confrontés au racisme systémique à l'intérieur comme à l'extérieur du système pénal du Canada<sup>RR</sup>.

Un rapport Gladue est présentiel ou relatif à une audience sur la libération sous caution. Il contient des recommandations s'adressant aux tribunaux en vue de déterminer la peine appropriée pour un délinquant autochtone. Les rapports Gladue comprennent souvent des renseignements au sujet des antécédents d'une personne et de tout traumatisme qu'elle peut avoir subi, notamment les pensionnats indiens, l'interaction avec les services de protection de l'enfance, la violence physique ou sexuelle ou des problèmes de santé mentale<sup>SS</sup>. L'objectif d'un rapport Gladue est de fournir au juge des renseignements utiles et exacts sur un délinquant pour lui permettre d'appliquer correctement les principes de détermination de la peine énoncés à l'article 718.2(e) et ailleurs dans le *Code criminel*. Le rapport Gladue doit contenir les antécédents détaillés du délinquant et fournir des renseignements pertinents favorisant les diverses options de peine non privative de liberté. Dans le cas d'une femme ou d'un jeune délinquant, il faut tenir compte d'un rapport Gladue lors de l'audience sur la libération sous caution, de la détermination de la peine et de l'audience de libération conditionnelle.

Cependant, il arrive souvent que des femmes veuillent exercer leur droit à un rapport Gladue et qu'elles soient privées de ce droit ou rencontrent des difficultés pour y parvenir. Lors de notre visite de l'Établissement de Joliette, plusieurs femmes incarcérées se sont dites inquiètes de ne pas recevoir de rapport Gladue, même si elles en avaient fait la demande. De même, Diane Sere a dit à l'Enquête nationale ce qui suit :

À la fin de mon procès, lorsque j'ai été déclarée coupable, le tribunal a été avisé que je voulais exercer mon droit à un rapport Gladue pour déterminer ma peine. Cette requête n'a pas été bien reçue. Plus tard, on m'a dit que je n'avais pas l'air d'une Autochtone et qu'avant de

pouvoir obtenir un rapport Gladue, je devais prouver mon origine autochtone<sup>TT</sup>.

Peu de temps après son procès, Sere a reçu un appel de l'agent de probation qui allait être responsable de rédiger son rapport présentiel. Sere lui a dit qu'elle voulait un rapport Gladue, ce à quoi l'agent a répondu : « Nous ne faisons pas de rapports Gladue à Ottawa<sup>UU</sup> ». Après avoir rencontré l'agent, Sere a senti qu'il ne comprenait aucunement sa culture autochtone et, par conséquent, qu'il y avait plusieurs malentendus dans son rapport présentiel<sup>VV</sup>.

De plus, les femmes autochtones peuvent hésiter à demander un rapport Gladue, en premier lieu. Cassandra Churcher a raconté à l'Enquête nationale que dans le cadre de son travail auprès de l'Association canadienne des sociétés Elizabeth Fry,

Beaucoup trop de femmes dans le système fédéral ont fait part [de l'] humiliation et de la honte qu'elles ont ressenties lorsqu'elles ont dû revivre souvent leur histoire devant les agents responsables de produire les rapports Gladue, car ils ne sont pas autochtones et n'ont peut-être pas une vaste expérience ou connaissance de l'histoire autochtone. Nous avons également entendu parler de femmes qui ont volontairement omis des parties de leur histoire en raison de sentiments de honte et d'humiliation, ce qui va à l'encontre de la raison même du rapport Gladue ... Il faut percevoir les rapports Gladue avec prudence, car s'ils servent à traiter les problèmes systémiques, ils rendent également l'individu responsable de sa situation dans le système de justice pénale<sup>WW</sup>.

Nous avons aussi entendu que les facteurs soulevés dans les rapports Gladue, présentés pour déterminer la peine ou produits par le SCC, peuvent entraîner l'attribution d'une cote de sécurité maximale à la délinquante, car ces facteurs relatifs à l'évaluation du risque sont souvent les effets mêmes de la violence coloniale soulignés dans ces rapports.

Les témoignages que nous avons entendus et les conversations que nous avons eues avec des femmes incarcérées ont rapporté une observation inévitable : l'arrêt Gladue s'est avéré très peu efficace pour réduire le nombre de femmes autochtones incarcérées.





L'Enquête nationale a entendu des histoires semblables sur les rapports Gladue au cours de ses visites informelles d'établissements. Plusieurs femmes nous ont dit que leur avocat et leur juge avaient rejeté leur demande relative à un rapport Gladue pour déterminer leur peine. De plus, elles nous ont raconté la difficulté qu'elles ont eue à raconter leur vie à l'agent responsable de rédiger le rapport, particulièrement parce qu'elles ne savaient pas comment leurs antécédents allaient être utilisés dans la détermination de leur peine.

D'autres personnes ont exprimé des doutes et des critiques semblables au sujet des rapports sur les antécédents sociaux des Autochtones. Ces rapports contiennent les mêmes renseignements que les rapports Gladue et ils sont produits lors de l'admission dans les établissements que nous avons visités. Les établissements utilisent ces rapports pour planifier les programmes et les services offerts aux femmes autochtones. Toutefois, plusieurs femmes avec qui nous avons parlé étaient réticentes à raconter leur passé de façon transparente pour les mêmes raisons évoquées relativement au rapport Gladue : la majorité des agents correctionnels qui préparent et utilisent les rapports sur les antécédents sociaux des Autochtones ne sont pas autochtones et ne comprennent peut-être pas la réalité de plusieurs d'entre elles. De nombreuses femmes nous ont également dit avoir senti que leur histoire avait été utilisée contre elles dans l'attribution de leur cote de sécurité. Par exemple, si une femme vit dans un foyer violent, ce passé de violence entraîne l'attribution d'une cote de sécurité plus élevée. Comme nous en avons discuté précédemment, les cotes de sécurité plus élevées limitent souvent l'accès aux services en santé mentale et à d'autres programmes culturels importants.

## Liberté conditionnelle et mise en liberté

Plusieurs femmes avec qui l'Enquête nationale a discuté ont souligné dans quelle mesure leur mise en liberté était problématique pour elles. De nombreuses femmes interrogées ont constaté que si elles étaient « renvoyées » dans leur communauté, où se trouvent toujours les facteurs déclencheurs, sans être soutenues adéquatement, il y avait peu de chance qu'elles réussissent à réintégrer la

communauté. À l'Établissement de la vallée du Fraser, une femme a discuté avec l'Enquête nationale du manque de soutien à sa sortie de prison. Dans une entrevue, elle a déclaré ce qui suit : « Ils m'ont simplement renvoyée dans ma communauté ... où se trouvaient les membres de ma famille toxicomanes ... sans me fournir de soutien. » Dans certains cas, la sortie de prison peut être dangereuse. En effet, plusieurs femmes ont mentionné qu'elles connaissaient de nombreuses femmes incarcérées qui étaient décédées peu de temps après leur mise en liberté. Elles ont souligné la nécessité de réaliser un plan adéquat et réaliste de mise en liberté. Les femmes autochtones qui ont des problèmes de toxicomanie et qui sont mises en liberté craignent de consommer à nouveau des drogues si elles n'ont pas les ressources nécessaires à l'extérieur de la prison. Comme l'a dit une femme de l'Établissement de la vallée du Fraser à l'Enquête nationale : les drogues et l'alcool étaient tout ce que je connaissais lorsque je suis sortie de prison. »

De même, au cours de la visite du pavillon de ressourcement Okimaw Ohci par l'Enquête nationale, la majorité des femmes ont révélé craindre leur mise en liberté. Elles ont peur de ne pas avoir le soutien adéquat, d'être exposées aux drogues et à l'alcool ainsi qu'à des relations malsaines. L'une des femmes a dit à l'Enquête nationale : « J'évolue ici, mais ma famille est toujours aux prises avec la violence et les drogues ... J'ai peur d'être auprès d'elle, parce qu'elle peut me tirer vers le bas ... J'ai peur de retourner dans la même communauté. Le programme ne fonctionne pas. Je veux rester sobre et vivre une bonne vie. » Les femmes qui sortent de prison doivent également faire face à une autre difficulté majeure, celle de trouver un travail. Une résidente a décrit son expérience de la façon suivante : « Mon estime personnelle était si haute quand je suis sortie d'ici. Mais il m'était impossible de trouver un travail. Ce fut le plus gros revers ... La stigmatisation associée à la prison était pire que je ne le croyais. »

Plusieurs femmes et Aînés ont exprimé leurs préoccupations au sujet de l'emplacement des services et des maisons de transition. Souvent, les services et les maisons de transition sont situés dans les quartiers dangereux des villes. Ces endroits rétablissent les mêmes circonstances en raison desquelles les femmes ont enfreint la loi et compromettent leur sécurité ainsi que la réussite de





leur réinsertion. De façon générale, l'Enquête nationale a perçu un sentiment généralisé d'inquiétude et de peur lié à la mise en liberté.

Comme le soutient Rupert Ross, un ancien procureur adjoint de la Couronne du District de Kenora, en Ontario, une partie de cette préoccupation peut venir du fait que peu importe le crime commis, il a également « nui à leur relation avec leur foyer », leur quartier, leur famille ou leur cercle social. Cela s'explique par l'importance des relations et par la nécessité d'examiner les répercussions du crime et de l'incarcération d'un point de vue relationnel. Comme il le propose :

La justice vise non seulement la dissuasion et la protection de la communauté, mais comporte également les trois objectifs relationnels suivants :

- Amener les délinquants à comprendre, sur le plan émotionnel, les changements que leur crime a causés dans leurs relations avec les autres;
- Examiner les relations déséquilibrées dans la vie du délinquant qui l'ont poussé à commettre un crime et s'efforcer de trouver différentes formes relationnelles afin de réduire la probabilité qu'il reproduise son geste;
- Chercher des façons de sortir les deux parties de la relation déséquilibrée qui les a soudés au moment du crime<sup>xx</sup>.

## La voie à suivre

Afin d'imager une nouvelle voie à suivre, nous mettons l'accent sur les possibilités de mise en liberté conformément aux articles 81 et 84 de la *Loi sur le système correctionnel et la mise en liberté sous condition*. Nous adoptons cette position, car les ressources communautaires pour les femmes autochtones peuvent mieux traiter les enjeux sous-jacents de l'incarcération (le traumatisme, la pauvreté et les autres répercussions de la colonisation) en utilisant les forces des pratiques culturelles en matière de guérison.

Les recherches universitaires et les témoignages livrés dans le cadre du processus de consignation de la vérité relèvent un thème clé : pour briser le cycle

de la criminalisation et du recours excessif à l'incarcération des femmes autochtones, les Autochtones doivent participer activement à l'établissement des solutions. Les commissaires ont entendu des témoins énoncer des possibilités et des mesures favorisant la mise en liberté des femmes autochtones incarcérées dans les prisons canadiennes. Dans son témoignage, Cassandra Churcher a déclaré que :

toute recommandation utile et authentique doit émaner des communautés concernées. Les communautés métisses, inuites et des Premières Nations doivent participer au processus visant à envisager un autre système de justice qui reflète leurs pratiques, leurs croyances et leurs cultures. En outre, elles doivent recevoir le financement nécessaire pour soutenir les solutions issues des communautés en matière de prévention et de réinsertion en lien avec un crime<sup>yy</sup>.

Churcher a trouvé la loi qui autorise la libération des prisonniers dans une communauté : l'article 84 de la *Loi sur le système correctionnel et la mise en liberté sous condition* (LSCMLC).

La LSCMLC est conçue pour faciliter ces libérations au sein d'une communauté. Les articles 81 et 84 de la LSCMLC permettent le transfert de ressources aux communautés autochtones dans les réserves et à l'extérieur de celles-ci, en milieu rural ou urbain, afin d'héberger les membres de ces communautés qui seraient autrement en prison et de soutenir une réinsertion avantageuse pour l'individu et pour l'ensemble de la communauté. L'objectif de ces articles est de conférer un contrôle accru aux communautés autochtones sur les questions qui les concernent. Ces dispositions sont larges et permettent les solutions créatives, flexibles, personnalisées dans la communauté<sup>zz</sup>.

Ces établissements sont également préférables, car ils permettent aux femmes d'être plus près de leur communauté, de leur famille et de leurs enfants.

Actuellement, il existe deux pavillons de ressourcement pour femmes. Le pavillon de ressourcement Okimaw Ohci est géré par le SCC et il peut accueillir 60 femmes. La maison de





ressourcement Buffalo Sage est exploitée par le secteur privé conformément à l'article 82 de la LSCMLC. Sa capacité est de 28 femmes<sup>AAA</sup>. Comme il y a environ 280 femmes autochtones incarcérées, les possibilités de remise en liberté sont, de toute évidence, très limitées.

Dans le *Rapport annuel de 2017-2018 du Bureau de l'enquêteur correctionnel*, l'enquêteur évoque la nécessité de mettre sur pied des pavillons de ressourcement en milieu urbain en vertu de l'article 81 de la LSCMLC et d'augmenter les placements dans des maisons privées conformément à l'article 84 de la LSCMLC. Pour ce faire, de véritables partenariats doivent être établis entre le SCC et les communautés autochtones et ils doivent être fondés sur « la confiance et favoriser l'autodétermination et la guérison des détenus et des collectivités autochtones<sup>BBB</sup> ». Dans sa 13<sup>e</sup> recommandation, l'enquêteur a recommandé que le SCC réaffecte de très importantes ressources afin de négocier de nouvelles ententes de financement et de nouveaux arrangements avec les partenaires pour transférer les soins et la surveillance des Autochtones du milieu carcéral à la communauté.

En réponse à la 13<sup>e</sup> recommandation du rapport annuel de 2017-2018 du Bureau de l'enquêteur correctionnel, le commissaire du SCC a soutenu ce qui suit :

Le SCC continue de renforcer ses partenariats afin de créer d'autres possibilités de participation des collectivités autochtones à la gestion des délinquants autochtones. Cela comprend l'engagement et la collaboration du SCC et des collectivités autochtones en ce qui a trait aux accords conclus en vertu de l'article 81 de la *Loi sur le système correctionnel et la mise en liberté sous condition* pour les pavillons de ressourcement<sup>CCC</sup>.

Il importe de signaler que cette réponse n'indique pas précisément que l'accord prévoit le transfert de capacité, de ressources et de soutiens aux communautés autochtones en vue de favoriser la guérison des délinquants.

Nos visites d'établissements et plusieurs témoignages ont révélé que le processus conduisant à mettre sur

pied des établissements conformément à ces articles est très complexe. Par ailleurs, le transfert des pouvoirs est incomplet, ce qui entrave l'indépendance des organismes communautaires. Récemment, le Service correctionnel du Canada a pris des mesures pour simplifier et accélérer le processus, mais plusieurs femmes autochtones, Aînés et fournisseurs de services constatent toujours que la tâche est titanesque et que sa réussite reste à déterminer. L'enjeu central de toutes ces discussions et suggestions pour initier le changement est de comprendre la définition historique et actuelle de la justice pour les Autochtones. Par exemple, Diane Leresche, une chercheuse analysant les conflits et une spécialiste de la conception, de la mise en œuvre et de l'évaluation de systèmes visant à prévenir et à résoudre les conflits, observe que le concept de justice sacrée privilégie la guérison des relations et non les actions punitives.

Pour rétablir la paix, on se préoccupe habituellement moins de la justice distributive ou de la « justice approximative et sauvage » (prendre sa revanche, punir, contrôler, déterminer qui a raison) que de la « justice sacrée ». La justice sacrée est une façon de gérer les désaccords pour renouer les relations et pour proposer des solutions en matière de guérison. Elle traite les causes sous-jacentes du désaccord (souvent, il s'agit d'une personne qui n'a pas vécu selon les principes spirituels prescrits). La justice sacrée va au-delà des techniques de gestion des conflits, car elle exige que les personnes concernées parlent du fond du cœur et expriment leurs sentiments. Elle consiste à donner des conseils et à rappeler aux gens leurs responsabilités les uns envers les autres. Cette forme de justice les aide à rétablir les liens avec les esprits supérieurs ou à relier le conflit à une cause plus grande. Elle aide les gens à s'apaiser, à passer outre et à transformer les émotions douloureuses, comme la colère, en les guidant vers ce qui est plus important que le conflit et en favorisant cette réunion. La justice sacrée se manifeste lorsque l'on reconnaît qu'il est important de rétablir la compréhension et l'équilibre au sein des relations. La plupart du temps, le processus comprend la présentation d'excuses et l'accord du pardon. Les gens travaillent ensemble, dans un intérêt mutuel au sein du cercle infini<sup>DDD</sup>.





## Conclusions

- Les femmes et filles autochtones sont criminalisées en raison de la colonisation et de leur résistance à la violence coloniale, y compris l'oppression et la marginalisation systémique. Par conséquent, l'État incarcère les femmes et les filles autochtones parce qu'elles luttent contre la colonisation ou en raison de ses effets sur elles.
- Le gouvernement fédéral n'a pas pris de mesures concrètes pour mettre en œuvre les nombreuses recommandations visant à mettre fin à la surreprésentation flagrante des femmes et des filles autochtones dans le système de justice pénale. Ces recommandations font partie du rapport du Bureau de l'enquêteur correctionnel, du rapport du vérificateur général du Canada intitulé *La préparation des détenus autochtones à la mise en liberté* (automne 2016), des appels à l'action formulés par la Commission de vérité et réconciliation du Canada (2015), du rapport du Comité permanent de la sécurité publique et nationale intitulé *Les Autochtones dans le système correctionnel fédéral* (juin 2018), du rapport du Comité permanent de la condition féminine intitulé *Un appel à l'action : Réconciliation avec les femmes autochtones dans le système de justice fédéral et le système correctionnel* (juin 2018), et du rapport de la Commission d'enquête sur certains événements survenus à la prison des femmes de Kingston (rapport Arbour).
- Le gouvernement fédéral n'a pas suffisamment investi d'efforts dans la mise en œuvre des dispositions propres aux Autochtones des articles 79 à 84.1 de la *Loi sur le système correctionnel et la mise en liberté sous condition* (L.C. 1992, ch. 20).
- Les peines minimales obligatoires sont particulièrement dures pour les femmes, les filles et les personnes 2ELGBTQQIA autochtones, car on ne peut pas appliquer les principes de l'arrêt Gladue pour déterminer leur peine. Par conséquent, leurs taux d'incarcération sont plus élevés. En outre, les peines ne répondent pas aux besoins en matière de réhabilitation des femmes, des filles et des personnes 2ELGBTQQIA autochtones.
- Le nombre d'Aînés travaillant dans les établissements pénitenciers au Canada est insuffisant et ils n'ont pas les moyens d'apporter un changement réel. De plus, la démarche panautochtone qui a été adoptée veut que les Aînés ou les guides spirituels d'une nation et leurs enseignements spirituels conviennent à tous les détenus autochtones. Les services culturels et spirituels doivent répondre aux besoins et aux droits des différentes personnes (Inuits, Métis et membres des Premières Nations). Les femmes métisses et inuites, qui sont minoritaires dans la population carcérale autochtone, sont celles qui souffrent le plus du non-respect de leurs droits culturels et spirituels.
- Le défaut de collecte de données désagrégées empêche de bien comprendre les circonstances qui mènent à l'arrestation et à la détention des membres des différents groupes, y compris les Métis, les Inuits, les membres des Premières Nations et les personnes 2ELGBTQQIA. Par conséquent, le Service correctionnel du Canada n'a pas une idée précise des diverses populations autochtones parmi les détenus, ce qui donne lieu à des programmes et à des services inefficaces et discriminatoires à l'endroit de l'ensemble des Autochtones.
- La vision concernant les services correctionnels pour les femmes au Canada, telle qu'elle est présentée dans *La création de choix : Rapport du groupe d'étude sur les femmes purgeant une peine fédérale*, a été abandonnée.
- L'incarcération de femmes entraînant la séparation d'une mère et de son enfant enfreint les droits de l'enfant prévus par la *Convention relative aux droits de l'enfant*. Le programme mère-enfant du Service correctionnel du Canada est sous-utilisé, car beaucoup de femmes autochtones ne satisfont pas aux critères pour y participer.
- Le fait que le Service correctionnel du Canada ne reconnaît pas et ne traite pas les besoins de santé mentale et les besoins d'ordre psychiatrique, et qu'il n'atteint pas les objectifs de réhabilitation prévus par la *Loi sur le système correctionnel et la mise en liberté sous condition*, représente une violation des articles 7 et 15 de la *Charte canadienne des droits et libertés*, à tout le moins.





- La ségrégation peut créer différents troubles psychologiques, y compris, sans toutefois s’y limiter, l’insomnie, la confusion, le désespoir, les hallucinations et même les psychoses. La détresse mentale et physique attribuable à la ségrégation constitue un traitement cruel, inhumain et dégradant qui doit être reconnu comme une violation des droits de la personne et qui correspond à de la violence institutionnelle envers les femmes.
- Les fouilles à nu dans les prisons au Canada sont une agression sexuelle autorisée par l’État; elles enfreignent les droits de la personne et la dignité des femmes et des filles. Elles violent la règle 52.1 des Règles Mandela, selon laquelle les fouilles personnelles, y compris les fouilles intégrales et les investigations corporelles internes, ne doivent être effectuées que si elles sont absolument nécessaires.
- La cote de sécurité maximale pour les femmes et les personnes 2ELGBTQQIA autochtones incarcérées représente une discrimination fondée sur le sexe qui détermine leur placement, les punit ou les récompense en fonction d’un ensemble de comportements non autochtones attendus ou conformes. Cette cote de sécurité engendre une discrimination accrue en empêchant les femmes autochtones qui purgent une peine fédérale d’accéder aux services, aux soutiens et aux programmes nécessaires pour faciliter leur réinsertion sécuritaire et en temps opportun.
- Les modèles de soins adaptés à la culture et qui tiennent compte des traumatismes ne sont pas toujours disponibles et ils ne sont pas dotés des ressources adéquates.
- Les femmes et les filles autochtones ont peu d’occasions de suivre une formation professionnelle utile ou de poursuivre des études. Cette situation discriminatoire empêche leur réhabilitation et leur réinsertion dans la communauté.

---

A.	Bureau de l’enquêteur correctionnel, <i>Rapport annuel 2017-2018</i> .	P	Kassandra Churcher, Parties II et III mixtes, Volume public 7, Québec, Qc., p. 36-37.
B	Ibid.	Q	Kassandra Churcher, Parties II et III mixtes, Volume public 7, Québec, Qc., p. 33.
C	Ibid.	R	Kassandra Churcher, Parties II et III mixtes, Volume public 7, Québec, Qc., pp. 33–34.
D	Kassandra Churcher, Parties II et III mixtes, Volume public 7, Québec, Qc., p. 32.	S	Kassandra Churcher, Parties II et III mixtes, Volume public 7, Québec, Qc., p. 33.
E	Kassandra Churcher, Parties II et III mixtes, Volume public 7, Québec, Qc., pp. 38–39.	T	Kassandra Churcher, Parties II et III mixtes, Volume public 7, Québec, Qc., p. 34.
F	Kassandra Churcher, Parties II et III mixtes, Volume public 7, Québec, Qc., pp. 34-35.	U	Kassandra Churcher, Parties II et III mixtes, Volume public 7, Québec, Qc., p. 35.
G	Kassandra Churcher, Parties II et III mixtes, Volume public 7, Québec, Qc., p. 39.	V	Kassandra Churcher, Parties II et III mixtes, Volume public 7, Québec, Qc., p. 38.
H	Kassandra Churcher, Parties II et III mixtes, Volume public 7, Québec, Qc., p. 39.	W	Kassandra Churcher, Parties II et III mixtes, Volume public 7, Québec, Qc., p. 38.
I	Ross, « Criminal Conduct and Colonization, » 16–17.	X	Kassandra Churcher, Parties II et III mixtes, Volume public 7, Québec, Qc., p. 37.
J	Kassandra Churcher, Parties II et III mixtes, Volume public 7, Québec, Qc., p. 37.	Y	Kassandra Churcher, Parties II et III mixtes, Volume public 7, Québec, Qc., p. 37.
K	Kassandra Churcher, Parties II et III mixtes, Volume public 7, Québec, Qc., p. 35.	Z	Savannah Gentile, Parties II et III mixtes, Volume public 7, Québec, Qc., p. 227.
L	Kassandra Churcher, Parties II et III mixtes, Volume public 7, Québec, Qc., p. 35.	AA	Savannah Gentile, Parties II et III mixtes, Volume public 7, Québec, Qc., p. 227.
M	Kassandra Churcher, Parties II et III mixtes, Volume public 7, Québec, Qc., p. 35.	BB	Savannah Gentile, Parties II et III mixtes, Volume public 7, Québec, Qc., pp. 114-115.
N	L’honorable Kim Beaudin (Métisse/Première Nation Michel), Parties II et III mixtes, Volume public 6, Québec, Qc., p. 99.	CC	Fallon Andy (Anishinaabe, Couchiching Première Nation), Partie 3, Volume public 8, Toronto, Ont., pp. 139-140.
O	Kassandra Churcher, Parties II et III mixtes, Volume public 7, Québec, Qc., p. 36.		





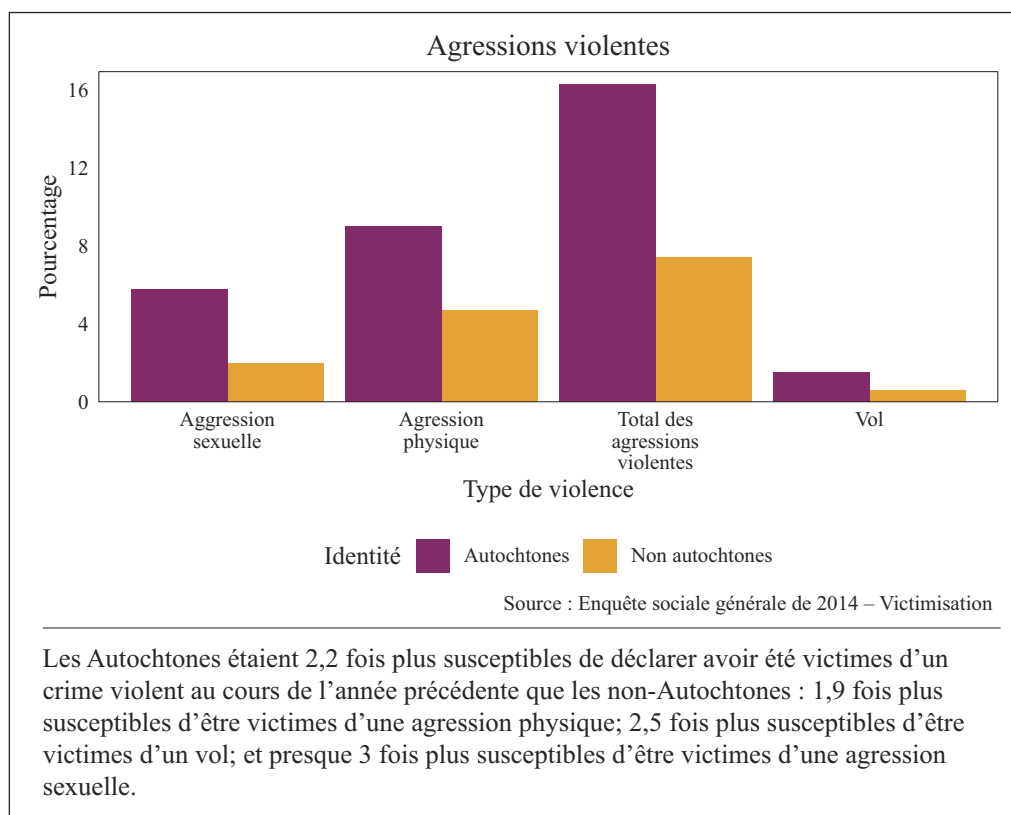
- DD Savannah Gentile, Parties II et III mixtes, Volume public 7, Québec, Qc., p. 55.
- EE Savannah Gentile, Parties II et III mixtes, Volume public 7, Québec, Qc., p. 55.
- FF Savannah Gentile, Parties II et III mixtes, Volume public 7, Québec, Qc., p. 55.
- GG Savannah Gentile, Parties II et III mixtes, Volume public 7, Québec, Qc., p. 55.
- HH Savannah Gentile, Parties II et III mixtes, Volume public 7, Québec, Qc., p. 52.
- II Diane Sere (Algonquin, Territoire Nipissing), Parties II et III mixtes, Volume public 7, Québec, Qc., p. 101.
- JJ Patricia Tate (Première Nation), Parties II et III mixtes, Volume public 7, Québec, Qc., p. 24
- KK Patricia Tate (Première Nation), Parties II et III mixtes, Volume public 7, Québec, Qc., p. 22.
- LL Patricia Tate (Première Nation), Parties II et III mixtes, Volume public 7, Québec, Qc., pp. 22-23.
- MM Wesley, M. avec Sécurité publique Canada, « Marginalisées. »
- NN Patricia Tate (Première Nation), Parties II et III mixtes, Volume public 7, Québec, Qc., p. 23.
- OO Canada, Groupe d'étude sur les femmes purgeant une peine fédérale, *La création de choix*.
- PP Sécurité publique Canada, « Marginalisées. »
- QQ Service correctionnel Canada, « Aboriginal Social History (ASH) Tool » tel que donné aux Commissaires lors de leurs visites aux institutions correctionnelles.
- RR Association des femmes autochtones du Canada, « Understanding Gladue. »
- SS NWAC, « Understanding Gladue. »
- TT Diane Sere (Algonquienne, Territoire Nipissing), Parties II et III mixtes, Volume public 7, Québec, Qc., p. 100.
- UU Diane Sere (Algonquienne, Territoire Nipissing), Parties II et III mixtes, Volume public 7, Québec, Qc., p. 101.
- VV Diane Sere (Algonquienne, Territoire Nipissing), Parties II et III mixtes, Volume public 7, Québec, Qc., p. 101.
- WW Kassandra Churcher, Parties II et III mixtes, Volume public 7, Québec, Qc., pp. 40-46
- XX Ross, « Exploring Criminal Justice, » 9.
- YY Kassandra Churcher, Parties II et III mixtes, Volume public 7, Québec, Qc., p. 108.
- ZZ Kassandra Churcher, Parties II et III mixtes, Volume public 7, Québec, Qc., pp. 109-110.
- AAA Bureau de l'enquêteur correctionnel, *Rapport annuel 2017-2018*.
- BBB Ibid., 64.
- CCC Canada, Service correctionnel Canada, « Réponse au 45e rapport annuel de l'enquêteur correctionnel 2017-2018. »
- DDD Leresche, « Native American Perspectives on Peacemaking. »



## Les facteurs favorisant la violence : le manque de volonté et les interventions insuffisantes de la part des institutions

Dans sa Mise à jour de 2015 de l'Aperçu opérationnel national<sup>47</sup>, la GRC prétend, en se fondant sur son propre examen des données statistiques recueillies concernant les crimes perpétrés sur son territoire, que la majorité des meurtres de femmes, de filles et de personnes 2ELGBTQQA autochtones est attribuable à des conjoints et à des membres de famille. Pourtant, comme le montrent d'autres travaux de recherche ainsi que des crimes récemment commis, des femmes et des filles autochtones ont péri aux mains d'étrangers ou de connaissances qui ont tenté de les victimiser dans divers contextes. Dans son rapport de 2013, Human Rights Watch a notamment mentionné que c'est le laxisme de la police envers cette violence qui contribue justement à la perpétuer.

L'apathie de la police dans des cas impliquant de la violence contre des femmes et des filles – ou de la violence contre certains groupes de femmes et de filles – transmet le message qu'une telle conduite est acceptée et n'entraînera aucune conséquence pour ses auteurs. Cela peut, de fait, encourager à exercer des violences contre certains groupes en particulier<sup>48</sup>.







## Les stéréotypes et le rejet du blâme sur les victimes

Plusieurs familles ayant témoigné dans le cadre de l'Enquête nationale ont indiqué comment les stéréotypes et le rejet du blâme sur les victimes contribuent à ralentir, voire à empêcher, la tenue d'enquêtes sur la disparition ou la mort de leurs proches. Les hypothèses sur lesquelles s'appuyaient les forces de l'ordre, soit que les femmes, les filles et les personnes 2ELGBTQQIA autochtones sont des « ivrognes », « des fugueuses en train de faire la fête » ou des « prostituées indignes d'attention », ont orienté une multitude d'interactions tout en minant encore plus la confiance envers les policiers et les organismes connexes.

Comme bon nombre des familles qui ont décrit les événements survenus avant la disparition ou le meurtre de leur proche, la mère de Jennifer, Bernice C., a su, elle aussi, que quelque chose clochait lorsqu'elle a reçu un appel de sa fille en juin 2008, alors que cette dernière devait se trouver à la maison pour fêter ses 18 ans. Pendant la conversation, elle a entendu Jennifer demander à quelqu'un qui l'accompagnait « Où sommes-nous? Où sommes-nous? ». Bernice s'est exprimée ainsi : « Tout d'un coup, j'ai ressenti une douleur au creux de mon estomac conjuguée à de la peur; une peur indescriptible. Je n'ai jamais, au grand jamais dans ma vie, senti une telle douleur. Je n'avais jamais ressenti la peur que j'ai ressentie ce jour-là, la peur qui s'est emparée de moi alors que je parlais à ma fille, et même après<sup>49</sup>. »

Compte tenu du lien étroit qui unissait les deux femmes (Jennifer avait laissé une note à sa mère le matin même, qui commençait par « Ma belle maman » et se terminait par « Je t'aime tellement; plein de bisous<sup>50</sup> ») et de la singularité de cet appel, Bernice a décidé de communiquer avec la GRC. Voici comment elle décrit sa première rencontre avec un agent du détachement de Portage la Prairie :

À ce moment, je ne savais pas quoi faire. J'étais bouleversée. Je paniquais. J'ignorais comment réagir. Où est Jen? Mon mari n'était pas à la maison. Je suis donc allée voir la police, la GRC. C'était le 23 juin. Je me suis voir la police ... C'est ce que j'ai fait. J'ai dit : « Je veux signaler la disparition de ma fille. » Il a répondu : « Oh, quel est son nom? » J'ai répliqué : « Jennifer. Jennifer [C.] » « Oh, elle a quel âge? » Comme ça. C'est comme ça qu'il m'a répondu. J'ai répondu, « Elle ... elle a quel âge? Elle vient tout juste d'avoir 18 ans. C'était son anniversaire jeudi dernier. » Il m'a dit, « Oh, donnez-lui une semaine. Elle est en train de faire la fête. » J'ai dit, « Vous ne la connaissez même pas. Comment pouvez-vous parler d'elle comme ça? » Il a dit, « Encore une fois, donnez-lui une semaine. Donnez-lui une semaine<sup>51</sup>. »

Bernice décrit ainsi sa réaction face à l'accueil que lui a réservé la GRC : « Je suis partie. Je ne savais pas quoi faire. Je suis simplement partie, sans déclaration ni rien. J'étais en état de choc. Je ne savais pas comment réagir<sup>52</sup>. » Dans les heures cruciales suivant la disparition de Jennifer, les personnes mêmes qui devaient veiller à la protection des droits de la jeune femme en matière de sécurité et de justice ont éconduit sa propre mère.



Bernice a poursuivi : « Le facteur temps est capital quand une personne disparaît et quand sa disparition est signalée. Il joue un rôle crucial. Ce n'est pas le moment de dire : “Oh, donnez-lui du temps. Elle est en train de s'enivrer. Elle va revenir.” Qui est en droit d'émettre une telle opinion<sup>53</sup>? » L'emphase de Bernie sur le rôle important d'une réponse rapide dans de telles circonstances reflète aussi ce que l'Enquête nationale a entendu de nombreux représentants de divers corps policiers qui ont eux aussi affirmé que les premières heures suivant une disparition sont cruciales.

Malgré les demandes que Bernice et son mari ont multipliées au cours des jours qui ont suivi, elle n'a reçu aucune aide de la GRC.

Je ne savais pas comment réagir. Personne ne m'écoutait. Nous sommes ... Nous sommes retournés ... au poste le lundi, le mardi, puis je pense le mercredi. Aucun agent de la GRC n'est venu m'écouter ou enregistrer ma déclaration. La femme qui se trouvait derrière le comptoir m'a dit : « Je vais leur transmettre votre message. » Personne n'est venu, ni le lundi, ni le mardi, ni le mercredi. Je ne savais pas quoi faire. Je ne savais pas où appeler ni à qui m'adresser? Que devais-je faire? Je ne sais pas<sup>54</sup>.

Poursuivant les recherches par leurs propres moyens, Bernice et Wilfred ont fait une découverte qu'ils ont signalée à la GRC, mais, si l'on en croit Bernice, ils ont dû patienter près d'un mois avant qu'un agent les rappelle pour faire un suivi. Aujourd'hui, Jennifer demeure introuvable et Bernice et son mari continuent de la chercher. Pour Bernice, le manque de réponses au sujet de sa fille est aggravé par le fait que lorsqu'elle a demandé de l'aide au départ, on la lui a refusée.

« À CE MOMENT, JE NE SAVAIS PAS QUOI FAIRE. J'ÉTAIS BOULEVERSÉE. JE PANIQUAIS. J'IGNORAIS COMMENT RÉAGIR. OÙ EST JEN? MON MARI N'ÉTAIT PAS À LA MAISON. JE SUIS DONC ALLÉE VOIR LA POLICE, LA GRC. C'ÉTAIT LE 23 JUIN. JE ME SUIS VOIR LA POLICE ... C'EST CE QUE J'AI FAIT. J'AI DIT : “JE VEUX SIGNALER LA DISPARITION DE MA FILLE.” IL A RÉPONDU : “OH, QUEL EST SON NOM?” J'AI RÉPLIQUÉ : “JENNIFER. JENNIFER [C.]” “OH, ELLE A QUEL ÂGE?” COMME ÇA. C'EST COMME ÇA QU'IL M'A RÉPONDU. J'AI RÉPONDU, “ELLE ... ELLE A QUEL ÂGE? ELLE VIENT TOUT JUSTE D'AVOIR 18 ANS. C'ÉTAIT SON ANNIVERSAIRE JEUDI DERNIER.” IL M'A DIT, “OH, DONNEZ-LUI UNE SEMAINE. ELLE EST EN TRAIN DE FAIRE LA FÊTE.” J'AI DIT, “VOUS NE LA CONNAISSEZ MÊME PAS. COMMENT POUVEZ-VOUS PARLER D'ELLE COMME ÇA?” IL A DIT, “ENCORE UNE FOIS, DONNEZ-LUI UNE SEMAINE. DONNEZ-LUI UNE SEMAINE.” »

**Bernice C.**

Elle a choisi de raconter son histoire à l'Enquête nationale pour préciser ce qui suit : « Je veux que vous compreniez, et je veux que le public, que le Canada et que le monde entier sachent qu'on nous a abandonnés et qu'on a abandonné Jennifer. La GRC l'a abandonnée. Comment? Vous vous demandez “Comment”? Personne n'a enregistré ma déclaration. Personne ne m'a prise au sérieux<sup>55</sup>. »



Malheureusement, le portrait que brosse Bernice de sa première interaction avec les policiers ressemble à nombre d'histoires racontées par d'autres familles de femmes, de filles et de personnes 2ELGBTQQIA autochtones. Le rejet, le mépris et la discrimination flagrante qui découlent des stéréotypes racistes que la police véhicule voulant que les Autochtones soient des ivrognes, des fugueurs et des fugueuses, ou qu'ils s'adonnent à la prostitution, ou qui accompagnent les signalements tournés en ridicule des familles qui viennent demander de l'aide, font partie intégrante des récits entendus portant sur leur première rencontre avec les forces policières. À cela s'ajoutent les présomptions, qui sont monnaie courante, selon lesquelles les Autochtones sont en train de « faire la fête ». Comme l'a expliqué Tanya Talaga en parlant d'un garçon disparu :

Tout le monde était sans nouvelles de lui, alors elle a décidé d'appeler la police de Thunder Bay. On lui a alors dit de ne pas s'inquiéter. La personne au bout du fil a déclaré : « Il est probablement parti faire la fête comme tous les autres jeunes autochtones », avant de raccrocher<sup>56</sup>.

La description donnée par Pamela F. des événements ayant mené à la disparition et au meurtre de sa fille présente de nombreuses similarités avec les expériences de Bernice et de Tanya. En effet, Pamela et sa fille de 16 ans, Hilary, étaient très proches; elles avaient prévu aller magasiner le lendemain. Tout comme Bernice, Pamela a reçu un appel pour le moins étrange de sa fille le soir de sa disparition : « La conversation s'est terminée par “je t'aime”. » Pamela se souvient elle aussi avoir senti dès lors que quelque chose n'allait pas : « J'avais un mauvais pressentiment; j'étais incapable de penser à autre chose<sup>57</sup>. » Malheureusement, lorsque Pamela a communiqué avec la police, elle s'est heurtée, comme Bernice, à un mur d'indifférence et d'impassibilité. Elle a ainsi décrit sa première rencontre avec les policiers lors du signalement de la disparition de sa fille :

Nous avons appelé la police, puis rien. J'aurais pensé qu'en disant que ma fille était introuvable, elle mènerait des recherches. Mais ce ne fut pas le cas ... chaque fois que j'appelais pour demander si on la cherchait, on me disait « vous devez parler à telle personne; vous devez la rappeler demain; elle est absente ». Et quand je rappelais, on me disait que je devais m'adresser à une autre personne<sup>58</sup>.

C'est seulement lorsque Pamela a avisé les journalistes que les policiers ont commencé à mener leur enquête. En fait, un agent lui a même confié que c'est ce qu'elle devait faire pour que les choses bougent.

J'ai téléphoné au poste après m'être adressée aux médias et c'est à ce moment qu'ils ont entrepris les recherches. Une policière m'a même dit, Pam ... Je m'entendais bien avec elle, très bien même. Je m'entendais bien avec quelques-uns des policiers aussi. Alors elle m'a dit : « Pam, c'était la chose à faire. Ainsi, ils sont obligés de chercher<sup>59</sup>. »





Paul T. a relaté la première fois où les membres de sa famille ont rencontré la GRC en Alberta, c'est-à-dire après la disparition de sa sœur de 20 ans, Amber. Il a expliqué qu'on leur avait donné la consigne de patienter pendant 24 heures avant de signaler la disparition.

Quand ma mère a voulu signaler sa disparition, elle s'est fait répondre d'attendre 24 heures. Attendre? Dois-je réellement attendre? Nous avons mené des recherches sur Internet sans jamais réussir à trouver une loi imposant un tel délai de 24 heures. J'ignore donc pourquoi la GRC répond toujours ça, d'autant plus que ces 24 premières heures sont décisives. C'est toujours comme : « Oui, allez-y, mais nous attendrons 24 heures, et après 24 heures, nous allons faire quelque chose, nous allons commencer à agir. » Mais vous savez quoi, si quelque chose avait été fait quand ... quand elle ... quand nous avons signalé sa disparition, elle serait peut-être à nos côtés aujourd'hui<sup>60</sup>.

Bien des familles ont indiqué s'être fait répondre qu'une personne ne peut être portée disparue avant que 24 heures se soient écoulées. Pour la famille d'Amber, ce délai arbitraire s'ajoute aux opinions stéréotypées et racistes sur lesquelles s'est fondé le policier pour justifier son inaction en soutenant qu'Amber « faisait la fête », comme l'a fait son homologue quand Bernice s'est tournée vers lui pour lui demander son aide.

### LA COMMISSION CIVILE D'EXAMEN ET DE TRAITEMENT DES PLAINTES RELATIVES À LA GRC (CCETP) EST LE PRINCIPAL ORGANISME DE SURVEILLANCE DE LA GRC. SON MANDAT CONSISTE À :

- Recevoir les plaintes relatives à la conduite des membres de la GRC;
- Procéder à des examens lorsque les plaignants sont insatisfaits du traitement de leur plainte par la GRC;
- Déposer des plaintes et mener des enquêtes dans l'intérêt du public;
- Examiner les activités mentionnées dans les plaintes et les enquêtes;
- Rendre compte de ses observations et faire des recommandations.

En 2015, la Commission des Droits de l'Homme des Nations Unies a publié ses conclusions sur le sixième rapport périodique du Canada sur la mise en œuvre du Pacte international relatif aux droits civils et politiques (PIDCP). Elle y mentionne sa préoccupation au sujet des « renseignements faisant état du manque d'efficacité de ces mécanismes » et du « manque de données statistiques sur l'ensemble des plaintes, enquêtes, poursuites, condamnations et sanctions visant des membres de la police, à tous les niveaux ». Plus loin, on demande au Canada de « redoubler d'efforts pour que toutes les allégations de mauvais traitements et d'usage excessif de la force par la police fassent rapidement l'objet d'une enquête impartiale confiée à des organes de contrôle forts et indépendants, dotés de ressources suffisantes à tous les niveaux, et pour que les auteurs de ces violations soient poursuivis et dûment sanctionnés<sup>61</sup> ».



Il y a bien sûr des premières rencontres plus positives avec les policiers quand des familles ont signalé la disparition d'une proche ou le danger guettant l'une des leurs. En effet, certaines d'entre elles en retiennent une expérience positive. Toutefois, des histoires comme celle de Marilyn W. montrent à quel point la rencontre d'un policier compatissant, informé et intègre repose sur la chance plutôt que sur la mise en œuvre de pratiques normalisées empreintes de respect et de considération.

Plus d'une semaine après la disparition de sa sœur, Marilyn a décidé de rencontrer les policiers. Elle décrit ainsi sa première interaction avec ces derniers :

Je n'ai pas eu de nouvelles d'elle pendant ... pendant une certaine période, puis le silence s'est prolongé et je commençais vraiment à m'inquiéter. Ma mère était dans tous ses états et elle m'appelait sans cesse. Alors, après environ une semaine, je suis allée au poste de police dans le but de signaler sa disparition. À ce moment, j'étais agitée et nerveuse, comme maintenant. Je pleurais, je me suis rendue sur place pour demander de l'aide, et on m'a traitée de façon horrible. Je pensais qu'on avait un délai de 24 heures pour alerter la police quand une personne proche manque à l'appel. Cela faisait plus d'une semaine, et ils s'en foutaient, refusant de consigner ma déposition. Puis, un autre policier qui passait par là s'est approché, voyant dans quel état j'étais et entendant la détresse dans ma voix. Il est donc venu voir ce qui se passait. J'ignore à ce jour qui il est, mais je ne l'oublierai jamais. Il a pris ma déposition et a dit à ses collègues : « Prenez son rapport et faites diffuser l'avis de recherche aux nouvelles ce soir; il faut chercher cette femme. » C'est alors que les recherches ont débuté<sup>62</sup>.

D'autres histoires font état d'incohérences de ce genre. Tom C., par exemple, a raconté qu'au moment de signaler la disparition de sa fille, Tamara, « les agents de la GRC se sont montrés très coopératifs avec lui », soulignant toutefois que, selon ce qu'il avait entendu, ce n'était pas pratique courante<sup>63</sup>. Par contre, lorsque la famille a demandé l'aide du service de police municipal, sa demande a été accueillie différemment.

Nous nous sommes adressés au service de police à Vancouver parce que Tom avait déjà investi énormément d'argent pour imprimer des affiches. Je suis donc allé au poste de police ... J'ai dit ... je leur ai tendu une affiche en demandant : « Pouvez-vous s'il vous plaît nous aider? Pouvez-vous, enfin, diffuser cette affiche de Tamara? Pouvez-vous nous en faire imprimer des exemplaires? » Une dame en retrait a regardé la photo avant d'ajouter : « Non, nous ne pouvons pas vous aider. » J'ai répondu : « Mais elle a disparu. On a révélé dans le cadre de l'Enquête nationale qu'apparemment elle se trouvait dans les environs. Nous avons besoin d'aide. Ces affiches coûtent une fortune à mon frère. » Néanmoins, les policiers de Vancouver n'ont été d'aucune aide<sup>64</sup>.

En racontant leurs premières rencontres avec la police, des membres de famille ont également décrit et illustré leur débrouillardise et leur résistance envers ceux qui les ignorent. Dans certains



cas, ce refus de capituler malgré l'absence de réponse policière ont forcé les forces de l'ordre à intervenir. C'est ce qui s'est passé quand Pamela F., grâce à ses efforts, a mobilisé la communauté pour que tout le monde se lance à la recherche de sa fille et interpelle les médias, jusqu'à ce que la police agisse enfin. Pamela a néanmoins reconnu qu'un certain nombre d'agents ont, dans les faits, été en mesure de suppléer à la relation inadéquate initialement établie. Elle a également affirmé que les familles autochtones ne sont pas censées devoir prendre des mesures extraordinaires pour que les corps policiers fassent leur travail : « Mais ils [les services de police] auraient dû agir lorsque je les ai appelés la première fois. Je n'aurais pas dû avoir à tenter de les culpabiliser ou quelque chose du genre pour qu'ils acceptent de faire ce que je leur demandais, ce qu'ils sont censés faire<sup>65</sup>. »

Dans son témoignage, Dolores S. a soulevé un point semblable.

Je ne savais même pas par où commencer ... comment faire comprendre que c'est tout simplement injuste. Ce n'est pas juste que ma nièce soit tombée dans une chute à linge, et personne ne prend la chose au sérieux. Ce que j'ai dû faire pour découvrir tout ce que j'ai découvert, ça n'aurait pas dû se passer ainsi. Je n'aurais pas dû avoir à communiquer sans cesse avec les médias pour exposer continuellement les failles et les faiblesses du système, et traumatiser du même coup les membres de ma famille<sup>66</sup>.

À l'évidence, le fait que les familles autochtones soient forcées d'avoir recours à de telles stratégies pour obtenir de l'aide a pour effet de marginaliser davantage les personnes pour qui la mise en œuvre de ces mesures s'avère encore plus difficile, périlleuse et inhabituelle.

Marilyn W. a abordé particulièrement cet aspect lorsqu'elle a décrit sa deuxième rencontre avec la police dans le cadre de la disparition de son oncle.

J'étais préparée cette fois-là. J'ai téléphoné aux policiers et j'ai dit : « Mon oncle ... mon oncle Anthony ... manque à l'appel. Dites-moi s'il vous plaît ce que vous comptez faire à ce sujet. » Ce à quoi la dame au bout du fil a répondu : « Nous avons envoyé des courriels... » J'ai répliqué : « Je fais partie de l'Association des femmes autochtones du Canada, et j'ai déposé une plainte formelle contre le policier qui m'a agressée physiquement dans l'affaire concernant ma sœur. Je veux savoir ce que vous allez faire pour retrouver mon oncle. » En quelques minutes, on m'a transférée au sergent, puis des effectifs ont été déployés sur le terrain pour entreprendre les recherches.

Mais qu'advient-il des gens qui ne disposent pas d'un tel atout, qui ne savent pas quoi dire<sup>67</sup>?

Des enquêtes et des rapports antérieurs portant sur la réponse des forces policières et sur la disparition et le décès de femmes, de filles et de personnes 2ELGBTQQIA autochtones ont mis en lumière des délais d'intervention imputables aux corps policiers à la suite des signalements de disparition de ces dernières<sup>68</sup>. Le fait de ne pas pouvoir dépendre d'un policier qui n'est pas





disposé à prendre au sérieux les inquiétudes d'une personne est un exemple trop fréquent qui démontre à quel point le respect du droit à la justice peut être précaire. Lorsque des agents de la GRC et d'autres corps de police ont été interrogés à propos de situations où l'intervention policière auprès des familles fut inadéquate, ces derniers ont suggéré que de telles situations, dans les faits, sont exceptionnelles et que, si elles se produisent, le policier fautif fait l'objet de mesures disciplinaires<sup>69</sup>. Des explications comme celles-ci, qui rendent compte des abus ou des manquements des forces de l'ordre à l'égard de la protection des femmes autochtones comme étant l'œuvre d'un seul policier ne respectant pas des procédures adéquatement établies – plutôt que de remettre en cause la structure même des services de police – ressortent fréquemment des travaux de recherche de Human Rights Watch, selon Farida Deif. Elle fait remarquer que :

De façon générale, dans le cadre de nos travaux relatifs aux abus des services policiers dans de nombreux pays, ceux-ci réagissent généralement en niant de tels abus. Ils prétendent alors que le nombre de policiers indignes de la fonction est minime, et que le problème n'est ni systémique ni structurel. Ces services de police nous gavent souvent de protocoles et de politiques de maintien de l'ordre pour montrer à quel point ils sont progressistes et respectent les normes internationales. Or, nous répondons systématiquement que les politiques ne présentent aucun intérêt, car ce sont l'exercice et la mise en œuvre de ces politiques qui priment. Mais, en réalité, que pouvons-nous faire? Même si ce ne sont que quelques pommes pourries qui ont commis ces abus, ont-elles été forcées de rendre des comptes? Comment ces incidents ont-ils servi de leçons permettant d'améliorer la formation offerte aux policiers ou de changer leurs pratiques de recrutement? A-t-on progressé depuis<sup>70</sup>?

Bien que des policiers comme le surintendant en chef Mark Pritchard, de la Police provinciale de l'Ontario (OPP), aient incité les familles et les survivantes à signaler les abus perpétrés par les forces de l'ordre, un tel appel a pour effet de rejeter sur les Autochtones le fardeau de la responsabilisation des corps policiers. Cette façon de faire ne tient nullement compte du véritable rapport de forces qui est en jeu ni des obstacles que doivent surmonter les Autochtones lorsqu'ils interagissent avec certains agents de police.

### **Les défaillances systémiques dans la détection et la prévention du crime**

Des policiers ont aussi témoigné dans le cadre de l'Enquête nationale, bon nombre d'eux faisant valoir l'importance de disposer de ressources suffisantes pour remplir leurs fonctions. Des corps policiers des Premières Nations, en particulier, ont mentionné que le manque d'équipement et de ressources les empêche d'enquêter et de prévenir la criminalité adéquatement dans les communautés autochtones. Terry Armstrong, chef du service de police Nishnawbe-Aski (SPNA – la plus importante force policière des Premières Nations au Canada), a expliqué à la l'Enquête nationale qu'à cause d'un manque chronique d'accès à du financement, son personnel est incapable d'effectuer plusieurs tâches.



En raison du sous-financement chronique du SPNA, certains policiers doivent patrouiller seuls, sans partenaire. De plus, nos détachements ne disposent pas tous d'équipement de communication radio, ce qui met les communautés en danger. Ce faisant, nos agents ne peuvent pas faire leur travail comme on le ferait ailleurs, et cela menace la sécurité des gens. En l'absence d'un système de communication adéquat, impossible de demander des renforts ou de l'aide. Dans notre cas, nous sommes de toute façon laissés à nous-mêmes la plupart du temps, sans assistance. Et on ne peut même pas interroger la banque de données pour « vérifier les antécédents d'un individu », comme on dit dans le milieu, et utiliser des outils du genre ... Même ça, c'est impossible, à moins de retourner au poste et d'utiliser une ligne terrestre pour faire la requête<sup>71</sup>.



*Daniel Bellegarde, directeur de l'Association canadienne des policiers, témoigne aux audiences de représentants des institutions au sujet des pratiques et des politiques de la police à Regina, en Saskatchewan.*

Mike Metatawabin, président du conseil du Service de police Nishnawbe-Aski, a lui aussi confirmé à l'Enquête nationale que le corps policier qu'il chapeaute doit composer avec des contraintes opérationnelles qui ne touchent pas les autres services de police. Par exemple, bon nombre de ses policiers ne disposent pas de ressources suffisantes ni de services adéquats, comme le chauffage. C'est ce qui explique pourquoi la Nation Nishnawbe-Aski a diffusé en 2013 un avis de sécurité publique, se disant incapable de fournir des services policiers adéquats à sa population en raison d'un manque de financement et de d'assise juridique. L'avis a été transmis au gouvernement de l'Ontario, mais il est demeuré lettre morte. Seul le coroner en chef y a répondu<sup>72</sup>.





## RÉFLEXION APPROFONDIE

# L'industrie du sexe, l'exploitation sexuelle et la traite des personnes

En filigrane dans la vérité partagée par les membres de famille sur leurs proches disparues ou assassinées et celle des survivantes, des Gardiens du savoir et des témoins experts figuraient des récits à propos de femmes, de filles et de personnes 2ELGBTQQIA autochtones liées à l'industrie du sexe, l'exploitation sexuelle et de la traite des personnes. Parmi les témoins qui ont fait part de leur vérité propre dans le cadre de l'Enquête nationale, de nombreuses survivantes ont décrit des épisodes de violence physique et sexuelle subie comme travailleuses du sexe. Certains témoins ont aussi fait part de réflexions et d'idées sur la meilleure façon de protéger la sécurité et la santé et d'assurer la justice des personnes impliquées dans l'industrie du sexe ou dont l'existence a été marquée par l'exploitation sexuelle ou la traite des personnes à des fins sexuelles.

Nous concentrons notre analyse sur les difficultés, les inquiétudes et les enseignements rapportés par les témoins concernant la relation entre le travail du sexe, l'exploitation sexuelle, la traite des personnes et la violence contre les femmes, les filles et les personnes 2ELGBTQQIA autochtones.

Il est extrêmement difficile de définir de façon précise le nombre de femmes, de filles et de personnes 2ELGBTQQIA autochtones actives dans l'industrie du sexe. En effet, en raison de la stigmatisation liée à cette industrie et du fait que d'admettre toute participation à celle-ci peut accroître le risque de criminalisation, de discrimination et de violence, beaucoup préfèrent s'abstenir de divulguer de l'information à ce sujet. À ces difficultés s'ajoute le manque de volonté ou d'effort de la part de nombreuses institutions aptes à contribuer à la tenue de dossiers plus précis concernant les femmes, les filles et les personnes 2ELGBTQQIA autochtones et l'industrie du sexe. Ce manque de volonté et d'effort est ancré dans une perception selon laquelle on peut disposer à notre guise de ces personnes qui ne sont pas dignes de notre considération<sup>A</sup>.

En dépit de ces lacunes dans la collecte de données, les organismes de défense des droits des travailleuses du sexe et de lutte contre l'exploitation sexuelle et la traite des personnes à des fins sexuelles ne cessent de rappeler que la majorité des personnes impliquées dans l'industrie du sexe dans la rue sont des femmes, des filles et des personnes 2ELGBTQQIA autochtones<sup>B</sup>. Ces groupes sont aussi plus susceptibles d'être ciblés par le marché de l'exploitation sexuelle ou de la traite des personnes ou d'y être intégrées<sup>C</sup>.

## Saisir la diversité des perspectives

L'Enquête nationale a entendu des opinions très diverses concernant les relations entre le travail du sexe, l'exploitation sexuelle et la traite des personnes. Certaines femmes ont souligné le fait que, par sa nature même, le travail du sexe est une forme d'exploitation et qu'il faut donc y mettre un terme. Ainsi, Diane Redsky, membre de la Première Nation Shoal Lake 40 et intervenante de première ligne pour le Centre Ma Mawi Chi Itata de Winnipeg, a soutenu que le travail du sexe est en lui-même caractérisé par l'exploitation et l'oppression.

Vous ne m'entendez jamais parler de « commerce du sexe » parce que cela suppose une juste valeur. Lorsque, comme nous, on arrive à bien saisir l'exploitation sexuelle et la traite des personnes à des fins sexuelles, on comprend qu'il n'y a pas de juste valeur. Une autre expression que je n'utilise jamais est « travail du sexe » parce que ce n'est pas un emploi. Ce n'est pas un travail, un travail légitime. Encore une fois, lorsqu'on comprend ce que sont l'exploitation sexuelle et la traite des personnes à des fins sexuelles, on voit qu'elles sont extrêmement abusives, violentes et dégradantes pour les femmes<sup>D</sup>.





L'Enquête nationale a malgré tout aussi entendu des témoins affirmer qu'il n'y a rien de foncièrement mauvais dans le travail du sexe et que c'est la criminalisation des travailleuses du sexe qui rend les femmes plus vulnérables à la violence. Par exemple, Lanna Moon Perrin, une Autochtone qui se décrit comme activiste et travailleuse du sexe, a fait part d'une opinion très différente.

J'ai souvent entendu dire que la prostitution est le résultat de la colonisation et que c'est une maladie ou une conséquence de la colonisation. Selon notre point de vue, on pourrait le considérer comme tel, mais pensons un instant à la situation antérieure à la colonisation à notre sexualité comme femmes autochtones, à la façon dont c'était perçu, surtout sur le plan du leadership. Vous n'allez pas me dire qu'avant la colonisation, les femmes autochtones ne se servaient pas de leur sexualité pour aller de l'avant et améliorer la situation de leur famille, de leur communauté et de leur Nation. J'ai beaucoup de misère à le croire<sup>E</sup>.

Robyn Bourgeois, une professeure crie de l'Université Brock, souligne qu'en dépit des divergences d'opinions à ce propos, les femmes autochtones poursuivent un même but lorsqu'il est question de mettre un terme à la violence.

En fin de compte, je crois que, quel que soit notre avis, nous défendons tous la même cause. Nous voyons tous très bien que le sort des femmes autochtones au sein de l'industrie du sexe pose problème. Et nous savons que, non seulement les femmes et les filles autochtones sont vulnérables face à des problèmes comme l'exploitation sexuelle ou la traite des personnes à des fins sexuelles, mais qu'en plus, celles qui veulent participer à l'industrie du sexe subissent de la violence.

Au bout du compte, nous nous efforçons tous de sauver la vie des femmes et des filles autochtones et nous sommes, en fait, divisés en raison de prises de positions différentes. Mais, nous comprenons bien que c'est la prostitution qui est la source de la violence en elle-même ou que la violence résulte de perceptions sociales ou de la réglementation ou de la criminalisation qui entoure le commerce du sexe. Mais, ultimement, nous cherchons tous la même chose. Nous

voulons mettre un terme à la violence et nous recherchons à tout prix la sécurité pour nos femmes et nos filles<sup>F</sup>.

Les témoins qui ont insisté davantage sur les enfants et les jeunes au sein de l'industrie du sexe ont souligné l'importance de faire la distinction entre l'exploitation sexuelle et la traite des personnes, d'une part, et l'activité des travailleuses du sexe adultes, d'autre part. Diane Redsky, par exemple, a fait remarquer l'importance cruciale de reconnaître la nature violente et fondée sur l'exploitation de l'industrie du sexe impliquant des mineurs.

Lorsque l'exploitation sexuelle et la traite des personnes à des fins sexuelles impliquent des jeunes de moins de dix-huit ans, on ne devrait jamais parler d'adolescents ou d'enfants prostitués ni, plus particulièrement de filles offrant des services aux clients. Pourquoi? Parce que cela minimise leur situation de victimes. Cela présuppose aussi qu'ils ont eu le choix alors qu'on sait très bien que des mineurs ne peuvent consentir. Ils ne peuvent jamais donner leur consentement et il existe des dispositions criminelles dans le *Code criminel* pour les moins de 18 ans. Ce sont donc des enfants victimes d'exploitation sexuelle. Et l'auteur de ce crime a payé pour exploiter sexuellement un enfant<sup>G</sup>.

Allan Wade, a lui aussi parlé du problème de terminologie lorsqu'on analyse l'exploitation des enfants et des jeunes dans le commerce du sexe.

J'aimerais souligner que nos principales institutions publiques déshonorent publiquement les enfants en dépeignant la violence qui leur est faite comme des relations sexuelles avec des enfants. Je ne saurais dire combien de personnes auxquelles j'ai parlé ont décrit leur première expérience sexuelle comme une agression sexuelle ou un viol. Il est très important pour les gens de comprendre qu'un viol n'est pas une expérience sexuelle. Les enfants ne peuvent donner leur consentement, de sorte que la prostitution infantile, la pornographie infantile et le travail sexuel des enfants ne peuvent avoir aucune existence réelle en raison des lois sur le consentement. Notre loi sur le consentement entre donc en contradiction avec le texte de notre *Code criminel*<sup>H</sup>.





Néanmoins, comme certains témoins l'ont clairement exprimé en décrivant leur participation à l'industrie du sexe en tant qu'enfants ou adolescents, le travail du sexe dans la rue ou la prostitution de subsistance faisait partie des rares options qui s'offraient à eux et toutes avaient de bonnes chances d'impliquer une forme ou l'autre d'exploitation et d'effacement de la capacité d'agir<sup>l</sup>. Comme des témoins l'ont souligné, à toute tentative sérieuse de combattre l'exploitation sexuelle et la traite des personnes parmi les filles et les jeunes autochtones doit correspondre une volonté tout aussi sérieuse de s'assurer de l'existence d'un soutien financier, social et en matière de soins de santé pour que d'autres choix de vie deviennent possibles.

## Les réalités statistiques de la traite des personnes au Canada

Dans le contexte des audiences, la commissaire adjointe Joanne Crampton de la GRC a expliqué qu'une des grandes difficultés auxquelles la police est confrontée lorsqu'elle aborde la question de la traite des personnes est le manque de données fiables sur ces réseaux au Canada : « Il est difficile de parler d'un sujet que nous savons problématique lorsqu'on ne dispose pas des données nécessaires pour justifier nos dires<sup>j</sup>. »

La « traite des personnes » ou le trafic des personnes est une infraction criminelle en vertu du *Code criminel* et de la *Loi sur la protection de l'immigration et des réfugiés*. Elle est considérée comme une violation des droits individuels de la personne<sup>k</sup>. Elle désigne le fait de « recruter, transporter, transférer, recevoir, détenir, cacher ou héberger une personne, ou d'exercer un contrôle, une direction ou une influence sur les mouvements d'une personne, aux fins de l'exploiter ou de faciliter son exploitation » et elle peut prendre de nombreuses formes comme l'exploitation et le travail forcé<sup>l</sup>.

S'il n'est pas facile de mesurer les réalités de la traite des personnes, Statistique Canada, par l'entremise de la Déclaration uniforme de la criminalité, recueille des renseignements concernant les infractions de ce type de traite lorsqu'elles sont signalées aux forces policières au Canada. Comme l'a indiqué la chercheuse

Dyna Ibrahim, en 2016, « on a rapporté près d'un incident (0,94) signalé à la police concernant la traite des personnes par tranche de 100 000 habitants, soit le taux le plus élevé enregistré depuis que l'on a commencé à compiler des données comparables en 2009<sup>m</sup>. »

La plupart du temps, ce sont de jeunes femmes qui sont victimes de la traite des personnes. Entre 2009 et 2015, on a relevé dans les statistiques 865 victimes de la traite de personnes et plus de 95 % d'entre elles étaient des femmes, dont la majorité (près des trois quarts) avait moins de 25 ans; de celles-ci, 26 % avaient moins de 18 ans<sup>n</sup>.

À l'échelle régionale, dans les données recueillies entre 2009 et 2016 parmi les cas signalés à la police, on a pu observer de grands écarts dans les statistiques concernant la traite des personnes. Près de 66 % des cas étaient survenus en Ontario, alors que le Québec affichait un taux de plus de 10 %. Avec un pourcentage de 8,2 %, l'Alberta affichait elle aussi un nombre considérable de cas. Comprenant les infractions au *Code criminel* dans la catégorie de la traite des personnes selon la Déclaration uniforme de la criminalité, ces statistiques portent sur la traite des personnes (*C.cr.* 279.01); la traite des personnes âgées de moins de 18 ans (*C.cr.* 279.011); l'avantage matériel (*C.cr.* 279.02); l'avantage matériel tiré de la traite des personnes âgées de moins de 18 ans (*C.cr.* 279.02[2]); la rétention ou la destruction de documents (*C.cr.* 279.03); la rétention ou la destruction de documents en vue de faciliter la traite des personnes âgées de moins de 18 ans (*C.cr.* 279.03[2]).

En raison du caractère infamant de la traite des personnes, il arrive que les victimes ne souhaitent pas divulguer leur cas, et ce pour de nombreuses raisons, dont la vulnérabilité physique, économique ou autre, les menaces proférées par les trafiquants, qui ont recours à l'humiliation et à l'intimidation, ou à des drogues ou d'autres façons de susciter la crainte pour empêcher les victimes de porter plainte. Il arrive aussi que les victimes de traite des personnes ne se voient pas comme des victimes. Beaucoup de femmes en situation d'exploitation ne le reconnaissent pas. C'est là que le besoin d'éducation se fait sentir<sup>o</sup>. »

En outre, si l'on veut que les lois soient efficaces, il faut un bon système de justice pour les mettre en application<sup>p</sup>. Comme l'a admis Joanne Crampton :





À l'heure actuelle, bien que la législation ait été adoptée en 2005, on y a peu recours et non seulement la police, mais aussi les procureurs ne se sentent pas toujours à l'aise de la mettre en application. Quand on ne se sert pas régulièrement des lois, cela peut poser problème. Il existe donc un véritable écart et les connaissances sont insuffisantes autant chez ceux qui doivent faire appliquer la loi que chez les procureurs et au sein du système judiciaire<sup>Q</sup>.

Par conséquent, la mise en application de la loi est insuffisante.

Crampton a également expliqué en quoi les contraintes en matière de compétence et les difficultés de coordination peuvent compliquer les enquêtes sur la traite des personnes étant donné « qu'elles ne cessent de se déplacer d'une zone de compétence policière à l'autre<sup>R</sup>. » Le Centre national de coordination contre la traite des personnes cherche à coordonner le parcours suivi par les dossiers, mais, comme doit l'admettre Joanne Crampton, le système est complexe.

Simultanément, et comme nous l'ont dit certaines travailleuses du sexe et certains de leurs défenseurs, l'attention plus poussée consacrée ces derniers temps à la question de la traite des personnes a tendance à confondre le travail du sexe des adultes et la traite des personnes à des fins sexuelles, faisant ainsi de toutes les personnes qui choisissent la voie du travail du sexe des victimes de la traite des personnes à des fins sexuelles. Sans nier la gravité de la question de l'exploitation sexuelle et de la traite des personnes à des fins sexuelles, les tenants de cette position soutiennent que refuser de reconnaître les expériences vécues et les perspectives de celles qui optent pour le travail du sexe compromet leur capacité à s'engager en toute sécurité et en protégeant leurs droits dans cette industrie. Sarah Hunt a décrit en quoi une réorientation du discours public et de la politique visant à présenter toutes les travailleuses du sexe comme des victimes de la traite des personnes à des fins sexuelles a « mis un terme à la discussion concernant les droits des travailleuses du sexe, ce qui a entraîné une réduction du financement des organismes de protection des travailleuses du sexe et fait taire les vendeurs et les commerçants de services sexuels qui ne considèrent pas leur expérience comme de la pure victimisation<sup>S</sup> ».

Lanna Moon Perrin a donné l'exemple suivant du danger créé par la confusion entre n'importe quel travail du sexe et la traite des personnes pour des femmes comme elle et d'autres qui ont décidé de devenir travailleuses du sexe et souhaitent continuer à mener cette activité en toute sécurité.

Toutes ces histoires concernant la traite des personnes ont compliqué la pratique sécuritaire du travail du sexe des femmes, principalement des femmes autochtones, parce que nous devons désormais nous cacher des policiers et nous rendre dans des endroits plus isolés. Il est même encore plus difficile d'annoncer nos services. On nous force de plus en plus à nous isoler et à chercher des endroits obscurs où dissimuler notre activité.

Étant ainsi obligées de nous isoler, nous sommes de plus en plus confrontées à des situations faisant de nous des victimes potentielles. Nous ne sommes pas des victimes. Mais étant forcées de nous isoler et de nous cacher, cela ouvre la porte à la victimisation. Nous ne sommes pas des victimes. Nous le devenons quand on nous repousse dans l'obscurité<sup>T</sup>. »

## Un billet d'autobus à 13 \$ : le point d'accès à la traite des personnes et à la prostitution

Ces statistiques révèlent un portrait important pour comprendre de quelle manière les personnes qui ont témoigné sont entrées dans l'industrie. L'Enquête nationale a entendu des témoignages à propos des facteurs poussant les personnes à se lancer dans le commerce du sexe. Mary Fearon est directrice de Blue Door, un programme qui fait le lien entre les travailleuses du sexe ou celles qui voudraient quitter l'industrie du sexe et les services et autres soutiens. Elle a expliqué que bon nombre de filles et de femmes de l'industrie du sexe qui ont recours aux services de Blue Door ont subi des mauvais traitements durant l'enfance, de la violence et un traumatisme et que cela peut les rendre plus vulnérables à l'exploitation et à la traite des personnes. Elle a commenté une étude réalisée par Blue Door auprès des utilisatrices de ses services.





En ce qui a trait à notre étude – tout d’abord, 100 % des participantes ont indiqué avoir eu des expériences négatives dans leur petite enfance. Quelque 73 % ont parlé de violence psychologique, 40 % de violence physique, 47 [%] de violence sexuelle, 80 % de négligence, 93 [%] de parents divorcés ou séparés, 60 % de violence à l’endroit de leur mère ou de leur belle-mère; 80 % vivaient dans des foyers caractérisés par l’abus d’alcool ou d’autres drogues, 87 % vivaient avec une personne atteinte de maladie mentale et 40 % avaient un membre de leur famille incarcéré.

Lorsqu’on analyse ces chiffres, on constate l’existence d’un lien entre les expériences de ce genre et celles auxquelles ces femmes peuvent être confrontées dans leur vie lorsqu’elles se présentent à notre porte<sup>U</sup>.

Diane Redsky a aussi parlé du lien de cause à effet entre la violence subie durant la petite enfance et le traumatisme, l’exploitation sexuelle et la traite des personnes à des fins sexuelles.

Souvent, cela [l’exploitation sexuelle et la traite des personnes à des fins sexuelles] commence très jeune par une forme ou l’autre d’événement traumatisant durant l’enfance. Quel que soit l’événement, qu’il soit de nature sexuelle, physique, psychologique ou autre, il leur est arrivé quelque chose lorsqu’elles étaient petites qui a occasionné une vulnérabilité que les trafiquants de personnes sont capables de détecter, et ils excellent vraiment à identifier les filles vulnérables<sup>V</sup>.

Comme l’a expliqué Mealia Sheutiapik, Gardienne du savoir et ancienne travailleuse du sexe à Ottawa, « j’ai déjà été témoin d’un meurtre. Pour un témoin d’un meurtre, il n’y avait aucune aide à l’époque, aucun travailleur social pour me soutenir. C’est la GRC qui était là pour enquêter mais sans poser de questions. Comme je n’étais qu’une enfant, j’ignorais comment évacuer tout ça par la parole<sup>W</sup>. »

Parlant de sa sœur Tina, Diane L. a expliqué de quelle manière le père de famille d’accueil de Tina a normalisé l’échange de faveurs sexuelles contre de l’argent et la sécurité en abusant sexuellement de Tina et en la menaçant alors qu’elle était une enfant.

Quand elle [Tina] a eu 11 ou 12 ans, son père adoptif mettait ses frères et sœurs adoptés à l’écart – la mère travaillait de nuit – et il éloignait ses frères et sœurs biologiques pour la violenter et la violer. C’est comme ça que ça commençait et ça se poursuivait pendant un bout de temps, puis il la menaçait, il lui donnait de l’argent et lui achetait des trucs. Chaque fois que sa mère s’absentait, elle fermait la porte et lui, il lui donnait de l’argent, puis il ouvrait la porte, il la battait puis il lui donnait de l’argent pour qu’elle se taise et il lui disait : « si tu en parles à qui que ce soit, je vais te tuer et je dirai à tes frères et sœurs que tu t’es enfuie, que tu as disparu et qu’on ignore ce qu’il est advenu de toi<sup>X</sup>. »

Des histoires comme celle de Tina, qui démontrent l’existence d’un lien entre la présence d’une jeune fille autochtone dans le système de protection de l’enfance et l’exploitation sexuelle, la traite des personnes à des fins sexuelles et la prostitution de subsistance/dans la rue, ont été confirmées par d’autres témoins.

Décrivant son expérience, Bernice W. a raconté qu’à 11 ou 12 ans, avec six autres filles, elle a été victime de traite des personnes à des fins sexuelles alors qu’elle était placée en famille d’accueil.

À 11 ou 12 ans, six filles d’entre nous avons été vendues comme travailleuses du sexe – à notre insu – à l’Empress Hotel de Prince Rupert. Comme beaucoup d’entre vous le savent, je porte – je ne porte pas souvent de shorts à cause de mes jambes. J’ai des brûlures de cigarette tout le long des jambes et jusque dans le dos. Autour de ... de mes fesses, quoi, j’ai de très laides cicatrices. C’est ce que nous devons ... subir. Nous n’étions que des enfants<sup>Y</sup>. »

Dans son témoignage, Alaya M. a expliqué qu’à 12 ans, alors qu’elle était en foyer d’accueil, sa travailleuse sociale lui a offert le choix entre rester au sein de sa communauté et aller à Winnipeg.

Étant enfant autochtone dans une réserve du Nord, qu’auriez-vous fait? J’ai choisi la ville. Et en 24 heures, j’avais acheté un billet d’autocar Greyhound. Et ce billet, pour le SEF [ministère des Services à l’enfance et à la famille], c’était sans





doute le meilleur investissement de 13 ou 14 \$ qu'il avait jamais fait pour sortir un enfant de son réseau, sans comprendre les effets et le traumatisme qu'allait impliquer ce billet d'autocar de 13 ou 14 \$<sup>Z</sup>. »

Alaya a poursuivi son récit en expliquant qu'arrivant seule à Winnipeg, la jeune fille autochtone de 12 ans est devenue une proie facile pour les prédateurs sexuels.

Alors, elle [la travailleuse sociale] m'a mise dans cet autocar Greyhound sans qu'il y ait qui que ce soit pour m'accueillir à l'arrivée. Quand je suis descendue de l'autocar, il y avait un Italien qui attendait là et – c'est une habitude chez les enfants autochtones et les adultes autochtones – on manque d'attention et on en cherche. Et l'une des choses que cet Italien me donnait, c'est toute l'attention que je désirais, je suppose, ou que je souhaitais avoir à l'époque. Il m'a dit : « viens par ici » et il m'a attirée dans un endroit de cette ville où l'exploitation est omniprésente; il m'a fait monter dans sa voiture et j'ai satisfait les désirs de ce criminel pendant des heures, sans comprendre, une fois de plus, ce qu'était un rapport sexuel. Je ne savais même pas ce qu'était un préservatif; j'étais totalement ignorante de toutes ces choses, jusqu'à ce que je sois agressée sexuellement comme enfant. Je me souviens qu'il m'a amenée – il y avait un Coffee Time à l'angle de Princess et ... Notre Dame, c'est juste à un coin de rue d'ici, et il m'a donné 5 \$, puis il a dit : « va donc nous chercher deux cafés » et j'ai répondu : « bon, d'accord ». J'étais tellement naïve, une enfant autochtone de famille d'accueil arrivant en ville.

Donc, dès le départ, ces comportements m'ont semblé normaux. À cette époque-là, je me suis dit, « Oh, il m'a donné 5 \$, peut-être que je devrais le faire encore ». Alors je suis retournée à l'endroit où il m'avait prise au piège et suis montée dans son véhicule et ce comportement est devenu comme normal. Une de mes premières expériences à 12 ans a été d'essayer le crack. Aucun enfant ne devrait fumer du crack à 12 ans. Cela ne fait qu'empirer dans l'effet général de spirale des dépendances et de l'exploitation. Il me fallait notamment endormir la douleur, c'est ce

qui arrive avec l'exploitation, quand vous êtes victime d'exploitation, vous avez réellement besoin d'endormir la douleur<sup>AA</sup>.

Ce que ces filles ont vécu s'est déroulé dans un contexte de pédopiéage et d'intimidation. Le « pédopiéage » est un processus selon lequel les prédateurs ciblent et préparent des enfants et des adolescents à la violence sexuelle et à l'exploitation sexuelle. Au cours du processus de consignation de la vérité, l'Enquête nationale a entendu de nombreux témoins raconter que les proxénètes se tiennent à proximité des foyers collectifs, des centres de détention pour jeunes contrevenants et des gares d'autobus spécialement afin d'y recruter des filles et des jeunes 2ELGBTQQIA autochtones. Dans ce contexte, elles servent de cibles, car elles sont vulnérables à la persuasion et au pédopiéage et elles sont perçues comme des proies faciles, surtout lorsqu'elles viennent de quitter le réseau de la protection de l'enfance. Comme il a été dit de nombreuses façons, la perception d'impunité de la part des proxénètes – la conviction que personne ne viendra les chercher – contribue à la création de conditions augmentant le risque de violence.

L'Enquête nationale, a également entendu plusieurs récits provenant des communautés du Nord ou plus éloignées, dans lesquelles, en raison de l'absence de services ou de la médiocrité des services décrite dans d'autres sections de ce rapport, certaines personnes ont été obligées d'aller vers le sud, où elles ont été intégrées aux réseaux de la traite des personnes. On a entendu dire que les trafiquants ciblaient les foyers collectifs, les établissements d'hébergement pour raisons médicales, les gares d'autobus et les autocars en provenance de communautés isolées, comme l'a révélé Alaya dans son récit. Ainsi, le manque d'infrastructure et de services dans les communautés du Nord et éloignées alimente l'industrie du sexe et la poursuite de l'exploitation. Comme l'ont dit des témoins devant l'Enquête nationale, les exploiters des femmes, des filles et des personnes 2ELGBTQQIA savent bien comment s'y prendre pour les cibler; ils vont jusqu'à se poster à l'extérieur des foyers collectifs et des endroits où ils pourront trouver leurs victimes potentielles afin de les attirer dans les réseaux de traite des personnes à des fins sexuelles. De surcroît, les études ont attiré l'attention sur des lieux clés de recrutement, dont les aéroports, en





particulier celui de Montréal<sup>BB</sup>. Parmi les autres lieux et méthodes courants de recrutement, on peut mentionner les écoles, la technique du petit ami (le trafiquant approche une femme en cherchant à lui plaire)<sup>CC</sup>, le recours à d'autres filles ou d'autres femmes, l'auto-stop et presque n'importe quel endroit en dehors du domicile où il est possible d'isoler les victimes<sup>DD</sup>.

Pour de nombreuses jeunes filles autochtones qui quittent des familles ou des familles d'accueil violentes par obligation ou par choix ou qui partent à la recherche d'une vie meilleure, les premières expériences sexuelles et de traite des personnes à des fins sexuelles se poursuivent à l'âge adulte; se livrer à de la prostitution de subsistance ou dans la rue devient alors une façon de joindre les deux bouts. Mary Fearon a expliqué que la pauvreté et la toxicomanie sont des éléments qui obligent les femmes autochtones à échanger ou vendre des faveurs sexuelles pour combler leurs besoins fondamentaux.

Une des choses que nous observons chez beaucoup de participantes, surtout les plus jeunes, est la prostitution de subsistance. Et l'idée que, si elles ont besoin de se trouver un endroit pour vivre, si elles sont sans abri, souvent elles vont se tourner vers la prostitution pour arriver à combler d'autres besoins, que ce soit se loger ou se nourrir. L'insécurité alimentaire constitue un grave problème. Alors oui, c'est souvent par nécessité que les personnes qui vivent dans la pauvreté dans notre province et dans l'ensemble du pays se tournent vers la prostitution<sup>EE</sup>. »

Elle a poursuivi en disant : « Nous reconnaissons que 95 % des personnes disent vivre dans la pauvreté quand elles s'inscrivent à notre programme. La pauvreté est donc manifestement un gros indicateur; 79 % des participantes ont déjà eu ou ont un problème de toxicomanie ou ont traité leur dépendance.<sup>FF</sup> »

De nombreuses survivantes qui ont fait part de leur expérience de pauvreté, de situation de sans abri et de violence ont parlé d'échanges sexuels afin de combler leurs besoins fondamentaux d'alimentation, de logement, de vêtements, de transport et autres articles de base, une pratique souvent désignée

comme de la « prostitution de subsistance ».

Comme l'a expliqué Monique F. H. : « J'ai couché avec des gens, en fait, pour avoir un endroit où dormir, un endroit où vivre, un endroit où rester et manger. Mais c'est ça la subsistance, c'est ça pour nous, n'est-ce pas? On fait ce qu'il faut pour continuer à vivre et continuer à survivre<sup>GG</sup>. »

Doris G. a expliqué qu'elle avait recours à la prostitution pour payer un logement pour elle et son enfant.

J'avais besoin d'aide pour le dépôt en cas de dommages et personne ne voulait m'aider. Être une mère célibataire autochtone avec un bébé recevant de l'aide sociale, ce n'était pas facile. Je suis donc allée voir mon amie, qui m'a présentée à ses amis – en fait, c'étaient des clients – qui allaient m'aider à trouver de l'argent comptant : j'allais gagner de l'argent pour nous loger, moi et mon bébé, pour acheter des aliments. Je me rappelle avoir fait une pause avant de me mettre à prier le Créateur de veiller sur moi : je dois retourner à la maison auprès de mon fils<sup>HH</sup>.

Dans son témoignage, Lanna Moon Perrin, adoptant une perspective légèrement différente, a expliqué que, pour certaines personnes transgenres et 2ELGBTQQIA autochtones, la prostitution est un moyen gratifiant, au niveau financier, de renforcer leur autonomie pour subvenir à leurs besoins ou à ceux de leur famille.

J'ai commencé à faire le trottoir à 16 ans pour pouvoir m'acheter mes propres affaires, une veste d'hiver, des bottes d'hiver et de la nourriture décente. Quand j'étais jeune, j'ai connu la violence à bien des degrés, mais je ne veux surtout pas dire que c'est mon choix de m'adonner à la prostitution qui m'a amenée à devenir une victime<sup>II</sup>.

Elle a ajouté ceci :

Et, vous savez, il faut éliminer la prostitution, c'est ce que tout le monde dit. Prostitution, prostitution. C'est pourtant la prostitution qui m'a permis de payer la sortie scolaire de 7<sup>e</sup> année de mon fils; sans cela, je n'aurais jamais pu l'y envoyer. C'est la prostitution qui a servi à payer





les chaussures de claquettes de ma fille. C'est à cela qu'elle a servi pour ma famille, comprenez-vous<sup>JJ</sup>?

Doris G. a, elle aussi, parlé de l'argent gagné grâce à la prostitution qui lui a offert des possibilités qu'elle n'aurait pas eues autrement en travaillant au salaire minimum ou en recevant de l'aide sociale.

Plus jeune, je ne voulais rien savoir de la prostitution. Je bourdonnais autour des tables de billard. Je ramassais les bouteilles. Je faisais les poubelles pour ramasser des bouteilles, vous savez. Je m'activais dans des endroits où je ne devais pas me prostituer, mais plus tard, quand j'ai eu 20 ans à peu près, j'ai fini par céder et dire, vous savez, c'est le moyen le plus rapide d'y arriver. En fait, je ... je comprends les gens qui font du 9 à 5, mais ce que ces gens gagnent en un mois, je peux le gagner en une journée à peu près. Vous gagnez mille dollars par jour, vous? Je peux les gagner en une journée. C'était de l'argent vite fait. Quand ce n'était pas dégoûtant, c'était du bon argent<sup>KK</sup>.

Pour Lanna Moon Perrin et d'autres défenseurs des travailleuses du sexe, reconnaître la diversité des contextes et des raisons qui peuvent expliquer la participation des femmes à l'industrie du sexe constitue un élément important de la reconnaissance de la capacité d'agir et de la garantie de la sécurité<sup>LL</sup>. Comme l'a souligné Diane Redsky : « chaque femme a sa propre histoire et a gardé le souvenir de sa propre expérience<sup>MM</sup>. »

Dans un article analysant les différentes façons de comprendre la participation des femmes autochtones au commerce du sexe, la chercheuse Shawna Ferris propose un point de départ pour explorer les aspects complexes de ces relations : « Comment préserver la capacité d'agir des femmes, même si elles se livrent à de la prostitution de subsistance, *tout en* tenant compte de la façon dont notre histoire coloniale et son héritage permanent marqué par une misogynie raciste limitent les choix individuels et professionnels des femmes autochtones au sein du commerce de la prostitution de subsistance<sup>NN</sup>? »

## « On vous considère comme les dernières des dernières » : combattre l'industrie du sexe et la violence institutionnalisée

Depuis des années, chercheurs, défenseurs, survivantes et proches des personnes disparues ou assassinées attirent l'attention sur une histoire, longue et sans fin, de discrimination, de racisme, de sexisme et de transphobie qui caractérise les contacts entre le système de justice canadien, plus particulièrement la police, et les femmes, les filles et les personnes 2ELGBTQQIA autochtones qui participent à l'industrie du sexe.

Selon Statistique Canada, entre 1991 et 2014, on a dénombré 294 homicides contre des travailleuses du sexe. Parmi ces derniers, 34 % demeuraient irrésolus et représentaient un pourcentage beaucoup plus important que celui des homicides dont la victime n'était pas une travailleuse du sexe (20 %)<sup>OO</sup>.

En 2014, le projet de loi C-36, la *Loi sur la protection des collectivités et des personnes victimes d'exploitation* (LPCPVE), entrée en vigueur le 6 décembre de cette année-là, donnait suite à la décision de 2013 de la Cour suprême du Canada dans l'affaire *Procureur général du Canada c. Bedford*, qui concluait au caractère inconstitutionnel de trois infractions de prostitution antérieures à la LPCPVE, soit les infractions liées aux maisons de débauche, des endroits tenus à des fins de prostitution, le proxénitisme et la communication dans des endroits publics en vue de l'achat ou de la vente de services sexuels. La LPCPVE considère la prostitution comme une exploitation principalement des femmes et des filles. Elle vise à réduire la prostitution en pénalisant les personnes qui achètent des services sexuels et tirent profit de la prostitution d'autrui<sup>PP</sup>. Cette façon de faire n'a toutefois pas nécessairement entraîné une plus grande sécurité pour les travailleuses du sexe : « Entre 2008-2009 et 2013-2014, moins du tiers (30 %) des cas de prostitution examinés dans les tribunaux pénaux se sont soldés par un verdict de culpabilité, ce qui est de loin inférieur à la proportion [de verdicts de culpabilité] pour les affaires pénales en général (64 %)<sup>QQ</sup>. »





Ces statistiques viennent corroborer certains des témoignages que nous avons entendus. Dans son témoignage à titre d'experte et de Gardienne du savoir, Robyn Bourgeois a abordé la question du lien entre les stéréotypes racistes et sexistes à propos des femmes autochtones et l'indifférence qui caractérise très souvent la réaction sociétale et institutionnelle à la violence infligée aux femmes autochtones – en particulier aux travailleuses du sexe.

Un élément présent depuis toujours est l'hypersexualisation des femmes et des filles autochtones, de même que la perception de notre disponibilité sexuelle inhérente. Et en raison de cette disponibilité inhérente, sur le plan sexuel, la violence infligée à notre corps ne semble pas compter ... C'est la conviction inhérente au sein du régime colonial qui est l'assise de notre État-nation canadien actuel, que les femmes et les filles autochtones sont inférieures, qu'elles sont déviantes, dysfonctionnelles et qu'il faut les éliminer de cet État-nation, ce qui justifie le fait de violenter et de violer les femmes et les filles autochtones<sup>RR</sup>.

Comme l'a souligné Robyn Bourgeois, ces postulats ont d'importantes implications pour les enquêtes policières.

Pourquoi la police n'a-t-elle pas fait enquête? Pourquoi a-t-il fallu attendre une vingtaine d'années pour qu'elle prenne les choses au sérieux? En raison de la conviction que ces femmes étaient des travailleuses du sexe, ce qui faisait d'elles des victimes peu probables. Ceci explique le peu de mesures visant à lutter contre la violence à l'endroit des femmes et des filles autochtones, et, pour moi, c'est une immense préoccupation<sup>SS</sup>.

Ces convictions ont aussi leurs conséquences devant les tribunaux. Comme l'a signalé Robyn Bourgeois :

À de très nombreuses reprises, nos tribunaux canadiens s'en sont entièrement remis à l'hypersexualisation des femmes et des filles autochtones non seulement pour effacer la violence, parce qu'ils en arrivent à l'effacer en disant : « Oh, vous savez, elle y a consenti » ou « Vous savez, elle faisait de la prostitution » ou encore « Vous savez, elle était ivre et elle couche avec n'importe qui », ce genre de commentaires<sup>TT</sup>.

Lorsqu'on les voit dans les sources médiatiques publiques, les travailleuses du sexe sont encore marginalisées davantage. Comme l'a dit Danielle B. :

Vous savez, dans les journaux, c'est « Mort d'une accro du crack », « Mort d'une putain », « Mort d'une prostituée », mais c'était ça, ma vie. Oui, j'étais une accro du crack et une prostituée, mais je menais une double vie ... Et je me souviens d'être en présence d'un journaliste du *Edmonton Sun* et de lui dire : « S'il fallait qu'on m'assassine demain, que croyez-vous qu'on dirait de moi? » « Meurtre d'une défenseure locale des femmes disparues et assassinées ». J'ai répondu : « Et s'ils découvraient, s'ils savaient que j'étais une putain et une prostituée? Est-ce que ça changerait la perception? » « Oui, bien sûr », a t-t-il répondu<sup>UU</sup>.

Très souvent, comme de nombreux témoins l'ont expliqué, c'est non seulement un travail futile, mais aussi dangereux que de chercher à obtenir justice au sein de systèmes qui s'ingénient à présenter les femmes, les filles et les personnes 2ELGBTQQIA comme « les dernières des dernières ».

Comme l'ont démontré plusieurs travaux de recherche antérieurs et beaucoup de témoignages, les contacts entre les femmes et les filles autochtones de l'industrie du sexe et le système de justice se traduisent souvent par des expériences de violence additionnelle aux mains des personnes qui sont responsables de faire respecter la justice.

Lanna Moon Perrin a évoqué très franchement la peur et la méfiance qui empêchent les femmes autochtones aux prises avec de la violence au sein de l'industrie du sexe de parler aux policiers.

Voyez-vous, s'il fallait que je négocie, par exemple, une question d'argent, un échange, et que je n'obtenais pas d'argent en retour, j'aimerais pouvoir aller m'adresser aux policiers pour leur dire que, enfin : « je me suis fait voler, j'ai été agressée », ce genre de choses, voyez-vous, et être prise au sérieux.

Les travailleuses du sexe qui ont vécu cette situation – qui diraient des choses comme ça aujourd'hui – je ne crois pas, je ne peux pas croire que quelqu'un irait même voir les policiers, honnêtement, si elles subissaient ce genre de traitement.





En ce qui me concerne, pas question en tout cas. Donc aucune possibilité d'aller voir la police et d'être prise au sérieux, de pouvoir bénéficier de cette protection non plus<sup>VV</sup>.

Si toutes les femmes autochtones sont confrontées à des risques lorsqu'elles s'adressent à la police à la suite d'un épisode de violence – risques qui comprennent celui d'être présumées coupables et d'être compromises, arrêtées et accusées de violence elles-mêmes<sup>WW</sup> – les travailleuses du sexe autochtones sont également confrontées à des risques liés à une législation complexe qui criminalise certains aspects de l'industrie du sexe et pas d'autres. En dépit de l'esprit du projet de loi C-36 – la loi adoptée dans le but de cesser de criminaliser les travailleuses du sexe et de criminaliser plutôt les personnes qui achètent des services sexuels – les personnes qui défendent les travailleuses du sexe et les travailleuses du sexe autochtones qui sont venues faire part de leur vérité ont indiqué que, non seulement cette loi continue d'exposer les travailleuses du sexe adultes au risque de la criminalisation, mais elle accroît en outre de façon significative le danger et la probabilité de violence en forçant les proxénètes et les trafiquants à travailler encore davantage dans l'ombre et en donnant aux clients de bonnes raisons de ne pas laisser traîner de preuves<sup>XX</sup>. De surcroît, comme l'a expliqué Jamie L. H., les restrictions relatives au lieu dans lequel les travailleuses du sexe peuvent rencontrer leurs clients potentiels les obligent souvent à choisir des endroits encore plus dangereux avant de pouvoir évaluer l'aspect sécuritaire inhérent à une situation ou à un client en particulier.

Et puis, la police déclare qu'on ne peut pas se trouver à proximité d'un centre communautaire, d'un parc, d'une école, d'un terrain de jeux; mais, à Vancouver, où qu'on soit, on va bien entendu se trouver à proximité d'un de ces endroits. Mais, en plus, ces endroits sont plus sécuritaires. Ils sont bien éclairés; les femmes et les filles de l'industrie du sexe, elles les fréquentent pour des raisons de sécurité. Parce que les endroits dans lesquels on les oblige à aller sont très sombres, déserts et sans rien autour. Le danger y rôde. C'est dans ces endroits que Pickton chassait ses proies. Et on n'a cessé de promettre un meilleur éclairage, mais rien n'a changé. Et c'est toujours pas mal l'horreur<sup>YY</sup>.

Certains témoins ont analysé les efforts visant à améliorer les relations entre la police et les travailleuses du sexe en créant des coalitions et des partenariats incluant les personnes qui ont l'expérience de la prostitution. Ainsi la Coalition des jeunes victimes de l'exploitation sexuelle de Winnipeg est un exemple de coalition au sein de laquelle la police s'implique à titre de partenaire aux côtés d'organismes communautaires dirigés par des Autochtones pour défendre les personnes qui sont ou ont été exploitées sexuellement<sup>ZZ</sup>. Encore une fois, cependant, ces initiatives ont tendance à mettre l'accent sur les problèmes d'exploitation sexuelle d'enfants et d'adolescents et de traite des personnes; rares sont celles qui visent à renforcer les liens entre la police et les travailleuses du sexe de la rue. Jamie L.H. a fait le commentaire suivant à ce sujet :

Je pense que la police est devenue excellente sur le plan des relations publiques. Elle s'est lancée dans une campagne dans laquelle elle affirme venir en aide aux travailleuses du sexe et que ce n'est qu'en dernier recours qu'elle les incriminera pour une infraction liée à la prostitution. Mais, en réalité, avec le projet de loi C-36 ... qui a donné lieu à la promulgation de la nouvelle loi, les femmes et les filles sont censées être laissées en paix et se mettre en quête de clients. Mais c'est totalement l'inverse, la police continue de cibler les plus vulnérables, les femmes et les filles, et les femmes et les filles autochtones dans le commerce du sexe<sup>AAA</sup>.

## « Elle pourrait se trouver n'importe où » : en quête de justice

Pour les familles, les amis et les proches qui ont fait part de leur vérité à propos des femmes, des filles et des personnes 2ELGBTQQIA impliquées dans l'industrie du sexe au moment de leur disparition ou de leur décès, les interactions avec la police et le système de justice sont souvent synonymes de confrontation à des comportements sexistes, racistes et discriminatoires dans leur quête de justice.

En décrivant l'expérience qu'elle a vécue avec le système de justice à la suite de la disparition et du





meurtre de sa belle-sœur, cette proche a partagé sa perspective sur la façon dont les préjugés systémiques à l'endroit des travailleuses du sexe autochtones empêchent que justice soit faite.

Ma belle-sœur n'a pas eu droit à la justice. Il [son meurtrier] n'a même pas été accusé. Elle a été la quatrième à mourir en compagnie de cet homme. C'étaient toutes des femmes des Premières Nations, à l'exception d'une seule, et c'est ainsi qu'il a été accusé; c'était la dernière, ce n'était pas une racoleuse. Nous pouvons juger les raisons pour lesquelles ces femmes finissent ainsi. Le cas de Mary n'est pas unique, loin de là. Elle était aimée par les siens. Mais comme elle a été élevée loin de sa famille, dans des pensionnats, elle ne possédait pas les bons outils pour vivre dans la rue<sup>BBB</sup>.

Comme beaucoup de femmes ainsi que de personnes transgenres et 2ELGBTQQIA autochtones de l'industrie du sexe sont disparues ou ont été assassinées dans l'indifférence du système de justice, les membres de leurs familles se sont eux aussi heurtés à cette indifférence, à ce racisme et à ce sexisme dans leurs recherches pour retrouver leurs proches.

Dans leurs récits des conversations et des rencontres avec la GRC et les forces policières provinciales et municipales, souvent les membres de famille et amis ont rapporté l'utilisation du « style de vie » des proches disparues ou assassinées comme excuse de la police pour justifier leur inaction<sup>CCC</sup>.

Les membres de famille ont décrit des conversations au cours desquelles les policiers ont évoqué des procédures et des politiques à suivre avant de pouvoir déclencher une enquête en raison du « style de vie » de leur proche – tactique selon laquelle la police se sert de règles opérationnelles ou procédurales afin de camoufler ce qui n'est souvent en vérité qu'une réticence à agir, ancrée dans des attitudes et des convictions discriminatoires.

Par exemple, Diane L. a évoqué comment elle a été reçue lorsqu'elle a pris contact avec la GRC pour faire part de ses préoccupations à propos de la sécurité de sa sœur Tina.

Quand la GRC nous a rappelés, il s'était écoulé au moins un mois [depuis le premier contact de Diane avec la GRC] ... Ils nous ont donc téléphoné un mois plus tard pour nous dire que, à cause de son style de vie, puisque c'était une prostituée, enfin une pute quoi, elle pouvait se trouver n'importe où, à Vancouver ou dans n'importe quelle autre ville. J'ai répondu que non; j'ai dit que je lui avais dit d'appeler ma mère et de dire où elle était toutes les semaines et j'ai dit, bon, pouvez-vous à tout le moins faire paraître un avis de personne disparue ou un rapport à son sujet et il a répondu que non, qu'ils ne pouvaient pas encore le faire et qu'il fallait peut-être lui laisser une semaine ou quinze jours de plus pour voir si elle allait appeler et j'ai répondu d'accord<sup>DDD</sup>.

Ce genre d'interactions ne fait que démontrer la manière dont la participation à l'industrie du sexe devient un motif dont se sert la police pour justifier son inaction, mais cela dénote aussi un rejet plus généralisé de toute connaissance ou information détenue par les Autochtones concernant leurs proches disparues et assassinées.

Tout au long du processus de consignation de la vérité de l'Enquête nationale, des membres de famille, des amis et d'autres personnes proches des femmes, des filles et des personnes 2ELGBTQQIA autochtones disparues ou assassinées ont décrit des conversations avec les policiers au cours desquelles ils ont donné des renseignements importants concernant un changement de comportement de leur proche qui signalait que quelque chose clochait. Plutôt que de reconnaître la valeur de l'information enracinée dans la connaissance qu'avaient les parents des relations, de l'histoire, des expériences, des forces et des difficultés de leur proche, les policiers se sont servi des interactions avec la famille pour répéter leurs interprétations sexistes, racistes et pathologiques de l'existence des femmes, des filles et des personnes 2ELGBTQQIA autochtones.

Comme le démontrent les témoignages fournis par ces membres de famille, lorsque la police rejette les occasions de comprendre et d'apprécier la sagesse des familles autochtones et lorsqu'elle considère sans importance la vie des femmes autochtones – en particulier des travailleuses du sexe – cela entraîne de graves conséquences.





Trop souvent, lors des interactions durant lesquelles les policiers ont ignoré les mises en garde et les préoccupations que leur communiquaient les membres de famille des personnes disparues ou assassinées pour choisir d'insister sur leurs propres modes d'acquisition de connaissances et façons de fonctionner, ce sont les femmes, les filles et les personnes 2ELGBTQQIA autochtones et leurs familles qui en ont payé le prix. Dans le cas de Diane L., par exemple, on a retrouvé le corps de sa sœur Tina dans le champ d'un agriculteur près de six mois après que Diane ait contacté la GRC pour lui faire part de ses craintes à propos de sa sécurité<sup>EEE</sup>.

Dans son témoignage, Diane L. a également livré un puissant récit sur la manière dont l'existence et l'identité uniques des femmes, des filles et des personnes 2ELGBTQQIA autochtones disparues et assassinées participant à l'industrie du sexe font place à des étiquettes peu flatteuses, non seulement au cours des enquêtes policières, mais aussi durant les actions en justice.

Lors de l'audience tenue à Dawson Creek, ils ont utilisé son vrai nom dès – en fait, au début, puis c'est là qu'ils se sont mis à parler de « cette putain », « cette prostituée », « cette pute ». Quand nous sommes allées au tribunal, ça s'est poursuivi et, pendant tout le procès, j'étais là à les écouter tous, les procureurs, les avocats, le procureur de la Couronne, les avocats, la défense, tous, y compris lui quand on lui posait des questions, jamais ils n'ont utilisé son nom, jamais ils ne l'ont appelée par son nom. Pour parler d'elle, ils disaient : « cette pute », « cette prostituée ». J'étais tellement outrée. Cela me faisait vraiment mal. J'étais tellement fâchée<sup>FFF</sup>.

Diane a fait le récit suivant de son propre acte de courage et de défi envers un système qui refusait de reconnaître le caractère humain de sa sœur.

Finalement, je me suis levée et j'ai levé les mains ... le juge a regardé dans ma direction et a dit, « Nous allons prendre quelques instants », puis il m'a dit : « J'ai remarqué que vous aviez levé les mains. Puis-je savoir qui vous êtes? ». Je me suis levée et j'ai dit : « Tina, que vous tous désignez sous le nom de "cette putain", "cette prostituée", "cette salope", "cette pute", sans jamais utiliser son

nom, elle en a un, un nom. Je suis sa sœur, ai-je dit, et peu importe que vous puissiez m'accuser, vous pouvez faire de moi ce que vous voulez, mais je vous demanderais de faire preuve de respect. Son cousin est ici, mon cousin, nous sommes ici, nous sommes des membres de sa famille. Nous l'aimons, peu importe ce qu'elle faisait pour gagner sa vie. C'était sa façon de subsister. Ces foyers sécuritaires dans lesquels on nous a placés le lui ont appris, ai-je dit. Et j'aimerais, s'il vous plaît, que vous la désigniez – c'est un être humain, nous l'aimons, j'aimerais, s'il vous plaît, que vous l'appeliez Tina ... C'est ainsi qu'elle s'appelle. »

...

Et ils l'ont fait. Après cela, ils l'ont appelée Tina, vous comprenez, parce que, pour moi, c'était un tel manque de respect, je veux dire, c'était inhumain, inhumain de dire ce genre de choses, de l'appeler comme ça. Tous les êtres humains, en particulier les femmes, méritent qu'on les respecte. Pour moi, c'est un mécanisme de subsistance qu'elles ont appris. C'était la seule façon de subsister qu'elles connaissaient et qu'elles avaient apprise. Et il y a énormément, énormément de discrimination, vous comprenez, dans le système juridique, beaucoup de manque de respect. Mais c'est ce que j'ai fait; je suis parvenue à rassembler mon courage pour le leur dire<sup>GGG</sup>.

Comme le montre l'affaire de *R. c. Barton*, cette attitude persiste. Dans cette affaire, Bradley Barton a admis le meurtre de Cindy Gladue, qui est morte dans une chambre d'hôtel le 22 juin 2011 après avoir subi une horrible blessure dans la région pelvienne. Elle est morte au bout de son sang. Barton, qui avait payé pour recevoir des services sexuels, aussi bien la nuit de sa mort que la veille au soir, a soutenu que la blessure était le résultat d'une pratique sexuelle brutale. Il a été acquitté en 2015 d'une accusation de meurtre au premier degré et d'homicide par négligence, mais, en 2017, la Cour d'appel de l'Alberta a renversé le verdict et ordonné la tenue d'un nouveau procès. Dans leur décision, les juges de l'Alberta ont déclaré que le juge de première instance avait commis des erreurs de procédure au cours du procès de Barton en n'invoquant pas les lois sur la protection contre le viol et en donnant des directives inexacts





au jury qui, comme l'explique le journaliste Justin Brake « a entendu dire tout au long du procès que Gladue était à la fois Autochtone et travailleuse du sexe. ... "Le juge de première instance aurait dû aborder la question des références répétées à Gladue comme une fille 'autochtone' et une 'prostituée' afin d'éliminer le risque de préjugé dans le raisonnement", écrivirent les juges<sup>HHH</sup>. » De surcroît, comme l'a écrit l'avocate Christa Big Canoe, l'exhibition de son pelvis au cours du procès constitue « le dernier outrage qui lui a été fait » :

Je n'arrive pas à comprendre pourquoi il était nécessaire que deux professionnels de la médecine viennent démontrer leurs théories et leurs opinions devant le jury en se servant des restes humains de la victime. Cindy Gladue était une mère. Cindy Gladue était la fille de quelqu'un. Cindy Gladue était une femme crie. Indépendamment de sa profession de travailleuse du sexe, Cindy Gladue était un être humain<sup>III</sup>.

## « Elles formaient ma famille dans la rue » : en quête de sécurité

Confrontées au sexisme, à la discrimination, à la violence et au racisme constants au sein du système de justice qui ne cesse de leur nier leurs droits, les femmes, les filles et les personnes 2ELGBTQQIA impliquées dans l'industrie du sexe maintiennent leur résistance face à un système qui les prive de leur valeur, de leur sagesse et de leur force, ainsi que des protections dont elles devraient bénéficier à titre de détentrices de droits.

En faisant la description de leurs relations mutuelles, les femmes, les filles et les personnes 2ELGBTQQIA autochtones travailleuses du sexe ont parlé des stratégies auxquelles elles ont recours pour compenser l'absence de protection de la police et accroître leur sécurité : relever les numéros des plaques d'immatriculation, se surveiller mutuellement, faire du « repérage », monter un dossier des mauvaises expériences, transmettre des connaissances sur la manière de se protéger et adopter et soutenir des prises de position<sup>JJ</sup>. Ces stratégies – de même que les relations qu'elles favorisent –

deviennent, pour les femmes autochtones elles-mêmes, une manière d'insister sur leurs droits à la protection, à l'amour et au bien-être, même si ces droits leur sont niés par l'État.

Les relations décrites entre femmes, filles et personnes 2ELGBTQQIA autochtones travailleuses du sexe remettent aussi en question les politiques coloniales, telles que celles mises en application par le système de protection de l'enfance, qui visent à miner et détruire la structure familiale au sein des communautés autochtones, et y opposent de la résistance. Si beaucoup de personnes impliquées dans l'industrie de sexe sont actuellement ou ont été retirées des soins de leur famille et placées dans le réseau de protection de l'enfance et des foyers d'accueil, les travailleuses du sexe autochtones ont parlé devant l'Enquête nationale des « familles du cœur » qu'elles entretiennent et qui leur offrent protection, amour et relations.

Par exemple, en décrivant son expérience de travailleuse du sexe dans le Downtown Eastside de Vancouver au cours des années 1990, Cee-Jai J. a témoigné du rôle important de sa « famille de la rue » pour prendre mutuellement soin d'elles-mêmes. « Elles formaient ma famille dans la rue. Nous souffrions toutes, mais nous pouvions compter les unes sur les autres. Chacune d'entre nous s'est mise à guetter les autres, les voitures qui s'arrêtaient – regarder les phares, essayer de mémoriser les numéros d'immatriculation. Elles embarquaient, disant "Je vais revenir". Et nous essayions de faire attention à ce qu'elles reviennent<sup>KKK</sup>. »

On peut aussi constater la profondeur de ces relations et leur rôle afin de garantir la sécurité et la justice dans les descriptions données par des femmes qui ont quitté l'industrie du sexe, mais qui continuent à y jouer un rôle « familial ». Jamie L. H. a raconté ce qui suit :

Je me rends à Low Track, comme on l'appelle, au nord de Hastings dans le quartier industriel. J'y rends visite à des amies qui, je veux dire, travaillent encore. M'assurer qu'elles vont bien, voyez-vous, et un peu parler des difficultés. Et elles me donnent des renseignements qui me sont utiles pour défendre des intérêts, parce que ce n'est pas leur genre de le faire<sup>LLL</sup>.





Monique F. H. a déclaré ceci :

Je continue à le faire. Je continue à parler aux filles dans la rue. Si je vois une jeune fille travailler, je lui donne des préservatifs, parce que c'est ce que je fais. Je fais de l'éducation et de la prévention à propos du VIH. Je leur donne des préservatifs, je leur parle et je leur dis qu'il y a quelqu'un qui les aime parce beaucoup d'entre elles ne le ressentent pas. Beaucoup d'entre elles ne ressentent pas cet amour<sup>MMM</sup>.

Lanna Moon Perrin a raconté que, souvent, les travailleuses du sexe se sentent responsables de leur protection mutuelle en l'absence de la police.

Les travailleuses de sexe ne soutiennent pas la traite des personnes. Il faut le dire clairement. Quand il y a de la traite de personnes, les travailleuses du sexe sont les premières à le dénoncer ... Très très souvent, c'est une travailleuse du sexe qui va en aider une autre à échapper à un proxénète sans l'aide de la police. Ça arrive souvent, vous savez? ... Alors, oui, je crois sincèrement que les travailleuses du sexe, nous pouvons nous donner des moyens d'agir mutuellement. Nous sommes contre la traite des personnes et avons besoin de plus d'aide, de l'aide de la part de nos communautés pour pouvoir nous soutenir nous-mêmes en tant que sœurs<sup>NNN</sup>.

## Reconnaître l'expérience et l'expertise. Redéfinir la justice et la sécurité

Au-delà de proposer un modèle de relations dans lequel les femmes, les filles et les 2ELGBTQQIA autochtones sont considérées comme dignes d'amour, de protection et de protection des droits, les pratiques et les principes en matière de sécurité sur lesquels reposent ces liens entre travailleuses du sexe offrent d'importants enseignements sur l'apparence de justice pour les travailleuse du sexe autochtones. De toute évidence, les vérités énoncées par les familles et les survivantes autochtones offrent de nombreux enseignements en ce qui a trait aux femmes, aux filles et aux personnes 2ELGBTQQIA autochtones ainsi qu'à la prostitution, à l'exploitation

sexuelle et à la traite des personnes à des fins sexuelles.

Tout d'abord, certains témoins ont clairement établi que la justice et la sécurité dépendent de la reconnaissance et du respect de la capacité d'agir et de l'expertise des femmes elles-mêmes en matière de création de communautés et de relations justes. Comme Diane Redsky l'a dit en parlant des enseignements du Groupe de travail national sur la traite des filles et des femmes au Canada, « Les initiatives menées par les survivantes sont essentielles. On ne peut et on ne devrait effectuer quelque travail que ce soit à moins d'avoir à côté de soi une survivante, à moins qu'une survivante puisse prendre la parole, parce que personne n'en sait davantage que les survivantes. D'où le caractère essentiel de leur rôle<sup>OOO</sup>. »

Tout en faisant part de leurs expériences et de leurs idées au cours d'une séance de consignation de la vérité au WISH Drop-In Centre, des femmes, des transgenres et des personnes 2ELGBTQQIA autochtones actuellement travailleuses du sexe dans le Downtown Eastside de Vancouver ont elles aussi souligné l'importance que les autres reconnaissent leur expertise dans la détermination des services et des soutiens qui renforceraient la sécurité et la justice. Et cela inclut l'accès à des endroits sûrs pour pratiquer la prostitution, l'accès à d'autres services, comme des soins de santé, du counseling, des services liés aux toxicomanies et des services juridiques; des occasions d'apprendre et de pratiquer la culture et la langue traditionnelles et des lieux pour le faire; et une meilleure écoute de la police pour reconnaître le savoir que possèdent les travailleuses du sexe<sup>PPP</sup>.

Madison D. a fait une description plus précise de la forme que pourrait prendre ce genre de soutien.

Je pense réellement qu'il devrait y avoir un endroit où les travailleuses pourraient aller, où elles pourraient vivre et, en fait, un endroit où elles pourraient trouver des vêtements et des articles de toilette et, enfin, se sentir humaines à nouveau. Vous voyez ce que je veux dire? Parce que, comme travailleuse, vous n'avez pas grand-chose. Parfois, vous avez deux tenues de travail que vous allez porter pendant une semaine, c'est dur. Vous perdez tout, tellement de choses, aux mains des clients, des proxénètes et tout ça<sup>QQQ</sup>.





Deuxièmement, certains témoins ont clairement dit que l'existence de la sécurité et de la justice ne pouvait se concevoir uniquement sur le plan individuel; il ne peut y avoir de justice et de sécurité pour les femmes, les filles et les personnes 2ELGBTQQIA autochtones travailleuses du sexe que si les systèmes qui encouragent la justice et la sécurité s'appliquent de manière égale à tous.

Par exemple, lorsqu'elle a décrit sa propre expérience de confrontation à des accusations liées à la prostitution au sein du système juridique, Jamie L. H. a observé que, si sa propre expérience lui a valu de parvenir à faire tomber ces accusations, il n'y avait aucune garantie de voir son expérience individuelle s'appliquer à d'autres membres de sa communauté plus vaste : « Sur un plan personnel, vous comprenez, j'étais heureuse [de voir les accusations tomber]; mais la question de la sécurité et de l'existence, de la liberté et de la sécurité des femmes et des filles et des femmes, des filles et des hommes autochtones dans la rue demeure – elle reste sans réponse<sup>RRR</sup>. »

Tant que les systèmes et les relations au sein de ces systèmes ne parviendront pas à tenir compte des préjugés collectifs actuels, la justice demeurera illusoire pour les femmes, les filles et les personnes 2ELGBTQQIA autochtones. Maintenant son engagement envers la communauté collective, Jamie L. H. fait la démonstration de l'aspect essentiel des valeurs fondamentales de responsabilité et de liens avec la communauté plus vaste pour les rencontres visant à renforcer les protections des travailleuses du sexe.

Troisièmement, abordant la question des difficultés au sein de leur propre communauté, les travailleuses du sexe et/ou celles qui ont connu des situations d'exploitation sexuelle et/ou de traite des personnes attirent l'attention sur les obstacles structurels et socioéconomiques à renverser afin de parvenir à la justice de manière à ce que la prostitution cesse d'être la seule manière de combler ses besoins fondamentaux. Lanna Moon Perrin a fait part de l'observation suivante :

Vous savez, j'ai souvent entendu parler d'abolir la prostitution et le travail du sexe, ce qui, en théorie, est une excellente idée, mais si nous voulons abolir le travail du sexe, il faut aussi abolir la pauvreté et l'absence de domicile et il faut s'assurer que nos besoins nutritionnels

soient comblés. Puis, une fois que tous ces problèmes seront réglés, peut-être pourrions-nous commencer à parler d'autre chose, notamment abolir le commerce du sexe<sup>SSS</sup>.

Mary Fearon a expliqué que l'isolement social qui découle de la stigmatisation du commerce du sexe peut finir par constituer un obstacle à l'accès aux services et aux moyens d'aide nécessaires pour se sortir du commerce du sexe.

Les participantes ont beaucoup parlé de l'isolement social, du fait qu'elles n'ont pas accès aux moyens d'aide et nous l'avons entendu dire à plusieurs reprises. Les femmes travaillent et, lorsqu'elles sont prêtes à s'en sortir, elles ignorent où trouver le soutien et la communauté qui comprend le travail qu'elles font<sup>TTT</sup>.

Des témoins ont analysé le besoin de solutions et de programmes tenant compte des relations qui favorisent la guérison entre les femmes, les filles et les personnes 2ELGBTQQIA autochtones. Ils ont soutenu que le système de justice et d'autres systèmes doivent chercher à surmonter des obstacles structurels dans le contexte d'un engagement profond envers de nouvelles relations.

Jackie Anderson, une femme métisse œuvrant auprès de jeunes victimes d'exploitation sexuelle et de traite des personnes au Centre Ma Mawi Wi Chi Itata de Winnipeg, a expliqué certains obstacles auxquels son organisme est confronté, dans le cadre de ses activités visant à aider les jeunes autochtones, en raison des restrictions imposées par son financement sous forme de subvention. Ainsi, elle a expliqué que l'absence d'un financement pluriannuel représente un gros obstacle à la réussite de programmes auprès de jeunes victimes d'exploitation sexuelle et de traite des personnes.

Au bout du compte, je ne saurais trop insister sur l'importance du financement, car, quand, comme victime, vous voulez avoir accès à des services afin de guérir, ça ne fonctionne pas du jour au lendemain. Pour plusieurs personnes, de nombreuses tentatives sont nécessaires avant de trouver la bonne ressource, le bon programme ou le moment propice dans la vie pour opérer ce changement. Donc, quand nous obtenons du financement pour nos projets pilotes pour,





disons, un an, deux ans ou trois ans, ça ne vient pas en aide à celles qui en ont le plus besoin car, vous savez, même pour une survivante, survivre – la survie c’est pour la vie. Vous comprenez, avoir suivi le programme pendant un, deux ou trois ans et s’entendre dire : « voilà, c’est fini » ou « nous ne recevons plus de financement », souvent, cela replonge les gens dans la détresse.

En fin de compte, je ne saurais donc trop insister sur l’importance de chercher à obtenir du financement durable pour des organismes dirigés par des Autochtones qui connaissent l’importance et la valeur de l’embauche de personnes ayant vécu ce genre d’expériences.<sup>uuu</sup>

## « Je garde espoir » : une nouvelle vision pour l’avenir

Collectivement, les vérités partagées par les familles des travailleuses du sexe disparues et assassinées, celles des personnes qui ont déjà participé ou participent actuellement à l’industrie du sexe et celle des survivantes de l’exploitation sexuelle ou de la traite des personnes à des fins sexuelles remettent en question les attitudes, les pratiques et les systèmes dominants qui ont tendance à rendre ces femmes, ces filles et ces personnes 2ELGBTQQIA autochtones impuissantes et indignes de protection et de justice. Les témoins ont plutôt rappelé qu’en accordant de la valeur à la capacité d’agir et à l’expertise des personnes qui ont vécu l’expérience de l’industrie du sexe, il est possible de créer des systèmes qui reconnaissent et promeuvent l’existence des femmes, des filles et des personnes 2ELGBTQQIA autochtones travailleuses du sexe et les considèrent dignes de protection, de sécurité et d’amour. Jamie L. H. a fait part de la vision suivante d’une relation axée sur la sécurité et la responsabilité.

Vous savez, mon souhait serait que tout cela donne lieu à une recommandation – je ne veux pas me lancer dans toute une dispute à propos de l’abolition et de la décriminalisation. J’aimerais recadrer la discussion, dire que tout cela concerne la sécurité et que ce que nous voulons tous, peu importe notre camp, c’est la sécurité et un monde sans violence pour nos gens et sans prédateurs qui peuvent venir rôder en toute impunité pour chercher à imposer leur violence. Je crois qu’on peut y arriver. J’y crois vraiment.

Et je voudrais – je ne veux plus entendre parler de femmes et de garçons autochtones, de personnes bispirituelles, trans, disparues ou assassinées. De leur vie volée, de leur force vitale enlevée alors qu’ils peuvent encore tellement donner. Nous ne vivons certainement pas dans une société qui se contente d’abandonner les plus indigents et les plus vulnérables de ses membres. Il nous faut continuer à livrer ces combats et je crois – je garde espoir. Vous comprenez, ma mère me disait toujours de ne jamais perdre espoir. Et je connais les batailles que nombre d’entre vous, les Aînés autochtones, avez livrées en votre temps pour faire avancer la question autochtone. Et cela, je l’ai appris de la bouche même de ma mère. Je sais donc que les choses changent; que cela prend du temps. Mais que, comme vous le dites, commissaire en chef Buller, nous ne devons jamais [laisser] qui que ce soit derrière nous, et nous ne devons jamais oublier. Nous devons toujours nous rappeler que toutes les vies comptent – qu’elles ont de la valeur<sup>vvv</sup>.





## Conclusions :

- Les services de police ont du mal à traiter efficacement les affaires de traite des personnes, d'exploitation sexuelle et de violence envers les femmes et les personnes 2ELGBTQQIA dans l'industrie du sexe. Il est difficile de détecter les infractions, comme la traite des personnes et l'exploitation sexuelle, d'enquêter sur ces crimes et d'intenter les poursuites s'y rattachant. Les lois actuelles, y compris celles concernant l'exploitation sexuelle et la traite des personnes, ne permettent pas d'accroître globalement la sécurité des femmes, des filles et des personnes 2ELGBTQQIA autochtones, car elles ne reconnaissent pas les déséquilibres de pouvoir ni la stigmatisation sociale.
- Les femmes, les filles et les personnes 2ELGBTQQIA autochtones qui sont dans l'industrie du sexe ne croient pas que les services de police puissent assurer leur sécurité, en raison du caractère illégal de leur travail, de la discrimination raciale et sexuelle dont elles font l'objet, ainsi que de la stigmatisation sociale liée à l'industrie du sexe, en général.
- Le droit à la sécurité des femmes autochtones et des personnes 2ELGBTQQIA dans l'industrie du sexe n'est pas reconnu ni protégé.

---

A	Hunt, « Representing Colonial Violence. »	T	Lanna Moon Perrin (Anishinaabe), Parties II et III mixtes, Volume public 17, St. John's, T.-N.-L., pp. 86-87.
B	Amnesty International, <i>No More Stolen Sisters</i> ; Farley et Lynne, « Prostitution of Indigenous Women »; Hunt, « Representing Colonial Violence. »	U	Mary Fearon, Parties II et III mixtes, Volume public 17, St. John's, T.-N.-L., pp. 128-129.
C	Commissaire adjointe Joanne Crampton, Parties II et III mixtes, Volume public 15, St. John's, T.-N.-L., p. 40.	V	Diane Redsky (Première Nation Shoal Lake 40), Parties II et III mixtes, Volume public 18, St. John's, T.-N.-L., pp. 79-80.
D	Diane Redsky (Première Nation Shoal Lake 40), Parties II et III mixtes, Volume public 18, St. John's, T.-N.-L., pp. 74-75.	W	Mealia Sheutiapik (Inuite, Baie de Frobisher), Parties II et III mixtes, Volume public 16, St. John's, T.-N.-L., p. 10.
E	Lanna Moon Perrin (Anishinaabe), Parties II et III mixtes, Volume public 17, St. John's, T.-N.-L., p. 80.	X	Diane L. (Clan du loup, Première Nation Little Salmon Carmacks), Partie 1, Volume public 2, Whitehorse, Yn, p. 87.
F	Robyn Bourgeois (Crie), Parties II et III mixtes, Volume public 17, St. John's, T.-N.-L., pp. 26-27.	Y	Bernie W. (Haida/Nuu-chah-nulth/Coast Salish), Partie 1, Volume public 115, Vancouver, C.-B., p. 12.
G	Diane Redsky (Première Nation Shoal Lake 40), Parties II et III mixtes, Volume public 18, St. John's, T.-N.-L., p. 77.	Z	Alaya M. (Première Nation Ojibway Sandy Bay), Partie 1, Volume public 13, Winnipeg, Mb., p. 13.
H	Dr Allan Wade, Parties II et III mixtes, Volume public 14, Winnipeg, Mb., p. 75.	AA	Alaya M. (Première Nation Ojibway Sandy Bay), Partie 1, Volume public 13, Winnipeg, Mb., pp. 13-15.
I	Ferris, « Working from the Violent Centre, » 17.	BB	Sethi, « Domestic Sex Trafficking, » 60.
J	Commissaire adjointe Joanne Crampton, Parties II et III mixtes, Volume public 15, St. John's, T.-N.-L., p. 75.	CC	Voir NWAC, « Boyfriend or Not. »
K	Nations Unies, « Human Rights et Human Trafficking »; Ontario Women's Justice Network, « The Law et Human Trafficking in Canada. »	DD	Sethi, « Domestic Sex Trafficking, » 60-61. Voir aussi NWAC, « Trafficking of Indigenous Women, » 6-9.
L	Ibrahim, « Trafficking in Persons in Canada, 2016, » 3.	EE	Mary Fearon, Parties II et III mixtes, Volume public 17, St. John's, T.-N.-L., p. 115.
M	Ibid.	FF	Mary Fearon, Parties II et III mixtes, Volume public 17, St. John's, T.-N.-L., p. 123.
N	Ibid., 5.	GG	Monique F. H. (Crie), Partie 1, Volume public 17, Membertou, N.-É., p. 92.
O	Commissaire adjointe Joanne Crampton, Parties II et III mixtes, Volume public 15, St. John's, T.-N.-L., p. 76.	HH	Doris G. (Crie, Première Nation Driftpile), Partie 1, Déclaration publique 79, Edmonton, Alb., p. 9.
P	Ibrahim, « Trafficking in Persons in Canada, 2016. »	II	Lanna Moon Perrin (Anishinaabe), Parties II et III mixtes, Volume public 17, St. John's, T.-N.-L., p. 77.
Q	Commissaire adjointe Joanne Crampton, Parties II et III mixtes, Volume public 15, St. John's, T.-N.-L., p. 81.	JJ	Lanna Moon Perrin (Anishinaabe), Parties II et III mixtes, Volume public 17, St. John's, T.-N.-L., p. 82.
R	Commissaire adjointe Joanne Crampton, Parties II et III mixtes, Volume public 15, St. John's, T.-N.-L., p. 83.		
S	Hunt, « Representing Colonial Violence, » 35.		





- KK Doris G. (Crie, Première Nation Driftpile), Partie 1, Déclaration publique 79, Edmonton, Alb., p. 30.
- LL Lanna Moon Perrin (Anishinaabe), Parties II et III mixtes, Volume public 17, St. John's, T.-N.-L., p. 18; Voir aussi Ferris, « Working from the Violent Centre. »
- MM Diane Redsky (Première Nation Shoal Lake 40), Parties II et III mixtes, Volume public 18, St. John's, T.-N.-L., p. 79.
- NN Ferris, « Working from the Violent Centre. »
- OO Rotenberg, « Prostitution Offenses in Canada. »
- PP Ibid.
- QQ Ibid.
- RR Robyn Bourgeois (Crie), Parties II et III mixtes, Volume public 17, St. John's, T.-N.-L., pp. 35–38.
- SS Robyn Bourgeois (Crie), Parties II et III mixtes, Volume public 17, St. John's, T.-N.-L., p. 52.
- TT Robyn Bourgeois (Crie), Parties II et III mixtes, Volume public 17, St. John's, T.-N.-L., p. 48.
- UU Danielle B. (Métisse), Partie 1, Déclaration publique 91, Edmonton, Alb., pp. 11–12.
- VV Lanna Moon Perrin (Anishinaabe), Parties II et III mixtes, Volume public 17, St. John's, T.-N.-L., pp. 205–206.
- WW Farida Deif, Partie 3, Volume public 9, Toronto, ON, p. 90-91.
- XX Pour une analyse plus détaillée de la loi C-36, voir Belak et Bennett, « Evaluating Canada's Sex Work Laws. »
- YY Jamie L. H. (Autochtone/Irlandaise), Partie 1, Volume public 78, Vancouver, C.-B., p. 8.
- ZZ Chef Danny Smyth, Parties II et III mixtes, Volume public 18, St. John's, T.-N.-L., pp. 13–14.
- AAA Jamie L. H. (Autochtone/Irlandaise), Partie 1, Volume public 78, Vancouver, C.-B., p. 9.
- BBB Frances N. (Première Nation Carcross), Partie 1, Volume public 1, Whitehorse, Yn, p. 23.
- CCC Voir aussi, par exemple, Frances N. (Première Nation Carcross), Partie 1, Volume public 1, Whitehorse, Yn, p. 23; Diane L. (Clan du loup, Première Nation Little Salmon Carmacks), Partie 1, Volume public 2, Whitehorse, Yn, pp. 88–89.
- DDD Diane L. (Clan du loup, Première Nation Little Salmon Carmacks), Partie 1, Volume public 2, Whitehorse, Yn, p. 89.
- EEE Diane L. (Clan du loup, Première Nation Little Salmon Carmacks), Partie 1, Volume public 2, Whitehorse, Yn, p. 90.
- FFF Diane L. (Clan du loup, Première Nation Little Salmon Carmacks), Partie 1, Volume public 2, Whitehorse, Yn, p. 100.
- GGG Diane L. (Clan du loup, Première Nation Little Salmon Carmacks), Partie 1, Volume public 2, Whitehorse, Yn, 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. (Autochtone/Irlandaise), Partie 1, Volume public 78, Vancouver, C.-B., pp. 7–8, 11; Monique F. H. (Crie), Partie 1, Volume public 17, Membertou, N.-É., p. 93.
- KKK Cee Jai J. (Clan du castor, Nak'azdli Whut'en, Carrier Nation), Partie 1, Volume public 39, Thunder Bay, Ont., p. 23.
- LLL Jamie L. H. (Autochtone/Irlandaise), Partie 1, Volume public 78, Vancouver, C.-B., pp. 7–8.
- MMM Monique F. H. (Crie), Partie 1, Volume public 17, Membertou, N.-É., p. 93.
- NNN Lanna Moon Perrin (Anishinaabe), Parties II et III mixtes, Volume public 17, St. John's, T.-N.-L., p. 260.
- OOO Diane Redsky (Première Nation Shoal Lake 40), Parties II et III mixtes, Volume public 18, St. John's, T.-N.-L., p. 87.
- PPP Ces suggestions ont été rassemblées lors d'une réunion informelle tenue dans un centre d'accueil le 22 novembre 2018 avec des représentants de l'Enquête nationale et des personnes autochtones impliquées dans le commerce du sexe dans le Downtown East Side (DTES) de Vancouver.
- QQQ Madison D. (Première Nation), Partie 1, Déclaration publique 257, Moncton, N.-B., p. 15.
- RRR Jamie L. H. (Autochtone/Irlandaise), Partie 1, Volume public 78, Vancouver, C.-B., p. 32.
- SSS Lanna Moon Perrin (Anishinaabe), Parties II et III mixtes, Volume public 17, St. John's, T.-N.-L., p. 77.
- TTT Mary Fearon, Parties II et III mixtes, Volume public 17, St. John's, T.-N.-L., p. 124.
- UUU Jackie Anderson (Métisse), Partie 2, Volume public 3, Calgary, Alb., p. 100.
- VVV Jamie L. H. (Autochtone/Irlandaise), Partie 1, Volume public 78, Vancouver, C.-B., pp. 39–40.



## Les autres problèmes relatifs aux enquêtes

Tout au long de la recherche d'une personne disparue, ou après qu'une personne est retrouvée morte, les familles, les amis et les proches établissent des relations avec divers représentants des forces policières et du système de justice pénale. Ils rencontrent notamment des intervenants de première ligne, des enquêteurs, des coroners et d'autres personnes leur apportant un soutien, comme les intervenants des services aux victimes. En parlant de l'expérience qu'ils ont vécue durant une enquête en cours, les membres de famille ont à nouveau décrit leurs relations tendues avec les personnes censées mener l'enquête sur la disparition ou la mort de leur proche.

Par exemple, Paul T., dans son témoignage, a parlé de la façon dont le nom de sa sœur, Amber, a été par erreur retiré de la liste des personnes disparues de la GRC même si celle-ci n'avait pas été retrouvée. Il a aussi évoqué les efforts que sa mère a déployés pendant un mois pour qu'il y figure de nouveau<sup>73</sup>. Dolores S. et Laura A. ont décrit de graves lacunes dans l'enquête sur le meurtre de leur proche, Nadine. Par exemple, des preuves ont été détruites et les policiers se sont rendus sur les lieux du crime après plus de 60 heures<sup>74</sup>. Lily S. a décrit sa réaction quand elle a appris qu'un détachement de la Police provinciale de l'Ontario avait détruit accidentellement le dossier de police sur la disparition de sa mère, Viola, de même que les seules photos qu'elle en avait – ce qu'elle n'a découvert qu'après avoir demandé avec insistance de consulter le dossier<sup>75</sup>.

En plus de ces problèmes très précis pour lesquels les familles n'ont que peu de recours, les membres de celles-ci ont parlé de leurs innombrables tentatives pour joindre l'agent-enquêteur, le coroner ou la police afin d'obtenir de l'information. Ils ont aussi raconté qu'on ne les a jamais rappelés ou qu'on leur a dit que l'information n'était pas disponible. Dans certains cas, on les a même menacés de représailles s'ils continuaient à demander de l'information. Dans son témoignage, Naomi Giff-MacKinnon a parlé de certaines de ces difficultés.

Parmi les obstacles que les familles ont recensés en ce qui concerne l'accès à l'information sur leur proche, plusieurs se recourent. Le premier obstacle a trait à l'incertitude entourant la disponibilité des renseignements, compte tenu de certains des événements que les familles ont vécus dans le passé. Ces dernières ont parlé de l'incertitude entourant l'endroit où recueillir l'information et à l'organisme qui détiendrait celle qu'elles recherchent. Les familles se tournent également vers plusieurs organismes et ministères, et il peut être très difficile de s'y retrouver dans le système d'accès à l'information ou de suivre les procédures de demande d'information de ceux-ci. Parallèlement, plusieurs familles vivent dans un territoire différent de celui où leur proche a disparu ou a été assassinée. Cela peut créer pour elles un obstacle additionnel quant à l'obtention de l'information<sup>76</sup>.

Bien souvent, l'action menée dans le cadre d'une enquête dépend de l'aide que les membres de famille réussissent à obtenir de militants qui ont des relations ou qui savent se faire entendre. Ces derniers arrivent ainsi à pousser la police à agir ou à fournir de l'information. Plusieurs familles ne sont pas en mesure d'obtenir ce type d'appui ou ne peuvent dénoncer haut et fort ou s'opposer à la situation sans s'exposer à un danger. En conséquence, elles réussissent rarement à obtenir de l'information sur l'enquête elle-même et sur l'étape où elle est rendue.





Comme les membres de famille et les représentants du système de justice pénale l'ont expliqué dans le cadre de l'Enquête nationale, les programmes de services aux victimes jouent souvent un rôle important dans l'établissement de liens grâce auxquels les familles autochtones peuvent s'y retrouver dans le système de justice pénale et le processus d'enquête. Ces programmes doivent offrir l'aide et l'orientation nécessaires, en plus de créer un lien entre les membres de famille et l'appareil judiciaire. Il est clair que lorsqu'ils sont offerts et que les familles ont accès à des travailleurs compétents, ces services peuvent faciliter le processus d'enquête et assurer des relations plus saines.

Dans son témoignage, Carol W. a parlé de sa première rencontre avec une représentante des services aux victimes. Celle-ci est devenue une alliée qui a défendu sa cause pendant les cinq années qu'ont duré les recherches pour retrouver sa fille, Karina.

Je ne connaissais pas [la représentante des services aux victimes] et je ne lui faisais pas confiance. Mais elle continuait de se présenter, parfois trois fois par semaine, pour me tenir au courant et pour voir comment j'allais. La communication était lente puisque la plupart du temps, il n'y avait pas d'interprète, mais ... on prenait le temps de bavarder ou elle me donnait les dernières informations reçues de la police. Comme je l'ai dit, je ne lui faisais pas confiance, mais elle a continué de se présenter chez moi. Tranquillement, le lien s'est construit et je me suis rendu compte qu'elle souhaitait réellement m'aider<sup>77</sup>.

Cependant, l'accès à ce type de soutien est inégal et on observe des fluctuations dans la disponibilité et l'accès aux services, la formation offerte, les ressources attribuées aux programmes de services aux victimes de même que dans la fréquence à laquelle la GRC ou le service de police concerné dirige les victimes vers ces services<sup>78</sup>.

Plus récemment, en 2016, dans le but de répondre au besoin des familles de femmes et de filles autochtones disparues et assassinées exigeant d'être mieux informées, des fonds ont été alloués pour créer des unités de liaison pour l'information à l'intention des familles (ULIF) dans chaque province et territoire du Canada.

Naomi Giff-MacKinnon a dit ce qui suit à propos de l'importance pour les familles d'avoir accès à de l'information exacte sur leur proche disparue ou assassinée :

Les victimes et les survivantes de partout au Canada ont parlé très ouvertement et fréquemment de l'importance d'obtenir de l'information sur la personne qui leur a fait du mal, à titre de victime ou de survivante. Elles ont aussi mentionné l'importance d'avoir accès à des renseignements généraux sur la façon dont les systèmes fonctionnent, de même que sur la façon dont les décisions sont prises au sein de ce système. Donc, pour les familles, le fait d'accéder à des informations exactes et à jour sur leur être cher, autrement dit, d'accéder à toutes les informations qu'elles recherchent sur la situation, peut faire partie du cheminement vers la guérison<sup>79</sup>.



Selon Giff-MacKinnon, les ULIF « ont été créées en réponse aux nombreux obstacles systémiques et institutionnels que les familles avaient décrits lorsqu'elles cherchaient à obtenir de l'information sur une proche disparue ou assassinée<sup>80</sup> ». Ce mécanisme a pour but d'améliorer l'accès et le soutien relatifs à la transmission d'information sur la situation des femmes, des filles et des personnes 2ELGBTQQA autochtones disparues et assassinées, et sur les enquêtes qui y sont reliées. Cependant, Giff-McKinnon rapporte que, dans l'ensemble, la méfiance à l'égard des organismes qui détiennent l'information souhaitée par les familles représente le plus grand obstacle dont parlent celles-ci<sup>81</sup>.



## RÉFLEXION APPROFONDIE

# La nécessité de réformer la fonction d'application de la loi pour une sécurité accrue

Au moment de partager leur vérité, les familles et amis des femmes, des filles et des personnes 2ELGBTQQIA autochtones disparues et assassinées et tous ceux qui soutiennent leur cause ont beaucoup parlé de leurs interactions avec le système de justice et, en particulier, avec la police. Parallèlement, dans le cadre des audiences d'experts, de Gardiens du savoir et de représentants des institutions, l'Enquête nationale a également entendu de longs témoignages de la part de membres de la Gendarmerie royale du Canada (GRC) et de divers services de police relevant de provinces, de municipalités ou de Premières Nations. Les représentants du monde policier ont présenté des éléments de preuve se rapportant à des sujets variés, notamment : relations entre Autochtones et services policiers, politiques et procédures applicables aux enquêtes sur les disparitions de personnes et autres crimes majeurs, initiatives récentes visant à répondre aux préoccupations liées aux enquêtes relatives aux femmes, aux filles et aux personnes 2ELGBTQQIA autochtones disparues et assassinées et enfin, difficultés et obstacles touchant la prestation de services de police, notamment dans les communautés nordiques et éloignées.

Dans cette réflexion approfondie, nous examinons de plus près les témoignages des représentants de la police afin de comprendre ce que les organisations policières disent faire pour répondre à certaines des préoccupations que nous avons soulevées au fil du présent rapport. En particulier, l'examen des renseignements que ces organisations ont communiqués à l'Enquête nationale permet d'évaluer où se situent les possibilités d'améliorer les relations et les résultats. L'exercice permet en outre de déterminer les difficultés et les problèmes tenaces qui trouvent leur origine dans le fossé qui sépare, d'un côté, la façon dont les organes chargés de faire respecter la loi perçoivent leurs interventions et, de l'autre, l'expérience vécue par les témoins; ces organes pourront ainsi suivre l'exemple et les conseils de ceux qui possèdent l'expérience et l'expertise les

plus vastes et qui sont les plus touchés par les actes accomplis ou omis par la police dans le contexte particulier propre aux femmes, aux filles et aux personnes 2ELGBTQQIA autochtones disparues et assassinées.

## La reconnaissance des torts passés

Lors des audiences de l'Enquête nationale consacrées aux témoignages de représentants des institutions, d'experts et de Gardiens du savoir, les représentants de certains services de police ont présenté des excuses et ont reconnu les manquements de leur organisation dans ses rapports avec les peuples autochtones et sa façon de les traiter. Ainsi, en ouverture de son témoignage, la commissaire de la GRC, Brenda Lucki, a présenté des excuses au nom de son organisation pour toutes les fois où celle-ci avait manqué à son devoir d'offrir aux populations autochtones les services de police dont elles avaient besoin, contribuant ainsi à la violence exercée contre les femmes et les filles autochtones.

En mon nom propre et au nom de mon organisation, je tiens à exprimer ma profonde tristesse pour la perte de vos proches et la douleur que cela vous a causée, à vous, à vos familles et à vos communautés. Je regrette que, pour un trop grand nombre d'entre vous, la GRC n'ait pas été à la hauteur pendant cette terrible épreuve de votre vie. Il ne fait aucun doute dans mon esprit que la GRC aurait pu mieux faire, et je vous promets que c'est ce que nous ferons à l'avenir. Vous êtes en droit de vous attendre à ce que nous travaillions de notre mieux dans vos communautés. Je suis convaincue qu'il n'est jamais trop tard pour bien faire, et je veux que les excuses présentées aujourd'hui marquent une autre étape dans la démarche de réconciliation dans laquelle s'est engagée la GRC<sup>A</sup>.





Outre la commissaire Lucki, Mark Pritchard, surintendant principal de la Police provinciale de l'Ontario<sup>b</sup>, Danny Smyth, chef du Service de police de Winnipeg<sup>c</sup>, et Joe Boland, chef de la Force constabulaire royale de Terre-Neuve<sup>d</sup>, ont eux aussi reconnu que, par le passé, les services policiers n'avaient pas su répondre adéquatement aux besoins des femmes, des filles et des personnes 2ELGBTQQIA autochtones ou à ceux de leurs familles, et que ces familles et la communauté autochtone dans son ensemble ont des interrogations et des préoccupations valables et compréhensibles.

En plus de reconnaître les torts passés, divers représentants de corps policiers ont fait part de leur détermination à améliorer la relation entre la police et les peuples autochtones ainsi que la façon dont ils traitent les cas de disparition et d'assassinat de personnes autochtones. La commissaire Lucki, de la GRC, a parlé de l'importance d'apporter des changements en collaboration avec les peuples autochtones.

J'ai été frappée par certains commentaires ce matin et par la collaboration. Comme l'un des chefs l'a dit, il faut travailler sur sa propre famille, mais aussi sur la communauté. Et honnêtement on ne peut pas ... si je savais qu'on pouvait le faire nous-mêmes, je le ferais. Mais je sais qu'on ne peut pas le faire seuls et que la qualité de nos résultats dépend de notre capacité à travailler avec la communauté, à bien travailler avec la communauté. Et je pense ... vous savez, si on pense honnêtement que l'on a tout compris, alors honte à nous. Et si cette enquête m'a appris quelque chose, c'est qu'il nous faut être prêts à apporter des changements et des changements positifs pour les communautés, et pour tout le monde, Autochtones et non-Autochtones<sup>e</sup>.

En sa qualité de première dirigeante de la GRC, la commissaire Lucki s'est également engagée à se mettre à l'écoute des besoins des familles des femmes, des filles et des personnes 2ELGBTQQIA autochtones disparues et assassinées : « Ces audiences ont permis aux familles de dire leur vérité, et je les écoute et continuerai de les écouter tout au long de mon mandat de commissaire<sup>f</sup>. »

En revanche, certains représentants de la police se sont montrés plus réticents à reconnaître les actes ou

les comportements qui pouvaient avoir des effets néfastes sur les peuples et les familles autochtones. Le capitaine Paul Charbonneau a été interrogé sur les raisons pour lesquelles la Sûreté du Québec s'était gardée d'ordonner à ses agents de cesser de porter un bracelet que de nombreux Autochtones et d'autres personnes jugeaient offensant. Selon ces derniers, il était l'expression d'un soutien envers huit agents suspendus pour la façon dont ils avaient traité des femmes autochtones<sup>g</sup>. Le capitaine Charbonneau a émis les observations suivantes :

Puis en même temps, j'aimerais attirer votre attention [sur le fait] que la communauté le perçoit de cette façon-là, mais pour les policiers, le port de ce ... c'est parce que le bracelet n'est pas seulement porté dans la région de Val-d'Or. Je dirais qu'il est porté pas mal partout à travers la province. J'ai personnellement vu des policiers circuler dans certaines unités bien loin de Val-d'Or arborant ce bracelet-là, soit au poignet, soit sur leur veste. Pour les policiers, le port de ce bracelet-là ne signifie en aucun cas ... en aucun cas ... [que nous soutenons le type de comportement que sous-tendent ces] allégations. C'est plutôt en appui à tout le poste de Val-d'Or qui a à subir les contrecoups des événements de Val-d'Or, parce [qu'à la suite de] ces événements-là, vous comprendrez qu'à l'intérieur même du poste, ça a été difficile pour le moral des policiers<sup>h</sup>.

La reconnaissance des torts passés et l'engagement à changer ont paru constituer un pas dans la bonne voie. Comme l'a fait remarquer Daniel Bellegarde, directeur de l'Association canadienne de gouvernance de police :

De plus, dans nos services de police autogérés, il y a un groupe de chefs de police qui changent également la culture policière dans nos communautés, des gens comme le chef de police Zacharie, du service de police de Kahnawake, ou Peacekeepers, le chef de police Leonard Busch, du corps policier de la Première Nation de File Hill, le chef de police Head du Conseil tribal de Dakota Ojibway, le chef de police Melting Tallow, de la police de la Tribu des Blood, et ainsi de suite. Donc, les choses évoluent. Le changement est-il suffisant? Est-ce qu'il se produit aussi rapidement que nous le voulons? Je pense que nous faisons





de notre mieux dans tous les domaines, que ce soit la police urbaine, de la GRC ou des services de police autogérés!

Néanmoins, les représentants des divers services de police – police des Premières Nations et services municipaux, provinciaux et fédéral – ont aussi admis que la concrétisation de cet engagement envers le changement nécessitera de relever les nombreux défis que continue de poser la prestation de services de police au sein des communautés autochtones, en particulier en ce qui a trait à la question des femmes, des filles et des personnes 2ELGBTQQIA autochtones disparues et assassinées.

## Les politiques et les protocoles actuellement en vigueur dans les services de police

Les représentants qui sont venus témoigner dans le cadre de l'Enquête nationale pour le compte de divers corps policiers, dont la GRC, ont bien précisé que leurs organisations disposaient de politiques et de procédures exhaustives, qu'elles mettaient continuellement à jour pour veiller à ce qu'il existe un processus d'intervention uniforme et constant relativement aux signalements de disparitions et autres crimes majeurs touchant une personne autochtone, tels qu'un décès subit ou une agression sexuelle. En outre, ces représentants ont traité dans le détail des récentes mises à jour apportées à ces politiques et procédures de gestion des signalements de personnes disparues touchant des peuples autochtones. Ces mises à jour s'inscrivaient dans une volonté de répondre aux demandes de changements formulées par des militants des milieux communautaires, la Commission de vérité et réconciliation et le rapport provisoire de l'Enquête nationale, et de se préparer à venir témoigner à l'Enquête nationale. Dans la présente section, nous examinons les témoignages se rapportant aux politiques et procédures qui encadrent le travail des services de police auprès des peuples autochtones et dans les circonstances particulières entourant les disparitions et les meurtres de femmes, de filles et de personnes 2ELGBTQQIA autochtones.

## Les politiques et l'établissement de bonnes relations

Les représentants de la GRC et ceux des divers corps de police provinciaux et municipaux ont cité un certain nombre de politiques énonçant l'engagement de leur organisation à travailler avec les populations autochtones.

Dans son témoignage, la commissaire de la GRC Brenda Lucki a rappelé que la question des communautés autochtones figurait au nombre des cinq « priorités stratégiques » définies dans le document d'orientation stratégique de son organisation. Elle a aussi signalé que l'engagement de la GRC à servir les communautés autochtones était repris dans la « lettre de mandat » qu'elle avait reçue du gouvernement et qui exposait ce qu'on attendait d'elle en tant que dirigeante de la GRC. Comme elle l'a expliqué, le travail avec les communautés autochtones évoqué dans la lettre de mandat se concentre sur deux aspects précis.

Premièrement, il faut renforcer notre rôle dans la réconciliation avec les peuples autochtones, ainsi que l'efficacité, la crédibilité et la confiance dont l'autorité de la GRC dépend. Il y est aussi question de relations renouvelées de nation à nation avec les peuples autochtones, fondées sur la reconnaissance des droits, le respect, la collaboration et le partenariat, compte tenu des expériences actuelles et historiques des Canadiens autochtones avec les services de police et le système de justice!

Pour faciliter son travail à cet égard, la GRC insiste sur l'importance de collaborer avec les peuples autochtones et d'établir avec eux des partenariats et de bonnes relations. À ce sujet, les représentants des services de police ont porté à la connaissance de l'Enquête nationale un certain nombre de politiques et de protocoles existants qui aident à tisser des liens. La politique sur la prestation de services de police dépourvus de préjugés, comme l'explique la commissaire Lucki, en est un exemple :

[Il s'agit d']un principe fondamental régissant nos pratiques d'emploi et la prestation de nos services afin de nous assurer d'offrir à tous des





services de police équitables, dans le respect de la diversité et sans abuser de notre autorité, indépendamment de considérations liées à la race, la couleur, la religion, le genre et l'orientation sexuelle, l'âge, l'incapacité physique ou mentale, la citoyenneté<sup>K</sup>.

Comme l'a fait observer la commissaire Lucki, le principe de l'absence de préjugés dans les services de police s'applique aussi aux pratiques en matière d'embauche et d'emploi<sup>L</sup>.

Au niveau des cadres de direction, il existe aussi des mesures permettant les consultations et la collaboration avec les communautés autochtones. La commissaire Lucki en a mentionné quelques-unes :

- le Comité consultatif national du commissaire sur les Autochtones, mis sur pied en 1990 pour « offrir au commissaire des conseils stratégiques et une perspective culturelle sur les questions touchant la prestation de services de police dans les communautés autochtones<sup>M</sup> »;
- le protocole sur l'établissement de relations : un protocole d'entente conclu par l'Assemblée des Premières Nations (APN) et la GRC dans lequel sont définis le rôle de l'APN et celui de la GRC, de même que « la façon dont [les deux organisations] travailleront de concert<sup>N</sup> »;
- les partenariats avec les organisations autochtones nationales (OAN)<sup>O</sup>.

S'agissant des détachements, l'un des outils évoqués par la commissaire Lucki pour faciliter l'établissement de bonnes relations et la collaboration entre la GRC et les communautés autochtones est le Plan de rendement annuel.

Le plan débute en avril de chaque année, mais les consultations sont lancées en janvier de la même année civile. Elles sont menées avec des organismes partenaires, des élus, des écoles, des services de santé et services sociaux, de même qu'auprès des Aînés et, en interne, auprès de nos membres. À l'étape des consultations, tous les renseignements sont rassemblés et, à partir de ceux-ci, le commandant du détachement dégagera entre trois et cinq priorités pour la communauté visée<sup>P</sup>.

Selon la commissaire Lucki, ces plans sont importants, parce qu'ils servent à aligner les priorités de la GRC sur celles des membres de la communauté.

Et il est important de mener ces consultations, parce que malgré ce que nous pouvons être enclins à considérer comme important dans cette communauté, malgré les statistiques que nous pouvons avoir consultées pour décider de ce qui est important, nous y procédons pour que la communauté nous fasse part de ce qui compte pour ses membres et des effets sur ces derniers. Donc, nous retenons certaines statistiques et les combinons à ce qu'eux estiment important pour en arriver à un juste milieu sur lequel s'appuyer pour l'élaboration des priorités et la planification qui s'y rattache<sup>Q</sup>.

Les représentants des services de police provinciaux et municipaux ont cité des initiatives analogues qui visent à renforcer la relation entre policiers et membres et dirigeants des communautés autochtones. Par exemple, le comité consultatif du chef du Service de police de Saskatoon réunit, quatre fois l'an, le chef de police et un groupe d'Aînés pour recenser les problèmes qui existent au sein de leurs communautés autochtones en matière d'application de la loi, et en discuter. Clive Weighill, ancien chef de la police de Saskatoon maintenant à la retraite, a donné les précisions suivantes :

Nous nous réunissons à chaque nouvelle saison, quatre fois l'an ... Nos rencontres ont lieu au quartier général, où on trouve une salle des cultures dotée de bouches d'aération, ce qui nous permet de procéder à des cérémonies de purification. Nous nous rencontrons. Nous tenons un cercle de parole. Nous partageons un petit repas festif, puis mes collègues cadres dirigeants et moi-même, ainsi que plusieurs membres du comité, nous nous rendons sur le territoire de la Première Nation de Whitecap pour un rituel de sudation. Nous faisons cela, comme je le disais, quatre fois par année ... Le [comité] consultatif du chef a été pour nous un outil très, très efficace jusqu'à présent. Nos réunions se déroulent sous le signe de la franchise, vous savez, ils apprennent ce qui se passe dans leur communauté. Nous avons des échanges très francs, et quelques très, très bons conseils sont venus de ce comité consultatif du chef<sup>R</sup>.





## Les politiques et les protocoles concernant les disparitions de personnes et les crimes majeurs

En plus de ces politiques énonçant l'engagement à travailler de concert avec les communautés autochtones et les procédures établies à cette fin, les représentants de la GRC ont offert un tour d'horizon des politiques et procédures présentant un intérêt particulier pour la question des femmes et des filles autochtones disparues et assassinées.

Dans le cas de la GRC, les changements ont été impulsés par la Commission de vérité et réconciliation. La commissaire Lucki a cité le Cercle de changement, un comité créé en réponse à l'appel à l'action lancé par la Commission de vérité et réconciliation pour lutter contre la violence faite aux femmes et aux filles autochtones. Selon la commissaire, le mandat du comité est le suivant :

[II] fournit des conseils et des orientations à la GRC, plus précisément sur les ressources, les politiques, la formation, les outils policiers et la communication afin de mieux permettre à celle-ci d'enquêter sur la violence exercée contre les femmes et les filles autochtones de ces communautés, de la prévenir et de la contrer. Les membres du Cercle de changement sont des dirigeants autochtones, des experts des domaines de la santé, de l'éducation ou des services sociaux, par exemple, et des défenseurs des peuples autochtones<sup>5</sup>.

Pour illustrer le travail accompli par le comité du Cercle de changement, la commissaire Lucki a fait référence à l'élaboration d'un module de formation pour la GRC, axé tout particulièrement sur les enquêtes portant sur les personnes autochtones disparues et assassinées<sup>7</sup>.

Au sujet des politiques et procédures trouvant application dans les affaires de disparitions et de meurtres de femmes et de filles autochtones et d'autres crimes majeurs, comme les décès subits et les agressions sexuelles, la sous-commissaire Brenda Butterworth-Carr a fait mention de la Politique relative à la gestion des cas graves, qui prévoit des mécanismes de surveillance des méthodes d'enquête portant sur tout crime majeur. Afin que les approches soient les mêmes à

l'échelle nationale, le Bureau national des normes et pratiques d'enquête assure une surveillance des enquêtes relatives aux crimes majeurs. Les Guides d'enquête liés aux normes de service figurent aussi au nombre des politiques et autres outils conçus dans une optique d'uniformisation des interventions et méthodes d'enquêtes relatives aux crimes majeurs.

Les cas de disparition de personnes sont également visés par la Politique nationale de la GRC concernant les personnes disparues. Comme l'a expliqué la sous-commissaire Butterworth-Carr, cette politique « définit clairement ce qu'est une personne disparue et la façon dont on va ... effectuer l'analyse au sujet des personnes disparues, comment on doit communiquer avec les familles, comment utiliser le formulaire de renseignement et d'évaluation pour recueillir le plus d'informations possible au départ<sup>U</sup> ».

La Politique nationale concernant les personnes disparues n'est qu'un volet parmi d'autres de la Stratégie nationale concernant les personnes disparues, qui a été élaborée en collaboration avec les familles<sup>V</sup>.

En plus des témoignages des représentants de la GRC, l'Enquête nationale a entendu ce que le surintendant principal Mark Pritchard, de la Police provinciale de l'Ontario (PPO), et le chef de police à la retraite Clive Weighill, du Service de police de Saskatoon (SPS), également ex-président de l'Association canadienne des chefs de police, avaient à dire au sujet des récents changements apportés aux différentes politiques et procédures applicables aux cas de disparition, notamment en ce qui concerne les personnes autochtones. Le surintendant principal Pritchard a expliqué que toutes les enquêtes sur des disparitions relevant de la PPO étaient régies par une politique sur les personnes disparues et les restes non identifiés et par un manuel sur les personnes disparues. La politique sur les personnes disparues est l'une des 18 politiques fondamentales de la PPO, et celle-ci s'attend à ce que ses policiers en aient une bonne connaissance. Quant au manuel, il « aide les agents lorsqu'ils interviennent et enquêtent sur des personnes disparues. C'est un rappel des nuances et des subtilités du processus d'enquête, qui est assez complexe et qu'ils ne suivent peut-être pas tous les jours<sup>W</sup> ». Le surintendant principal ajoute que plusieurs facteurs expliquent l'importance de ces politiques.





Le but est de définir clairement les attentes, d'énoncer ce qu'on attend des agents lorsqu'ils mènent des enquêtes. C'est pour assurer l'uniformité partout dans la province, pour que nous soyons tous au diapason. Cela sert aussi à la reddition de compte pour veiller à ce que ces enquêtes soient menées correctement<sup>X</sup>.

Dans son témoignage, le surintendant principal Mark Pritchard a également précisé en quoi les nouvelles mesures prévues dans la *Loi de 2018 sur les personnes disparues* visaient à supprimer certains obstacles à l'accès à l'information sur des disparitions de personnes<sup>Y</sup>. Il a expliqué que lorsqu'elle sera entrée en vigueur, la *Loi de 2018 sur les personnes disparues* « donnera à la police des outils, principalement d'ordre technologique ... On pourra donc demander une ordonnance pour ... par exemple, pour exiger que Facebook, Bell ou Telus donne de l'information sur leurs activités de téléphonie cellulaire ou sur les médias sociaux. Il pourrait y avoir des ordonnances d'arrestation. En fait, il s'agit d'un certain nombre de nouveaux outils, pour ainsi dire. » Selon le surintendant principal, une telle loi serait utile dans toutes les provinces et tous les territoires canadiens<sup>Z</sup>.

Lors de son témoignage, Clive Weighill a souligné le rôle des agents de liaison des Services aux victimes qui sont affectés strictement aux dossiers de personnes disparues, et celui des agents des Services aux victimes autochtones, dont le travail consiste à « rejoindre les victimes autochtones, pour n'importe quel crime, pas seulement les cas de disparition<sup>AA</sup> ».

## **Les politiques et les protocoles régissant les communications avec les familles**

Les représentants des services de police qui ont abordé la question des interventions policières dans les dossiers de femmes et de filles autochtones disparues et assassinées ont reconnu que les critiques antérieures concernant leurs communications avec les familles étaient fondées et que les organisations policières se devaient de mieux communiquer et de mieux informer. La sous-commissaire Butterworth-Carr a résumé l'enjeu en ces termes :

Bien sûr, on entend constamment parler de l'importance de communiquer avec les familles et de s'assurer de fournir des mises à jour en temps opportun. Et, vous savez, il s'agit vraiment de comprendre à quelle fréquence nos familles veulent être informées, parce que parfois, ce peut être frustrant lorsqu'on n'a pas beaucoup de nouveaux renseignements concernant l'enquête<sup>BB</sup>.

Dans cette optique, les représentants des services de police ont relevé un certain nombre de politiques et de protocoles élaborés dans le but explicite d'établir une procédure normalisée de communication avec les familles. À la GRC, on utilise notamment un formulaire, qui prend la forme d'un calendrier de communication avec le plaignant ou la famille et que les représentants de la GRC et les membres de famille remplissent ensemble afin de s'entendre sur la fréquence des communications<sup>CC</sup>. Autre outil dont l'objet est précisément d'informer les familles, le *Guide à l'intention des familles sur le Programme national d'ADN pour les personnes disparues* fournit des renseignements sur le prélèvement d'échantillons d'ADN et ses buts<sup>DD</sup>.

Le surintendant principal Pritchard a expliqué que, depuis que l'Enquête nationale avait publié son rapport provisoire, où elle énumère les obstacles auxquels se heurtent les familles dans leurs communications avec la police, la Police provinciale de l'Ontario avait entrepris d'enrichir son plan de communication avec ces dernières. Les améliorations apportées s'inspireront des résultats des consultations menées auprès des membres des familles de femmes autochtones disparues ou assassinées en vue de trouver de meilleures façons de procéder et d'arriver à concevoir et à mettre en œuvre un plan dont le surintendant principal a donné la description suivante :

[C']est comme un ... comme un contrat entre la police et les familles sur la façon dont ils vont communiquer, quand ils vont communiquer, par quels moyens, avec qui ils vont communiquer, avec qui ils ne vont pas communiquer, sur les situations complexes avec les familles fracturées; les intervenants rencontrent les membres de famille et ensemble, ils élaborent ce plan. Ils leur en donnent une copie en leur disant que si le besoin se fait sentir, s'ils ont besoin de le faire modifier, il est possible de le faire et que même s'il s'agit d'un accord, il s'agit d'un accord fluide<sup>EE</sup>.





La PPO a présenté une autre de ses stratégies visant à améliorer la communication, soit l'équipe de liaison provinciale, qui compte 26 membres à temps plein et 60 membres à temps partiel. Le rôle de cette équipe, pour reprendre les termes du surintendant principal Pritchard, est « d'intervenir en cas d'incidents critiques auxquels sont mêlés des Autochtones ou survenant dans des communautés autochtones et d'agir à titre de porte-parole de la PPO auprès de la communauté, du chef et du conseil ou d'autres services au sein de la communauté<sup>FF</sup> ».

Selon Clive Weighill, lorsque le Service de police de Saskatoon fait enquête sur un crime majeur, il fait appel aux Services aux victimes et la famille reçoit en outre une trousse d'information spécialement conçue pour renforcer la communication avec elle.

[Cette trousse] accompagne la famille avec, vous savez, une liste de contrôle concernant la personne disparue, un journal des communications pour les moments où la famille travaillera avec la police, ce à quoi la famille peut s'attendre de la part de la police, et ce que la police attend de la famille, ce à quoi il faut s'attendre dans les médias sociaux, ce que la famille peut faire pour prendre soin d'elle-même ainsi que les liens Internet et l'information dont elle pourrait avoir besoin au fur et à mesure<sup>GG</sup>.

Si les représentants des services policiers estiment que les mesures de ce genre peuvent contribuer à améliorer la communication entre la police et les proches des personnes disparues ou assassinées, ils ont aussi souligné que beaucoup d'autres éléments entraînent en ligne de compte. La sous-commissaire de la GRC Brenda Butterworth-Carr a énuméré quelques-uns des obstacles à l'établissement d'une bonne communication avec les familles : les difficultés liées au choix d'une personne avec qui maintenir un contact régulier lorsque les membres de famille sont disséminés partout au pays ou qu'ils entretiennent des relations changeantes; celles liées à la possibilité qu'un membre de famille soit l'auteur du crime ou soit suspecté de l'être; enfin, les obstacles découlant du besoin de protéger l'intégrité de l'enquête, qui incite à fixer des limites quant à la nature et à l'étendue de l'information pouvant être communiquée aux familles<sup>HH</sup>.

## Les perspectives de la police sur d'autres questions abordées dans les témoignages

Lors de leur témoignage, les représentants des services de police ont traité d'un certain nombre de problèmes souvent cités par les familles des femmes et des filles autochtones disparues et assassinées comme une source de confusion et de souffrances. Certains de ces problèmes sont aussi relevés ailleurs dans le présent rapport.

### 1. Le respect d'une période d'attente avant le signalement d'une disparition

Pendant le processus de consignation de la vérité, les proches ont souvent mentionné le fait qu'on leur avait dit ou qu'ils avaient compris qu'ils devaient attendre un certain temps (souvent 24 heures) avant de signaler la disparition d'une personne. Dans certains cas, des témoins ont rapporté qu'ils avaient été informés de cette exigence directement par des policiers.

Les représentants de la GRC et des autres corps de police provinciaux et municipaux qui ont pris la parole à l'Enquête nationale ont déclaré qu'il n'y a aucune période d'attente à respecter avant de signaler une disparition. Au contraire, comme l'a noté la sous-commissaire Brenda Butterworth-Carr, il est préférable que la famille procède rapidement au signalement.

En fait, on a besoin de l'information le plus rapidement possible, parce que dès que la GRC est saisie de l'affaire, elle peut en faire une évaluation immédiate et déployer les ressources nécessaires. Donc, plus tôt l'information nous parvient, plus tôt nous sommes au courant. Et cela, peu importe de qui relève l'affaire<sup>II</sup>.

Le surintendant principal Mark Pritchard a lui aussi confirmé que la Police provinciale de l'Ontario n'imposait pas de période d'attente avant le signalement d'une disparition. Comme il l'a fait remarquer :

Non, [la règle des 24 heures] n'existe pas [dans la politique de la PPO], et je ne crois pas qu'elle ait jamais existé. J'ai fait des recherches dans les politiques successives que nous avons eues au fil





des ans, et je n’y ai rien vu de tel. Je pense que c’est une idée fausse qui est souvent véhiculée par les émissions de télévision américaines, mais je ne connais aucun service de police qui ait cette politique<sup>JJ</sup>.

Les représentants des autres corps policiers ont abondé dans le même sens, répétant qu’il n’existait pas de délai d’attente et que la prise en charge d’une affaire de disparition se devait d’être immédiate, tout manquement à cette règle étant susceptible de constituer une violation des politiques de l’organisation. Par exemple, le chef de police à la retraite Clive Weighill a fait l’observation suivante :

Je sais que dans notre politique, il est indiqué clairement qu’un signalement est pris en charge immédiatement. On n’envoie pas quelqu’un au domicile pour vérifier si la personne est chez son oncle ou sa tante et on n’attend pas non plus 24 heures. Si quelqu’un se présente pour ... ou signale à un agent de police que quelqu’un est disparu, on s’en occupe immédiatement<sup>KK</sup>.

## **2. L’obligation de considérer comme suspects tous les décès subits**

Pendant le processus de consignation de la vérité, les familles ont aussi évoqué des situations où elles ont eu l’impression que les circonstances suspectes entourant le décès d’un proche avaient été ignorées ou n’avaient pas fait l’objet d’une enquête approfondie.

La sous-commissaire Butterworth-Carr a déclaré que tous les décès subits devaient être considérés comme suspects, indépendamment des circonstances.

Essentiellement, on ouvre une enquête sur un décès subit lorsque des agents [de la GRC] sont appelés sur les lieux d’un décès ou apprennent qu’une personne est décédée. Et conformément à la plus récente politique en vigueur, tous les policiers de la GRC chargés d’un décès subit doivent obligatoirement ... le traiter comme une affaire suspecte. Cela ne veut pas dire que c’est forcément le cas, et au bout du compte, il se peut que ce ne soit pas le cas, mais c’est ainsi qu’ils abordent l’enquête au départ<sup>LL</sup>.

Ce principe fondamental est repris dans les politiques d’autres services de police, par exemple dans le manuel de la PPO sur les personnes disparues<sup>MM</sup>.

## **3. Informer les familles d’un décès**

Pendant le processus de consignation de la vérité, les familles ont décrit les diverses manières dont elles avaient appris le décès d’un proche. Dans son témoignage, la sous-commissaire Butterworth-Carr a donné quelques précisions sur l’approche actuellement privilégiée par la GRC pour faire cette difficile annonce aux familles. Selon elle, dans la plupart des cas, la GRC s’efforce d’envoyer deux agents au domicile de la famille de la défunte en veillant à ce que l’agent responsable de l’annonce ait une bonne connaissance du dossier afin de pouvoir répondre aux questions de la famille. La commissaire a également affirmé qu’au moment de l’annonce, les agents doivent, autant que possible, tenir compte des besoins de la famille sur le plan culturel, en se faisant accompagner par un Aîné, un travailleur de soutien autochtone ou un autre membre de la communauté. Comme l’a expliqué la sous-commissaire Butterworth-Carr : « Dans les petites localités, en raison de la relation que la plupart des policiers entretiennent avec les habitants, c’est un peu plus facile que pour les communautés autochtones situées en région urbaine. Encore une fois, vous savez, nous avons d’assez bons liens, mais il est certain que nous prenons en considération cet aspect où que nous soyons<sup>NN</sup>. »

## **4. Accéder à la demande des familles désireuses de se rendre sur le lieu du décès de leur proche**

Beaucoup de familles l’ont affirmé au cours du processus de consignation de la vérité : pouvoir se rendre sur les lieux où un proche est décédé ou à l’endroit où ses restes ont été découverts peut constituer une étape très importante dans la guérison. En parlant de la réponse donnée par la GRC aux requêtes faites en ce sens en Colombie-Britannique, la sous-commissaire Butterworth-Carr a évoqué le chapitre 41.3 du *Manuel des opérations* de la GRC, intitulé « Décès » et comportant un aide-mémoire concernant l’avis de décès au plus proche parent. Ce chapitre indique une volonté d’accueillir le désir et le besoin des familles de voir l’endroit où a pu se produire le décès de leur proche et de procéder à « tout type de cérémonie traditionnelle qu’elles pourraient vouloir célébrer sur le lieu du décès », une approche qui devrait être encouragée<sup>OO</sup>.

On peut résumer la teneur des interventions des représentants de la police au sujet des politiques et protocoles des services policiers en quelques points





généraux. D'abord, d'un bout à l'autre du pays, les organisations policières, y compris la GRC, sont dotées de politiques et de protocoles très précis sur la marche à suivre pour enquêter sur la disparition d'une personne ou un autre crime majeur. Ensuite, les policiers sont tenus de bien connaître et de respecter ces politiques. S'ils ne s'y conforment pas, ils s'exposent à diverses sanctions disciplinaires<sup>PP</sup>. Enfin, les familles et les autres personnes qui se posent des questions ou ont l'impression que les politiques ou les procédures applicables ne sont pas suivies peuvent déposer une plainte, et on les invite d'ailleurs à le faire<sup>QQ</sup>.

S'il est vrai qu'il semble s'agir de mesures positives, il n'en demeure pas moins que les discussions portant sur les politiques et protocoles policiers en matière d'enquêtes sur les disparitions et d'autres activités policières peuvent être difficiles à suivre pour quiconque n'a pas l'habitude de ce genre de documents ou éprouve de la difficulté, pour une raison ou une autre, à comprendre des énoncés de principes complexes formulés dans une langue de spécialité. En outre, la simple démarche consistant à demander plus d'informations sur une politique ou sur la façon de présenter une plainte peut poser des difficultés. En effet, cela suppose, bien souvent, de devoir trouver ses repères dans des systèmes susceptibles de se révéler compliqués ou d'engager une conversation pouvant paraître extrêmement hasardeuse ou menaçante aux yeux d'une personne autochtone, selon son expérience et son histoire personnelles. Comme l'attestent les témoignages des familles et des proches, ce genre d'obstacles continue de leur rendre les choses pénibles en ce sens que l'accès à l'information est pour eux un parcours difficile, tortueux et long. En outre, un autre élément vient encore compliquer les choses : les familles et les survivantes ont besoin de l'aide de la police à un moment où elles traversent, parallèlement, une période marquée par le deuil, le chagrin et les traumatismes.

## Les difficultés persistantes et les obstacles à la sécurité

Les politiques et protocoles cités par les hauts représentants des instances policières venus témoigner à l'Enquête nationale offrent un cadre de référence pour l'élaboration d'une réponse unifiée,

en particulier dans les situations qui touchent des femmes, des filles et des personnes 2ELGBTQQIA autochtones disparues ou assassinées. Toutefois, l'atteinte de l'objectif consistant à offrir des services policiers équitables et cohérents pour les peuples autochtones et dans les communautés autochtones est souvent compliquée ou compromise par un certain nombre de facteurs. Dans la présente section, nous examinons quelques exemples de difficultés et d'obstacles que les représentants de la police ont cernés dans le cadre de leurs efforts pour offrir en temps opportun des services de police appropriés, adaptés à la culture et équitables, qui répondent aux besoins des peuples autochtones.

## Les difficultés propres aux régions éloignées

Les policiers qui travaillent dans les communautés rurales, éloignées et nordiques ont fait état des difficultés bien particulières qui caractérisent ces milieux, notamment celles qui sont la conséquence de la géographie, de la météo, d'un accès compliqué, du manque de ressources, de la qualité de l'infrastructure et des taux de roulement et de départ du personnel.

Dans son témoignage, le chef du Corps de police régional Kativik (CPRK), Jean-Pierre Larose, a parlé des défis auxquels sont confrontés les services de police au Nunavik. La toute première difficulté est simplement d'arriver à pouvoir compter sur un nombre suffisant de policiers pour couvrir cette vaste région. Sur la taille réduite de son équipe, le chef du CPRK avait ceci à dire :

Nous avons 48 constables, sept sergents de patrouille, deux agents de prévention, deux agents de liaison, un agent de renseignements criminels, deux sergents-détectives enquêteurs et nous avons six employés-cadres, policiers-cadres qui m'accompagnent dans l'équipe de direction : le chef de police, qui est moi-même, deux directeurs adjoints : un aux opérations et un à l'administration et à la sécurité civile. Et nous avons trois capitaines-cadres qui sont en charge des trois districts que je vous ai mentionnés, soit un capitaine à Kuujuaq, qui représente la baie d'Ungava, un capitaine à Salluit, qui représente le détroit d'Hudson et le Nord et un capitaine à Puvirnituk, qui représente la côte ouest de la baie d'Hudson<sup>RR</sup>.





Puis, le chef de police Larose a situé ces chiffres dans leur contexte en les mettant en relation avec le taux de criminalité.

Alors d'abord, en termes d'événements criminels au Nunavik pour l'année 2017, nous avons eu 11 083 événements criminels pour une population de 13 000 habitants. À titre comparatif, juste pour donner un exemple, j'étais à Longueuil en 2012, on avait 18 000 événements criminels par année pour une population de 385 000 habitants. Alors, c'est extrêmement élevé<sup>55</sup>.

Selon M. Larose, cette situation engendre un stress considérable pour les policiers de ces régions, qui doivent effectuer de très longues heures de travail, obtiennent peu de jours de congé et sont souvent forcés de travailler sans renforts dans des conditions parfois dangereuses.

Il est clair ... qu'actuellement, nous sommes à bout de souffle. Mes policiers travaillent en moyenne 70 heures par semaine : ce n'est pas normal. Il y a du temps supplémentaire. Ce n'est pas normal que je doive payer autant de temps supplémentaire et de façon aussi régulière. Du temps supplémentaire, c'est censé être exceptionnel.

Actuellement, nos appels se rendent directement sur les radios portatives des policiers et je n'ai pas de la patrouille 24 heures sur 24 dans les communautés. Ça nécessite donc du *stand-by*, comme on appelle. Et parfois, les policiers, lorsqu'ils sont hors service durant la nuit, sont appelés directement sur leur radio, ils s'habillent et ils répondent aux appels. Alors, on est en 2018 et je crois qu'il est essentiel pour la population du Nunavik d'avoir des services policiers adéquats et qui répondent aux besoins de cette population qui ... je vous le dis, on est extrêmement occupés, on m'avait dit que j'avais beaucoup de courage d'aller au nord pour diriger ce corps de police-là et qu'il y avait beaucoup de travail<sup>57</sup>.

Le chef du Service de police Nishnawbe-Aski (NAPS), Terry Armstrong, a cité des difficultés analogues attribuables au petit nombre de policiers dont son organisation dispose pour couvrir le vaste territoire de la Nation Nishnawbe Aski, dans la partie nord

de l'Ontario. Selon lui, il n'est pas rare que pendant toute une journée, dans plus de la moitié des 24 communautés éloignées relevant de la compétence du NAPS, le service soit assuré par un policier ou moins<sup>58</sup>.

Le chef de police Armstrong a dit s'inquiéter lui aussi des conséquences du manque chronique d'effectifs et des dangers et du stress liés au fait que les policiers travaillent seuls.

L'absence de partenaire ... pose un risque pour la sécurité publique. Le fait d'avoir, je l'ai dit, si peu de policiers et le stress qu'ils subissent parce qu'ils travaillent seuls découragent les gens et font qu'ils se retrouvent en congé de maladie. Et, sur ces 24 %, presque tous sont des cas de trouble de stress post-traumatique.

La communauté, évidemment ... le risque présent lorsqu'un seul agent est en service ... et nous constatons que bien souvent les chefs et les conseils viennent en aide aux agents. Ils viennent en renfort et cela pose en soi un problème pour la sécurité des membres des communautés. Vous savez, ils n'ont pas été formés et ... ils sont désireux d'aider dans bien des cas, mais ils n'ont pas reçu de formation, et d'après ce que l'on constate, les choses se corsent parfois au point que nous les mettons dans des situations où ils pourraient être blessés.

Le chef de police Armstrong a ajouté que le fonctionnement en sous-effectif limitait la capacité d'offrir des services de police proactifs axés sur la prévention et contribuait à allonger le temps d'intervention en cas d'urgence<sup>59</sup>.

S'ajoutent aux problèmes susmentionnés les difficultés liées au taux élevé de roulement du personnel et ses effets sur la capacité des policiers qui ne sont pas originaires de la communauté de tisser des liens avec elle et de gagner sa confiance, sachant que la durée de leur séjour sera courte. La commissaire de la GRC Brenda Lucki a traité de la politique sur la « durée limitée et les postes isolés », selon laquelle la durée de l'affectation d'un policier dans un tel poste dépend d'un certain nombre de facteurs, par exemple « l'endroit en soi, les moyens de transport permettant de se rendre dans cet endroit, la population de la communauté, la taille du poste ou le nombre ... le





nombre de membres dans cette communauté, l'absence de certaines commodités, le manque d'installations scolaires, d'installations médicales et, globalement, la qualité de vie<sup>ww</sup> ». Selon elle, le roulement de personnel comporte à la fois des aspects positifs et négatifs.

Et je pense que du point de vue de la communauté, c'est parfois perçu comme négatif ... parce qu'on s'habitue à un certain service de la part de certains agents, et lorsqu'ils partent, c'est difficile pour les communautés. Mais je pense aussi que les aspects positifs sont que chaque agent apporte de nouvelles pratiques policières dans la communauté, une énergie renouvelée, de nouvelles idées. Donc, il y a les deux aspects, positifs et négatifs, mais je crois honnêtement qu'il est toujours bon d'avoir une énergie renouvelée dans la communauté, en particulier parce que les gens apprennent des choses différentes de ce qu'ils ont appris lors des missions précédentes dans le Sud et qu'ils peuvent ensuite les apporter à la communauté pour résoudre les problèmes locaux<sup>xx</sup>.

Le chef de police Jean-Pierre Larose a lui aussi reconnu qu'il était important pour les services de police des postes éloignés de renforcer leurs relations avec les membres de la communauté, mais il a fait remarquer que ces efforts étaient souvent compromis en raison du taux élevé de remplacement du personnel policier.

Et je dis à mes policiers : « Écoutez, oui, dans le Sud, vous partez, vous avez des tâches à accomplir, vous avez des secteurs de patrouille, mais ce n'est pas comme ça que ça se passe au Nunavik. Je veux que vous vous impliquiez dans la communauté. La patrouille, c'est secondaire. » Ils se doivent de s'impliquer pour gagner peu à peu la confiance et c'est en participant à des activités, en allant rencontrer le conseil de ville, en rencontrant les associations de chasseurs, en rencontrant les Aînés, en participant à des activités dans des écoles, etc. Et ça commence, je le vois, un peu, puis ils sont appréciés. En contrepartie, j'ai un problème de taille : la rétention de mon personnel. Il y a un mouvement de personnel incroyable. Plus de 50 % de mon personnel a moins d'un an d'expérience au Nunavik. Or, c'est une roue qui tourne continuellement et ça prend

de la stabilité dans nos villages et ça prend certainement cette permanence-là pour que la relation de confiance s'installe davantage et que mes policiers puissent prendre le temps de bien s'intégrer dans la communauté<sup>yy</sup>.

Outre les problèmes liés au roulement de personnel, les témoins venus parler de la question des services de police dans les communautés du Nord et éloignées ont aussi abordé la difficulté qu'il y avait à garder le personnel possédant l'expérience nécessaire pour composer avec les situations souvent complexes qui se présentent dans ces communautés. Comme l'a expliqué Jean-Pierre Larose, ce sont souvent de jeunes policiers inexpérimentés qui acceptent de venir y travailler :

En fait, ce que je constate, c'est que ce sont de jeunes policiers qui sont fraîchement sortis de l'École nationale de police. Et actuellement, au sud, le recrutement, indépendamment des années, se fait à plus ou moins grande échelle. Et nos policiers, lorsqu'ils arrivent au Nunavik, je vous dirais qu'une année d'expérience au Nunavik correspond environ à trois ans d'expérience. Alors, nos policiers sont hautement recrutés par les services de police du Sud : ce sont des policiers qui ont acquis beaucoup d'expérience en peu de temps au Nunavik, ils sont autonomes, ils se doivent d'être débrouillards, d'avoir de l'initiative parce qu'on a très peu de ressources. Et nous sommes un peu vulnérables, je dois vous l'avouer<sup>zz</sup>.

Lors de son témoignage, Jacqueline Hansen, responsable des campagnes principales et directrice de campagne pour les droits des femmes à Amnesty internationale Canada, a proposé de revoir complètement ce modèle, faisant valoir que les postes dans ces communautés devaient être occupés par les policiers les plus expérimentés.

De jeunes recrues tout juste sorties de la Division Dépôt, en route vers le Nord pour faire leurs preuves et obtenir ensuite une affectation différente, vous savez, ça semble être le cas partout dans le Nord. Et vraiment, il y a cette impression que ces policiers n'ont pas les outils qu'il faut pour prendre en charge des situations de maintien de l'ordre réellement complexes. Et donc, l'une des choses que nous recommandons est de





revoir complètement ce modèle, de façon à ce qu'au lieu de jeunes policiers qui ne sont peut-être pas outillés pour appréhender des situations complexes, ni formés aux réalités culturelles, des policiers d'expérience soient déployés. Comment fait-on pour que ces postes deviennent véritablement attrayants? Quelles sont les mesures d'encouragement à prendre pour y parvenir, pour que, vous savez, lorsque vous arrivez à un certain stade de [votre] carrière et que vous avez l'expérience voulue, ce soit là que vous alliez parce que vous avez cette expérience<sup>AAA</sup>?

Pour faire comprendre d'où vient le besoin de recruter des policiers possédant expérience et expertise, le chef de police Jean-Pierre Larose et l'agente-détective du NAPS Alana Morrison ont expliqué en quoi la présence d'autres facteurs propres aux communautés éloignées pouvait accroître le coefficient de difficulté d'intervention policières et de méthodes d'enquête « classiques ». Par exemple, M. Larose a décrit comment la nécessité de faire venir des enquêteurs spécialisés de Montréal dans le cadre de certaines enquêtes sur des crimes majeurs pouvait entraîner d'importants délais liés au transport et à la météo et que cela finissait par retarder l'enquête même.

Il faut comprendre qu'il existait une procédure, puis avant d'appeler les Crimes majeurs ou le Centre de vigie et de coordination à Montréal à la Sûreté, il fallait passer par le bureau de Kuu-juaq, c'était un intermédiaire supplémentaire qui augmentait les délais. Or, après discussions et tout ça, on a réussi à s'entendre pour dire que dorénavant on évite cet intermédiaire-là et on communique directement avec le CVCO de la Sûreté du Québec à Montréal. Et je peux vous dire que j'en ai vécu des événements majeurs nécessitant leur assistance dans les derniers cinq mois et ça a quand même très bien amélioré le temps de réponse, mais il n'en demeure pas moins que c'est une moyenne de 15 à 18 heures d'attente. Il faut comprendre, on est des policiers, quand on est dans une communauté de trois policiers, que je dois protéger la scène de crime à - 40, avec des conditions de blizzard, c'est pas évident. On doit protéger les scènes, on doit attendre la venue de la Sûreté du Québec, et évidemment, elle aussi vit des contraintes de

mobilisation de son personnel, comme lorsqu'il faut nolisier un avion et espérant que la température sera favorable<sup>BBB</sup>.

Comme l'a exposé l'agente-détective Alana Morrison, du NAPS, ces retards peuvent nuire à la qualité des enquêtes relatives aux crimes majeurs, comme les agressions sexuelles et les autres crimes, qui sont nécessaires pour comprendre ce qui est arrivé aux femmes et aux filles autochtones disparues et assassinées.

Lorsqu'une femme d'une Première Nation signale une agression sexuelle dans une communauté du Nord, elle doit malheureusement décider si elle ira chercher de l'aide médicale à l'extérieur de la communauté. Il y a un poste de soins infirmiers, mais la plupart des postes envoient les victimes d'agression sexuelle à Sioux Lookout, qui se trouve à une heure d'avion au sud de la communauté.

On leur donne donc le choix de demander de l'aide médicale et de quitter leur communauté et leur famille. Elles peuvent choisir une personne pour les accompagner jusqu'à Sioux Lookout, où on leur donne ... elles reçoivent des soins spécifiques aux fins de l'examen médico-légal, puis ont droit à une semaine de counseling, après quoi elles sont renvoyées dans leur communauté et elles ont tout simplement ... elles reçoivent très peu de soutien à leur retour<sup>CCC</sup>.

## Les difficultés en matière de ressources humaines

Les corps policiers des localités nordiques et éloignées sont confrontés à des difficultés particulières en matière de dotation, mais les représentants des services de police de toutes les régions du pays ont abordé d'autres problèmes généraux de personnel qui sont autant d'obstacles à la prestation de services policiers aux peuples et aux communautés autochtones. Parmi ces problèmes, on compte les suivants : 1) le recrutement et la rétention d'Autochtones dans les forces policières, et 2) l'enseignement des compétences en matière culturelle et la formation des policiers actuels à cet effet.





## Le recrutement de policiers autochtones

Les représentants des services de police — et notamment, pour la GRC, la commissaire Lucki, la sous-commissaire Brenda Butterworth-Carr et la sergente Dee Stewart — ont dit être résolus à accroître la proportion d'Autochtones dans les rangs de la police au Canada. Malgré cette détermination, les Autochtones qui souhaitent les rejoindre doivent surmonter quantité d'obstacles pour y parvenir.

Les représentants des services de police ont cité un nombre de mesures destinées à corriger ces problèmes, comme les initiatives de recrutement et de formation s'adressant spécialement aux Autochtones, conçues et mises sur pied par la GRC, par différents corps policiers provinciaux et municipaux ainsi qu'au sein des programmes des services de police des Premières Nations. Par exemple, dans le cadre des témoignages, l'Enquête nationale a appris que la GRC avait recouru à diverses initiatives de recrutement, telles que le Programme de formation des aspirants policiers autochtones et le Programme de mentorat à l'intention des Autochtones<sup>DDD</sup>, qui visent à offrir aux candidats potentiels une introduction au travail de policier. Ces programmes, comme l'a signalé la commissaire Lucki, aident les candidats à « s'imaginer » faisant partie de la GRC : « Lorsque les gens sont en mesure de "s'imaginer" et ensuite d'avoir un mentor pouvant leur indiquer s'il y a des obstacles, ils peuvent en parler à ce mentor<sup>EEE</sup>. » La sergente Dee Stewart a expliqué que, dans le cadre de ses fonctions, elle allait à la rencontre des candidats intéressés dans leur communauté au lieu d'exiger qu'eux se déplacent pour assister aux séances d'information ou exécuter les formalités liées aux différentes étapes du processus de candidature.

Donc, quand je suis devenue recruteuse pour les policiers autochtones, j'y ai mis un terme et je me suis rendue à eux .... Je pense que le principal recruteur des Autochtones ... ou les principaux recruteurs ont pensé que j'étais folle de conduire huit heures pour faire passer un examen à une personne. Mais pour moi, ils devaient savoir qu'ils comptaient, et que s'ils voulaient passer l'examen, alors j'allais venir à eux.

C'est ce que j'ai fait. J'ai voyagé partout en Colombie-Britannique. Nous avons une belle

province et nos communautés sont merveilleuses, mais c'était toujours un choc quand je faisais passer un examen au bureau du conseil de bande, ... c'était quelque chose qui ... c'est juste ... que ça leur enlevait un obstacle<sup>FFF</sup>.

D'autres corps policiers ont adopté des approches du même ordre pour obtenir de meilleurs résultats au chapitre du recrutement. Ainsi, les services de police des villes de Regina et Saskatoon ont engagé des agents de recrutement autochtone à temps plein<sup>GGG</sup>.

## Comprendre le besoin de sécurisation culturelle

Durant le processus de consignation de la vérité, les représentants des services de police ont aussi relevé — à l'instar des familles des femmes, des filles et des personnes 2ELGBTQQIA autochtones disparues et assassinées — qu'un autre problème en lien avec le personnel des corps policiers a trait aux connaissances et à la formation acquises en matière culturelle par les policiers non autochtones et les autres représentants de la police qui peuvent être appelés à interagir avec les peuples autochtones. Dans leurs témoignages, les représentants de la GRC ont donné des exemples d'initiatives qui ont été mises en œuvre dans le but d'améliorer l'éducation et la sensibilisation culturelles des employés. L'une de ces initiatives prend la forme d'une formation interne comprenant un cours en ligne de sensibilisation à la culture autochtone, intitulé « Sensibilisation aux Autochtones et aux Premières Nations<sup>HHH</sup> ». Ce cours est offert à tous les membres, bien qu'il soit obligatoire pour les agents en service dans les territoires et dans certains détachements nordiques où on trouve en majorité des communautés autochtones<sup>III</sup>. Les autres initiatives (qui varient en fonction du lieu et du corps policier) consistent notamment à visionner un document vidéo sur les Premières Nations, à participer à un atelier de formation interculturelle de cinq jours et à appliquer les suggestions du Comité consultatif sur la culture autochtone<sup>JJJ</sup>.

En plus d'offrir de la formation générale sur l'histoire et les réalités contemporaines des peuples autochtones, la GRC a mis au point une formation qui s'intéresse précisément à la question des femmes autochtones disparues et assassinées. Le programme de formation des cadets consacre un module à cette question : la tâche consiste à analyser un cas





hypothétique dont la victime est une jeune femme autochtone de 18 ans. Dans le cadre de ce module, les cadets prennent aussi part à l'exercice des couvertures; il s'agit en l'occurrence de sensibiliser les participants et de susciter de l'empathie pour les peuples autochtones grâce à une simulation sur les conséquences néfastes de la colonisation<sup>KKK</sup>.

Qu'il soit essentiel d'offrir une formation permanente et riche de sens sur le thème de la culture ne fait aucun doute. Cela dit, le chef de police du NAPS, Terry Armstrong, a dit estimer que les formations de courte durée n'avaient qu'une incidence limitée sur la capacité de comprendre la culture et les complexités des communautés autochtones. Selon lui, pour combler les lacunes sur le plan de l'adaptation des services à la culture, la meilleure solution consisterait à recruter davantage de policiers autochtones :

Je veux dire, on ne peut s'attendre à ce que quelqu'un développe une sensibilité culturelle après deux jours de cours. Je l'ai dit déjà, la meilleure solution est probablement de confier la surveillance policière des communautés autochtones à des policiers autochtones, parce qu'ils connaissent leurs communautés. Mise à part cette solution, vous pouvez leur offrir de la formation mais, voyez-vous, je suppose qu'avec l'expérience, c'est ... je veux dire, j'ai commencé il y a 34 ans, et encore aujourd'hui je n'y connais pas grand-chose ... vous comprenez<sup>LLL</sup>?

De son côté, le chef de police à la retraite Clive Weighill a présenté à l'Enquête nationale la recommandation suivante : l'obligation pour les policiers de suivre un parcours de formation et de sensibilisation en matière culturelle. Comme l'indiquent ses propos, il ne s'agit pas seulement de proposer aux policiers un cours dont ils finiront par oublier le contenu, mais plutôt d'exiger qu'ils acquièrent une connaissance et une compréhension approfondies et évolutives de l'histoire des Autochtones et des défis contemporains qui les touchent.

Nous en avons parlé ici, et vous pouvez voir, d'après ce que nous avons fait en Saskatchewan et dans la plupart des services de police au Canada, qu'il doit certainement y avoir un énorme volet éducatif sur l'histoire, la spiritualité et le sort des Autochtones partout au Canada.

Chaque agent de police devrait très, très bien connaître ce qui s'est passé avec les pensionnats indiens, ce qui s'est passé avec la colonisation, le Livre blanc dans les années 1970, la Rafle des années 1960 ainsi que les problèmes et les échecs contemporains dans notre communauté autochtone aujourd'hui. Tous les policiers au Canada devraient pouvoir en parler de mémoire<sup>MMM</sup>.

## L'absence de services complets

Une autre difficulté relevée par les représentants de la police relativement à leur travail avec les peuples et communautés autochtones est l'absence de ce qu'on appelle à l'occasion des « services complets » pour désigner un ensemble de services comprenant des soins de santé, du soutien en santé mentale, des services d'hébergement ou d'autres formes de services sociaux et de mesures de soutien adaptées à la culture dont pourraient avoir besoin les personnes qui communiquent avec la police. Les représentants de la police ont raconté qu'ils répondaient souvent à des appels – surtout dans les communautés rurales ou éloignées où l'offre de services est nettement insuffisante – qui n'ont techniquement rien à voir avec les services de police, mais auxquels ils doivent répondre à défaut de pouvoir aiguiller leur interlocuteur vers d'autres ressources.

Dans son témoignage, le chef de police à la retraite Weighill a expliqué pourquoi l'absence d'autres services et mesures de soutien avait des conséquences particulièrement néfastes sur les jeunes Autochtones qui n'ont peut-être encore jamais été en contact avec le système de justice pénale. En effet, le manque de services susceptibles de les aider à surmonter certaines de leurs difficultés augmente leurs risques d'avoir des démêlés avec la justice. M. Weighill a donné comme cause de ce phénomène l'explication suivante, qui sert d'appui à l'une des recommandations qu'il a adressées à l'Enquête nationale.

Les gens se plaignent de la *Loi sur le système de justice pénale pour les adolescents*. Ils disent qu'elle n'est pas très efficace, qu'elle ne fonctionne pas. Je dirais plutôt que c'est l'inverse. La *Loi sur le système de justice pénale pour les adolescents* est une loi solide. Elle permet à la police de détourner les jeunes du système de justice pénale. On peut avoir recours à des





avertissements non officiels et des avertissements officiels, déjudiciariser avant la mise en accusation, déjudiciariser après la mise en accusation, toutes sortes d'interventions pour empêcher les jeunes de se retrouver dans le système de justice pénale. Ce qui est malheureux, c'est qu'il n'y a pas d'endroit où diriger les jeunes et tout revient au système de justice pénale... À mon avis, c'est complètement absurde de poursuivre dans cette voie. Nous continuons d'utiliser le système de justice pénale pour régler les problèmes. Il ne peut pas régler les problèmes de ces jeunes. Il faut des programmes, des centres de désintoxication, un endroit où aller. Nous avons donc une excellente loi qui permet à la police et aux tribunaux de détourner les jeunes du système de justice pénale, mais il n'y a pas d'infrastructure qui l'appuie. C'est ma première recommandation<sup>NN</sup>.

Dans son témoignage, l'agente-détective du NAPS, Alana Morrison, a décrit les lacunes du système avec lesquelles doivent composer les femmes des Premières Nations dans les communautés où elle se rend pour faire un suivi auprès de celles qui ont signalé une agression, défaillances qui sont bien souvent liées au fait que les policiers en fonction et les services aux victimes sont déjà débordés<sup>OO</sup>. Pour tenter de régler ce problème, l'agente-détective Morrison a rédigé une demande de financement, ce qui lui a permis de concevoir un programme d'aide aux survivantes visant à offrir des services de soutien et de sensibilisation et à aider les femmes désireuses de rester dans leur communauté après avoir signalé une agression. Le programme expose aussi les difficultés que pose la prestation de soutien dans les petites communautés éloignées. Actuellement, le programme bénéficie de financement pour une période d'un an, mais elle a bon espoir de recevoir des fonds supplémentaires pour permettre son maintien<sup>PPP</sup>.

Par ailleurs, l'agente détective Morrison a abordé la question de l'absence de services aux victimes – en particulier dans les communautés éloignées – et des obstacles additionnels que cette situation pouvait créer pour celles qui n'ont pas eu la possibilité de poser des questions ou d'être renseignées sur le processus judiciaire.

Lorsque le tribunal tient des audiences dans nos communautés de Première Nation, c'est le chaos parce que le juge arrive par avion, le procureur arrive par avion, la défense arrive par avion, les services aux victimes arrivent par avion, et l'agent du NAPS doit faire la navette pour conduire tout le monde à l'école où le procès aura lieu, et pour que tout le monde s'installe dans la salle communautaire où il est possible qu'il ait lieu. Il n'y a pas de palais de justice dans nos communautés, alors nous occupons parfois une partie de l'école.

Donc, dans toute cette cohue, il n'y a pas... ou il y a très peu de temps pour préparer la victime pour l'audience. Est-ce un obstacle? Absolument, parce que la victime se présente en cour, mais elle n'y est pas préparée, vous comprenez? Et je sais que les procureurs de la Couronne et les services aux victimes font de leur mieux et qu'ils essaient d'arriver la veille, mais [...], je pense que, parfois, il faut que ça se fasse de façon continue pour que cette personne se sente soutenue et pratiquement prise en charge tout au long du processus, car ce n'est pas un parcours facile, vous savez, auquel nous avons affaire, étant donné que parfois le procès n'a pas lieu. Dans certaines communautés, le tribunal tient des audiences quatre fois par année, alors pouvez-vous vous imaginer à la place d'une victime et devoir attendre aussi longtemps pour voir la fin, vous savez, d'une démarche que vous avez entreprise pour essayer de vous protéger et de protéger votre corps<sup>OOO</sup>?

## Les services de police des Premières Nations : l'exemple du Service de police Nishnawbe-Aski

Au cours du processus de consignation de la vérité, l'Enquête nationale a eu la possibilité d'entendre des témoins lui parler du service de police Nishnawbe-Aski (NAPS), le plus important service de police autochtone au Canada. Créé en 1994, le NAPS assure la prestation des services de police à la Nation Nishnawbe-Aski dans le Nord de l'Ontario. La population de la Nation





Nishnawbe-Aski est d'environ 45 000 personnes. Le NAPS compte 147 policiers répartis dans 34 communautés, dont 23 ne sont accessibles que par avion. En tant que corps policier autochtone, le NAPS est indépendant des autres organisations policières; il est dirigé par un conseil indépendant dont relève le chef de police, chargé de l'administration du service<sup>RRR</sup>.

À l'instar d'autres services de police œuvrant en régions éloignées, le NAPS fait face à d'importantes contraintes liées à la géographie, au personnel et au manque de ressources. Néanmoins, comme l'ont fait valoir dans leurs témoignages Terry Armstrong et Mike Metatawabin, respectivement chef de police et président du conseil du NAPS, l'organisation unique des services de police autochtones et des Premières Nations crée des obstacles et des risques additionnels faisant qu'il est particulièrement difficile pour les policiers du NAPS d'assurer la sécurité des Autochtones vivant dans les différentes communautés de la Nation Nishnawbe-Aski. Pour faire comprendre ces difficultés particulières et la démarche compliquée entreprise par le NAPS afin d'en éliminer quelques-unes, le chef de police Armstrong et le président Metatawabin ont longuement traité des modalités de financement du NAPS et des modifications législatives et systémiques nécessaires pour assurer l'octroi de ressources adéquates.

Le financement du NAPS est prévu dans le cadre d'une entente tripartite intervenue entre la Nation Nishnawbe-Aski, le Canada et l'Ontario en vertu de la Politique sur la police des Premières Nations. D'après les explications de Mike Metatawabin, la nature de ces ententes signifie que le financement du NAPS est fonction des programmes, ce qui n'est pas le cas pour la GRC et les services de police des provinces et des municipalités. Ce mécanisme, jusqu'à tout récemment, voulait dire qu'il n'existait aucun cadre législatif grâce auquel la sécurité des peuples autochtones de cette région pouvait être garantie en vertu de la primauté du droit<sup>SSS</sup>. Les tentatives qui ont été faites par le passé pour attirer l'attention des responsables sur les problèmes de sous-financement et le grave manque de ressources avec lesquels le NAPS doit composer ont été ignorées pendant de nombreuses années. Ainsi, en 2013, le président du NAPS à l'époque et le grand chef de la Nation Nishnawbe-Aski ont publié un avis concernant la sécurité publique qui a été transmis aux dirigeants politiques du gouvernement provincial de

l'Ontario et du gouvernement fédéral ainsi qu'au coroner en chef. Il y était déclaré qu'en raison de contraintes liées aux ressources et à l'infrastructure, la population des communautés de la Nation Nishnawbe-Aski n'était pas en sécurité. Le NAPS n'a reçu, pour toute réponse, que celle du coroner en chef<sup>TTT</sup>.

Pour illustrer l'effet de ce sous-financement chronique sur la sécurité des membres des communautés et celle des policiers du NAPS, le chef de police Terry Armstrong a expliqué comment le sous-financement chronique a des effets importants sur la sécurité des gens dans la communauté, ainsi que les policiers qui y travaillent<sup>UUU</sup>. Il a ensuite fait état des conséquences de ce sous-financement pour les policiers du NAPS.

Les policiers du NAPS sont confrontés à de nombreux obstacles concrets dans l'exercice de leurs fonctions : le manque d'effectif signifie qu'il leur arrive rarement de travailler avec un partenaire et qu'ils doivent régulièrement se passer des renforts sur lesquels peuvent compter les policiers qui ne sont pas des Premières Nations. Vu l'éloignement des communautés de la Nation Nishnawbe-Aski, les policiers attendent fréquemment de longues heures ou des jours entiers l'arrivée de renforts ou l'aide d'équipes spécialisées. Vingt-quatre pour cent des policiers du NAPS sont actuellement en congé pour cause de stress ou d'invalidité<sup>VVV</sup>.

En 2014, dans l'espoir d'attirer l'attention sur les conditions de fonctionnement pénibles du NAPS et le manque de ressources à sa disposition, le grand chef Yesno et le grand chef adjoint Fiddler, de la Nation Nishnawbe-Aski, de concert avec le président du conseil du NAPS de l'époque, ont pris une décision difficile : ils ont informé la province de l'Ontario que le NAPS serait forcé de cesser ses activités si des pourparlers officiels n'étaient pas engagés dans le but d'établir le fondement législatif de ses services et de remédier, par le fait même, au problème du manque de ressources. Le chef de police Terry Armstrong a justifié cette décision en ces termes :

Le service de police n'était pas en mesure d'assurer la sécurité de la communauté alors que nous en avons fait le serment en tant que policiers. Et quand on m'a demandé d'accepter d'en devenir le chef, je suis là encore venu pour





protéger la communauté et en protéger les membres, et nous étions tout simplement incapables de le faire. Il nous était impossible de le faire avec des ressources comme celles que nous avons ... avec ce programme, et sans aucun moyen d'obtenir les ressources adéquates, ressources humaines, personnel de direction et toutes ces choses ... Ça a été une décision très difficile, mais nous n'étions plus en mesure – et cela faisait déjà un moment – d'assurer aux communautés le même niveau de sûreté que celui dont jouit le reste des Ontariens, et probablement des Canadiens<sup>www</sup>.

Le geste a incité le gouvernement de l'Ontario à entamer de longues négociations avec le NAPS en vue d'établir un cadre législatif et de financer à hauteur suffisante les services de police des Premières Nations dans la province. Comme l'ont souligné le président Metatawabin et le chef de police Armstrong, ces négociations ont abouti à l'adoption d'un nouveau texte législatif — le projet de loi 175, *Loi de 2018 pour plus de sécurité en Ontario* — entré en vigueur en janvier 2019. Il s'agit d'une loi importante parce qu'elle reconnaît expressément le « besoin d'assurer la sécurité de toutes les personnes et de tous les biens en Ontario, y compris dans réserves des Premières Nations », « le besoin [des services policiers] d'être adaptés aux histoires et aux cultures uniques des communautés inuites, métisses et des Premières Nations » et « le besoin de veiller à ce que toutes les parties de l'Ontario, y compris les réserves de Première Nation, reçoivent des services policiers à un niveau équitable<sup>xxx</sup> ». À ce propos, le chef Terry Armstrong a expliqué que le NAPS n'avait pas simplement voulu que cette loi puisse répondre à ses propres demandes, mais aussi qu'elle puisse servir de point de départ pour d'autres services de police autochtones<sup>yyy</sup>.

Parallèlement à la question des négociations portant sur le cadre législatif, le chef de police Armstrong et le président Metatawabin ont aussi précisé que, par suite des pressions politiques exercées par les dirigeants de la Nation Nishnawbe-Aski pour changer le processus de négociation normalement entrepris pour le renouvellement du financement dans le cadre de l'entente tripartite, le NAPS obtiendra 79 postes d'agents supplémentaires au cours des

cinq prochaines années, en plus des fonds nécessaires à la mise en place d'un système de communication et à la construction de bâtiments pour deux nouveaux détachements<sup>zzz</sup>.

Revenant sur ce long processus, toujours en cours, destiné à assurer aux habitants des communautés de la Nation Nishnawbe-Aski des services de police équitables, le chef Terry Armstrong a partagé les réflexions suivantes :

Ainsi, bien que nous ayons réussi, tant bien que mal, à traverser cela, c'est ... ça n'a pas été juste et, vous savez, simplement pour ... en tant que service de police, nous ne demandons vraiment rien de plus que ce que tous les autres demandaient ... nous voulions simplement être traités de la même façon et protéger nos communautés, parce que c'est ... ça a été assez éprouvant ... ça a été un honneur, mais c'est ... lorsque vous portez un insigne et que vous vous engagez à protéger les gens, mais que vous n'en avez pas les moyens et que vous êtes témoin jour après jour des ravages, tout en sachant qu'il existe des solutions, c'est ... c'est dur<sup>aaaa</sup>.

Le président Mike Metatawabin a fait part des espoirs qu'il nourrit relativement à ce processus et à la mise en œuvre du projet de loi 175 et, plus généralement, pour les services de police autochtones.

J'ai espoir que ce processus, une fois la loi adoptée, une fois sa mise en œuvre réalisée, j'ai espoir qu'il sera repris d'un océan à l'autre, dans l'ensemble du pays, pour que nos frères et nos sœurs de partout au pays ... se voient accorder le même privilège, qui sera offert ... avec les mêmes ressources. J'ai aussi espoir que nos jeunes hommes et femmes répondront à l'appel et nous apporteront cette sécurité. À l'échelle du pays, des Autochtones assurant la sécurité des leurs. C'est mon espoir, c'est ce que ... ce à quoi j'espère assister au cours des prochaines années. C'est ce qui a manqué, le système de justice a ... échoué dans ses responsabilités envers nos gens, nos communautés. Mais dans ce même esprit de réconciliation, nos communautés, nos dirigeants et nous aussi devons intensifier nos efforts<sup>bbbb</sup>.





Dans le même ordre d'idées, et mentionnant bon nombre des mêmes préoccupations que celles soulevées par Metatawabin et Armstrong, le chef de police Jean-Pierre Larose a reconnu les difficultés liées au fait de devoir fonctionner dans le cadre d'ententes de contribution. L'entente régissant la prestation de services au Nunavik a expiré en avril et, dans le cadre de son renouvellement, son service entend demander la révision à la hausse des montants affectés au personnel et au matériel, ainsi qu'à l'ensemble des ressources permettant d'assurer la prestation des services de police, y compris un centre d'appels situé à Kuujuaq et doté d'opérateurs parlant l'inuktitut pour pouvoir mieux communiquer avec les personnes qui demandent de l'aide. À l'heure actuelle, les appels sont transmis directement aux policiers sur leur radio. M. Larose a aussi mentionné que le service de police qui, 15 ans auparavant, comptait 54 policiers en compte seulement 58 ou 59 aujourd'hui; autrement dit, malgré l'augmentation importante de la population, les ressources prévues dans les ententes tripartites n'ont pas suffi pour permettre à la police de faire son travail<sup>CCCC</sup>.

## Conclusion

Tout en faisant connaître leur vérité à l'Enquête nationale, les représentants des services de police ont reconnu les torts historiques et actuels dont les familles et les communautés autochtones continuent de subir les effets du fait de leurs interactions avec la police. Ils ont aussi reconnu qu'il était nécessaire de changer la façon dont les services de police, autochtones ou non autochtones, s'y prennent pour assurer la sécurité des peuples autochtones. En se dotant de politiques et de protocoles — notamment sur les crimes majeurs — et en les actualisant, la police a montré que des processus et des exigences uniformes existaient pour les enquêtes sur les disparitions et les meurtres de personnes autochtones et pour les interactions avec leurs familles, du moins sur papier. Toutefois, les représentants des services de police ont aussi admis

que les obstacles à la prestation de services de police équitables à l'ensemble des peuples autochtones persistaient et qu'il fallait s'y attaquer. Dans son témoignage, Daniel Bellegarde, directeur de l'Association canadienne de gouvernance de police, a mentionné une réalité fondamentale, à savoir que le système de justice canadien et sa vision du maintien de l'ordre s'opposent à la conception autochtone de la justice.

Le tout est basé sur une responsabilité que nous avons les uns envers les autres, collectivement, ainsi qu'envers la terre, et qui fait que les droits collectifs ne cadrent pas tout à fait avec les droits individuels sur lesquels repose le système de justice canadien. Ce n'est donc pas un système de justice fondé sur les droits, mais bien sur la responsabilité, ce qui constitue une approche réellement différente, si on y réfléchit bien.

Il ne s'agit pas de discipliner et de punir comme le veut le système européen, mais plutôt de rétablir l'harmonie, les liens naturels, la famille; les Aînés étaient ceux qui contrôlaient le comportement social. Or, ce système a été cassé : aujourd'hui, nous sommes en train de le remettre en état, et il faut le revitaliser dans nos différentes institutions et dans nos différentes Nations.

Donc, la conception autochtone de la justice ne se résume pas à un ensemble de règles et d'institutions; c'est un élément de l'ordre naturel qui nous met tous et met toutes choses en relation les uns avec les autres<sup>DDDD</sup>.

L'avenir nous dira si ces changements — dont beaucoup viennent d'être introduits en réponse aux appels à l'action de la Commission de vérité et réconciliation et à l'Enquête nationale — tiendront compte de telles idées et s'ils se traduiront par des transformations concrètes dans la vie des femmes, des filles et des personnes 2ELGBTQQIA autochtones.





## Conclusions

- Les femmes, les filles et les personnes 2ELGBTQQIA autochtones continuent de subir un préjudice systémique, car les services de police n'arrivent pas à leur rendre justice et à les protéger au moyen de services de police adéquats et impartiaux, de mécanismes efficaces de surveillance et d'arbitrage, et de solutions à la violence concrètes et accessibles. Il s'agit d'un traitement discriminatoire qui crée des milieux où les femmes, les filles et les personnes 2ELGBTQQIA autochtones ne sont pas suffisamment protégées et où elles font l'objet d'interventions ciblées par la police alors qu'elles exercent leurs droits.
- Souvent, les Autochtones qui ont besoin de la protection de la police sont traités comme des criminels et des délinquants, une situation qui est renforcée par le profilage racial. De plus, lorsque les Autochtones sont victimes de crimes, ils n'ont pas le même accès au système de justice et n'obtiennent pas les mêmes résultats au sein de ce système que les non-Autochtones.
- Les services de police et les autres personnes chargées de l'application de la loi ont d'énormes pouvoirs et ils peuvent enfreindre les droits de la personne des femmes, des filles et des personnes 2ELGBTQQIA autochtones sans que ces dernières aient des recours. Les mécanismes de surveillance et de reddition des comptes qui visent les services de police sont largement insuffisants et ils n'inspirent pas confiance aux Autochtones. L'incapacité de créer et de mettre en œuvre des moyens de surveillance et de reddition de comptes concrets et transparents applicables sur les services de police et sur les autres personnes chargées de l'application de la loi perpétue la piètre qualité des services et nourrit la méfiance des communautés autochtones à l'égard de la police.
- Les Autochtones ont le droit inhérent de développer leur propre système de justice, y compris les services de police. Les politiques et les programmes créés et mis en œuvre par les gouvernements du Canada et des provinces qui permettent aux communautés autochtones d'administrer leurs propres services de police dans le cadre du Programme des services de police des Premières Nations et d'ententes tripartites ne constituent pas un exercice authentique du droit des Autochtones de régir eux-mêmes leurs services de police.
- Les services de police autochtones créés dans le cadre du Programme des services de police des Premières Nations souffrent chroniquement d'un financement et d'effectifs insuffisants. Cette situation se traduit par un manque de personnel, par des agents souffrant d'épuisement professionnel, par des détachements dont les ressources sont insuffisantes et par des conditions de travail dangereuses pour les agents. Ces lacunes accroissent les tensions au sein de la communauté et, ultimement, il devient impossible d'intervenir adéquatement et d'enquêter sur la violence à l'endroit des femmes, des filles et des personnes 2ELGBTQQIA autochtones.
- Le système de justice pénale peine à intervenir efficacement en cas de violence sexuelle et de violence conjugale. Plusieurs femmes, filles et personnes 2ELGBTQQIA autochtones qui ont été victimes de violence sexuelle et de violence conjugale ne signalent pas l'agression à la police. Les poursuites judiciaires intentées par l'État dans les affaires de violence sexuelle et de violence conjugale sont difficiles et il est rare qu'elles offrent aux femmes, aux filles et aux personnes 2ELGBTQQIA autochtones la justice et la protection souhaitées. Les lois et le système de justice pénale, dans leur forme actuelle, ne parviennent pas à protéger les femmes, les filles et les personnes 2ELGBTQQIA autochtones de la violence sexuelle et de la violence conjugale.





- A Commissaire Brenda Lucki, Partie 2, Volume public 6, Regina, Sask., p. 34.
- B Surintendant principal Mark Pritchard, Partie 2, Volume public 9, Regina, Sask., pp. 210–211.
- C Chef Danny Smyth, Partie II et III mixtes, Volume public 18, Regina, Sask., p. 11.
- D Chef Joe Boland, Partie II et III mixtes, Volume public 15, St. John's, T.-N.-L., pp. 195–196.
- E Commissaire Brenda Lucki, Partie 2, Volume public 6, Regina, Sask., p. 91.
- F Commissaire Brenda Lucki, Partie 2, Volume public 6, Regina, Sask., pp. 33–34.
- G MacKinnon,, « SQ officers ignore. »
- H Capitaine Paul Charbonneau, Partie 2, Volume public 9, Regina, Sask., p. 149.
- I Daniel Bellegarde (Bande Little Black Bear des cris-assiniboines), Partie 2, Volume public 6, Regina, Sask., pp. 96–97.
- J Commissaire Brenda Lucki, Partie 2, Volume public 6, Regina, Sask., p. 40.
- K Commissaire Brenda Lucki, Partie 2, Volume public 6, Regina, Sask., pp. 41–42.
- L Commissaire Brenda Lucki, Partie 2, Volume public 6, Regina, Sask., p. 42.
- M Commissaire Brenda Lucki, Partie 2, Volume public 6, Regina, Sask., pp. 50–51.
- N Commissaire Brenda Lucki, Partie 2, Volume public 6, Regina, Sask., p. 55.
- O Commissaire Brenda Lucki, Partie 2, Volume public 6, Regina, Sask., p. 55.
- P Commissaire Brenda Lucki, Partie 2, Volume public 6, Regina, Sask., pp. 49–50.
- Q Commissaire Brenda Lucki, Partie 2, Volume public 6, Regina, Sask., pp. 49–50.
- R Chef (en retraite) Clive Weighill, Partie 2, Volume public 8, Regina, Sask., pp. 50–51.
- S Commissaire Brenda Lucki, Partie 2, Volume public 6, Regina, Sask., pp. 53–54.
- T Commissaire Brenda Lucki, Partie 2, Volume public 6, Regina, Sask., p. 54.
- U Sous-commissaire Brenda Butterworth-Carr (Nation Tr'ondëk Hwëch'in Hän), Partie 2, Volume public 9, Regina, Sask., p. 101.
- V Sous-commissaire Brenda Butterworth-Carr (Nation Tr'ondëk Hwëch'in Hän), Partie 2, Volume public 9, Regina, Sask., pp. 99–100.
- W Surintendant principal Mark Pritchard, Partie 2, Volume public 9, Regina, Sask., p. 215.
- X Surintendant principal Mark Pritchard, Partie 2, Volume public 9, Regina, Sask., p. 216.
- Y La Loi de 2018 sur les personnes disparues a reçu la sanction royale mais n'était pas proclamée ni entrée en vigueur au moment du témoignage du surintendant principal Pritchard. Voir <https://www.ola.org/fr/affaires-legislatives/projets-loi/legislature-41/session-2/projet-loi-175>.
- Z Surintendant principal Mark Pritchard, Partie 2, Volume public 10, Regina, Sask., pp. 283-284.
- AA Chef (en retraite) Clive Weighill, Partie 2, Volume public 8, Regina, Sask., pp. 42–43.
- BB Sous-commissaire Brenda Butterworth-Carr (Nation Tr'ondëk Hwëch'in Hän), Partie 2, Volume public 9, Regina, Sask., p. 127.
- CC Sous-commissaire Brenda Butterworth-Carr (Nation Tr'ondëk Hwëch'in Hän), Partie 2, Volume public 9, Regina, Sask., pp. 105–106.
- DD Sous-commissaire Brenda Butterworth-Carr (Nation Tr'ondëk Hwëch'in Hän), Partie 2, Volume public 9, Regina, Sask., p. 113.
- EE Surintendant principal Mark Pritchard, Partie 2, Volume public 9, Regina, Sask., p. 256.
- FF Surintendant principal Mark Pritchard, Partie 2, Volume public 9/10, Regina, Sask., pp. 239–240.
- GG Chef (en retraite) Clive Weighill, Partie 2, Volume public 9, Regina, Sask., pp. 40–42.
- HH Sous-commissaire Brenda Butterworth-Carr (Nation Tr'ondëk Hwëch'in Hän), Partie 2, Volume public 9, Regina, Sask., pp. 127–129.
- II Sous-commissaire Brenda Butterworth-Carr (Nation Tr'ondëk Hwëch'in Hän), Partie 2, Volume public 9, Regina, Sask., p. 98.
- JJ Surintendant principal Mark Pritchard, Partie 2, Volume public 9, Regina, Sask., p. 219.
- KK Chef (en retraite) Clive Weighill, Partie 2, Volume public 8, Regina, Sask., pp. 38–39.
- LL Sous-commissaire Brenda Butterworth-Carr (Nation Tr'ondëk Hwëch'in Hän), Partie 2, Volume public 9, Regina, Sask., p. 114.
- MM Surintendant principal Mark Pritchard, Partie 2, Volume public 9, Regina, Sask., pp. 217 and 230–232.
- NN Sous-commissaire Brenda Butterworth-Carr (Nation Tr'ondëk Hwëch'in Hän), Partie 2, Volume public 9, Regina, Sask., pp. 115–116.
- OO Sous-commissaire Brenda Butterworth-Carr (Nation Tr'ondëk Hwëch'in Hän), Partie 2, Volume public 9, Regina, Sask., pp. 116–117.
- PP Surintendant principal Mark Pritchard, Partie 2, Volume public 9, Regina, Sask., p. 222; Chief Joe Boland, Partie II et III mixtes, Volume public 15, St. John's, T.-N.-L., p. 198.
- QQ Sous-commissaire Brenda Butterworth-Carr (Nation Tr'ondëk Hwëch'in Hän), Partie 2, Volume public 9, Regina, Sask., p. 327.
- RR Chef Jean-Pierre Larose, Partie 2, Volume public 6, Regina, Sask., pp. 154–155.
- SS Chef Jean-Pierre Larose, Partie 2, Volume public 6, Regina, Sask., pp. 159–160.





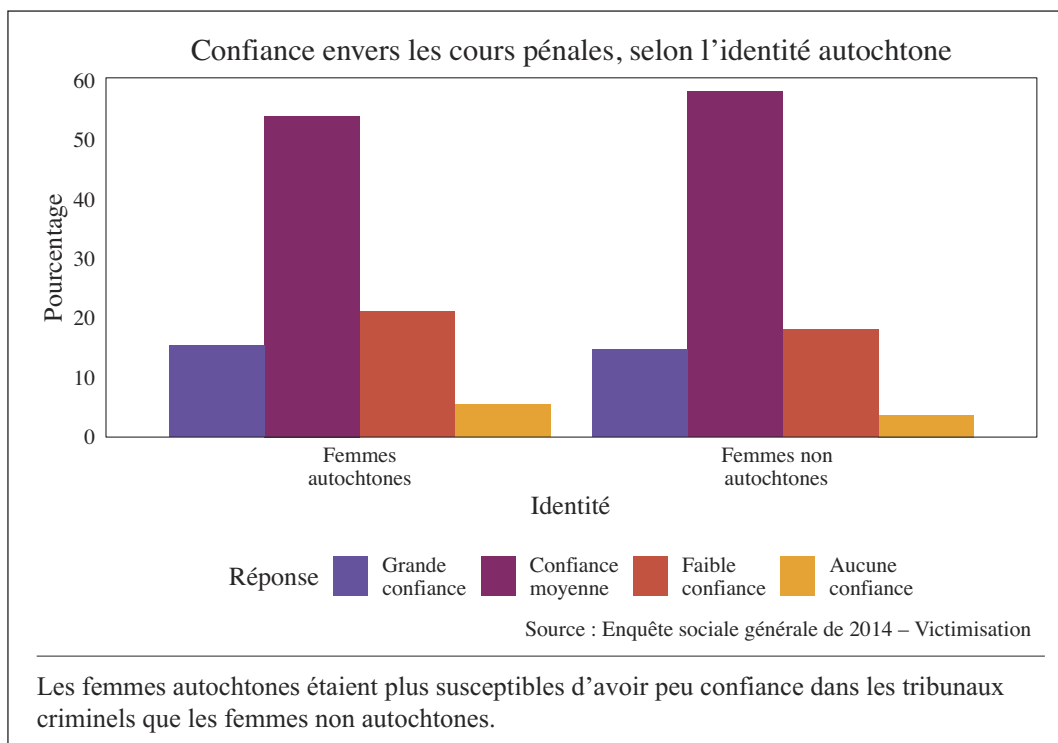
TT	Chef Jean-Pierre Larose, Partie 2, Volume public 6, Regina, Sask., pp. 157–158.	NNN	Chef (en retraite) Clive Weighill, Partie 2, Volume public 8, Regina, Sask., pp. 59–60.
UU	Chef Terry Armstrong, Partie II et III mixtes, Volume public 5, Québec, Qc, p. 61.	OOO	Détective-constable Alana Morrison (Première Nation), Partie 2, Volume public 8, Regina, Sask., p. 135.
VV	Chef Terry Armstrong, Partie II et III mixtes, Volume public 5, Québec, Qc, pp. 62–63.	PPP	Détective-constable Alana Morrison (Première Nation), Partie 2, Volume public 8, Regina, Sask., pp. 138–139.
WW	Commissaire Brenda Lucki, Partie 2, Volume public 6, Regina, Sask., p. 47.	QQQ	Détective-constable Alana Morrison (Première Nation), Partie 2, Volume public 8, Regina, Sask., p. 145.
XX	Commissaire Brenda Lucki, Partie 2, Volume public 6, Regina, Sask., p. 48.	RRR	Mike Metatawabin (Première Nation Fort Albany), Partie II et III mixtes, Volume public 5, Québec, Qc, pp. 41–42.
YY	Chef Jean-Pierre Larose, Partie 2, Volume public 6, Regina, Sask., p. 149.	SSS	Mike Metatawabin (Première Nation Fort Albany), Partie II et III mixtes, Volume public 5, Québec, Qc, pp. 45–46.
ZZ	Chef Jean-Pierre Larose, Partie 2, Volume public 6, Regina, Sask., p. 150.	TTT	Mike Metatawabin (Première Nation Fort Albany), Partie II et III mixtes, Volume public 5, Québec, Qc, pp. 53–54.
AAA	Jacqueline Hansen, Partie II et III mixtes, Volume public 6, Québec, Qc, p. 45.	UUU	Chef Terry Armstrong, Partie II et III mixtes, Volume public 5, Québec, Qc, pp. 55–56.
BBB	Chef Jean-Pierre Larose, Partie 2, Volume public 6, Regina, Sask., pp. 165–166.	VVV	Chef Terry Armstrong, Partie II et III mixtes, Volume public 5, Québec, Qc, p. 60.
CCC	Détective-constable Alana Morrison (Première Nation), Partie 2, Volume public 8, Regina, Sask., p. 129.	WWW	Chef Terry Armstrong, Partie II et III mixtes, Volume public 5, Québec, Qc, p. 76.
DDD	Commissaire Brenda Lucki, Partie 2, Volume public 6, Regina, Sask., pp. 66–67.	XXX	Mike Metatawabin (Première Nation Fort Albany), Partie II et III mixtes, Volume public 5, Québec, Qc, pp. 94–95; Assemblée législative de l'Ontario, Projet de loi 175, Loi de 2018 pour plus de sécurité en Ontario.
EEE	Commissaire Brenda Lucki, Partie 2, Volume public 6, Regina, Sask., pp. 66–67.	YYY	Chef Terry Armstrong, Partie II et III mixtes, Volume public 5, Québec, Qc, p. 108.
FFF	Sergeant Dee Stewart, Partie 2, Volume public 8, Regina, Sask., pp. 159–161.	ZZZ	Chef Terry Armstrong, Partie II et III mixtes, Volume public 5, Québec, Qc, pp. 91–92.
GGG	Chef (en retraite) Clive Weighill, Partie 2, Volume public 8, Regina, Sask., pp. 54–55.	AAAA	Chef Terry Armstrong, Partie II et III mixtes, Volume public 5, Québec, Qc, p. 109.
HHH	Commissaire Brenda Lucki, Partie 2, Volume public 6, Regina, Sask., pp. 70–72.	BBBB	Mike Metatawabin (Première Nation Fort Albany), Partie II et III mixtes, Volume public 5, Québec, Qc, pp. 112–113.
III	Commissaire Brenda Lucki, Partie 2, Volume public 6, Regina, Sask., p. 84.	CCCC	Chef Jean-Pierre Larose, Partie 2, Volume public 6, Regina, Sask., pp. 156–157.
JJJ	Sergente Dee Stewart, Partie 2, Volume public 8, Regina, Sask., p. 181.	DDDD	Daniel Bellegarde (Bande Little Black Bear des Cris-Assiniboines), Partie 2, Volume public 6, Regina, Sask., pp. 100–101. Voir aussi le Comité d'experts sur les services de police dans les communautés autochtones du Conseil des académies canadiennes, « Vers la paix, l'harmonie et le bien-être : Les services de police dans les communautés autochtones » disponible au <a href="https://sciencepourlepublic.ca/reports/les-services-de-police-dans-les-communautes-autochtones/">https://sciencepourlepublic.ca/reports/les-services-de-police-dans-les-communautes-autochtones/</a> .
KKK	Commissaire Brenda Lucki, Partie 2, Volume public 6, Regina, Sask., p. 87.		
LLL	Chef Terry Armstrong, Partie II et III mixtes, Volume public 5, Québec, Qc, p. 139.		
MMM	Chef (en retraite) Clive Weighill, Partie 2, Volume public 8, Regina, Sask., p. 62.		



## Au-delà de l'enquête : l'accès à la justice au sein du système judiciaire

En racontant leur vérité à propos de leurs relations et de leurs rencontres au sein du système judiciaire, les membres de famille ont longuement parlé de leur présence (et parfois de leur participation) aux procédures judiciaires conséquentes aux actes de violence infligés à leur proche. Plusieurs témoins seraient probablement d'accord avec la description que fait Fred F. des rapports conflictuels qui existent entre les personnes et les familles autochtones, d'une part, et les tribunaux, d'autre part : « J'ai vraiment le sentiment que, parfois, les tribunaux victimisent les victimes de nouveau<sup>82</sup>. » Celui-ci a émis ce commentaire après avoir assisté au procès de Curtis Bonnell, reconnu coupable du meurtre de la fille de Fred, Hilary, âgée de 16 ans.

Assister au procès d'une personne accusée d'avoir commis des actes de violence contre quelqu'un qui vous est cher est, à juste titre, une expérience difficile. Cependant, pour nombre de familles autochtones, d'amis et d'autres personnes qui offrent leur soutien, la difficulté de cette expérience est amplifiée par le fait qu'une fois de plus, ils peuvent être forcés de demander justice dans le cadre d'un processus et au sein d'une institution qui, par le passé, les ont traités injustement, et qui continuent de criminaliser les Autochtones dans des proportions beaucoup plus élevées que les Canadiens non autochtones. Bien que plusieurs familles offrent des enseignements précieux et des recommandations utiles sur la façon de nourrir des rapports moins conflictuels au sein du système judiciaire et durant les procédures, leur sagesse a un prix. En effet, elles doivent en grande partie se débrouiller seules pour comprendre et suivre le processus judiciaire.







John Phelps, procureur fédéral de la région du Yukon, a déclaré à l'Enquête nationale que le gouvernement fédéral administre un programme de coordonnateurs des témoins de la Couronne dans les Territoires du Nord-Ouest. Ce programme souhaite aider les victimes d'actes criminels, en particulier les victimes autochtones, à se renseigner sur les procédures judiciaires et à y participer (conformément aux droits que leur confère la *Charte canadienne des droits des victimes*). Bien que ce programme serve à la communication d'information entre le procureur de la Couronne et les victimes d'actes criminels, il ne fournit pas toute la gamme de services et de soutiens auxquels les victimes autochtones devraient avoir accès. Il n'offre pas de conseils juridiques aux victimes, mais facilite plutôt uniquement leur accès à l'information. Comme M. Phelps l'a expliqué : « Il est également important que la victime comprenne que nous ne sommes pas les avocats chargés de défendre ses intérêts. Nous sommes impartiaux envers le système et il nous incombe de présenter tous les renseignements au tribunal, qu'ils soient utiles ou non à notre cause en particulier<sup>83</sup>. »

« ELLES N'ONT PAS REÇU BEAUCOUP D'AIDE DES SERVICES AUX VICTIMES, À CE QUE JE SACHE. NOUS, NOTRE FAMILLE, ET MÊME MES SŒURS ... N'AVONS PAS ÉTÉ INFORMÉES DE L'UTILITÉ DE FOURNIR UNE DÉCLARATION DE LA VICTIME. ON NE NOUS A MÊME PAS DIT QUE C'ÉTAIT POSSIBLE DE LE FAIRE. C'EST À CE MOMENT-LÀ QU'UN AGENT DE LIAISON ET DÉFENSEUR DES DROITS DES VICTIMES AURAIT ÉTÉ UTILE. SI NOUS AVIONS ÉTÉ MISES AU COURANT À L'AVANCE DE L'EXISTENCE DE LA DÉCLARATION DE LA VICTIME, J'EN AURAIS PERSONNELLEMENT FOURNI UNE, MÊME SI JE NE POUVAIS PAS ME PRÉSENTER SUR PLACE. JE L'AURAIS FAIT LIRE PAR UNE DE MES SŒURS, EN MON NOM. IL ÉTAIT TRÈS DIFFICILE D'OBTENIR DES INFORMATIONS SUR LES DATES D'AUDIENCE, PEU IMPORTE LESQUELLES, ET CONTACTER LA FAMILLE ÉTAIT ENCORE PLUS ARDU. J'AVAIS L'INTENTION DE ME PRÉSENTER À L'UNE DES AUDIENCES, ET J'ESSAYAIS D'EN OBTENIR LA DATE EXACTE. ET ÇA N'ARRÊTAIT PAS DE CHANGER. ALORS J'AI PERDU MON SANG-FROID. »

Charlotte M.

Le Programme des coordonnateurs des témoins de la Couronne ne communique pas avec les victimes d'actes criminels immédiatement après un incident. Comme l'a souligné M. Phelps : « On ne prend connaissance d'un dossier qu'une fois l'accusation portée, ce qui peut parfois signifier des jours, des semaines ou des mois, et dans le cas de certains crimes graves, des années mêmes après la perpétration de l'infraction<sup>84</sup>. »

De plus, bien que le programme oriente les victimes d'actes criminels vers des services de soutien, il ne fournit pas lui-même de tels services.

Lors de ce premier contact, le coordonnateur évalue un certain nombre de facteurs en ce qui concerne la victime et ses besoins. Mais nous n'offrons aucune forme de counseling ou de service de soutien important aux victimes dont les besoins vont au-delà de la transmission d'information et de ce que nous sommes en mesure d'offrir pendant un procès. Notre pratique consiste donc à les diriger vers d'autres organismes au sein de la communauté. Ces organismes peuvent relever des Premières Nations ou des territoires. Par exemple, au Yukon, il existe un programme de services aux victimes doté



d'excellentes ressources. La victime peut aussi être aiguillée vers des organisations non gouvernementales, des services de santé mentale, des services de counseling, etc.<sup>85</sup>.

Dans son témoignage, Grand-mère Blu, conseillère auprès de l'Enquête nationale, a raconté ce que cela a représenté pour elle, en tant que jeune fille de 16 ans sans aucun soutien, d'assister et de participer au procès de l'homme qui a par la suite été reconnu coupable du meurtre de sa grand-mère et gardienne, celle qui était responsable d'elle.

Pendant le procès, j'ai assisté aux audiences durant environ trois semaines, alors que je n'avais pas d'avocat. Personne n'était là pour m'aider. Je montais dans le tramway. Je mettais ma ... je pense que c'était une pièce de 25 cents à l'époque, je me rendais au palais de justice et je restais assise là à écouter des choses que je ne comprenais pas. Je me souviens qu'ils ont dit mon nom et m'ont demandé d'aller à la barre. Je suis sûre que je leur ai raconté ce qui s'était passé, la même chose, parce que c'était la vérité. Je ne me souviens pas s'ils m'ont contre-interrogée. Je ne me souviens de rien de tout ça, parce que toute cette année-là a été perdue.

Je me souviens de ma tante, ma tante ... elle est venue avec moi le jour où on a prononcé la peine, et elle était comme une seconde mère pour moi ... Elle m'a aidée. Elle s'est assise à côté de moi, et c'est à ce moment-là que j'ai appris ce qui était arrivé à ma kokom. C'est à ce moment-là que j'ai appris qu'il avait été accusé de meurtre au deuxième degré et d'indignité envers un cadavre humain ... Être assise dans une salle d'audience sans personne pour vous aider, quand vous avez 16 ans, vous savez, ce n'était pas juste. Je sais que c'était il y a 41 ans, mais il n'y avait aucune dignité pour quelqu'un qui était Autochtone ou qui se définissait comme tel, et ce n'est pas beaucoup mieux aujourd'hui. Ce n'est vraiment pas mieux<sup>86</sup>.

En réfléchissant à l'expérience que ses sœurs et elle ont vécue au cours du procès des femmes reconnues coupables du meurtre de sa sœur, Charlotte M. a décrit en quoi le peu d'information qui leur a été fournie au sujet du processus les a empêchées de participer comme elles l'auraient souhaité si elles avaient pu accéder à toute celle nécessaire.

Elles n'ont pas reçu beaucoup d'aide des Services aux victimes, à ce que je sache. Nous, notre famille, et même mes sœurs ... n'avons pas été informées de l'utilité de fournir une déclaration de la victime. On ne nous a même pas dit que c'était possible de le faire. C'est à ce moment-là qu'un agent de liaison et défenseur des droits des victimes aurait été utile. Si nous avions été mises au courant à l'avance de l'existence de la déclaration de la victime, j'en aurais personnellement fourni une, même si je ne pouvais pas me présenter sur place. Je l'aurais fait lire par une de mes sœurs, en mon nom. Il était très difficile d'obtenir des informations sur les dates d'audience, peu importe lesquelles, et contacter la famille était encore plus ardu. J'avais l'intention de me présenter à l'une des audiences, et j'essayais d'en obtenir la date exacte. Et ça n'arrêtait pas de changer. Alors j'ai perdu mon sang-froid<sup>87</sup>.



L'une des choses que d'autres familles ont trouvé difficiles lorsqu'elles se présentaient aux audiences, c'était d'écouter les descriptions humiliantes et troublantes de leur proche disparue ou assassinée. Marilyn W. a décrit comment la représentation négative de sa fille dans la salle d'audience et dans les médias au cours du procès a aggravé une situation déjà difficile :

Nous sommes allés au procès qui se déroulait non loin d'ici, et, jour après jour, je devais m'asseoir dans la salle d'audience avec l'homme qui a tué ma sœur. Jour après jour, je devais m'asseoir dans cette salle d'audience avec les médias, qui au même moment écrivaient des choses qui déshumanisaient ma sœur, et nous victimisaient de nouveau, ma famille et moi. Alors, j'ai attendu<sup>88</sup>.

Pamela F. décrit une situation difficile semblable.

Parce que ça fait mal. On ne veut pas entendre quelqu'un dire des mensonges sur son enfant et on sait que ces choses ne sont pas vraies. Mais on ne peut pas vraiment se fâcher et se mettre à crier en pleine cour : « Pourquoi a-t-il le droit de dire ça? Pourquoi je ne peux pas dire ce qu'il a fait? » On ne peut pas agir ainsi, parce qu'on va nous expulser de la salle d'audience<sup>89</sup>.

De tels exemples nous rappellent que dans les systèmes coloniaux, les femmes, les filles et les personnes 2ELGBTQQIA autochtones sont perçues comme responsables de la violence qu'elles subissent. Parce qu'on fait porter le blâme aux femmes autochtones, les personnes qui commettent des actes de violence, quant à elles, demeurent libres d'agir comme elles le souhaitent. Les références à leurs activités ou antécédents sexuels ainsi qu'à leur comportement ou à leur attitude au moment de leur disparition ou de leur décès représentent autant d'exemples de la façon dont les stéréotypes racistes et sexistes omniprésents à l'égard des femmes autochtones sont utilisés au sein du système de justice pénale pour justifier une inaction ou une déresponsabilisation. C'est pour ces raisons que Robyn Bourgeois qualifie le système de justice pénale de « système d'injustice canadien ».

J'appelle donc cela le système d'injustice canadien, car c'est ce que nous voyons, encore et encore ... en admettant que des accusations aient d'abord été portées ... D'ailleurs, et l'Enquête nationale sur les femmes disparues l'a exprimé très clairement, il arrive souvent, même au niveau de la police, qu'on décide de ne pas porter d'accusations, de ne pas faire enquête ou de ne pas considérer la violence. En réalité, on efface la violence en qualifiant un décès, par exemple, de mésaventure ou d'accident. Dans les faits, il y a des preuves claires qu'il s'agissait vraisemblablement d'un homicide ou de quelque chose de plus sombre, et je pense que cela constitue un problème.

Mais lorsque la cour en est saisie, quand c'est le cas et que des gens sont accusés et traduits en justice, nous constatons, encore et toujours, que nos tribunaux canadiens s'appuient énormément sur l'hypersexualisation des femmes et des filles autochtones pour effacer la violence en disant : « Oh, vous savez quoi? Elle a consenti à ceci » ou « Vous savez, elle se livrait à la prostitution » ou encore « Elle était ivre et dévergondée », ou d'autres choses du genre.





Je veux dire, j'ai entendu ces remarques à maintes reprises dans différentes affaires judiciaires. Mais on s'en sert pour minimiser la violence, pour dire que ce n'était pas de la violence. Ça se traduit aussi dans l'autre sens, parce qu'il ne s'agit pas seulement de dépeindre les femmes et les filles autochtones comme des déviantes. Bien souvent, les agresseurs, eux, sont dépeints comme de bons Blancs, parce que ce sont souvent de bons hommes blancs qui ont commis une grave erreur et fait un mauvais choix, ou encore, ce sont de bons gars qui ont juste pris une mauvaise décision, ce qui en soi est problématique. Ce qui se passe dans les systèmes, ce que nous voyons encore et encore, c'est que les agresseurs ne sont pas tenus responsables, qu'ils reçoivent souvent des peines clémentes, s'ils sont même condamnés, et c'est souvent ... cette décision est souvent prise à partir de ce genre de croyance au sujet de la victime elle-même, soit une femme ou une fille autochtone. Ils trouvent toujours des façons différentes de démontrer pourquoi une femme ou une fille autochtone n'est pas une victime digne de ce nom qui mérite d'obtenir justice au sein du système juridique canadien<sup>90</sup>.

Naturellement, pour les familles qui connaissent la vérité au sujet de leur fille, de leur sœur, de leur mère ou d'une proche, de telles interprétations constituent des attaques dévastatrices contre la mémoire des victimes et une violation flagrante de la justice.

Les témoignages entendus dans le cadre des audiences de l'Enquête nationale ont en définitive clairement fait ressortir que la victime et sa famille ne se sentent pas toujours bien représentées par la Couronne lorsque vient le temps de participer au processus entourant la déclaration de la victime. Il arrive que les familles ne soient pas représentées par un avocat au procès et soient marginalisées, ce qui constitue un échec important du système.



*À l'Espace culturel Ashukan à Montréal en 2019, les créateurs se tiennent aux côtés de leur courtoise commémorative qui honore les femmes et les filles autochtones disparues et assassinées.*



En plus des contrecoups émotionnels qu'entraîne le fait d'assister aux procédures judiciaires liées à la disparition ou au décès d'un être cher, les familles doivent souvent assumer un fardeau financier important. Dans son témoignage, Fred F. a parlé en toute franchise des conséquences financières de sa participation au procès sur le meurtre de sa fille et des efforts qu'il a déployés pour s'assurer que sa femme et ses autres enfants n'aient pas à porter le poids de ces préoccupations.

Où ai-je trouvé l'argent pour acheter l'essence me permettant d'aller en ville chaque jour, parcourir 30 milles pour me rendre au tribunal? Je possédais un petit atelier en ville, là où se trouvait ma maison. Il était situé à l'arrière de la maison. C'était comme une pièce qui servait à mon commerce. Alors, on allait en ville, on se rendait au tribunal pour faire ce qu'on avait à faire. Puis, on avait une heure et demie pour dîner. Comme j'étais fauché, j'achetais des boîtes de thon et je les laissais à l'atelier. À l'heure du dîner, je l'emmenais [ma conjointe] chercher ce qu'elle voulait et ensuite, j'allais manger ma boîte de thon pour dîner avant de retourner à la cour.

Je pense que je n'ai plus mangé de thon en conserve depuis, parce que j'en ai sûrement mangé 30 ou 40 boîtes durant l'enquête préliminaire et le procès. Mais ça m'a vidé. J'ai fini par être obligé de vendre ma maison en ville parce que j'étais tellement en retard pour le paiement des impôts, des taxes et des factures. Au cours de ces semaines passées à la cour, nous avons pu compter sur beaucoup de soutien émotionnel, mais ce que j'ai besoin de voir changer au Canada, c'est la façon dont on nous traite, les membres de famille de la victime<sup>91</sup>.

En présentant ses recommandations à l'Enquête nationale, Fred est revenu sur l'importance des relations et de la création de mesures de soutien et de services pour les familles, des mesures qui reflètent une compréhension de la nécessité de « prendre soin » de soi, tant sur le plan émotionnel que financier, au cours de ce processus.

Quand elles [les familles] passent des heures et des jours interminables dans une salle d'audience, il faut s'en occuper. Il faut les nourrir et leur fournir un endroit où se reposer durant le procès ou durant le voir-dire. Je ne me souviens même pas des personnes qui se sont occupées de mes enfants pendant cette période. C'était tellement ... je pense que ce sont mes parents qui s'en sont occupés, j'en suis presque certain.

Mais c'était une période tellement traumatisante durant laquelle on vivait au jour le jour. Parfois, on ne savait même pas ce qu'on allait faire d'une minute à l'autre ... Je n'avais jamais imaginé à quel point la douleur, la faiblesse et le stress pouvaient être profonds; il n'y a pas de mots pour ça. Quand des personnes vivent une situation comme celle qu'on a vécue et doivent passer beaucoup de temps au tribunal, elles devraient être appuyées et soutenues en ayant accès à un endroit où se reposer après la période d'audience, dans le cas où elles ont à se déplacer pour se rendre dans la ville où se trouve la cour ... Vous savez, il arrive souvent que les membres de famille doivent faire de la route pour venir à la cour, qui se trouve dans une autre ville que la leur. Cela nous a causé beaucoup de stress. Ça doit vraiment changer<sup>92</sup>.



Certains gouvernements offrent des mesures de soutien, en particulier dans le domaine des services aux victimes. Leanne Gardiner, directrice de la Division de la justice communautaire et des services de police du ministère de la Justice, au gouvernement des Territoires du Nord-Ouest (GTNO), a déclaré devant l'Enquête nationale que le gouvernement des Territoires du Nord-Ouest accorde du financement à différentes organisations municipales, autochtones et communautaires qui offrent des programmes de services aux victimes. Selon Gardiner, les bureaux de services aux victimes offrent une vaste gamme de services de soutien.

Elles peuvent se présenter à n'importe quel bureau des Services aux victimes et demander de l'aide. Le programme fonctionne indépendamment du tribunal, de la Couronne ou de la police, de sorte qu'une victime n'a pas à participer à ces processus, ni au système de justice pénale, pour avoir accès à du soutien. Les fournisseurs offrent une grande variété de recommandations ou de mesures de soutien. Il peut s'agir d'un soutien émotionnel immédiat ou d'un renvoi vers d'autres services ... Techniquement, ce ne sont pas des services de counseling; ce sont surtout, la plupart du temps, des services de soutien émotionnel immédiat pour les victimes<sup>93</sup>.

Gardiner a également expliqué que le GTNO finance de nombreux autres programmes de soutien aux victimes d'actes criminels.

Betty Ann Pottruff, c.r., conseillère principale au gouvernement de la Saskatchewan, a déclaré à l'Enquête nationale que les changements de leadership au sein des différents ordres de gouvernement a rendu difficile la mise en œuvre de certains des grands changements nécessaires pour remédier à la tragédie de la violence faite aux femmes autochtones.

L'autre difficulté dont j'aimerais parler et qui représente, selon mon expérience, un obstacle au changement, c'est que nous avons affaire à différents ordres de gouvernement. Nous sommes donc toujours en train de changer de leadership ou d'orientation, qu'il s'agisse d'élections au sein des Premières Nations, ou aux niveaux provincial ou fédéral, et il y a un roulement constant dans l'orientation des politiques et les engagements. Il est donc très difficile de maintenir l'élan lorsque vous voulez effectuer de grands changements et véritablement changer la société. C'est l'une des forces de la démocratie, mais c'est aussi l'une de ses faiblesses. Ainsi, j'ai souvent dit que dans un mandat de quatre ans, il ne reste souvent que 18 mois de travail vraiment productif, car il y a tellement de roulement aux deux extrémités<sup>94</sup>.

Dans l'ensemble, les témoins qui ont comparu devant l'Enquête nationale ont fait état d'un manque de volonté et d'engagement au sein du système judiciaire, en grande partie à cause de la discrimination et du racisme continus dont font l'objet les peuples autochtones, et les femmes en particulier. Pour Marilyn W., l'expérience qu'elle a vécue en lien avec une erreur judiciaire survenue pendant le procès pour meurtre de l'homme accusé d'avoir tué sa sœur n'était qu'un autre exemple du racisme sous-jacent plus général que les Autochtones doivent affronter dans ce système.





J'étais assise dans la salle d'audience, et j'ai vu comment le procureur essayait d'argumenter sur le cas de ma sœur. J'ai vu comment le juge continuait à défendre celui qui l'a tuée, et je savais ... je savais que le juge allait ... Avant même d'entendre le résultat, je savais que le juge allait pencher en faveur de l'homme qui a assassiné ma sœur. Je le savais. Alors j'ai écouté l'homme qui a avoué l'avoir tuée. J'ai écouté l'enregistrement dans la salle d'audience. Je l'ai vu s'effondrer. Je l'ai vu pleurer et dire que oui, il l'avait tuée et qu'il lui avait enlevé la vie, et puis le juge a rejeté sa confession et l'a renvoyé, libre.

Comment cela peut-il se produire? Comment quelqu'un qui confesse avoir enlevé la vie à quelqu'un peut-il s'en sortir ainsi<sup>95</sup>?

Delores S. a elle aussi décrit cette attitude lorsqu'elle a fait état de son interaction avec le système judiciaire à la suite du décès d'une proche, Nadine, en 2015.

Les représentants des systèmes concernés ont tous répondu que la faute revenait à Nadine. Ils l'ont fait savoir par leur langage corporel, par les mots qu'ils ont employés et par leur attitude lorsqu'ils parlaient à la famille. Leur insensibilité devant la famille ... est à l'image de leur attitude et de leurs préjugés fermement ancrés<sup>96</sup>.

À la fin du procès, l'homme accusé du meurtre de sa sœur a été libéré pour une question de forme. Dans un tel contexte, il est facile de comprendre comment Marilyn et d'autres familles autochtones qui luttent pour obtenir justice peuvent se demander, comme elle le fait : « Où se trouve ma justice<sup>97</sup>? »



*L'équipe de l'Enquête nationale et les commissaires chantent Strong Woman à Calgary, en Alberta.*



# Le traumatisme, le manque d'accessibilité et la violence envers les femmes inuites

Au cours du processus de consignation de la vérité de l'Enquête nationale, bon nombre d'Inuits ont témoigné de la nécessité de faire participer la communauté entière à la guérison, notamment en prenant conscience du contexte social des hommes qui, selon des taux disproportionnellement élevés, ont assassiné des femmes inuites<sup>I</sup>. La Cour de justice du Nunavut (CJN)<sup>II</sup>, créée en 1999<sup>III</sup>, a entendu de nombreuses causes liées à cet enjeu. Parmi les onze cas que nous avons examinés, la majorité des causes entendues par la CJN et concernant l'assassinat de femmes inuites impliquait un uxoricide, c'est-à-dire le meurtre d'une épouse par son mari. Dans sept des onze cas examinés, les femmes avaient été tuées par leur conjoint de longue date. Six de ces cas suivent un modèle semblable : une relation accompagnée d'un long historique de toxicomanie et de violence qui se termine par la mort d'une femme<sup>IV</sup>.

Le traumatisme intergénérationnel et le manque de services gouvernementaux adéquats étaient des facteurs importants dans ces cas. Les décisions rendues après 2012<sup>V</sup> dans quatre des six cas indiquaient que le meurtrier avait subi des traumatismes dans sa petite enfance, y compris des expériences de violence et d'agression sexuelle, ou avait été exposé à ce type d'abus. Dans dix cas sur onze, l'auteur du crime avait depuis longtemps des problèmes de toxicomanie, ou était intoxiqué au moment de l'agression<sup>VI</sup>.

Les juges de la CJN se sont exprimés très clairement sur les causes des taux élevés de violence au Nunavut. Dans le cadre des jugements de première instance ou lors de la détermination des peines, ils ont expliqué à plusieurs reprises que ces problèmes résultent d'une combinaison de traumatisme colonial insurmonté et de services sociaux inadéquats pour traiter ce traumatisme.

« Au Nunavut, la fréquence des homicides entre conjoints ou au sein d'une famille est stupéfiante. Elle n'est surpassée que par la pénurie de

services gouvernementaux visant à corriger les conditions sous-jacentes de ce phénomène. »

– Juge Neil Sharkey (*R. v. Kinak*, NUCJ, 2011, *Transcription du paragraphe 61, lignes 9–14*).

« Ce qui freine réellement le processus [de diminution des taux de violence conjugale et d'homicide entre conjoints] est la pénurie constante de ressources disponibles au Nunavut pour endiguer le flot constant de traumatismes inondant ce tribunal avec une régularité révoltante. En dépit des nombreux appels lancés par ce tribunal et des promesses formulées par le gouvernement du Nunavut, il n'existe toujours pas de centre de traitement au Nunavut. Jusqu'à ce que ce problème soit réglé, ces sinistres statistiques verront peu d'amélioration. »

– Juge Earl Johnson (*R. V. VanEindhoven*, 2013, NUCJ 30, par. 72)

« Les options de traitement sont extrêmement limitées au Nunavut. Les sanctions communautaires se concluent souvent par un échec,





puisque les délinquants ne sont pas en mesure de corriger les problèmes qui les ont amenés à enfreindre la loi. La triste réalité est que sans traitement ou d'autres formes de sensibilisation au sein de la communauté, bon nombre des délinquants, même animés des meilleures intentions, n'arrivent pas à respecter les conditions exigées. Un dossier criminel de plus en plus lourd les amène donc à subir des périodes d'incarcération de plus en plus longues, jusqu'à leur détention par le système fédéral. »

– Juge Robert Kilpatrick (*R. v. VanEindhoven*, 2007, par. 18)

« Dix-sept ans après la séparation des Territoires du Nord-Ouest, il n'existe toujours pas de centre de soins en établissement au Nunavut. Les Nunavummiut qui devraient être dans un établissement de traitement sécurisé se retrouvent en prison. La poignée de Nunavummiut qui ont la chance de recevoir des traitements en établissement sont envoyés dans les régions du Sud. Encore une fois, ils se retrouvent donc dans un lieu où ils sont isolés et loin de chez eux. Les quelques intervenants de première ligne présents dans notre région disposent de très peu de ressources pour endiguer l'épidémie de victimes d'alcoolisme. Nous disposons en outre de peu de ressources pour aider nombre de voisins aux prises avec de réels problèmes de santé psychologique, comme l'ensemble des troubles causés par l'alcoolisation fœtale. Il est urgent et crucial de se pencher sur ces problèmes.

Au cours de ma vie, j'ai vu les Inuits expulsés de leurs terres. Plusieurs ont été déplacés par des autorités étrangères, certains de force, et relocalisés dans des communautés artificielles et isolées. Des enfants ont été extirpés de leur cellule familiale et envoyés au loin dans des pensionnats indiens. L'un des objectifs de ces écoles était l'extinction de leur culture et de leur langue. Les répercussions de cet héritage douloureux sont toujours présentes aujourd'hui. Des prédateurs sexuels comme Cloughley, De Jaeger et Horne ont persécuté un nombre considérable de membres d'une génération entière. Leurs victimes souffrent encore, tout comme leurs familles. Le monde des Inuits et leur mode de vie en ont été complètement bouleversés. La société inuite tente encore aujourd'hui de gérer ce traumatisme collectif. »

– Juge Paul Bychok (*R. v. Mikijuk*, 2017, par. 17–22)

Ces déclarations appuient bon nombre des preuves que nous avons entendues et nous éclairent considérablement quant à la nature de la guérison nécessaire au sein des communautés afin de faire baisser le taux élevé de violence interpersonnelle représentée par ces cas. Il est donc primordial de traiter les traumatismes intergénérationnels et multigénérationnels et de veiller à fournir les services essentiels, même dans les communautés éloignées, afin que les femmes, les filles et les personnes 2ELGBTQQIA inuites retrouvent enfin un sentiment de sécurité.





- I Voici un extrait des observations finales présentées par écrit par Pauktuutit, Anânaukatiget Tuminqit, Saturviit, The Ottawa Inuit Children's Centre et la Manitoba Inuit Association : [traduction] « Du fait du passage rapide d'une vie menée sur le territoire en petits groupes de familles à un mode de vie sédentaire dans un établissement permanent, de nombreux hommes inuits ont été laissés pour compte. La plupart d'entre eux ne peuvent plus se livrer à la chasse, à la pêche et au piégeage pour subvenir aux besoins de leur famille. Beaucoup se sentent coincés entre ces deux mondes et ont le sentiment que leurs habiletés « masculines » sont dévalorisées. Contrairement aux femmes et aux filles, les hommes inuits n'ont pas cherché à obtenir une éducation formelle ni à acquérir des compétences utiles pour le marché du travail du 21<sup>e</sup> siècle dans l'Inuit Nunangat. Pour calmer leur frustration et la douleur qu'elle provoque, ils ont trouvé refuge dans l'alcool et la drogue. Tantôt sans emploi, tantôt sous-employés, aux prises avec une dépendance à l'alcool et aux drogues et vivant dans des habitations surpeuplées, les hommes inuits ont été trop nombreux à soulager leur frustration en s'en prenant sexuellement à des enfants et/ou en adoptant des comportements violents envers leur partenaire de vie. Il s'agit d'un cocktail toxique. » Pauktuutit Inuit Women of Canada, Anânaukatiget Tuminqit, Saturviit, The Ottawa Inuit Children's Centre et Manitoba Inuit Association, partie 4, Observations finales écrites, p. 21.
- II La Cour de justice du Nunavut a été créée en 1999, au moment de la division des Territoires du Nord-Ouest qui a donné naissance au territoire du Nunavut. D'après une recherche effectuée dans les jugements publiés dans la base de données de CanLII, la Cour de justice du Nunavut s'est penchée sur 11 affaires de meurtre de femmes inuites. Il est possible que la Cour ait été saisie d'autres affaires liées au meurtre de femmes inuites, mais que ses décisions n'aient pas été publiées dans CanLII.
- III *R. c. Akittiq*, 2018; *R. c. Salomonie*, 2016; *R. c. VanEindhoven*, 2016; *R. c. Sateana*, 2016; *R. c. Kayaitok*, 2014; *R. c. Peter*, 2014; *R. c. Nowdlak*, 2012; *R. c. Kinak*, 2011; *R. c. Anablak*, 2008; *R. c. Ammaklak*, 2008; *R. c. Jeffery*, 2007.
- IV *R. c. VanEindhoven*, 2016; *R. c. Sateana*, 2016; *R. c. Kayaitok*, 2014; *R. c. Ammaklak*, 2008; *R. c. Anablak*, 2008; *R. c. Peter*, 2007.
- V Nous nous concentrons sur les affaires postérieures à l'arrêt rendu par la Cour suprême du Canada dans *R. c. Ipeelee*, parce que cette décision a ouvert la voie à une analyse plus approfondie des conditions de vie des peuples autochtones dans le cadre de la détermination de la peine.
- VI *R. c. Salomonie*, 2016; *R. c. VanEindhoven*, 2016; *R. c. Sateana*, 2016; *R. c. Kayaitok*, 2014.
- VII *R. c. Akittiq*, 2018; *R. c. Salomonie*, 2016; *R. c. VanEindhoven*, 2016; *R. c. Sateana*, 2016; *R. c. Kayaitok*, 2014; *R. c. Peter*, 2014; *R. c. Nowdlak*, 2012; *R. c. Ammaklak*, 2008; *R. c. Anablak*, 2008; *R. c. Jeffery*, 2007.



## Les facteurs favorisant la violence : le refus de reconnaître la capacité d’agir et l’expertise pour rétablir la justice

En racontant leur expérience du système de justice, les membres de famille et leurs proches ont partagé des histoires liées à leur capacité d’agir et de résister. En outre, dans le cadre des récits portant sur la justice vécue par les femmes autochtones, l’Enquête nationale a entendu comment ce déni de la capacité d’agir et de l’expertise de ces femmes en tant que protectrices, défenseuses et expertes contribuent aux violations du droit à la justice.

Pour qu’un changement réel se produise et pour que les excuses offertes par Brenda Lucki, commissaire de la GRC, et par d’autres personnes revêtent un sens<sup>98</sup>, il est clair pour les familles et les survivantes autochtones que ces paroles doivent être accompagnées d’actions. Ce changement commence par la reconnaissance de la valeur du regard que posent les femmes, des filles et des personnes 2ELGBTQQIA autochtones sur leur propre expérience de la justice. Comme Marilyn W. l’a mentionné :

En fin de compte ... et vous ne pouvez pas me raconter les choses différemment parce que je connais [les faits] et j’en ai été témoin. Je l’ai vécu. Vous ne pouvez pas me dire que ces femmes ne se font pas tuer et assassiner, alors que le gouvernement laisse ces choses se passer ... En tant que femmes, nous tirons notre force de la terre, de notre mère la Terre. Elle nous donne de la force, mais elle est malade et mourante, et notre peuple est également malade et mourant. Nous sommes les protecteurs de cette terre, et un grand nombre de nos habitants l’ont oublié parce qu’ils souffrent, et c’est à cause du système<sup>99</sup>.

### Prendre les familles au sérieux

Lorsqu’une femme, une fille ou une personne 2ELGBTQQIA autochtone est portée disparue, les vrais experts sont les personnes les plus proches d’elle. Cette vérité a été clairement établie à maintes reprises. En s’appuyant sur les connaissances des gens qui entourent la personne disparue, connaissances qui s’acquièrent grâce aux relations nouées entre eux, les membres de famille sont souvent les premiers à remarquer que quelque chose ne va pas, et ce sont eux qui détiennent les renseignements les plus précieux à cet égard. Toutefois, lorsque la police ou d’autres représentants du système de justice pénale ne reconnaissent pas ou ne respectent pas ces connaissances et ces idées, ils perdent des occasions exceptionnelles d’établir de bonnes relations. Même si ces relations ne suffiront probablement jamais à ramener une proche disparue, elles pourront au moins apporter un peu de paix d’esprit aux familles qui, pendant de nombreuses années, se demanderont sans cesse ce qu’elles auraient pu faire, s’il aurait pu en être autrement.

Comme nous l’avons entendu dans les témoignages, les membres de familles et les proches des victimes « savent » lorsque quelque chose a mal tourné. Qu’il s’agisse d’un « mauvais pressentiment<sup>100</sup> » décrit par de nombreuses mères en parlant du moment où leur enfant a disparu, ou des « pièces du casse-tête<sup>101</sup> » que détiennent les femmes autochtones qui vivent dans la rue ou travaillent dans l’industrie du sexe lorsqu’il est question de leurs sœurs et familles du





cœur, les femmes, les filles et les personnes 2ELGBTQQIA autochtones savent reconnaître qu'un événement violent s'est produit. Il faut admettre la valeur et l'importance de cette information essentielle, transmise à la police, dans bien des cas, en dépit des difficultés.

Selon témoignages entendus dans le cadre de l'Enquête nationale, lorsque des renseignements de cette nature sont présentés à la police – souvent durant la période cruciale qui suit immédiatement une disparition et pendant laquelle il est peut-être encore temps d'intervenir – on les écarte, on les ignore ou, dans la plupart des cas, on les interprète à travers un prisme de croyances et de stéréotypes racistes et sexistes au sujet des Autochtones en général. Ces stéréotypes deviennent des œillères qui entravent l'enquête et nuisent fondamentalement à la relation entre les familles des personnes disparues et assassinées et la police.

« EN FIN DE COMPTE ... ET VOUS NE POUVEZ PAS ME RACONTER LES CHOSES DIFFÉREMENT PARCE QUE JE CONNAIS [LES FAITS] ET J'EN AI ÉTÉ TÉMOIN. VOUS NE POUVEZ PAS ME DIRE QUE CES FEMMES NE SE FONT PAS TUER ET ASSASSINER, ALORS QUE LE GOUVERNEMENT LAISSE CES CHOSES SE PASSER ... EN TANT QUE FEMMES, NOUS TIRONS NOTRE FORCE DE LA TERRE, DE NOTRE MÈRE LA TERRE. ELLE NOUS DONNE DE LA FORCE, MAIS ELLE EST MALADE ET MOURANTE, ET NOTRE PEUPLE EST ÉGALEMENT MALADE ET MOURANT. NOUS SOMMES LES PROTECTEURS DE CETTE TERRE, ET UN GRAND NOMBRE DE NOS HABITANTS L'ONT OUBLIÉ PARCE QU'ILS SOUFFRENT, ET C'EST À CAUSE DU SYSTÈME. »

Marilyn W.

### « Chaque jour, je cherchais » : à la recherche de proches

En écoutant les familles parler du stress et de la douleur qui accompagnent le processus de recherche, on réalise le fardeau émotionnel supplémentaire qu'elles subissent lorsque la police n'entretient pas une relation d'aide avec elles. Comme Pamela F. l'a expliqué :

Nous cherchions jusqu'au lever du soleil. Nous ne dormions que quelques heures et nous nous levions pour chercher encore. C'était ça, mes journées. Je cherchais chaque jour. Je cherchais chaque nuit. Si je pouvais rester éveillée durant la journée, j'allais jeter un coup d'œil, mais on cherchait toute la nuit<sup>102</sup>.

Wilfred a mentionné les conséquences émotionnelles de leur fouille : « Une fois, elle [Bernice] se trouvait dans un buisson et je l'ai entendue pleurer. J'ai pensé qu'elle avait trouvé Jen, et je me suis mis à courir sans m'arrêter, mais elle s'était juste effondrée. Tout ce que je pouvais faire, c'était de la serrer dans mes bras et de lui dire qu'on allait la trouver<sup>103</sup>. »

Pour de nombreuses familles, cette recherche de réponses et, en fin de compte, de justice commence par une recherche physique de la proche disparue ou assassinée. Il s'agit d'un processus éprouvant sur les plans psychologique et physique qui souvent pèse lourd sur les familles et les membres de la communauté en raison de la réticence ou de l'incapacité de la police à intervenir<sup>104</sup>.





Ainsi, lorsque Pamela F. a voulu signaler la disparition de sa fille de 16 ans aux policiers, mais que ceux-ci l'ont ignorée, elle s'est tournée vers sa communauté. Les membres de celle-ci les ont aidés, elle et son mari, Fred, à entreprendre des recherches sur le terrain pour retrouver Hilary. Comme elle l'a expliqué dans son témoignage, la police n'a pas voulu l'aider à chercher sa fille, mais sa communauté l'a fait : « De gros groupes se sont lancés à sa recherche. Ils ont littéralement défoncé des portes. Je serai toujours très reconnaissante envers les membres de ma communauté pour ce qu'ils ont fait. Ils la cherchaient et la police, malgré tout, ne faisait rien<sup>105</sup>. » Une fois de plus, c'est seulement après que les recherches dans la communauté ont été bien amorcées et que Pamela s'est adressée aux médias que la police est intervenue pour aider. Pamela a félicité certains agents pour leur soutien, mais les éloges qu'elle a reçus d'un agent pour s'être adressée aux médias afin de demander des comptes à la police témoignent d'un précédent troublant et du statu quo, synonyme d'inaction, qui prévaut lorsqu'il s'agit de prendre au sérieux la disparition de filles autochtones.

Pour Bernice et Wilfred, le manque de soutien de la part de la police et de leur propre communauté a fait qu'ils se sont retrouvés complètement seuls à initier la recherche de leur fille, ce qu'ils continuent d'ailleurs de faire aujourd'hui. Ils doivent prendre des mesures extrêmes pour attirer l'attention de la police. À un moment donné, ils ont même apporté au bureau du détachement des os humains découverts lors de leur fouille<sup>106</sup>.

Nous avons trouvé ces restes d'os, nous les avons pris et nous sommes allés au détachement de la GRC. J'ai dit : « Venez voir. Nous avons trouvé quelque chose. Nous avons trouvé des os, ce qui a l'air d'être un corps. » Le policier ne nous a même pas crus. Il n'a même pas voulu venir voir. Je suis donc retourné dans la zone et j'ai pris un morceau du genou, car il y avait un peu de cartilage à l'intérieur. Peut-être y avait-il de l'ADN ou quelque chose du genre là-dedans. Je l'ai pris, je l'ai mis dans un sac et je le leur ai apporté. Ce n'est qu'après que je leur ai montré ça en personne qu'ils ont agi. C'était un peu n'importe quoi<sup>107</sup>.

La déchirante quête qu'ils mènent depuis dix ans pour retrouver leur fille Jennifer se poursuit aujourd'hui. Comme nous l'avons mentionné au début du présent chapitre, ils ont interrompu leurs recherches pour participer à l'Enquête nationale dans l'espoir de sensibiliser la population à son sujet.

Les allées et venues de nombreuses femmes autochtones étaient peut-être inconnues des membres de leur famille au moment de leur disparition. C'est le cas par exemple des femmes qui ont été retirées ou coupées de leur famille du fait des pensionnats indiens ou à cause des services de protection de l'enfance. Pourtant, ce sont souvent les personnes les plus proches qui ont lancé une recherche pour retrouver leurs sœurs disparues. Des enquêtes antérieures sur la réaction des forces de l'ordre à la disparition de femmes autochtones vivant dans la rue ou travaillant dans l'industrie du sexe au moment de leur disparition ont révélé le peu d'empressement des policiers pour les chercher<sup>108</sup>.



« NOUS AVONS EFFECTUÉ DES RECHERCHES APPROFONDIES DANS LA NEIGE. LA TEMPÉRATURE ET LA NEIGE NOUS ONT FORCÉS À CESSER NOS FOUILLES. NOUS AVONS CHERCHÉ PENDANT PLUS DE DEUX MOIS, TOUS LES JOURS. AU DÉBUT, NOUS POUVIONS COMPTER SUR UNE ÉNORME ÉQUIPE, MAIS LES GENS ONT UNE VIE, UN EMPLOI ET D'AUTRES RESPONSABILITÉS, ET L'ÉQUIPE DE RECHERCHE EST DEVENUE DE PLUS EN PLUS PETITE. MAIS NOUS AVONS CONTINUÉ MALGRÉ TOUT. »

**TOM C.**

Dans le cadre des recherches effectuées par la famille ou la communauté, les membres de famille ont raconté que c'est à eux qu'il incombait de créer, d'imprimer et de distribuer des affiches de la personne disparue. Ils devaient aussi se rendre à des endroits que leur proche avait peut-être visités, suivre des indices et effectuer des recherches approfondies dans les champs, les forêts et les lacs, dans les ruelles et les chemins de terre, sous les ponts et même dans des dépotoirs<sup>109</sup>. Comme Bernice l'a fait remarquer, « c'est la pire chose qui puisse arriver à un parent ou à qui que ce soit d'essayer de trouver son enfant dans un dépotoir où ça pue, parce qu'il y a des peaux d'animaux et plein d'autres trucs<sup>110</sup> ».

Marilyn W. décrit les efforts qu'elle a déployés.

Nous avons amorcé notre recherche. Nous avons commencé par accrocher des affiches, puis nous nous sommes mis à regarder partout. Nous avons tenté d'obtenir de l'aide, ma famille s'est réunie, et il y avait un policier ... un policier qui était affecté à l'affaire. Il s'en foutait et on s'est disputés. J'étais affolée et j'étais totalement désespérée, et je ne sais même pas s'il essayait de chercher. Je cherchais et cherchais, et puis des mois après avoir appelé à répétition, après avoir essayé de la trouver, après m'être mise en danger en cherchant par moi-même, en accrochant des affiches et en voyageant, finalement, il est parti ... en vacances et il ne me l'a même pas dit. Il ne m'a pas dit où en étaient les choses. Il n'y avait aucune communication entre nous<sup>111</sup>.

Lorsque les familles et les membres de la communauté sont forcés d'initier et d'organiser les recherches pour retrouver leurs proches disparues, ils le font habituellement à leurs propres frais, ce qui représente un fardeau économique pour les familles qui ont souvent déjà de la difficulté à payer les factures. Dans son témoignage, Tom C. a expliqué que les membres de la communauté n'ont pu aider aux recherches concernant sa fille que pendant un certain temps à cause de leurs réalités économiques :

Nous avons effectué des recherches approfondies dans la neige. La température et la neige nous ont forcés à cesser nos fouilles. Nous avons cherché pendant plus de deux mois, tous les jours. Au début, nous pouvions compter sur une énorme équipe, mais les gens ont une vie, un emploi et d'autres responsabilités, et l'équipe de recherche est devenue de plus en plus petite. Mais nous avons continué malgré tout<sup>112</sup>.



Dans son témoignage, Fred F. a décrit les répercussions économiques de sa participation à la recherche de sa fille, Hilary, sur lui et sa famille.

Je suis serrurier et travailleur autonome depuis 30 ans maintenant. Je possède une entreprise dont je suis l'unique propriétaire, alors je suis sans doute le seul pourvoyeur de la famille. C'est ainsi que je me vois. Je sais que je ne le suis pas vraiment, que Pam l'est aussi, mais je prends cette responsabilité très au sérieux. J'ai probablement consacré un mois aux recherches et j'ai manqué d'argent. J'étais fauché. Des gens me donnaient de l'argent pour que je mette de l'essence dans mon camion et on se rendait dans une certaine maison pour se nourrir. On se levait entre 10 h et 11 h du matin et on commençait à chercher jusqu'à 6 h le lendemain matin. On n'arrêtait pas<sup>113</sup>.

La nécessité de se voir offrir un soutien financier afin de pouvoir participer à la recherche de leur proche disparue sans s'inquiéter d'avoir suffisamment d'argent pour payer les factures comptait parmi les recommandations que les familles ont faites aux commissaires<sup>114</sup>.

Bien que cela puisse certainement alléger le fardeau immédiat des familles à la recherche d'une proche disparue, les récits soulignent aussi clairement la nécessité d'un changement systémique afin d'assurer aux familles et aux communautés un accès immédiat à des services de recherche et de sauvetage équivalents à ceux offerts aux non-Autochtones dans toutes les régions.

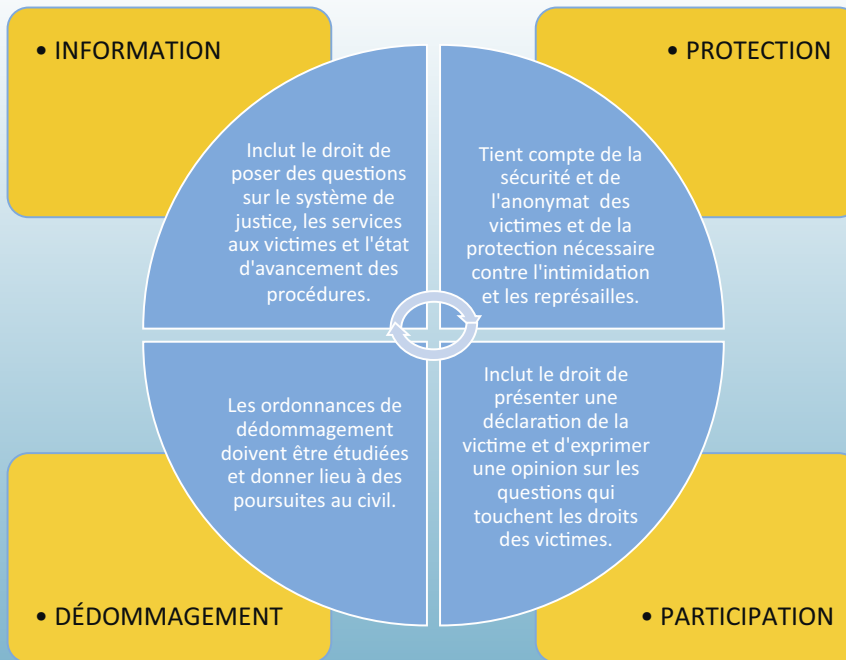
## **L'autodétermination des services et des mesures de soutien**

Partout au Canada, les victimes d'actes criminels et leur famille disposent du droit à la protection et à l'information en vertu d'une loi adoptée en 2015. Celle-ci, la *Charte canadienne des droits des victimes*, énonce les principes ou droits qui doivent être protégés lorsque des Canadiens et leur famille sont victimes d'actes criminels. Au-delà de cette loi, cependant, et dans le contexte de leurs témoignages, de nombreux membres de famille et proches ont proposé des solutions qui existent déjà ou qui doivent être adaptées aux besoins des communautés autochtones afin de promouvoir la guérison et de favoriser de meilleures relations entre les Autochtones et les organismes d'application de la loi. L'expérience de ces familles fait ressortir des problèmes et des lacunes dans les relations entre les victimes autochtones et leur famille, d'une part, et le système de justice pénale, d'autre part, notamment les programmes, les services, les fonds et les lois. Les Gardiens du savoir et les témoins experts en ont fait état au cours des audiences de représentants des institutions et d'experts de l'Enquête nationale.





## CHARTRE CANADIENNE DES DROITS DES VICTIMES



Adoptée le 23 juillet 2015, la Charte canadienne des droits des victimes affirme les quatre droits principaux des victimes : l'information, la protection, la participation et le dédommagement. Ceux-ci sont établis dans le cadre des diverses étapes du système de justice pénale, notamment l'enquête, le procès, la détermination de la peine, le système correctionnel fédéral et la remise en liberté conditionnelle.

## Loi sur la Charte canadienne des droits des victimes

CONTINUUM DE LA JUSTICE PÉNALE

DROITS DES VICTIMES



© Sa Majesté la Reine du Chef du Canada, 2015  
N° de cat : PS18-22/2015F-PDF  
ISSN : 978-0-660-23044-3



Dans leur témoignage, le chef Danny Smyth et Diane Redsky, de Winnipeg, ont présenté un « modèle qui met l'accent sur des services communautaires axés sur la collaboration, dirigés par les Autochtones et appuyés par la police<sup>115</sup> ». Ce modèle repose sur la reconnaissance de l'expertise des femmes autochtones et des organisations de femmes dirigées par des Autochtones. Il vise l'établissement de communautés sûres et la promotion d'un nouveau modèle de justice ancré dans un engagement à créer des relations aptes à contrer les obstacles structurels qui continuent de poser des risques pour les femmes autochtones et qui permettent la poursuite de la violence. Le chef Danny Smyth a partagé l'observation suivante :

Je parle souvent de l'engagement communautaire et de notre partenariat avec des groupes comme le Winnipeg Outreach Network et la Sexually Exploited Youth Coalition. Des femmes fortes, des dirigeantes comme Leslie Spillett et Diane Redsky, et des élues comme les députées provinciales Nahani Fontaine et Bernadette Smith dirigent ces groupes. Il y a encore tant d'autres femmes qui travaillent sans relâche dans notre communauté.

C'est le genre d'engagement communautaire que je considère comme important. Le partenariat avec des groupes comme celui-ci constitue l'essence même de la prévention du crime par le développement social. Ces efforts dirigés par les Autochtones aideront à surmonter les obstacles sociaux qui peuvent causer du tort si on ne les élimine pas. Je suis déterminé à travailler en partenariat avec des fournisseurs de services dirigés par des Autochtones comme Ma Mawi, Ndinawe et Ka Na Kanichihk. Dans la mesure du possible, je m'engage également à utiliser ma voix pour valider leurs efforts et donner plus de crédibilité à leurs programmes<sup>116</sup>.

Une autre initiative importante consiste à créer une force de maintien de l'ordre qui reflète les besoins de la communauté. Selon le chef Danny Smyth, il s'agit pour le Service de police de Winnipeg de recruter des agents et des employés autochtones, d'établir des relations avec les fournisseurs de services autochtones et de veiller à offrir aux policiers de la formation et des activités de sensibilisation. L'objectif est qu'ils « comprennent le traumatisme générationnel infligé aux Autochtones par la colonisation, le système des pensionnats indiens et les Services à l'enfance et à la famille imposés par le gouvernement ». Le chef Smyth se fait l'écho des défenseurs des droits des Autochtones au sujet de l'importance que ces derniers assument des rôles de leadership tant au sein de la police que dans la communauté<sup>117</sup>. Dans son témoignage, il a donné des exemples concrets de la façon dont cet engagement à changer les relations se reflète dans les structures, les politiques et les actions des forces policières lorsqu'elles interagissent avec les personnes travaillant dans l'industrie du sexe et celles qui sont vulnérables à l'égard de la traite des personnes.



Le premier est la création d'une équipe de lutte contre l'exploitation, dont le but est d'établir des relations plutôt que d'appliquer la loi. Comme il l'explique :

Cette équipe spéciale se rend sur le terrain pour essayer d'établir des liens avec les personnes qu'elle rencontre dans la communauté. Ses membres ne participent à aucune activité d'application de la loi, ils sont là uniquement pour essayer de comprendre ce qui se passe dans la communauté, établir des relations lorsque c'est possible, et sensibiliser les gens aux ressources à leur disposition<sup>118</sup>.

Le fait de mettre l'accent sur la compréhension et sur l'établissement de relations représente un changement notable par rapport aux nombreuses histoires et recherches antérieures décrivant la présomption de criminalité qui teinte les interactions entre la police et les femmes autochtones.

Comme deuxième exemple, le chef Danny Smyth a parlé d'améliorer la documentation des informations relatives à ces rencontres qui reposent sur l'établissement de relations.

Lorsque nous avons commencé plus sérieusement à faire de la sensibilisation et à soutenir celles qui travaillent dans l'industrie du sexe (les personnes exploitées), nous avons dû trouver une façon différente de consigner une partie de ce travail. L'acronyme PCDS signifie « prévention du crime par le développement social ». En fait, ce que nous demandions à nos unités, principalement à nos équipes de lutte contre l'exploitation, c'était de consigner l'information concernant les contacts qu'ils effectuent sur le terrain sous cette catégorie particulière, soit la PCDS. Ça peut être pour plein de choses, par exemple une conversation informelle pour aider quelqu'un à se rendre dans un endroit sécuritaire, un rendez-vous médical ou un accompagnement à la maison<sup>119</sup>.

Troisièmement, les services de police appuient leurs activités et permettent que des organisations de femmes autochtones orientent leur travail et leur approche. Ma Mawi Wi Chi Itata, par exemple, offre divers services récréatifs et des services sociaux liés à l'exploitation sexuelle, alors que H.O.M.E., ou Hands of Mother Earth, est un centre de guérison situé à l'extérieur de Winnipeg où les jeunes et les adultes qui ont été victimes de traite des personnes ou d'exploitation sexuelle peuvent trouver refuge et entreprendre un travail de guérison. En participant à la Sexually Exploited Youth Community Coalition, un réseau qui travaille en collaboration pour lutter contre l'exploitation sexuelle à Winnipeg, la police crée également des partenariats plus officiels avec des organismes, des membres des communautés et des personnes ayant vécu l'expérience. En faisant partie de cette coalition, on démontre son engagement et sa reconnaissance à l'égard des connaissances et de l'expertise des femmes autochtones dans la promotion de la sécurité. « Au cours des dernières années, nous avons été invitées dans le groupe afin d'échanger de l'information et des ressources. Les membres sont en mesure de nous faire part de leurs préoccupations et de renseignements à l'égard d'activités douteuses et nous pouvons à notre tour leur communiquer de l'information<sup>120</sup>. »





L'existence de relations axées sur la collaboration entre la police et les organisations communautaires autochtones ainsi qu'une approche policière favorisant la protection plutôt que la criminalisation permettent de soutenir de nombreux jeunes et femmes autochtones qui quittent le Nord pour s'installer à Winnipeg et qui s'exposent à un risque accru de violence ou d'exploitation. Le chef Danny Smyth a donné un exemple à ce sujet :

Je me souviens très bien d'une jeune mère qui avait quitté une communauté éloignée du Nord pour se réinstaller. Elle éprouvait des difficultés lorsqu'elle est arrivée ici. Elle était seule avec sa jeune fille et, surtout, elle n'arrivait pas à payer le loyer. Elle était désespérée et commençait à travailler dans la rue. Certains de nos agents de soutien communautaire l'ont croisée et ont inévitablement pris conscience de sa situation. Ils ont réussi à la soustraire au travail de rue et à la mettre en contact avec Eagle Transition [Eagle Urban Transition est un organisme qui fournit un logement et du soutien aux personnes qui quittent une communauté éloignée pour s'installer à Winnipeg]. Ils l'ont littéralement amenée à son rendez-vous et l'ont vraiment empêchée de se retrouver dans la rue dans une situation risquée. Ils l'ont aidée à obtenir une subvention pour son loyer afin qu'elle puisse demeurer à Winnipeg. Ils offrent un service incroyable à notre communauté parce qu'il y a beaucoup de gens qui viennent à Winnipeg et dans des endroits comme Brandon<sup>121</sup>.

## Les instruments internationaux des droits de la personne et les principes de justice

Comme l'a démontré la discussion préliminaire sur la justice dans le présent chapitre, l'accès à la justice constitue un principe fondamental de la primauté du droit. En droit international des droits de la personne, et en vertu de divers instruments des droits de la personne, les personnes ont droit à la protection contre les crimes violents. Elles ont également droit à la justice lorsqu'elles sont victimes de crimes de ce genre. De plus, sans le droit à la justice, les personnes ne peuvent pas être entendues, exercer leurs droits, contester la discrimination ou demander des comptes à l'État. Le droit à la justice comprend des dispositions relatives à ce que l'on appelle des « recours utiles ». Il est inscrit dans toute convention ou tout pacte qui traite de « recours utiles ». Ceux-ci représentent les solutions vers lesquelles les personnes peuvent se tourner lorsqu'elles cherchent à résoudre un problème.

De plus, le Canada a le devoir de faire preuve de diligence raisonnable, c'est-à-dire de « prendre toutes les mesures appropriées pour prévenir la violence faite aux femmes, enquêter sur celle-ci, punir les auteurs et indemniser les victimes. La responsabilité de l'État peut découler des mesures directes prises par le Canada, mais elle survient aussi lorsque le Canada n'agit pas pour protéger et promouvoir ces droits<sup>122</sup> ».



Le Programme des Nations Unies pour le développement définit un certain nombre de principes d'action importants en matière d'accès à la justice, notamment :

- des politiques et des programmes qui mettent l'accent sur les personnes défavorisées et, dans les cas qui nous occupent, sur celles qui sont victimes de violence;
- le renforcement des capacités en matière d'accès à la justice qui s'appuie sur les forces et les solutions existantes, ce qui sous-tend de reconnaître ce qui existe déjà en ce qui concerne la capacité d'agir et l'expertise;
- des réformes efficaces ancrées dans une approche intégrée, notamment la protection des droits, et l'amélioration des capacités institutionnelles à fournir des recours utiles;
- dans les pays coloniaux, dont les traditions juridiques sont issues d'un passé colonial, l'importance de mettre l'accent sur la détermination et la résolution de problèmes, plutôt que sur l'imitation de modèles, dans le cadre d'un processus axé sur la participation<sup>123</sup>.

Le Cadre international des droits de la personne comprend des instruments importants qui servent à appuyer bon nombre des priorités que les familles et les survivants ont relevées. Il comporte, entre autres, les suivants.

La *Convention internationale sur l'élimination de toutes les formes de discrimination raciale* stipule que chacun peut se prévaloir du droit à « une protection et une voie de recours effectives, devant les tribunaux nationaux et autres organismes d'Etat compétents,», et que toute personne jouit du droit d'obtenir « satisfaction ou réparation juste et adéquate pour tout dommage dont elle pourrait être victime par suite d'une telle discrimination » (article 6). En d'autres termes, les Autochtones devraient pouvoir obtenir justice au sein du système juridique du Canada; s'ils ne l'obtiennent pas, et ce, parce qu'ils sont Autochtones, ils pourraient demander une indemnisation.

Le *Pacte international relatif aux droits civils et politiques* traite également du droit à la justice à l'article 9, qui stipule que chaque personne a droit à la liberté et à la sécurité et que nul ne peut faire l'objet d'une arrestation ou d'une détention arbitraire. En outre, l'article 14 stipule que tous sont égaux devant les tribunaux et les cours de justice et, à l'article 26, le *Pacte* soutient également que toutes les personnes sont égales devant la loi. À cet égard, la loi doit interdire toute discrimination, notamment « de race, de couleur, de sexe, de langue, de religion, d'opinion politique et de toute autre opinion, d'origine nationale ou sociale, de fortune, de naissance ou de toute autre situation ».

La *Convention sur l'élimination de toutes les formes de discrimination à l'égard des femmes* fait entrer en jeu les droits des femmes à la justice, faisant valoir que les États partis doivent prendre des mesures pour garantir que les femmes puissent jouir de tous leurs droits, notamment le droit à la justice à l'égard des femmes victimes de la traite ou de l'exploitation (article 6).



La *Convention relative aux droits de l'enfant* des Nations Unies vise les enfants dans le contexte de la justice, notamment les filles et les jeunes 2ELGBTQQIA autochtones, définis comme des « enfants » au sens de la *Convention*. Elle soutient que les droits des enfants victimes doivent être protégés tout au long du processus de justice pénale, notamment en reconnaissant la vulnérabilité des enfants et en adaptant les procédures pour répondre à leurs besoins, ainsi qu'en veillant à ce que les enfants comprennent leurs droits, expriment leurs points de vue, reçoivent du soutien et soient protégés.



*L'activiste Lakota et enseignante Leah Gazan demande au Canada d'adopter et de mettre en œuvre la Déclaration des Nations Unies sur les droits des peuples autochtones. Mention de source : Ben Powerless.*





## CONVENTIONS CLÉS : DROIT À LA JUSTICE

L'Enquête nationale considère que les conventions en matière de génocide sont essentielles pour lutter contre toute violation des droits de la personne ou des droits des Autochtones. Dans le domaine de la justice, ces violations se rapportent précisément à l'article II : (a) meurtre de membres du groupe, (b) atteinte grave à l'intégrité physique ou mentale de membres du groupe et (c) soumission intentionnelle du groupe à des conditions de vie devant entraîner sa destruction physique totale ou partielle.

À titre de référence, l'article II de la *Convention pour la prévention et la répression du crime de génocide*, lequel fournit une définition de génocide qui se traduit par « l'un quelconque des actes ci-après, commis dans l'intention de détruire, ou tout ou en partie, un groupe national, ethnique, racial ou religieux, comme tel :

- a) Meurtre de membres du groupe;
- b) Atteinte grave à l'intégrité physique ou mentale de membres du groupe;
- c) Soumission intentionnelle du groupe à des conditions de vie devant entraîner sa destruction physique totale ou partielle;
- d) Mesures visant à entraver les naissances au sein du groupe;
- e) Transfert forcé d'enfants du groupe vers un autre groupe. »

**PIDESC :**  
- établit que la libération de la crainte et de la misère, comme le définit la DUDH, ne peut être réalisée que si des conditions permettant à chacun de jouir de ses droits économiques, sociaux et culturels, aussi bien que de ses droits civils et politiques, sont créées  
- égalité des droits entre les hommes et les femmes

**PIDCP :**  
- déclare que toutes les personnes doivent être égales devant les tribunaux et les cours de justice  
- comprend le droit de toute personne à ce que sa cause soit entendue équitablement et publiquement par un tribunal compétent, indépendant et impartial

**CEDAW :**  
- les États doivent prendre toutes les mesures appropriées pour supprimer, sous toutes leurs formes, la traite et l'exploitation des femmes  
- les États acceptent, par le truchement des tribunaux et d'autres institutions, d'assurer la protection effective des femmes

**CIETFDR :**  
- toute personne a le droit à une protection et à une voie de recours effectives, devant les institutions compétentes, contre tous actes de discrimination raciale qui violent ses droits individuels et ses libertés fondamentales  
- comprend le droit de demander une réparation pour tout dommage

**CDE :**  
- les États parties doivent chercher à prévenir les mauvais traitements et l'exploitation et à assurer la protection des droits de l'enfant à toutes les procédures du système de justice pénale  
- les États doivent prendre les mesures pour s'assurer que les intervenants auprès des enfants victimes soient formés adéquatement

PIDESC : Pacte international relatif aux droits économiques, sociaux et culturels

PIDCP : Pacte international relatif aux droits civils et politiques

CEDAW : Convention sur l'élimination de toutes les formes de discrimination à l'égard des femmes

CIETFDR : Convention internationale sur l'élimination de toutes les formes de discrimination raciale

CDE : Convention relative aux droits de l'enfant



## DÉCLARATIONS CLÉS : DROIT À LA JUSTICE

### DEVEF :

- les femmes qui ont subi de la violence ont le droit d'avoir accès aux mécanismes de la justice et à des réparations justes et efficaces en lien avec le préjudice subi
- les États doivent également informer les femmes de leur droit à obtenir réparation par la voie de ces mécanismes

### DNUDPA :

- affirme que « toutes les doctrines, politiques et pratiques qui invoquent ou prônent la supériorité de peuples ou d'individus en se fondant sur des différences d'ordre national, racial, religieux, ethnique ou culturel sont racistes, scientifiquement fausses, juridiquement sans valeur, moralement condamnables et socialement injustes »
- les institutions politiques, juridiques, économiques, sociales et culturelles distinctes peuvent inclure ceux et celles qui sont préoccupés par la justice

### DPAV :

- les gouvernements doivent sensibiliser davantage leur population aux droits de la personne et à la tolérance mutuelle, notamment chez la police, l'armée et les responsables de l'application de la loi
- les États doivent offrir des recours efficaces dans les cas de violation des droits de la personne et de griefs à cet égard
- il est essentiel à la démocratie et au développement de disposer d'un système de justice fonctionnel et financé suffisamment

### BEIJING :

- affirme que l'égalité entre les femmes et les hommes est une question de droits de la personne et une condition de la justice sociale
- reconnaît que les femmes peuvent être vulnérables à la violence perpétrée par les personnes en position d'autorité, comme les responsables de l'application de la loi
- réclame davantage de formation pour tous les responsables des lois en matière de droits humanitaires et de la personne et l'imposition d'une peine aux coupables d'actes de violence à l'égard des femmes, y compris aux responsables des prisons et aux membres des forces de sécurité

DEVEF : Déclaration sur l'élimination de la violence à l'égard des femmes

DNUDPA : Déclaration des Nations Unies sur les droits des peuples autochtones

DPAV : Déclaration et programme d'action de Vienne

Beijing : Déclaration de Beijing



## Conclusion : réinventer la relation

Tout au long des travaux de l'Enquête nationale, les relations ont été le thème sur lequel les témoins ont le plus insisté. Elles doivent être le point de départ de tout changement dans les politiques, les services et les mesures de soutien visant à rétablir la justice pour les femmes, les filles, les personnes 2ELGBTQQIA autochtones et leurs familles.

« LA RELATION ÉTAIT TOTALEMENT DIFFÉRENTE. AU DÉBUT, J'ÉTAIS TRÈS DÉÇUE DE LA POLICE PARCE QU'ELLE N'A PAS RÉAGI AUSSI VITE QUE NÉCESSAIRE. MAIS À LA FIN, J'EN SUIS VENUE À AIMER QUELQUES-UNS D'ENTRE EUX COMME S'ILS FAISAIENT PARTIE DE MA PROPRE FAMILLE ... IL Y EN AVAIT TELLEMENT, À LA FIN, QUE MES SENTIMENTS AVAIENT TOTALEMENT CHANGÉ PAR RAPPORT À EUX. JE SENTAIS QUE CERTAINS D'ENTRE EUX SUIVAIENT LA ROUTE AVEC MOI ET, À LA FIN, J'AI SENTI QU'UN LIEN S'ÉTAIT CRÉÉ ENTRE NOUS. PAS AU DÉBUT, MAIS À LA FIN, JE POUVAIS CONSTATER QUE QUELQUES-UNS Y METTAIENT LEUR CŒUR. »

Pamela F.

En faisant état de son travail au sein du Comité de partenariat provincial sur les personnes disparues avec le gouvernement de la Saskatchewan, Betty Ann Pottruff a parlé de la nécessité d'établir des relations de confiance. Il s'agit d'une étape fondamentale pour protéger et faire régner la justice dans la vie des femmes, des filles, des personnes 2ELGBTQQIA autochtones et de leurs familles.

Je pense qu'on l'a mentionné plus tôt aujourd'hui, l'un des principaux enjeux auxquels vous devez faire face dans un travail comme celui-ci est d'établir la confiance. Si vous n'établissez pas un lien de confiance et si vous ne vous concentrez pas sur les relations, il sera beaucoup plus difficile pour vous de réussir. Les gens doivent se sentir dans un environnement sûr où ils peuvent dire ce qu'ils souhaitent effectivement dire, même si ça peut être difficile à entendre. Vous devez vous sentir en sécurité avec les personnes avec qui vous traitez, et vous devez comprendre que votre point de vue sera respecté, que vous serez écouté, que chaque membre a la même valeur. Tout le monde doit être respecté et traité sur un pied d'égalité<sup>124</sup>.

Témoignant en tant que mère d'une personne disparue, Pam F. a expliqué comment elle a établi des relations avec les agents qui se sont finalement investis dans la recherche de sa fille.

La relation était totalement différente. Au début, j'étais très déçue de la police parce qu'elle n'a pas réagi aussi vite que nécessaire. Mais à la fin, j'en suis venue à aimer quelques-uns d'entre eux comme s'ils faisaient partie de ma propre famille ... Il y en avait tellement, à la fin, que mes sentiments avaient totalement changé par rapport à eux. Je sentais que certains d'entre eux suivaient la route avec moi et, à la fin, j'ai senti qu'un lien s'était créé entre nous. Pas au début, mais à la fin, je pouvais constater que quelques-uns y mettaient leur cœur<sup>125</sup>.





Comme les témoignages le démontrent dans ces exemples de relation positive, les services de police qui participent de concert avec les familles et les communautés autochtones à l'organisation et au soutien des recherches de femmes disparues jouissent d'une position de force qui peut influencer la guérison ou, à l'inverse, parfois causer des préjudices supplémentaires, et ce, peu importe le résultat des recherches.

Dans le présent chapitre, nous avons documenté les obstacles importants à la justice, dont ceux qui sont enracinés dans le traumatisme intergénérationnel, la marginalisation sociale et économique, le manque de volonté politique et institutionnelle, et le défaut de reconnaître la capacité d'agir et l'expertise des femmes, des filles, des personnes 2ELGBTQQIA autochtones et de leurs familles. Dans le cadre des droits autochtones et des droits de la personne, ces rencontres mettent en évidence un manque crucial d'échanges entre les peuples autochtones et les systèmes de justice, qui compromet le droit fondamental à la justice. Nous avons également examiné différentes solutions, à la fois fondées sur les droits de la personne et dirigées par des Autochtones, pour faire valoir que la justice pour ces victimes et la prévention de la violence pour l'avenir reposent sur une réorientation fondamentale des relations entre les femmes, les filles et les personnes 2ELGBTQQIA autochtones, la société et les institutions conçues pour protéger.



## Conclusions : le droit à la justice

- Le système de justice canadien est fondé sur les valeurs, sur les croyances, sur le droit et sur les politiques d'une société coloniale. Il a été imposé aux Autochtones. Il n'inclut pas les concepts de justice autochtones; il a opprimé et remplacé les systèmes de justice autochtones qui ont servi adéquatement les communautés autochtones depuis des temps immémoriaux.
- Le gouvernement du Canada s'est servi de la Gendarmerie royale du Canada (GRC) et du corps qui la précédait, la Police à cheval du Nord-Ouest, afin de mettre en œuvre et de renforcer des lois et des politiques conçues pour contrôler, pour assimiler ou pour éliminer les Autochtones. Au nom du gouvernement du Canada, la GRC a fait les actions suivantes : elle a veillé aux déplacements forcés de communautés autochtones; elle a retiré des enfants de leur foyer et de leur communauté pour les placer dans les pensionnats indiens; elle a appliqué des lois qui interdisaient la spiritualité et les cérémonies traditionnelles; elle a renforcé les structures de gouvernance de la *Loi sur les Indiens*, dont le système de laissez-passer, à la demande d'agents des Indiens; elle a facilité la prise en charge des enfants pendant la rafle des années 1960; et elle a fait respecter d'autres lois et politiques discriminatoires et oppressives.
- Ce rôle joué dans le passé par la GRC est essentiellement le même aujourd'hui. La GRC doit encore mettre en œuvre les lois et les politiques discriminatoires et oppressives existantes dans des domaines tels que la protection de l'enfance et les litiges relatifs aux terres et aux ressources.
- En raison du rôle historique et actuel de la GRC, du racisme et du sexisme dont font preuve de nombreux agents de la GRC à l'égard des Autochtones, du nombre élevé de femmes, de filles et de personnes 2ELGBTQQIA autochtones disparues ou assassinées, et du manque de volonté, plusieurs Autochtones et communautés ne font plus confiance au système de justice canadien, à la GRC et aux services de police en général.
- Le langage utilisé dans le système judiciaire canadien, en particulier le langage employé dans le *Code criminel* et dans le système de justice pénale, minimise la nature et la gravité des crimes violents, en plus de réduire la responsabilité du délinquant et les conséquences du crime.
- Le système de justice pénale canadien ne rend pas justice aux Autochtones, en particulier aux femmes, aux filles et aux personnes 2ELGBTQQIA autochtones disparues ou assassinées. L'incapacité du système à être efficace et à tenir responsables les auteurs des crimes violents à l'égard des femmes, des filles et des personnes 2ELGBTQQIA autochtones démontre que la violence subie par celles-ci reste impunie.
- La Commission royale sur les peuples autochtones et la Commission d'enquête sur l'administration de la justice et les Autochtones au Manitoba ont clairement défini et documenté l'incapacité du système de justice canadien à protéger les femmes, les filles et les personnes 2ELGBTQQIA autochtones. Le manque de réaction efficace du gouvernement fédéral, notamment, pour remédier à cet échec empêche le changement de paradigme fondamental, essentiel pour mettre un terme au génocide, de se produire.



## **Les programmes de services aux victimes**

- Dans plusieurs provinces et territoires, les programmes de services aux victimes ne sont pas financés à long terme. Par conséquent, au Canada, les programmes de services aux victimes ne sont pas offerts de manière uniforme.
- Les programmes de services aux victimes sont souvent conçus pour faciliter les poursuites et les condamnations au lieu de répondre aux besoins des victimes de violence en matière de justice, de sécurité, de santé et de bien-être. Par conséquent, il incombe à la victime de trouver l'aide nécessaire pour répondre à ses besoins. Elle est donc aux prises avec un système complexe, alors qu'elle vit un traumatisme, et constate souvent que les services dont elle a besoin n'existent pas.
- De plus, les programmes de services aux victimes ne tiennent pas nécessairement compte des réalités culturelles et sociales ni des besoins des femmes, des filles et des personnes 2ELGBTQQIA métisses, inuites et des Premières Nations. En effet, il arrive souvent qu'ils ne soient pas adaptés à leur culture ni offerts dans leur langue. De plus, les services et l'admissibilité à ceux-ci ont une durée et une portée limitées. Les gouvernements ont l'obligation formelle d'offrir des services aux victimes, conformément aux droits de la personne, et de fournir les ressources adéquates à ces services.

## **L'aide juridique et les instruments juridiques**

- Les systèmes et les services d'aide juridique sont inadéquats, inaccessibles et inconstants. Ainsi, l'accès aux tribunaux, les mécanismes de règlement des litiges et les recours juridiques sont inadéquats et disparates. L'inaccessibilité au système de justice continue de nuire à plusieurs femmes, filles et personnes 2ELGBTQQIA autochtones qui cherchent à faire respecter leurs droits. Beaucoup de personnes n'ont pas accès aux recours utiles offerts par le système de justice canadien aux femmes, filles et personnes 2ELGBTQQIA autochtones, en raison de l'isolement géographique, des coûts afférents, de la langue, des services juridiques insuffisants, etc.
- Les instruments juridiques conçus pour assurer une protection, comme les ordonnances de protection, sont sous-utilisés et inefficaces en raison des ressources locales et des mécanismes d'application inadéquats. Par conséquent, ils ne protègent pas correctement les femmes, les filles et les personnes 2ELGBTQQIA autochtones.

## **La détermination de la peine**

- Il est courant de croire que les délinquants autochtones reçoivent des peines plus clémentes en raison de l'application des principes de l'arrêt Gladue pour déterminer leur peine. Une autre croyance répandue veut que tous les délinquants reçoivent une peine plus laxiste lorsque la victime est une femme, une fille ou une personne 2ELGBTQQIA autochtone.





- Il n’y a pas suffisamment de recherche au sujet de l’efficacité des principes de l’arrêt Gladue et de l’article 718.2(e) du *Code criminel* concernant la sécurité des femmes, des filles et des personnes 2ELGBTQQIA autochtones et des communautés autochtones. Quoiqu’il en soit, la détermination de la peine, telle qu’elle est effectuée actuellement, ne crée pas des communautés plus sûres et ne réduit pas les taux de violence envers les femmes, les filles et les personnes 2ELGBTQQIA autochtones.
- Les objectifs de l’article 718.2(e) du *Code criminel* et des principes de l’arrêt Gladue, visant la diminution du taux d’incarcération des femmes autochtones, ne sont pas atteints.
- L’application des principes de l’arrêt Gladue et la production de rapports Gladue ne sont pas uniformes dans l’ensemble des administrations. Il n’existe pas de normes établies qui définissent les éléments à inclure et à prendre en considération dans ces rapports.
- Le personnel du système de justice ne considère pas les rapports Gladue comme un droit. Les rapports ne sont pas toujours accessibles aux femmes qui attendent la détermination de leur peine ou ils ne sont pas correctement utilisés par les tribunaux et les services correctionnels.
- Les rapports Gladue ont une valeur restreinte lorsque l’infrastructure et les ressources relatives aux solutions de rechange à l’incarcération, comme la réhabilitation dans la communauté et les services axés sur la guérison, n’existent pas dans la communauté.
- L’utilisation des rapports Gladue et les principes de détermination de la peine ne sont pas adéquatement expliqués aux familles et aux survivantes. La manière dont le pouvoir discrétionnaire en matière de poursuites est exercé dans les affaires concernant des femmes, des filles et des personnes 2ELGBTQQIA autochtones fait que plusieurs familles et Autochtones remettent en question la qualité des poursuites et sont d’avis que le racisme et le sexisme y ont joué un rôle. Les familles sont portées à croire que les services des poursuites, les avocats et les juges considèrent que leur vie et celle de leurs êtres chers assassinés sont de moindre valeur que celle des non-Autochtones.
- De nombreuses affaires de femmes, de filles et de personnes 2ELGBTQQIA autochtones assassinées par leur partenaire intime se produisent dans un contexte où la violence et les mauvais traitements sont continus et s’intensifient. Les principes de détermination de la peine, tels qu’ils sont établis dans le *Code criminel*, ne sont généralement pas correctement expliqués aux victimes et aux familles. De plus, les principes de détermination de la peine du *Code criminel* ne correspondent pas toujours aux principes et aux valeurs des Autochtones. Ces facteurs contribuent à la méfiance des Autochtones à l’égard du système de justice.
- Les négociations de plaidoyer et l’exercice du pouvoir discrétionnaire en matière de poursuites en général ne sont pas suffisamment transparents, ce qui accroît la méfiance des Autochtones à l’endroit du système de justice et leur donne le sentiment que les victimes autochtones de crimes sont dévalorisées.



## Notes

- 1 Bernice C. (Première Nation Sagkeeng), Partie 1, Volume public 15, Winnipeg, Man., p. 14. Dans ce chapitre, comme dans tous nos chapitres, la citation est tirée de la transcription officielle de la langue dans laquelle la personne a témoigné, même si la citation a été traduite.
- 2 Bernice C. (Première Nation Sagkeeng), Partie 1, Volume public 15, Winnipeg, Man., pp. 47-48.
- 3 Cheryl M. (Mi'kmaw ), Partie 1, Volume public 18, Membertou, N.-É., p. 13.
- 4 Cheryl M. (Mi'kmaw ), Partie 1, Volume public 18, Membertou, N.-É., p. 19.
- 5 Cheryl M. (Mi'kmaw ), Partie 1, Volume public 18, Membertou, N.-É., p. 7; Mont, « Victoria Rose Paul: Investigation Report. »
- 6 Bernice C. (Première Nation Sagkeeng), Partie 1, Volume public 15, Winnipeg, Man., pp. 38-39.
- 7 World Justice Project, « What is the Rule of Law? »
- 8 Nations unies, Assemblée générale, « Declaration of Basic Principles of Justice. »
- 9 Nations unies, Assemblée générale, « Declaration of the High-Level Meeting, » para. 14 and 15, cité dans Nations unies: Programme de développement, « Access to Justice. »
- 10 Ibid., para. 13.
- 11 Programme de développement des Nations unies, « 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 Voir Shantz, « Another deadly year. »
- 16 Blu W. (Crie/Mi'kmaq/Métisse), Partie 1, Volume public 117, Vancouver, C.-B., pp. 33-34.
- 17 Amnesty International Canada, *Stolen Sisters*.
- 18 Kassandra Churcher, Parties II et III mixtes, Volume public 7, Québec, Qc.
- 19 Kassandra Churcher, Parties II et III mixtes, Volume public 7, Québec, Qc., p. 33.
- 20 Enquêteur correctionnel du Canada, « *Rapport de l'Enquêteur correctionnel* » 61.
- 21 Kassandra Churcher, Parties II et III mixtes, Volume public 7, Québec, Qc., pp. 35-36.
- 22 Kassandra Churcher, Parties II et III mixtes, Volume public 7, Québec, Qc., p. 36.
- 23 Marilyn W. (Crie). Partie 1, Volume public 30, Saskatoon, Sask., p. 20.
- 24 Kassandra Churcher, Parties II et III mixtes, Volume public 7, Québec, Qc., pp. 38-39.
- 25 Entrevue avec Bernie Williams et Audrey Siegl, 30 septembre 2018, par Kelsey Hutton, pp. 43-44.
- 26 Conroy et Cotter, « Les agressions sexuelles autodéclarées au Canada » p. 16.
- 27 Bernice C. (Première Nation Sagkeeng), Partie 1, Volume public 15, Winnipeg, Man., pp. 48-49.
- 28 Kassandra Churcher, Parties II et III mixtes, Volume public 7, Québec, Qc., p. 39.
- 29 Marlene J., Partie 1, Volume public 6, Smithers, C.-B., p. 44.
- 30 Jennisha Wilson, Parties II et III mixtes, Volume public 16, St. John's, T.-N.-L., p. 131.
- 31 Michele G. (Musqueam), Partie 1, Volume public 84, Vancouver, C.-B., p. 67.
- 32 Alexandria B. (Nation Squamish), Partie 1, Déclaration publique 367, Vancouver, C.-B., p. 26.
- 33 Farida Deif, Partie 3, Volume public 9, Toronto, Ont., p. 88.
- 34 Jamie L. H. (Autochtone/irlandaise), Partie 1, Volume public 78, Vancouver, C.-B., pp. 24-25.
- 35 Robyn Bourgeois (Crie), Parties II et III mixtes, Volume public 17, St. John's, T.-N.-L., p. 52.
- 36 Chef Terry Armstrong, Parties II et III mixtes, Volume public 5, Québec, Qc., p.139; Chef (en retraite) Clive Weighill, Partie 2, Volume public 8, Regina, Sask., p. 62.
- 37 Farida Deif, Partie 3, Volume public 9, Toronto, Ont., pp. 93-94.
- 38 Farida Deif, Partie 3, Volume public 9, Toronto, Ont., pp. 90-91.
- 39 Farida Deif, Partie 3, Volume public 9, Toronto, Ont., p. 83.



- 40 Lise J. (Innué), Partie 1, Volume public 32, Malietenam, Qc., p. 109.
- 41 Mealia Sheutiapik (Inuite, Frobisher Bay), Parties II et III mixtes, Volume public 16, St. John's, T.-N.-L., p. 25.
- 42 Lanna Moon Perrin (Anishinaabe), Parties II et III mixtes, Volume public 17, St. John's, T.-N.-L., pp. 204-205.
- 43 Farida Deif, Partie 3, Volume public 9, Toronto, Ont., pp. 83, 92-93.
- 44 Farida Deif, Partie 3, Volume public 9, Toronto, Ont., p. 93.
- 45 Kassandara Churcher, Parties II et III mixtes, Volume public 7, Québec, Qc., p. 37.
- 46 Kassandara Churcher, Parties II et III mixtes, Volume public 7, Québec, Qc., p. 37.
- 47 RCMP, « Missing and Murdered. »
- 48 Human Rights Watch, *Those Who Take Us Away*, 80. Voir aussi « Résumé du projet d'analyse judiciaire des documents, » Annexe 1, Volume 1b, de ce rapport.
- 49 Bernice C. (Première Nation Sagkeeng), Partie 1, Volume public 15, Winnipeg, Man., p. 17.
- 50 Bernice C. (Première Nation Sagkeeng), Partie 1, Volume public 15, Winnipeg, Man., pp. 15-16.
- 51 Bernice C. (Première Nation Sagkeeng), Partie 1, Volume public 15, Winnipeg, Man., pp. 22-23.
- 52 Bernice C. (Première Nation Sagkeeng), Partie 1, Volume public 15, Winnipeg, Man., p. 23.
- 53 Bernice C. (Première Nation Sagkeeng), Partie 1, Volume public 15, Winnipeg, Man., p. 29.
- 54 Bernice C. (Première Nation Sagkeeng), Partie 1, Volume public 15, Winnipeg, Man., pp. 23-24.
- 55 Bernice C. (Première Nation Sagkeeng), Partie 1, Volume public 15, Winnipeg, Man., p. 29.
- 56 Tanya Talaga (Anishinaabe/polonaise), Partie 3, Volume public 10, Toronto, ON, p. 64.
- 57 Pamela F. (Première Nation Burnt Church), Partie 1, Volume public 44(b), Moncton, N.-B., p. 11.
- 58 Pamela F. (Première Nation Burnt Church), Partie 1, Volume public 44(b), Moncton, N.-B., pp. 12-13.
- 59 Pamela F. (Première Nation Burnt Church), Partie 1, Volume public 44(b), Moncton, N.-B., p. 13.
- 60 Paul T. (Nation Crie Mikisew), Partie 1, Volume public 20, Edmonton, Alb., p. 14.
- 61 Nations unies, « CCPR/C/CAN/CO/6 – Concluding observations on the sixth periodic report of Canada. »
- 62 Marilyn W. (Crie), Partie 1, Volume public 30, Saskatoon, Sask., pp. 4-5.
- 63 Tom C., Partie 1, Volume public 4, Smithers, C.-B., p. 113.
- 64 Tom C., Partie 1, Volume public 4, Smithers, C.-B., pp. 134-135.
- 65 Pamela F. (Première Nation Burnt Church), Partie 1, Volume public 44(b), Moncton, N.-B., p. 14.
- 66 Delores S. (Saulteaux, Première Nation Yellow Quill), Partie 1, Volume public 26, Saskatoon, Sask., p. 27.
- 67 Marilyn W. (Crie), Partie 1, Volume public 30, Saskatoon, Sask., pp. 12-13.
- 68 Par exemple, voir Human Rights Watch, *Those Who Take Us Away*.
- 69 Commissaire Brenda Lucki, Partie 2, Volume public 7, Regina, Sask., pp. 10-11; Commissaire adjointe Brenda Butterworth-Car (Tr'ondëk Hwëch'in Hän Nation), Partie 2, Volume public 9, Regina, Sask., pp. 326-27; Surintendant principal Mark Pritchard, Partie 2, Volume public 9, Regina, Sask., pp. 216-217, 222, 236-237.
- 70 Farida Deif, Partie 3, Volume public 9, Toronto, Ont., p. 102.
- 71 Chief Terry Armstrong, Parties II et III mixtes, Volume public 5, Québec, Qc., p. 55.
- 72 Mike Metatawabin (Première Nation Fort Albany), Parties II et III mixtes, Volume public 5, Québec, Qc., pp. 45-53.
- 73 Paul T. (Nation Crie Mikisew). Partie 1, Volume public 20, Edmonton, Alb., pp. 14-15.
- 74 Delores S. (Saulteaux, Première Nation Yellow Quill), Partie 1, Volume public 26, Saskatoon, Sask., p. 18.
- 75 Lillian S. (Nation Ojibway Mishkeegogamang), Partie 1, Volume public 38, Thunder Bay, Ont., pp. 18-20.
- 76 Naomi Giff-MacKinnon, Partie 2, Volume 1, Calgary, Alb., p. 141.
- 77 Carol W. (Nation Crie Muskeg Lake), Partie 1, Volume public 31, Saskatoon, Sask., p. 57.
- 78 John Phelps, Partie 2, Volume public 1, Calgary, AB; Naomi Giff-MacKinnon, Partie 2, Volume public 1, Calgary, Alb.
- 79 Naomi Giff-MacKinnon, Partie 2, Volume public 1, Calgary, Alb., p. 142.





- 80 Naomi Giff-MacKinnon, Partie 2, Volume public 1, Calgary, Alb., p. 140.
- 81 Naomi Giff-MacKinnon, Partie 2, Volume public 1, pp. 141-142.
- 82 Fred F., Partie 1, Volume public 44(b), Moncton, N.-B., pp. 63.
- 83 John Phelps, Partie 2, Volume public 1, Calgary, Alb., p. 58.
- 84 John Phelps, Partie 2, Volume public 1, Calgary, Alb., p. 53.
- 85 John Phelps, Partie 2, Volume public 1, Calgary, Alb., pp. 59-60.
- 86 Blu W. (Crie/Mi'kmaq/Métisse), Partie 1, Volume public 117, Vancouver, C.-B., pp. 28-29, 32-33.
- 87 Charlotte M. (Première Nation Kitchenuhmaykoosib Inninuwug), Partie 1, Volume public 38, Thunder Bay, Ont., p. 107.
- 88 Marilyn W. (Crie), Partie 1, Volume public 30, Saskatoon, Sask., pp. 8-9.
- 89 Pamela F. (Première Nation Burnt Church), Partie 1, Volume public 44(b), Moncton, N.-B., p. 63.
- 90 Robyn Bourgeois (Crie), Parties II et III mixtes, Volume public 17, St. John's, T.-N.-L., pp. 49-50.
- 91 Fred F., Partie 1, Volume public 44(b), Moncton, N.-B., pp. 40-41.
- 92 Fred F., Partie 1, Volume public 44(b), Moncton, N.-B., p. 41.
- 93 Leanne Gardiner, Partie 2, Volume public 1, Calgary, Alb., p. 87.
- 94 Betty Ann Pottruff, Partie 2, Volume public 1, Calgary, Alb., p. 178.
- 95 Marilyn W. (Crie), Partie 1, Volume public 30, Saskatoon, Sask., pp. 9-10.
- 96 Delores S. (Saulteaux, Première Nation Yellow Quill), Partie 1, Volume public 26, Saskatoon, Sask., p. 28. Depuis leur témoignage, des informations supplémentaires sur l'enquête sur le décès de Nadine M. ont été rendues publiques grâce à la publication d'un rapport qui examine l'enquête et identifie les erreurs de procédure, le manque de leadership et les mauvaises communications. Pour plus d'informations, voir Leo, « The whole investigative system. »
- 97 Marilyn W. (Crie), Partie 1, Volume public 30, Saskatoon, Sask., p. 10.
- 98 Commissaire Brenda Lucki, Partie 2, Volume public 6, Regina, Sask., p. 34.
- 99 Marilyn W. (Crie), Partie 1, Volume public 30, Saskatoon, Sask., pp. 16-17.
- 100 Pamela F. (Première Nation Burnt Church), Partie 1, Volume public 44(b), Moncton, N.-B., p. 11.
- 101 Alaya M. (Nation Ojibway Sandy Bay), Partie 1, Volume public 13, Winnipeg, Man., p. 19.
- 102 Pamela F. (Première Nation Burnt Church) Partie 1, Volume public 44(b), Moncton, N.-B., p. 25.
- 103 Wilfred C. (Première Nation Waterhen), Partie 1, Volume public 15, Winnipeg, Man., p. 72.
- 104 Wilfred C. (Première Nation Waterhen), Partie 1, Volume public 15, Winnipeg, Man., pp. 72-73.
- 105 Pamela F. (Première Nation Burnt Church), Partie 1, Volume public 44(b), Moncton, N.-B., p. 113.
- 106 Bernice C. (Première Nation Sagkeeng), Partie 1, Volume public 15, Winnipeg, Man., pp. 33, 39.
- 107 Bernice C. (Première Nation Sagkeeng), Partie 1, Volume public 15, Winnipeg, Man., p. 55-56.
- 108 For example, Oppal, « Forsaken. »
- 109 Bernice C. (Première Nation Sagkeeng), Partie 1, Volume public 15, Winnipeg, Man., p. 38.
- 110 Bernice C. (Première Nation Sagkeeng), Partie 1, Volume public 15, Winnipeg, Man., p. 38.
- 111 Marilyn W. (Crie), Partie 1, Volume public 30, Saskatoon, Sask., pp. 5-6.
- 112 Tom C., Partie 1, Volume public 4, Smithers, C.-B., p. 114.
- 113 Fred F., Partie 1, Volume public 44(b), Moncton, N.-B., p. 38.
- 114 Fred F., Partie 1, Volume public 44(b), Moncton, N.-B., pp. 40-41.
- 115 Chef Danny Smyth, Parties II et III mixtes, Volume public 18, St. John's, T.-N.-L., p. 11.
- 116 Chef Danny Smyth, Parties II et III mixtes, Volume public 18, St. John's, T.-N.-L., p. 13.
- 117 Chef Danny Smyth, Parties II et III mixtes, Volume public 18, St. John's, T.-N.-L., p. 14.



- 118 Chef Danny Smyth, Parties II et III mixtes, Volume public 18, St. John's T.-N.-L., p. 47.
- 119 Chef Danny Smyth, Parties II et III mixtes, Volume public 18, St. John's, T.-N.-L., pp. 39-40.
- 120 Chef Danny Smyth, Parties II et III mixtes, Volume public 18, St. John's, T.-N.-L., p. 56.
- 121 Chef Danny Smyth, Parties II et III mixtes, Volume public 18, St. John's, T.-N.-L., p. 60.
- 122 Brenda Gunn (Métisse), Partie 3, Volume public 6, Québec, Qc., p. 58.
- 123 Programme de développement des Nations unies, « Access to Justice, » pp. 8-9.
- 124 Betty Ann Pottruff, Partie 2, Volume public 1, Calgary, Alb., pp. 183-184.
- 125 Pamela F. (Première Nation Burnt Church) Partie 1, Volume public 44(b), Moncton, N.-B., pp. 29-30.

Pour poursuivre la lecture, veuillez consulter le volume 1b du rapport  
« Réclamer notre pouvoir et notre place : rapport final de l'Enquête nationale sur  
les femmes et les filles autochtones disparues et assassinées »