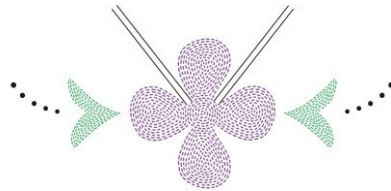


National Inquiry into
Missing and Murdered
Indigenous Women and Girls



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

**National Inquiry into Missing and Murdered
Indigenous Women and Girls
Truth-Gathering Process Part III
Expert & Knowledge-Keeper Hearings
“Human Rights Framework”
Hôtel Pur, Central Ballroom
Ville de Québec / Quebec City**



Part III Volume V

Tuesday May 15, 2018

**Panel I: Recognizing & Fulfilling National
& Domestic Human Rights**

Timothy Argetsinger & Tracy Denniston

Fay Blaney

Naiomi Metallic

**Heard by Chief Commissioner Marion Buller
& Commissioners Michèle Audette, Brian Eyolfson
& Qajaq Robinson**

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LIST OF EXHIBITS

Panel 1A - 1B - 1C: Recognizing and Fulfilling National & Domestic Human Rights

Exhibit code: P03P02P0201

Cross-examination and Re-examination of Panel

NO.	DESCRIPTION	PAGE
A19	"Annual Report on the State of Inuit Culture and Society (2013-2014): Examining the Justice System in Nunavut," Nunavut Tunngavik Inc. 2014 (49 pages)	28
A20	Nunavut Shelter Contact information for 25 communities (one page)	39
A21	2016 Canadian Census: Inuit Statistics (four pages)	49

A19-A21 submitted by Beth Symes, Counsel for Pauktuutit Inuit Women of Canada, Saturviit Inuit Women's Association, AnânuKatiget Tumingit Regional Inuit Women's Association, Manitoba Inuit Association and Ottawa Inuit Children's Centre, as a collective single party

A22	Colour printout of Concertation des luttes contre l'exploitation sexuelle pamphlet "Native Women and Prostitution: A Reality Check" (two pages)	153
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Submitted by Dianne Matte, Representative for Concertation des luttes contre l'exploitation sexuelle

Quebec City, Quebec

--- The hearing starts on Tuesday, May 15th, 2018 at
8:08 a.m.

LAUREEN "BLU" WATERS-GAUDIO: Welcome to
another day with the National Inquiry. Welcome to the
territories, here, of the original care takers of the land,
the one that... we honour them and all those that came here
and made this their home and now make it their home.

And this morning, we ask that the Creator
and those Ancestors come again and sit and be with us, so
that their stories can be heard, and that our people can
heal, and we can find ways of moving forward, and ways of
coming up with solutions to the atrocity of our women being
murdered and going missing.

So this morning, I say, (INDIGENOUS
LANGUAGE). My name is Earth's Song, that's the translation
of (INDIGENOUS LANGUAGE), and I say to you, (INDIGENOUS
LANGUAGE). That is the term for the LGBTQ umbrella of two-
spirited person. In the Cree language (INDIGENOUS WORD)
translates into "neither man nor woman, and that is who I
am as a being. I'm not a singular identity."

So I want to acknowledge all those two-
spirit LGBTQ trans people that have lost loved ones as
well. Cause for many years, they were left behind and they
still are left out of our circles. And I ask those

1 Ancestors and those ones gone on to help us bring them back
2 into the circle, because those two-spirit people bring
3 balance. With the way our world is today we need all the
4 help that we can get in the way of balance.

5 But we also need the support from all our
6 strong warrior women and our strong warrior men. And we
7 ask that those Ancestors help heal our people so that we
8 can become strong again, so that we can become supportive.
9 We can become companions to each other, to support each
10 other and to help on our journeys that we walk in a good
11 way. We treat each other with kindness, love, respect and
12 unity, no matter where we come from. And we honour those
13 that have differences because that's what makes us unique.

14 Everybody comes with a different gift and in
15 one many gifts come, great things come. So we say,
16 (INDIGENOUS LANGUAGE) to those Ancestors for being here.
17 We're gonna have a great day, it's gonna be very busy.

18 Remember to take personal time for yourself,
19 for your well-being, and we'll try to keep everybody moving
20 forward in a good, safe space, and in a good, safe way. So
21 (INDIGENOUS LANGUAGE).

22 **PÉNÉLOPE GUAY:** Alors, est-ce que ça marche?
23 Bon matin. Alors, je remercie les Hurons-Wendats d'être sur
24 leur territoire avec Innus et Abénakis. Ce matin, c'est
25 particulier : j'ai déjeuné avec une femme extraordinaire,

1 en se rappelant des souvenirs, d'où on est parties, notre
2 chemin, pour être arrivées ici aujourd'hui. C'était
3 vraiment une belle communication de deux êtres humains qui
4 ont parcouru des bons chemins.

5 Puis je pense que quelque part, vous aussi,
6 vous avez parcouru des chemins extraordinaires pour être
7 ici aussi. C'est la vie qui nous mène ensemble à faire ce
8 qu'il y a à faire pour la vérité, pour la réconciliation,
9 pour le meilleur, pour changer les choses, parce que c'est
10 important. Moi, j'y crois; ça fait près de 40 ans que je
11 travaille dans le communautaire et j'ai vu des changements.

12 Alors, ça demande beaucoup d'être ici en
13 avant, parce qu'en même temps qu'on entend, en même temps,
14 on se guérit aussi des histoires qu'on a vécues. Moi, c'est
15 une fille qui n'est jamais restée en communauté, je suis
16 toujours restée hors communauté parce que ma mère a été
17 obligée de sortir de la communauté, alors toutes les fois
18 que j'entends des témoignages sur la Loi sur les Indiens ça
19 me touche. Ça me touche et ça me fait vivre, des fois, des
20 émotions. C'est important de les vivre quand ça arrive.
21 C'est important de voir ce qui nous a blessés. Qu'est-ce
22 qui fait qu'on guérit, qu'on les entende.

23 Moi, je suis une enseignante de l'histoire,
24 parce que c'est ça qui m'a sortie, qui m'a guérie.
25 L'histoire... j'ai fini par avoir honte de ce que j'étais,

1 j'avais honte, avoir honte de ne pas être autochtone. Je
2 suis une enseignante depuis 20 ans, j'adore ça.

3 Ça fait que c'est ça que j'avais le goût de
4 vous partager un peu, ce matin. Puis je vous souhaite une
5 belle journée puis beaucoup d'amour, beaucoup de respect.
6 Merci les commissaires pour le beau travail. Merci les
7 témoins, les experts puis merci à vous d'être ici.

8 **MS. CHRISTA BIG CANOE:** Good morning. Chief
9 Commissioner, Commissioners, we would like to begin today
10 and we will be going, oh, sorry, my apologies.

11 (INDIGENOUS LANGUAGE)

12 Thank you. Chief Commissioner,
13 Commissioners, we would like to being, today. We will be
14 going into cross-examination, but just for purposes of the
15 record, I would just like to reintroduce the panel so that
16 if anyone is starting to watch today, they know who's with
17 us.

18 So furthest from me is FAY Blaney and she
19 has been qualified as both a Knowledge Keeper and an
20 expert. Beside her is Professor Naiomi Metallic, who has
21 been qualified as an expert. Beside Naiomi and two from me
22 is Mr. Timothy Argetsinger, who has been qualified as an
23 expert. And right beside me is Tracy Denniston, who has
24 also been qualified as both a Knowledge Keeper and an
25 expert.

1 Today, we will be having the 13 parties
2 cross-examined, we had begun cross-examination yesterday
3 with one party. And the first party that is cross-
4 examining this morning is the Eastern Door Indigenous
5 Association, and they'll be given 25 minutes.

6 **CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR MS. NATALIE**
7 **CLIFFORD:**

8 **MS. NATALIE CLIFFORD:** Good morning, I'm
9 Natalie Clifford with the Eastern Door Indigenous Women's
10 Association. We were formed in 2016 to represent the
11 common interests of Indigenous women, their families, and
12 communities in the Atlantic Region. So thank you for your
13 evidence yesterday and I'd like to start with Naiomi.

14 So Naiomi, in your paper about the problems
15 and implications of the Caring decision one of the issues
16 that you point to is the clear conflict of interest in the
17 mandate of the department. And this whole issue where
18 we're lacking foreseeability in policy and therefore,
19 violating the rule of law. Would you agree that this is
20 true for governance in other areas, for First Nations'
21 governance beyond funding of service? So for Chief and
22 Council, for *Indian Act* Chief and Council working under --
23 with the department, would you say that the lack of clear
24 foreseeable policy and regulations is something that
25 effects First Nation governance, generally?

1 **NAIOMI METALLIC, Resumed**

2 **MS. NAIOMI METALLIC:** Yeah. So if I -- I
3 think I've got your question. Natalie, is does -- what I
4 was describing, does it also sort of have a trickle-down
5 impact on how communities govern, how band councils govern
6 their communities? I would say absolutely. Now, how might
7 I give some examples of that? Well, like I say, I think
8 it's about as well-known as other people, like, it's not
9 well-known how the system works. So I think that often
10 band councils are sort of struggling with how to address
11 the problems, and they sometimes don't know how problematic
12 the system the work is -- in with.

13 So I guess what I'm saying is they sometimes
14 take the status quo as normal and it's really abnormal.
15 But they sort of accept that -- well, they don't always
16 accept, sometimes they litigate it. But they often, you
17 know, these funding agreements that come to them a week
18 before the money runs out and they are told, sign it, take
19 it or leave it, you know? And they don't really have a
20 choice to take it or leave it, because these are you know,
21 core funds to -- you know, for main government programs.

22 And so yeah, I think it totally impacts the
23 governance of communities and sometimes their own community
24 members perhaps may not even realize, and they may not even
25 realize the extent to which it's greater forces, other

1 governments that are really impacting, you know, really
2 hamstringing things that they can do in their community.

3 **MS. NATALIE CLIFFORD:** And on that point,
4 you do kind of say that people give Chief and Council a
5 hard time, not understanding the difficult sort of
6 dysfunction that they work within. But I'm wondering sort
7 of the flip side to that argument where you have these --
8 and sort of vast empty, like, voids in regulations and
9 laws, and I'm thinking in the areas of wills and estates,
10 you know, estate planning on reserve, and borrowing, you
11 know, for a mortgage on a reserve. So other areas where we
12 still are lacking in foreseeable policy and meaningful
13 policy. And I understand the constraints of Section 81,
14 for what Chief and Council can actually make bylaws and
15 policies on, but I also would submit that they sometimes
16 act outside of that mandate. In any case ---

17 **MS. CHRISTA BIG CANOE:** Sorry. Sorry, one
18 moment. Can you please keep it to questions and not
19 submissions? Thanks.

20 **MS. NATALIE CLIFFORD:** Okay. So I guess
21 stepping back, I just wonder what you have to say about the
22 possibility for holding Chief and Council accountable for
23 these -- for making policy and filling in the blanks where
24 the voids do exist.

25 **MS. NAIOMI METALLIC:** There's certainly

1 steps that Chief and Council, I think, can take. I do
2 think that they operate in a fairly dysfunctional
3 environment that makes it difficult. And there are -- I
4 didn't get to talk about it too much -- examples of
5 communities who have done things like, just do it. They
6 pass their own laws and sometimes that does work and
7 they're trying to come up with ways to actually have laws
8 that reflect their traditions and own laws. Not simply
9 trying to emulate, sort of, more Euro-Canadian laws.

10 But there's challenges sometimes when they
11 just do it. they face risk they may have to go to Court.
12 There's been examples of communities that have tried to do
13 that and then they end up in Court. There was a community
14 in Nova Scotia that tried to develop its own sort of, tax
15 regime and then it ended up having a huge bill from CRA, so
16 that didn't work out so well and they went -- they
17 litigated it.

18 So the system, I think, does inhibit
19 governance. But I do think there are things that Chief and
20 Council can try to do and have tried to do, but certainly
21 there's a lot to be critical of in this system. But there
22 are things that communities can do as well, but if there
23 was changes that were made, I think to overall enhance the
24 ability of governance, I think that would be good for
25 everybody.

1 **MS. NATALIE CLIFFORD:** And also, in your
2 paper, you draw a connection between equality and self-
3 government -- governance ---

4 **MS. NAIOMI METALLIC:** Yeah.

5 **MS. NATALIE CLIFFORD:** --- a number of
6 times. And so I wondered if because of the conflict of
7 interest, whether Chief and Council are in a position to be
8 able to work toward the goal of self-governance in your
9 opinion?

10 **MS. NAIOMI METALLIC:** That's a big question,
11 Natalie. You know, at the moment, and I know that there's,
12 you know -- how would I say this? Yes, some people do say
13 that they are in a conflict of interest because they work
14 with the department, who is itself in a conflict of
15 interest. But at the same time, they are the -- the system
16 of governance that is often most recognized by other
17 Canadian governments. It's not to say there isn't other
18 forms of government.

19 I don't know, it's really complex and it's a
20 nuanced decision. I mean it's a nuanced answer that, you
21 know, I can't say, no, well they're completely conflicted
22 and therefore -- like we need leadership, and these are
23 sort of the leaders that we have to some extent. Although
24 there are, you know, great examples of traditional
25 hereditary governments working with band council

1 governments, and it might be different solutions for
2 different people. But these are the people that are
3 stepping up to try to help. In some cases, they do harm.
4 I'm not trying to, you know, say that they're all great,
5 but at the same time, there are people who are trying to do
6 the best with poor tools that they are given.

7 And yeah, there's no simple answer to that
8 in terms of, you know, I'm not going to paint them all as
9 bad, I'm not going to paint them all as good. But they've
10 got what they've got to work with and they're trying to do
11 something for our people in a system that's very
12 dysfunctional.

13 **MS. NATALIE CLIFFORD:** And one last
14 question. Do you draw -- can you explain the distinction
15 between the current consultation model and the partnership
16 recommendation that you've made?

17 **MS. NAIOMI METALLIC:** Absolutely. So the
18 way that, at least for the last 10 years or so, many
19 governments have interpreted the Supreme Court of Canada
20 and the Supreme Court of Canada itself has interpreted the
21 duty to consult rather narrowly. Limiting it particularly
22 to Section 35 rights, which to this point has been
23 primarily interpreted as being about, you know, resource
24 related rights, hunting and fishing, and maybe title. But
25 that's about the extent of it.

1 **MS. NATALIE CLIFFORD:** Fay, I have a couple
2 of questions for you. First of all, I just wondered if
3 you're familiar with the #MeToo movement?

4 **FAY BLANEY, Resumed**

5 **MS. FAY BLANEY:** Absolutely, yeah.

6 **MS. NATALIE CLIFFORD:** Do you think this
7 collective will reach First Nations communities, this sort
8 of collective wake up?

9 **MS. FAY BLANEY:** I think it has in some
10 ways. The actor that was on the Indian Horse movie is an
11 example of that. I can't remember his name, but there was
12 a lot of publicity around the women that he beat really
13 badly, and they publicized -- they used the publicity to
14 make everyone aware of what he had done.

15 On the other hand, I do hear -- I have a
16 good friend in Saskatchewan who said, you know, it's about
17 time Indigenous women started to name names. And we saw
18 the same backlash that we always seem to face, which is
19 quite a few women commenting on there saying, "Do you want
20 to destroy the community?" and those kinds of sentiments,
21 as if the women were the ones destroying the community and
22 not -- there was no willingness to make those men
23 accountable. So we have a ways to go, but I think it is
24 happening.

25 I think the younger generation, people like

1 you, are willing to make the changes that we fought so long
2 and hard for to bring women's voices to the fore. So I do
3 have a whole lot of hope for the youth and the ways that
4 they're mounting the struggle against male violence.

5 **MS. NATALIE CLIFFORD:** So for women of all
6 ages, what suggestion do you have for them when they are
7 considering making allegations against men in power in
8 their communities?

9 **MS. FAY BLANEY:** I think I made it really
10 clear yesterday that I really -- I firmly believe in
11 alliance with non-Indigenous women's groups. I think
12 that's the answer. Whenever I have tried to organize in
13 the past, I think it's going on 40 years now, I have found
14 a lot of Indigenous women that are politicized through
15 their involvement in women's centres or transition houses,
16 and that's where we learn about advocating against systemic
17 oppression based on our sex.

18 **MS. NATALIE CLIFFORD:** In your discussion
19 about restorative justice, and you pointed to men in roles
20 of power of sending their sons through restorative justice.
21 So is it typically men in these positions?

22 **MS. FAY BLANEY:** That are the offenders?

23 **MS. NATALIE CLIFFORD:** In their positions of
24 power.

25 **MS. FAY BLANEY:** Oh. Okay. Well, the Royal

1 Commission on Aboriginal Peoples did indicate that in 1996,
2 and Dr. Cora Voyageur did research on -- for the Assembly
3 of First Nations looking at chiefs and councils across this
4 country. So I would say -- although I don't have the stats
5 at my fingertips, I would say that predominantly men rule
6 our communities and men run the Assembly of First Nations.

7 **MS. NATALIE CLIFFORD:** So in your experience
8 with Indigenous women and feminists, generally, what are
9 some of the barriers to women entering politics?

10 **MS. FAY BLANEY:** I think one of the big ones
11 is the fact that we don't have our own autonomous
12 Indigenous women's groups available to us in our own
13 communities. What I notice of mainstream Canadian feminism
14 is that they do advance women to those positions. They
15 work together, they have conferences on capacity building
16 with women to be able to run for office.

17 But in our community, like one of the
18 chiefs' organizations there in B.C., I see some incredible
19 Indigenous women leadership, and yet they're one-term
20 wonders. And there are some men in those positions that
21 have been in the positions for like decades.

22 And so, I think it's really difficult for
23 women to aspire to those positions of leadership with the
24 attitudes that we cherish in our communities or, in other
25 words, the internalized sexism that we've been steeped in

1 through colonial legislation.

2 **MS. NATALIE CLIFFORD:** The work of A1 has
3 been important and grew out of a grassroots movement, and I
4 wonder on that point about the struggle to find a
5 meaningful position to discuss these issues as a women's
6 group. You mentioned the funding and the staffing and then
7 the project-based issues.

8 What do you see -- is there a light at the
9 end of the tunnel for women's groups to have standing and a
10 seat at the table to make meaningful change?

11 **MS. FAY BLANEY:** Well, I have to have hope
12 to continue to do this work, and the hope that I have is
13 with the youth, as I said, the young Indigenous women
14 across this country. On the other hand, I do feel really
15 discouraged. I'm really disturbed by what I mentioned
16 yesterday that women's substantive equality rights that are
17 guaranteed under the *Charter* are not being met, and I think
18 a lot of those kinds of laws and policies and rights are
19 not being adhered to.

20 So an example of that is our Indigenous
21 communities like our Band councils and original
22 organizations going to court on rights in B.C., we have a
23 long history of that. And the gains that we make in courts
24 are not implemented. And I think that's true right across
25 the board.

1 And that applies to the equality rights that
2 women have across this country. I think it's a black eye
3 on Canada that all of the women's centres were shut down
4 across this country, but they downloaded that as if it were
5 a service to provincial governments. And I think that's a
6 huge mistake to the women's services as a -- or women's
7 rights as a service.

8 And that was the case that I was trying to
9 make yesterday about transition houses. The workers -- you
10 know, I read a really incredible book when I was in
11 university about the evolution of transition houses and how
12 it initially began with a group of politicized women who --
13 well, they became politicized through consciousness-
14 raising, and they were mounting a revolution.

15 And then when other -- in B.C. anyway, what
16 happened was groups like the United Way got involved and
17 they began to include social workers, police officers,
18 university professors, everyone else had an opinion on this
19 issue, but it initially grew out of a grassroots feminist
20 movement.

21 And that's why I admire groups that continue
22 to engage in that political revolution for the freedom and
23 liberation of women across this country. And there are
24 very few transition houses that do that and very few
25 women's groups that engage in that freedom fight that -- a

1 few do. There is still some that do that. So that's
2 another area of hope that I have.

3 **MS. NATALIE CLIFFORD:** And one final
4 question, I wonder how significant do you see the role of
5 media in perpetuating stereotypes about Indigenous women?

6 **MS. FAY BLANEY:** Oh, the media are horrible.
7 I think that they're doing a whole lot better. You know,
8 the work that The Globe and CBC are doing is pretty decent
9 today. I still think there's a long way to go though.
10 They have a -- you know, they don't overnight learn who we
11 are what we are and what we've been through.

12 I think on the ground at the grassroots
13 level where I live and where my contacts are, I think
14 Indigenous women still feel that the world are witnessing
15 our suffering, the human tragedies that we endure, the
16 struggles that we face daily, and the feeling is nobody
17 gives a damn.

18 And it really does feel like that on the
19 ground, like on a daily basis. We're walking across the
20 street, and some jerk wants to run us over, or we're in a
21 store and someone asks us if we can give a blow job. You
22 know, those are the things that we encounter as Indigenous
23 women, and the world watches and doesn't really care.

24 And so that's the sentiment, I think, at the
25 grassroots level, and so those are the things that the

1 media need to be sensitized to. And it's not just the
2 media. I think that this country is on a steep learning
3 curve, and I think there's huge resistance on some fronts
4 and there's backlash, like what's happening in your area
5 with the -- that statute that you guys were -- that you
6 successfully brought down.

7 **MS. NATALIE CLIFFORD:** Thank you. And I
8 have a final question for Timothy and Tracy.

9 I'm wondering about the legal -- the access
10 to Legal Aid services for women in Nain and Hopedale, and
11 generally, in your communities. Any sort of information
12 about the situation in -- for women in your care.

13 **TRACY DENNISTON, Resumed**

14 **MS. TRACY DENNISTON:** There is legal aid
15 services in our community in Nain. There is a legal aid
16 liaison worker for the community, so when court comes in,
17 they do access services through her.

18 **MS. NATALIE CLIFFORD:** Is it effective? Do
19 you find -- do you get feedback from the women about
20 working with legal aid?

21 **MS. TRACY DENNISTON:** Yeah.

22 **MS. NATALIE CLIFFORD:** Okay. And I wondered
23 if you know of women accessing human rights processes to
24 assert their rights?

25 **MS. CHRISTA BIG CANOE:** Sorry, I'm not sure

1 if this is in the area of knowledge or qualification. I do
2 understand that as the director, she might be able to
3 answer some questions to that but I don't think she's going
4 to get to the specificity you want.

5 **MS. NATALIE CLIFFORD:** Okay.

6 Okay, thank you.

7 And I would ask that -- I have finished my
8 questions and I wondered if my floor minutes remaining
9 could be allotted to the next party?

10 **MS. CHRISTA BIG CANOE:** So if we can stop
11 the clock please, yes, and normally that wouldn't be the
12 process but in this instance because we will allow for it.

13 **MS. NATALIE CLIFFORD:** Thank you.

14 **MS. CHRISTA BIG CANOE:** So the next party up
15 is Pauktuutit and if counsel could just introduce
16 themselves, explain who you're representing and on your
17 first question we'll start the time. The minutes allotted
18 based on agreement between parties was 40 minutes prior to
19 that designation of four, so it will now be 44 minutes.

20 **CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR MS. BETH**

21 **SYMES:**

22 **MS. BETH SYMES:** Before I introduce myself,
23 I want to give thanks to my generous colleagues West Coast
24 LEAF, NWAC, and Eastern Door. Thank you so much for your
25 generosity.

1 I'm Beth Symes and I represent Pauktuutit,
2 the Inuit Women of Canada, AT, the Labrador Inuit Women,
3 Saturviit, the Women of Quebec, the Ottawa Inuit Children's
4 Centre, and the Manitoba Indigenous -- Manitoba, sorry,
5 Inuit Association.

6 So I want to begin by saying that my
7 questions will mainly focus on Inuit and it's not because,
8 Fay, I wasn't blown away with your presentation but my job
9 is to advocate on behalf of Inuit women.

10 But I want to begin with you, Naomi, and I
11 pick you because you're educating our next generation of
12 advocates. And I want to ask you what you are educating
13 them about, the definition of equality in Canada as defined
14 whether in section 15(1) of the Charter or under one of the
15 human rights legislation across Canada and in the
16 territories, as interpreted by the courts and tribunals.

17 And in particular, you used the phrase and
18 others used the phrase "substantive equality" and I want to
19 explore that in contrast to the concept of formal equality.
20 And I thought it might be most useful if I were to give you
21 a hypothetical, okay, and it's a really simple one.

22 Let's assume that the government initiates a
23 program that's got guidelines and all of that stuff that
24 you said it should have that provides Indigenous women with
25 money so that they can access mental health services after

1 a particular traumatic event. Would you agree with me that
2 if every woman who qualifies receives let's say \$3,500,
3 that would achieve formal equality?

4 **MS. NAIOMI METALLIC:** Yes.

5 **MS. BETH SYMES:** And formal equality is
6 treating everyone the same.

7 **MS. NAIOMI METALLIC:** Yes.

8 **MS. BETH SYMES:** But would you agree with me
9 that -- and you heard -- we both heard Tracy yesterday talk
10 about the fact that in remote settings, those services
11 aren't available.

12 **MS. NAIOMI METALLIC:** Yes.

13 **MS. BETH SYMES:** And that in order to access
14 mental health services, that woman may have to take a
15 plane, may have to stay overnight.

16 **MS. NAIOMI METALLIC:** Yes, I agree.

17 **MS. BETH SYMES:** And that as much as \$1,000
18 -- and I'm just picking a number -- a trip would have to be
19 devoted to the travel expenses in order to get one hour
20 with a professional.

21 **MS. NAIOMI METALLIC:** Absolutely.

22 **MS. BETH SYMES:** And Naiomi, then would you
23 agree with me that a program that said each woman, each
24 Indigenous woman gets say \$3,500 would not achieve
25 substantive equality?

1 **MS. NAIOMI METALLIC:** I would agree.

2 **MS. BETH SYMES:** Would you also agree with
3 me that substantive equality has been the law in Canada
4 since the Supreme Court of Canada's decision in *O'Malley v.*
5 *Simpsons-Sears* in 1985?

6 **MS. NAIOMI METALLIC:** I would agree.

7 **MS. BETH SYMES:** Thank you.

8 Tracy, I want to first of all say you've
9 told us that you've lived in Nain and worked in Nunatsiavut
10 for 18 years.

11 **MS. TRACY DENNISTON:** Yes.

12 **MS. BETH SYMES:** And we were in Happy
13 Valley-Goose Bay in March. In the public hearings, we
14 heard of really brutal murders in Nain and I commend you
15 and thank you for you being on the frontline and having
16 dealt with the impact on those that remain in that
17 community.

18 Now family violence, would you agree with me
19 that family violence happens in every culture?

20 **MS. TRACY DENNISTON:** Yes.

21 **MS. BETH SYMES:** But that for Inuit women,
22 there are some features that are unique. For instance,
23 remoteness.

24 **MS. TRACY DENNISTON:** Yes.

25 **MS. BETH SYMES:** And that in a small hamlet,

1 and Nain is relatively big in Nunatsiavut, but in small
2 hamlets like Rigolet, there just are no services. You used
3 dentistry I think but there are no services with respect to
4 physical health or social health, et cetera, as well. And
5 in order to -- in many cases, in order to get safety, the
6 woman has to leave, fly out, either by herself or with her
7 children.

8 **MS. TRACY DENNISTON:** Yes.

9 **MS. BETH SYMES:** Now, you don't have
10 policing 24/7 in all of the communities of Nunatsiavut.

11 **MS. TRACY DENNISTON:** No.

12 **MS. BETH SYMES:** Postville it's like 21 days
13 a month. That's very interesting but if you -- if violence
14 happens in one of the other days of the month, that's just
15 too bad, right?

16 **MS. TRACY DENNISTON:** Yes.

17 **MS. BETH SYMES:** And how would it take the
18 police to get to Postville?

19 **MS. TRACY DENNISTON:** To Postville by plane
20 it's probably around 45-50 minutes.

21 **MS. BETH SYMES:** And I presume planes aren't
22 sitting on the runway gassed up and ready to go.

23 **MS. TRACY DENNISTON:** No.

24 **MS. BETH SYMES:** And you told us yesterday
25 that two of the communities in Nunatsiavut, Postville and

1 Makkovik, do not have shelters.

2 MS. TRACY DENNISTON: No.

3 MS. BETH SYMES: And can you tell us in
4 terms of across Inuit Nunangat, the shelters -- maybe I can
5 just lead you through it if it's okay -- in Nunavut, only
6 five of the 25 communities have shelters?

7 MS. CHRISTA BIG CANOE: Sorry. If I may,
8 I'm not questioning the leading question but if you're
9 going to lead it through, can you still pose it as a
10 question for her if she knows if, please?

11

12 MS. BETH SYMES: Sure.

13 MS. CHRISTA BIG CANOE: Thank you.

14 MS. BETH SYMES: Have you been given the
15 document that sets out what the shelters and the
16 communities are across Inuit Nunangat?

17 MS. TRACY DENNISTON: Yes.

18 MS. BETH SYMES: In Nunavut, do five of the
19 25 communities have shelters?

20 MS. TRACY DENNISTON: Yes.

21 MS. BETH SYMES: In Inuvialuit, does one of
22 the six communities have shelters?

23 MS. TRACY DENNISTON: Yes.

24 MS. BETH SYMES: In Nunavik, does three --
25 do three of the 14 communities have shelters?

1 **MS. TRACY DENNISTON:** Yes.

2 **MS. BETH SYMES:** Now in your position as the
3 Executive Director of the Nain shelter, you don't receive
4 any funding from INAC, do you, I guess now Indigenous
5 Services Canada?

6 **MS. TRACY DENNISTON:** No.

7 **MS. BETH SYMES:** And in fact, your service -
8 - the services you provide are funded by is it the
9 Newfoundland government?

10 **MS. TRACY DENNISTON:** Yes.

11 **MS. BETH SYMES:** And Tracy, that rate of
12 funding is actually less than if you were being funded by
13 INAC?

14 **MS. TRACY DENNISTON:** Yes.

15 **MS. BETH SYMES:** As a frontline worker with
16 years of experience. Would you agree with me that child
17 sexual abuse is prevalent in Nunatsiavut?

18 **MS. TRACY DENNISTON:** Yes.

19 **MS. BETH SYMES:** Would you agree with its
20 description that it has become normalized?

21 **MS. TRACY DENNISTON:** I can't really say for
22 sure if it's normalized. For children.

23 **MS. BETH SYMES:** Pardon me?

24 **MS. TRACY DENNISTON:** For children, I can't
25 say.

1 **MS. BETH SYMES:** Yes, for children, I'm
2 sorry, for children.

3 And that's despite the fact that the women's
4 groups in Labrador have been using this "good touch, bad
5 touch" included in Inuktitut for children?

6 **MS. TRACY DENNISTON:** Yes.

7 **MS. BETH SYMES:** And when family violence
8 occurs— let's take the worst situation and the mother dies,
9 the mother is killed. The Inuit children then come into
10 care. Are they placed in homes in their community?

11 **MS. TRACY DENNISTON:** They try to, but as
12 long as I can, for what I can recall, they try to place
13 them in the homes, but a lot of times it doesn't happen.

14 **MS. BETH SYMES:** And is the reality now for a
15 number of years that these Inuit children, whether it's
16 from Nain or Hopeville or whatever, are placed in foster
17 homes in non-Inuit families in Newfoundland?

18 **MS. TRACY DENNISTON:** Yes.

19 **MS. BETH SYMES:** And that means they are a
20 long, long way away from their extended family and
21 grandparents?

22 **MS. TRACY DENNISTON:** Yes.

23 **MS. BETH SYMES:** They lose their language?

24 **MS. TRACY DENNISTON:** No, they don't use,
25 they lose their language, yes. I thought you asked me do

1 they use their language? Yes, they do.

2 **MS. BETH SYMES:** Lose their language. Lose
3 their—

4 **MS. TRACY DENNISTON:** Lose their culture,
5 they lose their culture.

6 **MS. BETH SYMES:** Okay. And can you tell me,
7 under today's operation, are Inuit children beneficiaries
8 of the Jordan Principle?

9 **MS. CHRISTA BIG CANOE:** That was not brought
10 up nor is it in any of the materials that Ms. Denniston, so
11 if the witness is unable to answer the question, I will
12 just, you know, indicate that they can do so, please.

13 **MS. BETH SYMES:** I'm just asking as a person
14 who's been a social worker there for a long time, are you
15 able to answer that question?

16 **MS. TRACY DENNISTON:** No.

17 **MS. BETH SYMES:** Okay. Tim, you've talked
18 about the social determinants of Inuit health. And for
19 Inuit men and women, their health includes the impact of
20 child sexual abuse on them as well?

21 **TIMOTHY ARGETSINGER, Resumed**

22 **M. TIMOTHY ARGETSINGER:** Yes.

23 **MS. BETH SYMES:** And for Inuit women, their
24 health includes the impact of family violence, whether it's
25 physical or mental?

1 **M. TIMOHY ARGETSINGER:** Yes.

2 **MS. BETH SYMES:** And you are the author of
3 NTI's 2014 Annual Report on the State of Inuit Culture and
4 Society Examining the Justice System in Nunavut?

5 **M. TIMOTHY ARGETSINGER:** Yes.

6 **MS. BETH SYMES:** And I'm going to ask if that
7 could be the next exhibit.

8 **MS. CHRISTA BIG CANOE:** So actually can you
9 please, you've established that, but for the purpose, ask
10 if he's recently reviewed or can he answer questions in
11 that area, and then we can put it in.

12 **MS. BETH SYMES:** Tim, is this the report that
13 you wrote?

14 **M. TIMOTHY ARGETSINGER:** Yes.

15 **MS. BETH SYMES:** Thank you. You've got a
16 copy in front of you? I'm sure you know it, so. So if
17 this could be the next exhibit, please?

18 --- **EXHIBIT No./PIÈCE No. A19**

19 **Exhibit A19:** "Annual Report On the
20 State of Inuit Culture and Society (2013-2014):
21 Examining the Justice System in Nunavut", Nunavut
22 Tungavik Inc. 2014 (49 pages)
23 Submitted by: Beth Symes, Counsel for Pauktuutit
24 Inuit Women of Canada, Saturviit Inuit Women's
25 Association, AnânauKatiget Tumingit Regional

1 Inuit Women's Association, Manitoba Inuit
2 Association and Ottawa Inuit Children's Centre,
3 as a collective single party
4

5 **MS. BETH SYMES:** I want to first of all talk
6 about, and I'm gonna do this at... sorry.

7 **CHIEF COMMISSIONER MARION BULLER:** Just for
8 our record, the Annual Report on the State of Inuit Culture
9 and Society 2013-2014, I believe, is the proper title, will
10 be the next exhibit, please.

11 **MS. BETH SYMES:** The important part is that
12 you add "examining the justice system in Nunavut" because
13 there is several other reports like this, okay?

14 **CHIEF COMMISSIONER MARION BULLER:** Thank you.

15 **MS. BETH SYMES:** Tim, I'm gonna do this at a
16 pretty high level as opposed to the details, but on pages
17 10 and 11 of the report, you write that in Canada, the
18 crime rate between 1999 and 2012 fell 29%. The crime
19 severity index fell 33%, and the violent crime severity
20 index fell 18%.

21 **M. TIMOTHY ARGETSINGER:** Yes.

22 **MS. BETH SYMES:** But the situation in
23 Nunavut, and this was, you looked at Nunavut, right, not
24 all of the Inuit Nunangat?

25 **M. TIMOTHY ARGETSINGER:** That's right.

1 **MS. BETH SYMES:** Okay. So in Nunavut, that
2 wasn't true. In fact, the crime rate in 2012 was 114% of
3 the 1999 rate?

4 **M. TIMOTHY ARGETSINGER:** That's right.

5 **MS. BETH SYMES:** And the crime severity index
6 rose by 48%?

7 **M. TIMOTHY ARGETSINGER:** Yes.

8 **MS. BETH SYMES:** And the violent crime
9 severity index rose by 50%?

10 **M. TIMOTHY ARGETSINGER:** Yes.

11 **MS. BETH SYMES:** So in stark contrast to
12 Canada, where the rates of crime and violent crime have
13 fallen not linearly but definitively over that period, it's
14 an opposite story in Nunavut?

15 **M. TIMOTHY ARGETSINGER:** Yes.

16 **MS. BETH SYMES:** And the rates of reported
17 assault in Nunavut are 12 times the national average?

18 **M. TIMOTHY ARGETSINGER:** Yes.

19 **MS. BETH SYMES:** The sexual violations of
20 children are, depending on the years, somewhere between 11
21 and 15 times the national average?

22 **M. TIMOTHY ARGETSINGER:** As reported, yes.

23 **MS. BETH SYMES:** As reported. And the
24 homicide rate, Nunavut has the highest rate per capita in
25 Canada. Is that correct?

1 **M. TIMOTHY ARGETSINGER:** Yes, as a...
2 territory, if you're looking at provinces?

3 **MS. BETH SYMES:** Yes.

4 **M. TIMOTHY ARGETSINGER:** As compared to
5 territorial jurisdiction.

6 **Ms. BETH SYMES:** Yes, sorry, as compared to
7 all other territories and provinces, yes.

8 Now, you wrote in that page 23 that Nunavut
9 is the most dangerous place in Canada to be a woman or a
10 child. And do you still agree with that?

11 **M. TIMOTHY ARGETSINGER:** If you're looking at
12 the statistics that we've just discussed, that is part of
13 the picture. I'd say in some ways, it's more nuanced than
14 that, but that is what I wrote.

15 **MS. BETH SYMES:** And that women in Nunavut
16 are the victims of 41% of violent crimes?

17 **M. TIMOTHY ARGETSINGER:** You put that in a
18 broader context or?

19 **MS. BETH SYMES:** In the broader context.

20 **M. TIMOTHY ARGETSINGER:** Yeah...

21 **MS. CHRISTA BIG CANOE:** May I suggest you
22 reframe? You just said 41% but you didn't say 41% of what.

23

24 **MS. BETH SYMES:** Of crimes.

25 **MS. CHRISTA BIG CANOE:** But in the context of

1 what?

2 **MS. BETH SYMES:** The victims of 41% of
3 violent crimes in Nunavut.

4 **M. TIMOTHY ARGETSINGER:** Yes.

5 **MS. BETH SYMES:** Yes, okay. And that the
6 rate is 13 times higher the rate for women in Canada?

7 **M. TIMOTHY ARGETSINGER:** Yes.

8 **MS. BETH SYMES:** Now, you also wrote
9 something that we've heard a lot about, and that is that
10 child abuse and domestic violence co-exist in 30% to 60% of
11 these violent crimes?

12 **M. TIMOTHY ARGETSINGER:** Yes.

13 **MS. BETH SYMES:** And you wrote very
14 sensitively that even if a child or children are not
15 physically injured in such situations that their exposure
16 to this violence contributes to behavioural, social and
17 social problems as well?

18 **M. TIMOTHY ARGETSINGER:** Yes, it can.

19 **MS. BETH SYMES:** It can. You also wrote that
20 the report rate of family violence experienced by children
21 in Nunavut is 9 times the rate experience by children in
22 Ontario?

23 **M. TIMOTHY ARGETSINGER:** Yes.

24 **MS. BETH SYMES:** And that the
25 intergenerational practice of sexual assault and family

1 violence... in, sorry, let me, I forgot the word "in." In
2 intergenerational practices of sexual assault and family
3 violence, two-thirds of the predators, two-thirds of the
4 sexual assault offenders and over three-quarters of the
5 family violence offenders have had a personal history of
6 abuse themselves?

7 **MR. TIMOTHY ARGETSINGER:** Yes.

8 **MS. BETH SYMES:** Now in the paper that you
9 did for NTI, you talk about the causes of violence against
10 women and children, and you list them as a lack of
11 information about what options they have.

12 **MR. TIMOTHY ARGETSINGER:** I wouldn't
13 characterize them as causes now. I may have in the report.
14 Is that -- did I use the word "causes"?

15 **MS. BETH SYMES:** Would you -- you -- would
16 contributors be a better word?

17 **MR. TIMOTHY ARGETSINGER:** I'd say risk
18 factors.

19 **MS. BETH SYMES:** Risk factors. That the
20 risk factors, then, include lack of information about
21 options?

22 **MR. TIMOTHY ARGETSINGER:** Yes.

23 **MS. BETH SYMES:** Include lack of safe
24 houses?

25 **MR. TIMOTHY ARGETSINGER:** Yes.

1 **MS. BETH SYMES:** Overcrowding of housing?

2 **MR. TIMOTHY ARGETSINGER:** Yes.

3 **MS. BETH SYMES:** Homelessness?

4 **MR. TIMOTHY ARGETSINGER:** Yes.

5 **MS. BETH SYMES:** Such that many have to flee
6 the community?

7 **MR. TIMOTHY ARGETSINGER:** I don't have the
8 data. I don't -- I can't say with any certainty that
9 X percent of people who relocate are relocating because of;
10 I can say that anecdotally that's something that I've
11 heard.

12 **MS. BETH SYMES:** And of course, the figures
13 that Tracy had with respect to the number of shelters is
14 that most of the communities in Nunavut do not have
15 shelters.

16 **MS. CHRISTA BIG CANOE:** Sorry, Counsel.
17 You've provided one witness information and not the other,
18 and it's not been put into exhibit yet. So do you want to
19 do that so he can look at the list as well?

20 **MS. BETH SYMES:** Okay. Could we mark then
21 the shelters ---

22 **MS. CHRISTA BIG CANOE:** You're going to have
23 to establish it first. Where the information comes from,
24 how the witness came to know the information in here,
25 please.

1 **MS. BETH SYMES:** I'm content that it be
2 orally received as evidence.

3 So did you hear Tracy give the answers to
4 the number of shelters in Nunavut?

5 **MS. CHRISTA BIG CANOE:** No. Sorry. I
6 suggest you put the material to him as well so that he can
7 read it. Because orally, you're asking him to recall
8 something that he may not have ---

9 **MR. TIMOTHY ARGETSINGER:** I have it.

10 **MS. CHRISTA BIG CANOE:** You do have it now?
11 So -- but I think, then, we need to put this on the record.

12 **MS. BETH SYMES:** Okay. Could we just stop
13 the time please?

14 **MS. CHRISTA BIG CANOE:** Yes.

15 So -- yeah. So I will now make a formal
16 objection and ask that the materials that go before
17 witnesses need to be established on the record what they
18 are, where they come from so that if the witness is being
19 asked a question about them, they have the opportunity, and
20 you have the opportunity to understand where the
21 information is coming from, so then it can be requested by
22 counsels be put in by exhibit.

23 And now, Counsel will probably want to
24 respond to my objection.

25 **MS. BETH SYMES:** It's not an objection. I

1 agree completely.

2 **MS. CHRISTA BIG CANOE:** No, it's on consent.
3 So can we just then on -- for the purpose of the record,
4 you can establish what this information is? Because
5 there's a whole room of people who might not understand
6 what this piece of paper is, as well as people watching
7 publicly, would be my suggestion if that's on consent.

8 And -- but because I have put it formally to
9 the Commissioners now, I'd like them to respond.

10 **COMMISSIONER MICHÈLE AUDETTE:** Me Big Canoe,
11 so sorry. Chief Commissioner, I am so sorry. Me Big Canoe,
12 est-ce que c'est possible d'avoir le document? The
13 document?

14 **MS. CHRISTA BIG CANOE:** Yes. And so ---

15 **CHIEF COMMISSIONER MARION BULLER:** For the
16 record, this will be the procedure going forward, that
17 documents going to a witness have to be proved by the
18 witness before they're marked.

19 **MS. BETH SYMES:** Or they can be done on
20 consent?

21 **CHIEF COMMISSIONER MARION BULLER:** Or by
22 consent, certainly.

23 **MS. BETH SYMES:** Thank you.

24 **CHIEF COMMISSIONER MARION BULLER:** And ---

25 **MS. BETH SYMES:** These documents were

1 provided to the witnesses yesterday.

2 **CHIEF COMMISSIONER MARION BULLER:** And can I
3 just have that please?

4 **MS. CHRISTA BIG CANOE:** Yeah, but it has to
5 be done on a formal process.

6 **CHIEF COMMISSIONER MARION BULLER:** So the
7 Nunavut Shelter Contact Information, 25 Communities, will
8 be, by consent, the next exhibit.

9 **MS. BETH SYMES:** Yeah. It actually is the
10 Shelters in Inuit/Nunangat. And then the four regions are
11 listed.

12 **MS. CHRISTA BIG CANOE:** But -- can I see
13 that thing for a minute?

14 So -- sorry. My one concern is where was
15 this list established? Who created it?

16 **MS. BETH SYMES:** Pauktuutit created it.

17 **MS. CHRISTA BIG CANOE:** Pauktuutit. So it's
18 a document of Pauktuutit that has been put to the
19 witnesses.

20 But that's important.

21 **CHIEF COMMISSIONER MARION BULLER:** Okay.
22 I'm just going from the title at the top of the page here
23 so that we can properly identify the document for our
24 record. And the title at the top of the page says, Nunavut
25 Shelter Contact Information, 25 Communities. So for the

1 purposes of our record, that's how the document will be
2 identified.

3 **MS. BETH SYMES:** Okay.

4 **MS. CHRISTA BIG CANOE:** But just for
5 clarity, and I apologize, but for clarity if the title is
6 absence of the source, then the source also has to be
7 proved and it has to be done prior, in advance, on consent,
8 not in the middle of cross-examination, I'd suggest. Does
9 that sound fair?

10 **CHIEF COMMISSIONER MARION BULLER:** Can we --
11 we've got this one on consent?

12 **MS. CHRISTA BIG CANOE:** We do now, but as --
13 but in terms of the source, and then where possible we can
14 provide other parties the same copy so they have the same
15 information. So at this point, although it's going into
16 exhibit, parties will have to now wait for us to photocopy.

17 So if I'm understanding the Chief's
18 direction correctly, moving forward, it has to be done
19 prior, or on consent, but in proving the document, if it's
20 not on consent, it has to -- you have to indicate the
21 source.

22 **MS. BETH SYMES:** These were given to Counsel
23 last night.

24 **MS. CHRISTA BIG CANOE:** I understand that
25 they were, but it still is important for the record to

1 understand where the information is deriving from would be
2 my position.

3 And so, if I'm understanding the Chief's
4 direction correctly, this is the process moving forward?
5 If other parties have a similar, like one-sheet document
6 that they've prepared, then that has to be knowledge that's
7 given in advance. Am I correct?

8 **CHIEF COMMISSIONER MARION BULLER:** Yes. You
9 are correct. Thank you.

10 **MS. CHRISTA BIG CANOE:** Thank you. And I
11 believe we can start the time again once you ask your next
12 question.

13 --- **EXHIBIT NO./PIÈCE NO. A20:**

14 "Nunavut Shelter Contact information for 25
15 communities" (one page)
16 Submitted by: Beth Symes, Counsel for
17 Pauktuutit Inuit Women of Canada, Saturviit
18 Inuit Women's Association, AnânuKatiget
19 Tumingit Regional Inuit Women's Association,
20 Manitoba Inuit Association and Ottawa Inuit
21 Children's Centre, as a collective single
22 party

23
24 **MS. BETH SYMES:** Tim, for the communities in
25 Inuit/Nunangat that don't have shelters, would you agree

1 with me that many of them would have to flee the community
2 in order to get to safety?

3 **MR. TIMOTHY ARGETSINGER:** Yes, although the
4 -- yes. Communities that don't have shelters, there are,
5 in some cases, people who are known in the community to
6 open their doors to people that may be vulnerable. So
7 there are some informal ---

8 **MS. BETH SYMES:** Yes.

9 **MR. TIMOTHY ARGETSINGER:** --- shelters, but
10 in terms of physical structures established for that
11 purpose, yes.

12 **MS. BETH SYMES:** Now, in Nunavut, in fact,
13 throughout all of Inuit/Nunangat, would you agree with that
14 there is a lengthy time between arrest and trial?

15 **MR. TIMOTHY ARGETSINGER:** Yes.

16 **MS. BETH SYMES:** And that in some cases the
17 man is still in the community out on bail with some
18 restrictions?

19 **MR. TIMOTHY ARGETSINGER:** Yes.

20 **MS. BETH SYMES:** And Tracy, and I think
21 maybe Tim as well, you both said that in many cases they
22 return to living together because of housing issues?

23 **MS. TRACY DENNISTON:** Yes.

24 **MS. BETH SYMES:** Tim, you agree with that as
25 well?

1 like they're not really being adhered to, I guess is my --
2 saying.

3 **MS. BETH SYMES:** Now Tim, when these risk
4 factors of violence, when we come to the document that was
5 marked as an exhibit yesterday, the social determinants of
6 health, are those the same factors that are the social
7 determinants of Inuit health?

8 **MR. TIM ARGETSINGER:** Yes.

9 **MS. BETH SYMES:** And I don't want to -- I'm
10 not going to take you through the Social Determinants of
11 Health because that was done yesterday, but I want to ask
12 you about that document. It was based on the -- you're not
13 the author of that document; are you?

14 **MR. TIM ARGETSINGER:** No.

15 **MS. BETH SYMES:** But it was based on the
16 2006 census?

17 **MR. TIM ARGETSINGER:** The Social
18 Determinants of Health ---

19 **MS. BETH SYMES:** Yes.

20 **MR. TIM ARGETSINGER:** --- Report? I believe
21 so.

22 **MS. BETH SYMES:** And I think they also used
23 the 2011 census?

24 **MR. TIM ARGETSINGER:** Possibly.

25 **MS. BETH SYMES:** The 2016 census, the

1 reports on Inuit have begun to be released starting in 2017
2 and more in 2018?

3 **MR. TIM ARGETSINGER:** Yes.

4 **MS. BETH SYMES:** Okay. And you, in your
5 introduction, said that you are the author of a number of
6 reports for ITK.

7 **MR. TIM ARGETSINGER:** Yes.

8 **MS. BETH SYMES:** So in writing those more
9 recent reports and in your continuing research, have you
10 been using the 2016 census where available?

11 **MR. TIM ARGETSINGER:** Yes.

12 **MS. BETH SYMES:** I'm going to ask at a very,
13 very high level, would you agree with me that the
14 population of Inuit has risen significantly since 2006?

15 **MR. TIM ARGETSINGER:** Yes.

16 **MS. BETH SYMES:** Do you know approximately
17 how many?

18 **MR. TIM ARGETSINGER:** Sixty-six thousand
19 (66,000)?

20 **MS. BETH SYMES:** And that's about a 29 per
21 cent increase?

22 **MR. TIM ARGETSINGER:** Approximately.

23 **MS. BETH SYMES:** And roughly what percentage
24 of Inuit live in Inuit Nunangat?

25 **MR. TIM ARGETSINGER:** Approximately 73 per

1 cent.

2 **MS. BETH SYMES:** And would you agree with me
3 that the population of Inuit living outside Inuit Nunangat
4 has actually been growing at the fastest rate?

5 **MR. TIM ARGETSINGER:** I don't know for sure.
6 I know it's growing quickly. I don't know if it's faster
7 than the rate of population growth within Inuit Nunangat.

8 **MS. BETH SYMES:** Where in Inuit Nunangat is
9 the growth the largest, in which regions?

10 **MR. TIM ARGETSINGER:** I don't know for sure.

11 **MS. BETH SYMES:** And would you agree with me
12 that the population of Inuit is very young?

13 **MR. TIM ARGETSINGER:** Yes.

14 **MS. BETH SYMES:** Do you know what the median
15 age is?

16 **MR. TIM ARGETSINGER:** Twenty-six (26).

17 **MS. BETH SYMES:** And are there regions where
18 it is even younger?

19 **MR. TIM ARGETSINGER:** Possibly. Yes.

20 **MS. BETH SYMES:** And what's the current life
21 expectancy of Inuit?

22 **MR. TIM ARGETSINGER:** It's 72 compared to 82
23 for Canadians as a whole.

24 **MS. BETH SYMES:** And do you know the numbers
25 for men and for women?

1 **MR. TIM ARGETSINGER:** I don't off the top of
2 my head.

3 **MS. BETH SYMES:** But they are significantly
4 about 10 years less than for non-Inuit?

5 **MR. TIM ARGETSINGER:** Yes.

6 **MS. BETH SYMES:** And you had indicated that
7 the median age for Inuit was young. Do you have any idea
8 what the median age for Canadians is? Substantially more?

9 **MS. CHRISTA BIG CANOE:** So, sorry. At this
10 point you're asking a number of questions that aren't tying
11 specifically to the reports or anything that are in without
12 affording the witness an opportunity to check those reports
13 or look at numbers. So, without being able to -- for him
14 to be able to qualify, even though he is the author, but an
15 author of a number of reports in different years -- yes,
16 please. So I guess my concern is, if we're asking him
17 numbers, it sounds more like -- and I have no issue with
18 the leading question aspect, but you're providing the
19 evidence, not the witness. So it has to be a question that
20 he's able to answer, but he's also not been given a
21 particular pinpoint or place in any of the material before
22 him.

23 So if you did want to put material before
24 him or you did want to refer to -- I mean, you established
25 that he has an awareness of the 2016 statistics, but he has

1 no listing in front of him, nothing from Statistics Canada,
2 so I'm not sure how you can get him to acknowledge those
3 numbers.

4 **MS. BETH SYMES:** Tim, were you given copies
5 of the report social determinants ---

6 **MS. CHRISTA BIG CANOE:** So, sorry, so if you
7 want to start the cross again or did you want to establish
8 this?

9 **MS. BETH SYMES:** No, no, I want to deal with
10 this motion ---

11 **MS. CHRISTA BIG CANOE:** Okay.

12 **MS. BETH SYMES:** --- this objection.

13 Were you given copies of the social
14 determinants with -- updated with 2016 statistics?

15 **MR. TIM ARGETSINGER:** You mean the Social
16 Determinants Report, the 2014 report?

17 **MS. BETH SYMES:** Yes, with the statistics
18 updated?

19 **MR. TIM ARGETSINGER:** Not with the
20 statistics updated.

21 **MS. BETH SYMES:** I provided that to counsel
22 last week.

23 **MS. CHRISTA BIG CANOE:** The 2016 Canada
24 Census Inuit Statistics?

25 **MS. BETH SYMES:** And also the report of the

1 social determinants with the statistics updated.

2 **MS. CHRISTA BIG CANOE:** Right. But did you
3 give it to the witness? Did you have a conversation? He's
4 an expert witness. There's no proprietary interest. If
5 you wanted to put the document to him or the opportunity
6 then there was that opportunity. We didn't object to that.

7 So the point is though, do you want him now
8 to see this document? Because if that's the case, because
9 it is from a source, establish the source, then ask the
10 question is what I would suggest may be more helpful.

11 **MS. BETH SYMES:** Well, do you have this
12 document?

13 **MS. CHRISTA BIG CANOE:** I do.

14 **MS. BETH SYMES:** The 2016 Census Inuit
15 Statistics?

16 **MS. CHRISTA BIG CANOE:** Yeah.

17 **MS. BETH SYMES:** Why don't you show that to
18 him, please?

19 **MS. CHRISTA BIG CANOE:** Yes. So you're
20 asking for it to be put to him, but then the clock starts
21 again if this is how we're -- and obviously consent should
22 be happening in advance of cross.

23 **MS. BETH SYMES:** I thought we had it.

24 **MS. CHRISTA BIG CANOE:** So ---

25 **MS. BETH SYMES:** I provided them to you last

1 week but ---

2 **MS. CHRISTA BIG CANOE:** So are we happy for
3 you to establish and go back onto your time?

4 **MS. BETH SYMES:** Let me just take one minute
5 to look at it.

6 **MR. TIM ARGETSINGER:** Question?

7 **MS. CHRISTA BIG CANOE:** Just -- okay, so
8 before ---

9 **MS. BETH SYMES:** So ---

10 **MS. CHRISTA BIG CANOE:** Wait. Sorry, before
11 you go back to questions.

12 **MS. BETH SYMES:** We need to go back on the
13 time now.

14 **MS. CHRISTA BIG CANOE:** And you need to
15 establish this document for the purposes of the record.
16 The time starts ---

17 **MS. BETH SYMES:** Tim -- yeah, Tim, this
18 document was provided by -- created, sorry, by Pauktuutit's
19 Research and it has the data from the 2016 Canadian Census
20 on Inuit statistics. I thought that it was going to be
21 provided to you; okay?

22 **MR. TIM ARGETSINGER:** Okay.

23 **MS. BETH SYMES:** Could it then be the next
24 exhibit, please?

25 **COMMISSIONER MICHÈLE AUDETTE:** Certainly.

1 The update to the Social Determinants of the Health Report
2 will be the next exhibit, please.

3 **MS. BETH SYMES:** Sorry, it's called 2016
4 Canadian Census Inuit Statistics. It's not called what
5 you're saying.

6 **MS. CHRISTA BIG CANOE:** Yeah, and it's not a
7 formal update to that report.

8 **COMMISSIONER MICHÈLE AUDETTE:** It isn't.
9 Okay. Thank you.

10 Then for our record, the document headed
11 2016 Canada Census Inuit Statistics will be the next
12 exhibit. Thank you.

13 **MS. BETH SYMES:** Thank you very much.

14 **--- EXHIBIT NO./PIÈCE NO. A21:**

15 2016 Canadian Census: Inuit Statistics (four
16 pages)

17 Submitted by: Beth Symes, Counsel for
18 Pauktuutit Inuit Women of Canada, Saturviit
19 Inuit Women's Association, AnânuKatiget
20 Tumingit Regional Inuit Women's Association,
21 Manitoba Inuit Association and Ottawa Inuit
22 Children's Centre, as a collective single
23 party

24 **MS. BETH SYMES:** Sorry. Tim, in -- we
25 talked a little bit about -- you talked a little bit about

1 housing yesterday and I want to come back to it. In terms
2 of 2016 then, the statistics from Statistics Canada, sorry,
3 is that 31.5 per cent of Inuit living in Inuit Nunangat
4 live in dwellings in need of major repairs?

5 **MR. TIM ARGETSINGER:** Yes.

6 **MS. BETH SYMES:** And there has been a very
7 slight fall in those numbers of 4.1 per cent between 2001
8 and 2016?

9 **MR. TIM ARGETSINGER:** Yes.

10 **MS. BETH SYMES:** That the crisis with
11 respect to housing repairs is worse in Nunavut and
12 Nunatsiavut?

13 **MR. TIM ARGETSINGER:** Yes.

14 **MS. BETH SYMES:** Now I want to ask another
15 indicia of housing. In 2016 Statistics Canada reports that
16 51.7 of Inuit living in Inuit Nunangat lived in crowded
17 housing; is that correct?

18 **MR. TIM ARGETSINGER:** Yes.

19 **MS. BETH SYMES:** And that that's virtually
20 unchanged since 2011?

21 **MR. TIM ARGETSINGER:** That's right.

22 **MS. BETH SYMES:** The highest rate of
23 overcrowding is in Nunavut and then in Nunavik; is that
24 correct?

25 **MR. TIMOTHY ARGETSINGER:** Yes.

1 **MS. BETH SYMES:** And those are 56.4 percent
2 and 52 percent, respectively?

3 **MR. TIMOTHY ARGETSINGER:** Yes.

4 **MS. BETH SYMES:** And Tim, for the rest of
5 Canadians, only 3 percent of Canadians live in
6 overcrowding?

7 **MR. TIMOTHY ARGETSINGER:** Yes.

8 **MS. BETH SYMES:** Would you agree with me
9 that the impact of overcrowding falls disproportionately on
10 Inuit women and children?

11 **MR. TIMOTHY ARGETSINGER:** The impact?

12 **MS. BETH SYMES:** Yes.

13 **MR. TIMOTHY ARGETSINGER:** I -- what do you
14 mean by impact?

15 **MS. BETH SYMES:** The result.

16 **MR. TIMOTHY ARGETSINGER:** I mean, I think --

17 -

18 **MS. BETH SYMES:** The lived result.

19 **MR. TIMOTHY ARGETSINGER:** I think families
20 as a whole are experiencing the impacts, including men and
21 boys.

22 **MS. BETH SYMES:** Would you agree with me
23 that it's women who have to leave, who do leave because of
24 family violence?

25 **MR. TIMOTHY ARGETSINGER:** Yes.

1 **MS. BETH SYMES:** Now, Commissioner Audette
2 and Commissioner Robinson asked you some very detailed
3 questions about housing and the way forward. Tim, you're
4 the author of four different reports. I'm not going to put
5 them in at this point, but I want to record for the record
6 that in fact, ITK has been very active in terms of housing
7 and that you're the author of the National Housing Strategy
8 submission in 2016.

9 **MR. TIMOTHY ARGETSINGER:** No.

10 **MS. BETH SYMES:** Oh, someone else at ITK
11 wrote it?

12 **MR. TIMOTHY ARGETSINGER:** Well, it's not
13 someone, it's a -- there is a lead, there is committee,
14 there are many people who were involved, but I am not
15 involved in drafting of the housing strategy.

16 **MS. BETH SYMES:** How about the "Best
17 Practices in Sustainable Housing Delivery in Inuit
18 Nunangat"?

19 **MR. TIMOTHY ARGETSINGER:** No. I am not
20 involved.

21 **MS. BETH SYMES:** But is it a product -- I'm
22 asking, since you may not have been the author of them, I'm
23 simply asking is this a recent report of ITK about housing?

24 **MR. TIMOTHY ARGETSINGER:** Yes.

25 **MS. BETH SYMES:** The third one, has ITK

1 published "Barriers to Sustainable Housing Delivery in
2 Inuit Nunangat"?

3 **MR. TIMOTHY ARGETSINGER:** Yes.

4 **MS. BETH SYMES:** And finally, has ITK
5 published "Youth Perspectives in Housing in Inuit
6 Nunangat"?

7 **MR. TIMOTHY ARGETSINGER:** Yes.

8 **MS. BETH SYMES:** Now, I want to ask you a
9 question. I mean, we went through the housing in need of
10 major repairs, and we went through the statistics in terms
11 of crowded housing. Let me just go over again, 31.5
12 percent of Inuit in Inuit Nunangat live in dwellings in
13 need of major repairs, and 51.7 percent of Inuit living in
14 Inuit Nunangat live in crowded housing. Okay. In 2017 did
15 the government of Canada commit \$240 million over 10 years
16 for housing in Nunangat?

17 **MR. TIMOTHY ARGETSINGER:** Yes.

18 **MS. BETH SYMES:** In 2018, this year, did the
19 government of Canada commit \$400 million over 10 years for
20 housing in the other three regions?

21 **MR. TIMOTHY ARGETSINGER:** Yes.

22 **MS. BETH SYMES:** At that rate, Tim, how long
23 do you estimate it will take to close the gap between Inuit
24 in Inuit Nunangat and the rest of Canada?

25 **MR. TIMOTHY ARGETSINGER:** I don't know. I

1 couldn't give you a specific number.

2 **MS. BETH SYMES:** A long time?

3 **MR. TIMOTHY ARGETSINGER:** Yes, if the
4 population growth were to continue at the rate that it is
5 today, then yes, a long time, if at all.

6 **MS. BETH SYMES:** So just in terms of
7 housing, on the one hand we have the rate of population
8 growth in Inuit Nunangat amongst Inuit, growing at 20
9 percent a year, right? Oh, sorry, I mis-said it. Twenty-
10 nine (29) percent from 2006 to 2016.

11 **MR. TIMOTHY ARGETSINGER:** Yes. So if you're
12 looking at the provision of federal dollars for social
13 housing alone, then yes. Rather than considering a range
14 of other investments that are linked to access to housing.

15 **MS. BETH SYMES:** And let me just ask you, is
16 -- to build a house, a unit in Inuit Nunangat, what is the
17 capital cost, on average?

18 **MR. TIMOTHY ARGETSINGER:** I couldn't tell
19 you the average number. It differs substantially between
20 regions, but ballpark of the 300 to probably \$500,000.

21 **MS. BETH SYMES:** And I presume that would
22 vary depending upon how remote the community is?

23 **MR. TIMOTHY ARGETSINGER:** Yes.

24 **MS. BETH SYMES:** So the materials have to be
25 flow in, or ---

1 **MR. TIMOTHY ARGETSINGER:** Yes.

2 **MS. BETH SYMES:** I'm going to ask this both
3 of Tracy and Tim. So Tracy first. Would you agree with
4 me, Tracy, that the current rate of violence against Inuit
5 women and children constitutes a public health emergency in
6 Canada?

7 **MS. CHRISTA BIG CANOE:** That's -- she's not
8 qualified in that area as a public health. We have a
9 health policy analysis?

10 **MS. BETH SYMES:** I'm going to ask him. I'm
11 asking as the front ---

12 **MS. CHRISTA BIG CANOE:** So maybe rephrase.

13 **MS. BETH SYMES:** I'm asking you, based on
14 your 18 plus years' experience on the front line, in Nane
15 and in Nunatsiavut, would you say that the current rates of
16 violence for Inuit women and children constitute a public
17 health emergency in Canada?

18 **MS. CHRISTA BIG CANOE:** I'm sorry. Stop the
19 time, please.

20 She's not going to be able to answer the
21 nature of the public health emergency. You're asking her
22 to answer a question outside of her area that she's been
23 qualified as a knowledge keeper or an expert. And so
24 rephrasing the first part of the question was fine, but the
25 last part, I don't think she's going to be able to answer

1 that. And she can speak to that herself, but we do have a
2 qualified expert who probably can answer that.

3 **MS. BETH SYMES:** Let me try it just ---

4 **MS. CHRISTA BIG CANOE:** So we'll start the
5 time again if you're happy to proceed with your question.

6 **MS. BETH SYMES:** Let me just try and ask it
7 again. From your experience, is the rate of violence
8 against Inuit women and children in Nunatsiavut, which you
9 see, is it an emergency?

10 **MS. TRACY DENNISTON:** I can't say for sure
11 if it's an emergency, but I can say it's pretty high.

12 **MS. BETH SYMES:** Tim, I'm going to ask you
13 with respect to Inuit Nunangat, is the rate of violence
14 against Inuit women and children -- does it constitute a
15 public health emergency in Inuit Nunangat?

16 **MR. TIMOTHY ARGETSINGER:** I'd echo Tracy,
17 it's high. I wouldn't characterize it one way or another.
18 I tend to avoid sensationalistic terms like that.

19 **MS. BETH SYMES:** Is the current rate
20 acceptable, in your opinion?

21 **MR. TIMOTHY ARGETSINGER:** Absolutely not.

22 **MS. BETH SYMES:** Tracy?

23 **MS. TRACY DENNISTON:** No.

24 **MS. BETH SYMES:** Now, would you agree with
25 me that housing is an essential human right?

1 **MR. TIMOTHY ARGETSINGER:** Yes.

2 **MS. BETH SYMES:** Tracy?

3 **MS. TRACY DENNISTON:** Yes.

4 **MS. BETH SYMES:** Naiomi?

5 **MS. NAIOMI MITALLIC:** Yes.

6 **MS. BETH SYMES:** And would you agree with me
7 that in Inuit Nunangat, Tim, that you've described it as a
8 crisis, right? You have described the shortage, the
9 inadequacy, the crowding as a housing crisis?

10 **MR. TIMOTHY ARGETSINGER:** Yes. I would --
11 it's -- the word itself isn't a word that I have just
12 pulled out of thin air and decided to use myself. It is a
13 term that is used broadly by a number of Inuit advocacy
14 organizations.

15 **MS. BETH SYMES:** So Tim, just to be sure, is
16 the -- you would say it is a crisis, but are you also
17 saying that other experts ---

18 **MR. TIMOTHY ARGETSINGER:** Yes.

19 **MS. BETH SYMES:** --- say it's in a crisis as
20 well?

21 **MR. TIMOTHY ARGETSINGER:** Yes.

22 **MS. BETH SYMES:** And this crisis in housing
23 for Inuit, would you agree it is a breach of Canada's
24 obligations under the UN Conventions?

25 **MR. TIMOTHY ARGETSINGER:** Absolutely.

1 **MS. BETH SYMES:** Tracy?

2 **MS. TRACY DENNISTON:** I can't answer that.

3 **MR. BETH SYMES:** Naomi?

4 **MS. NAIOMI METALLIC:** Yes, I haven't looked
5 at all of the conventions, but as far as I know, it does
6 seem to be. Yes.

7 **MS. BETH SYMES:** And, finally, would you
8 agree with me that this housing crisis for Inuit is a
9 breach of their Section 7 rights under the *Canadian Charter*
10 *of Rights and Freedoms*?

11 **MS. CHRISTA BIG CANOE:** Sorry, who is that
12 question for?

13 **MS. BETH SYMES:** Let me ask Tim first.

14 **MR. TIMOTHY ARGETSINGER:** Can you read the
15 Section 7 right?

16 **MS. BETH SYMES:** The right to life, liberty
17 and security of a person.

18 **MS. CHRISTA BIG CANOE:** Sorry, can you
19 direct the question to the expert that would probably be
20 most enabled to answer it? Because he doesn't have the
21 full context of Section 7 of the *Charter of Rights and*
22 *Freedoms* in front of him. But, again, we do have a witness
23 here who can answer that question.

24 **MS. BETH SYMES:** Naomi?

25 **MS. NAIOMI METALLIC:** Yes, I think so. I

1 mean, it hasn't been ruled on by our courts, and we have
2 various decisions that have gone forward, but in the, I
3 guess, most recent case, I guess at the Supreme Court
4 *Gosselin v. Quebec* the court did leave the door open. They
5 said in that particular case, whether I agree with it or
6 not, the facts weren't the right facts. But, I think the
7 facts that are coming forward with respect to a variety of
8 services and the direness of housing, I think there would
9 be a strong case for a Section 7 violation to the right to
10 security of the person, as well as life and liberty, not in
11 accordance with the principle of fundamental justice.

12 **MS. BETH SYMES:** Let me ask it in a slightly
13 different way, Tracy. Would you agree that the housing
14 crisis in Nunatsiavut is unacceptable?

15 **MS. TRACY DENNISTON:** Yes.

16 **MS. BETH SYMES:** Tim, would you agree that
17 the housing crisis in Inuit Nunangat is unacceptable?

18 **MR. TIMOTHY DENNISTON:** Yes.

19 **MS. BETH SYMES:** Thank you. Those are my
20 questions. Thank you for your time.

21 **MS. CHRISTA BIG CANOE:** Thank you. Can you
22 stop the clock? Thank you.

23 We would like to call upon next the
24 Vancouver Rape Relief & Women's Shelter, and they have 25
25 minutes for their cross-examination. One counsel or

1 representative has introduced themselves and asked the
2 first question, the time will start.

3 **CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR MS. HILLA**
4 **KERNER :**

5 **MS. HILLA KERNER:** Good morning. My name is
6 Hilla. I'm not a legal counsel; I'm an advocate and a
7 frontline feminist activist, and I speak on behalf of my
8 collective, Vancouver Rape Relief & Women's Shelter. Our
9 analysis of women's oppression and violence against women
10 is driven from our frontline work, and we receive thousands
11 of calls from women every year. And, in the last 10 years,
12 we've received more than ---

13 **MS. CHRISTA BIG CANOE:** So, sorry, if I
14 could ---

15 **MS. HILLA KERNER:** --- (indiscernible) from
16 women.

17 **MS. CHRISTA BIG CANOE:** If I could, you can
18 do an introduction, but you can't make a submission. So,
19 you can start your questions, and the time can start,
20 please. So, for context of a question, if you want to do
21 that, that's fine. But ---

22 **MS. HILLA KERNER:** Okay.

23 **MS. CHRISTA BIG CANOE:** Thanks. We can
24 start time, and you can start questions.

25 **MS. HILLA KERNER:** Tracy, you said yesterday

1 that women have nowhere to go, so they go back to abusive
2 men.

3 MS. TRACY DENNISTON: Yes.

4 MS. HILLA KERNER: It is our experience in
5 our transition house as well, and you said that when women
6 do return to their homes because they have no choice, often
7 they will be beaten up again by their abusive men?

8 MS. TRACY DENNISTON: Yes, can be.

9 MS. HILLA KERNER: Yes. You said that the
10 shelter policies are such that even though usually women
11 stay for six weeks, sometimes they will return the same
12 day.

13 MS. TRACY DENNISTON: Yes, sometimes.

14 MS. HILLA KERNER: Because they just
15 returned home, and the abusive man harmed them again.

16 MS. TRACY DENNISTON: Yes.

17 MS. HILLA KERNER: You said the younger
18 generation of women are "charging". You used that term.
19 Does that mean to say that they may complain to the police
20 about the abusive man?

21 MS. TRACY DENNISTON: Yes.

22 MS. HILLA KERNER: And, can you say how
23 those complaints resulted? Are men being charged and
24 convicted?

25 MS. TRACY DENNISTON: Can you ask the

1 question again? Sorry.

2 **MS. HILLA KERNER:** So, a woman is making a
3 complaint to the police, and what does the police do with
4 that? Is it common that the police will do a thorough
5 investigation and proceed with charges ---

6 **MS. TRACY DENNISTON:** Yes.

7 **MS. HILLA KERNER:** --- and that the man will
8 face court?

9 **MS. TRACY DENNISTON:** Yes.

10 **MS. HILLA KERNER:** Okay. How common would
11 you say it is?

12 **MS. CHRISTA BIG CANOE:** Sorry, can you ask
13 the question in terms of her experience?

14 **MS. HILLA KERNER:** Yes. From your
15 experience ---

16 **MS. CHRISTA BIG CANOE:** Her experience and
17 her knowledge.

18 **MS. HILLA KERNER:** --- with the women who
19 are coming to the transition -- the battered women who are
20 coming to the transition house, how many of their abusers,
21 in a rough estimate, will be investigated, charged and
22 convicted by the criminal justice system?

23 **MS. CHRISTA BIG CANOE:** Sorry, can we stop
24 the time for one moment, please? She won't be able to
25 answer the specificity of that for a couple of reasons.

1 And so -- if it's anecdotal. But, you're asking her to
2 disclose information that's not in evidence before the
3 group, and there's privacy issues that may relate to anyone
4 she is assisting in the house.

5 **MS. HILLA KERNER:** The complaint to police
6 should be at least under *Freedom of Information*, but
7 general should be available to the public.

8 **MS. CHRISTA BIG CANOE:** Right. But, do you
9 that information, for example, to tender as an exhibit or
10 to show to ---

11 **MS. HILLA KERNER:** I don't have it as a
12 formal exhibit.

13 **MS. CHRISTA BIG CANOE:** Yes. So, the
14 problem with trying to get specificity on information
15 you're not putting to the witnesses is they don't have the
16 ability then to answer you with any exactitude, and then
17 we're not actually getting evidence before the
18 Commissioners; we're getting speculation.

19 **MS. HILLA KERNER:** Oh, okay.

20 **MS. CHRISTA BIG CANOE:** So, if there's a way
21 to phrase it anecdotally and that is in her area of
22 knowledge, she can answer the question. And, I kind of
23 know where you're going with this.

24 **MS. HILLA KERNER:** Yes.

25 **MS. CHRISTA BIG CANOE:** I'm not objecting to

1 the context, but we need to be sure that they can actually
2 answer the question.

3 **MS. HILLA KERNER:** I just -- since I'm not a
4 lawyer, I'm not sure what's the difference between
5 anecdotally and the way I did it.

6 **MS. CHRISTA BIG CANOE:** You're asking for
7 specific numbers that are not before ---

8 **MS. HILLA KERNER:** Oh, I'm sorry. I'm not
9 asking -- I will try to paraphrase it.

10 **MS. CHRISTA BIG CANOE:** Even her common
11 knowledge, she may not be able to speak to without records
12 before her.

13 **MS. HILLA KERNER:** Okay.

14 **MS. CHRISTA BIG CANOE:** So, when I say
15 anecdotally, like, maybe on a principle or a level.

16 **MS. HILLA KERNER:** Okay. So, I'll try
17 again.

18 **MS. CHRISTA BIG CANOE:** Okay. So, we will
19 start your clock again ---

20 **MS. HILLA KERNER:** Sure.

21 **MS. CHRISTA BIG CANOE:** --- and you will
22 lead with a question. Thank you.

23 **MS. HILLA KERNER:** So, in our work, we are
24 working in an urban area in Vancouver, and from our
25 experience, women who do call the police on violent men,

1 whether it's battering, or rape, or sexual assault, or
2 incest, or violent john, very rarely they will get a
3 thorough criminal justice response. Very rarely, police
4 will do a thorough investigation, and it's very, very rare
5 to have men being charged for violence against women. I
6 would like to know if that's your experience as well?

7 **MS. TRACY DENNISTON:** I'm trying to figure
8 out how to answer you without -- okay. Can you ask the
9 question again? Sorry. I'm trying to understand how to
10 break it down.

11 **MS. HILLA KERNER:** Sure. It's our
12 experience in our frontline work, and it's similar to
13 experiences of other members of the Canadian Association of
14 Sexual Assault Centre and other transition houses that we
15 closely work with, but we do not work closely with your
16 organization, it is very rare that once a woman is making a
17 complaint to the police that the police will actually
18 respond in a thorough investigation that will lead to
19 charges against the men. And, it's very, very, very rare
20 that men who commit violence against women will be charged
21 and face a judge, which is for us to say will be held
22 accountable.

23 **MS. TRACY DENNISTON:** Okay.

24 **MS. HILLA KERNER:** Is this your -- in your
25 -- the work that you do, is this a similar experience or do

1 you have a different experience, a more positive experience
2 for the women you work with, with the criminal justice
3 system?

4 **MS. TRACY DENNISTON:** It seems to be a more
5 positive one with the relationship with the RCMP. They can
6 press charges, and they go to the RCMP if they want to.
7 But, that's information that we don't always have that.

8 **MS. HILLA KERNER:** Okay. So, you don't --
9 you're not in a position to know. You might know if a
10 woman filed a complaint, but you're not in a position to
11 know what happened to that complaint?

12 **MS. TRACY DENNISTON:** No, not in a position
13 to know.

14 **MS. HILLA KERNER:** You only hear in the
15 first place.

16 **MS. TRACY DENNISTON:** Yes.

17 **MS. HILLA KERNER:** From your extensive
18 experience in frontline work, and probably thousands of
19 women who shared their experience with you on violence
20 against women, would you say that our experience was a
21 fairly poor response of the criminal justice system to
22 women in general, to Indigenous women in particular in
23 terms of holding men accountable? Would you say it's
24 reflecting what you're informed of?

25 **MS. FAY BLANEY:** I think the police are

1 extremely unresponsive. The Pickton Inquiry is, you know,
2 a classic example of that. I found that the Vancouver City
3 Police were doing everything they can to manage that
4 conflict. That's just with the Pickton Inquiry. I think
5 that the relationship between Indigenous people and the
6 police is hugely problematic. I find that really
7 objectionable that the terms of reference of this Inquiry
8 did not include their ability to be able to address police
9 inaction, or even police as predators. There's a lot of
10 cases of police preying on Indigenous women, like what came
11 out in the Val D'Or situation, and that's definitely not an
12 isolated incident. I think there's a lot of Indigenous
13 people that are saying what I'm saying.

14 **MS. HILLA KERNER:** Thank you. Both to Tracy
15 and Fay, since this panel is about essential services and
16 human rights, I would like to know if you
17 agree with me that holding men accountable, stopping men
18 from harming women, protecting women from men's violence is
19 an essential service, essential as in life and death
20 essential.

21 **MS. TRACY DENNISTON:** Yes.

22 **MS. BETH SYMES:** Absolutely, yes.

23 **MS. HILLA KERNER:** And we believe that men
24 are not inherently violent and we believe that men can
25 change, but from thousands of years of patriarchal

1 civilization, we know that men are not going to change
2 unless they are pressed to. Would you agree with this
3 statement?

4 **MS. FAY BLANEY:** Who are you asking?

5 **MS. HILLA KERNER:** Fay.

6 **MS. FAY BLANEY:** I think that we live in,
7 you've already partially answered that, we do live in a
8 patriarchal society which gives men power, and men aren't
9 willing to give up that power. And the only solution as I
10 can see it is empowering women through us working together;
11 women organising with women and identifying those issues of
12 patriarchy.

13 Men haven't been quick to address patriarchy
14 in this National Inquiry across this country. What men have
15 done instead is jumped on this bandwagon and start to try
16 and organise us. Which I find extremely offensive, that
17 they would get in here and say, "We wanna stop violence
18 against women and so we're gonna work with the women."

19 Instead they should be talking to other men
20 and making other men accountable; there's far too many
21 examples of Indigenous leadership covering up for other
22 Indigenous men when they're perpetrators of violence.

23 **MS. HILLA KERNER:** Thank you so much. Tracy
24 and Fay, I believe that you will agree with me based on
25 your submissions yesterday. Is poverty the key

1 vulnerability for women and the welfare rate, from your
2 experience and from Fay experience and from what we know
3 all over the country, based on knowing the submission, is
4 unliveable? And that it keeps women vulnerable to men's
5 violence?

6 And Tracy, you asserted yesterday, I want to
7 confirm that lack of security prevents women from leaving
8 abusive men?

9 **MS. TRACY DENNISTON:** Yes.

10 **MS. HILLA KERNER:** And Fay, you asserted
11 yesterday that poverty pushes women to prostitution?

12 **MS. FAY BLANEY:** Yes.

13 **MS. HILLA KERNER:** Naomi, you said yesterday
14 something to the effect that the way essential services,
15 and I'm doing essential because obviously the government do
16 not find them essential and do not deliver them. The way
17 they are delivered to Indigenous people leaves—

18 **MS CHRISTA BIG CANOE:** Sorry, one moment.
19 You can ask questions and not make submissions.

20 **MS HILLA KERNER:** Okay.

21 **MS CHRISTA BIG CANOE:** You can't start a
22 submission, you have to ask a question.

23 **MS. HILLA KERNER:** Okay. I just wanna to
24 assure, every submission has a question at its end. (laughs)
25 A lot of question marks my paper.

1 **MS CHRISTA BIG CANOE:** I understand your
2 positions, but in this process, we ask for questions,
3 because otherwise you're making submissions from your
4 party's perspective, and the purpose of cross-examination is
5 to ask the answers of the witness of testified questions.
6 You will have later opportunities in closing submissions.

7 So I do appreciate that you have a lot of
8 questions with question marks, but for the purpose of this,
9 could you please stick to questions?

10 **MS. HILLA KERNER:** Yes, I appreciate it, and
11 I don't mean to be argumentative and I appreciate your
12 advice.

13 **MS. CHRISTA BIG CANOE:** Thank you, and if we
14 can start time again, please.

15 **MS. HILLA KERNER:** So you said something to
16 the affect that the way essential services are delivered to
17 Indigenous women leaves them in a desperate position?

18 **MS. TRACY DENNISTON:** Hum, mmm.

19 **MS. HILLA KERNER:** Thank you. Fay, you
20 referred to the Pickton case twice already, in this hearing.
21 Do you agree that most of, if not all of the Pickton
22 victims, were women from the Downtown Eastside of Vancouver?

23 **MS. FAY BLANEY:** Yes.

24 **MS. HILLA KERNER:** They had their life
25 completely controlled by the state and what the state

1 failed to deliver to them?

2 **MS. FAY BLANEY:** Yes.

3 **MS. HILLA KERNER:** They slept in homelessness
4 shelter or single-room occupation, which are rotten old
5 motels rooms, that's the place in Vancouver that one can
6 afford if they're recipient of welfare check?

7 **MS. FAY BLANEY:** There's a huge amount of
8 homelessness in Vancouver. I've been really devastated to
9 see our elders in the Downtown Eastside, living in
10 shelters.

11 They come into the city for health reason,
12 sometimes. One elder I know had cancer and she was forced
13 to live in Vancouver and was in shelters for over a year
14 and a half.

15 And other women, like other women are
16 homeless, and the single resident occupancies, the SROs
17 over flowing.

18 **MS. HILLA KERNER:** Right.

19 **MS. FAY BLANEY:** But they're not exactly
20 ideal situations as well. The women in there don't feel
21 safe and sometimes they refuse to go home because of the
22 lack of safety that they feel in those conditions.

23 Working at the Downtown Eastside Women
24 Centre, I think each day we fed about 350 women lunch,
25 like, they just don't, the welfare check doesn't go far

1 enough to be able to feed them, to meet their basic needs.
2 Definitely doesn't cover rent.

3 **MS. HILLA KERNER:** Thank you. And I will go
4 back to the women that we know as Pickton's victims.

5 So you established that they're very poor,
6 if they were mother, their children were reprehended or
7 raised by others?

8 **MS. FAY BLANEY:** Yes. The apprehension rate
9 is astronomical. We saw the stats yesterday of 55% in BC,
10 in the area of Downtown Eastside.

11 **MS. HILLA KERNER:** Thank you. And we know
12 that his victims were women in prostitution, addicted to
13 drugs, and we know...

14 Would you confirm what we know, that there
15 are not enough detox for women available on the demand
16 level or recovery programs for women who are struggling
17 with drug addiction?

18 **MS. FAY BLANEY:** Yes, that was established in
19 the Opal Inquiry, I believe, and women's groups continue to
20 call for more detox. And yesterday I said that we needed
21 women only detox. Recovery and treatment are, there isn't
22 enough.

23 There's also an issue with the harm
24 reduction policy. I realized the importance of having that
25 to keep people alive when they're engaged in really harmful

1 drugs. There is very little focus on other aspects of the
2 harm reduction policy, and there's, like, no priority given
3 to abstinence from, and there's no protest to walk that
4 journey to abstinence.

5 **MS. HILLA KERNER:** Thank you. And would you
6 agree that those conditions of women's lives that are
7 directly result from state failure to provide them
8 meaningful and comprehensible services, made them
9 completely vulnerable to Pickton?

10 **MS. FAY BLANEY:** Yes. I think for Indigenous
11 women who we're talking about here, it's some of the issues
12 that Naomi raised about what happens on the reserves. So
13 many women do, like, what Tracy was saying, they flee the
14 reserve and I fled the reserve. And they end up in the
15 city and the city is not exactly a welcoming environment.

16 There are huge problems around just being
17 able to survive, and as I said, the numbers of homelessness
18 seemed to be just skyrocketing, due to this neo-liberal era
19 that we're currently living in.

20 **MS. HILLA KERNER:** Right. And I want to make
21 a point about the women's vulnerability. We also know that
22 Pickton was a known john, and which means a man who buy
23 women in prostitution. And we know that, I know you're
24 familiar with the old laws before Bill 36, that would allow
25 the criminal justice system and the police to arrest men

1 who buy women in prostitution.

2 Would you agree with me that if the police
3 would have done their job at the time and they would arrest
4 him much earlier for buying women, many women's lives, many
5 of his victims' lives would be saved?

6 **MS. FAY BLANEY:** Yes, there is a lot of
7 documented evidence that the police were negligent in their
8 responsibilities. I think that the killing could have
9 stopped years earlier if they had done their work and not
10 been, I think, they discriminate against Indigenous women
11 in the Downtown Eastside.

12 **MS. HILLA KERNER:** Thank you. Naomi, you
13 spoke yesterday about the child welfare system as an
14 example of a failing service.

15 In our experience, the child welfare system
16 is always involved when the mother is poor and Indigenous
17 woman. And from our experience, and I would like to know
18 if you can confirm it, instead of helping mothers with
19 economic needs, with childcare and housing, they will
20 sanction women who cannot provide their kids with what the
21 state deems essential?

22 **MS. NAIOMI METALLIC:** Absolutely, and I
23 always say that that was the finding in the caring society
24 decision that Indigenous children overwhelmingly tend to be
25 taken into care for reasons of neglect, which are often

1 conditions outside of the mother's control.

2 **MS. HILLA KERNER:** Thank you. And would you
3 confirm our experience that when it comes to male violence
4 the child welfare workers will not press the police or the
5 Crown to stop the men, but they will put the responsibility
6 on the woman, and when she fails they will apprehend or
7 sanction her with apprehending the children?

8 **MS. NAIOMI METALLIC:** I'm not -- I can't
9 speak to direct experience on that question. My
10 understanding is that sometimes the reaction of social
11 workers to situations of violence simply, you know, involve
12 the taking of children without perhaps looking at more
13 deeply what's going on there, but I am not -- I don't have
14 extreme expertise in that.

15 **MS. HILLA KERNER:** Okay. To Tracy and Fay
16 now, would you agree that if we look at the impoverishing
17 income assistant rates, the sanctions and the demand of
18 child welfare system, I understand you said you cannot
19 relate to that in particular norm, and is the utter failure
20 of the criminal justice system to hold the abusive men
21 accountable, would you agree that we can say that the state
22 is enabling and maybe even colluding this male violence
23 against women? Fay?

24 **MS. FAY BLANEY:** Of course they are. I
25 mean, the answer is pretty obvious, from my perspective. I

1 mean, we have a police department in Vancouver that doesn't
2 enforce the prostitution laws. It allows it to continue.
3 And it seems to me that they are enabling the abuse of
4 Indigenous women in the downtown east side. There are so
5 many that are involved in survival sex work and they don't
6 consider our -- the level of poverty that we're in because
7 of inadequate rates of the social assistance.

8 **MS. HILLA KERNER:** Tracy, would you agree
9 that the statement they made about impoverishing, income
10 assistant rates and the failure of the criminal justice
11 system allow us to say that the state is enabling and maybe
12 even colluding with male violence against women?

13 **MS. CHRISTA BIG CANOE:** The state, sorry.

14 **MS. HILLA KERNER:** The different state --
15 the state and province.

16 **MS. CHRISTA BIG CANOE:** Sorry, just to
17 clarify, are you saying state as in like ---

18 **MS. HILLA KERNER:** So the Canadian state ---

19 **MS. CHRISTA BIG CANOE:** Okay.

20 **MS. HILLA KERNER:** --- and its extensions.

21 **MS. CHRISTA BIG CANOE:** So I'm not sure if
22 she's going to be able to answer that in her area of
23 knowledge. Did you want to rephrase it, so limit it?

24 **MS. HILLA KERNER:** No, I'll just move on.
25 Thank you.

1 Fay, you spoke yesterday about consciousness
2 raising, women coming together to reveal to each other the
3 conditions of their lives and to understand them as a
4 shared experience, it is a reflection of women's
5 oppression, and which means the jargons that we use as a
6 personal is a political. And you describe how women in Al
7 and other places come together to organise, to press for
8 social change and transformation. Would you agree that
9 many services in this context, essential services, are
10 essential services?

11 **MS. FAY BLANEY:** Did you say feminist
12 services?

13 **MS. HILLA KERNER:** Yes, feminist services
14 and I want to know if you will agree that they're feminist
15 services, not only because they saves women lives -- of
16 course, because of that -- but because it allows them to
17 come together to support and strategise with each other, to
18 have the feminist experience of consciousness raising and
19 organising that you spoke about. So unlike other services,
20 it also allow women to come together and to transform their
21 situation as oppressed.

22 **MS. FAY BLANEY:** I think that transformation
23 is key. I mentioned yesterday that my friend Cherry Smiley
24 (ph) was talking about the parallels between women who stay
25 in violent and abusive relationships and those that are

1 caught in prostitution and often caught up in addictions.
2 And the healing process, as many, you know, have attested
3 to in this process, the healing process is a very long
4 journey. And the service delivery models are not ideal.
5 Like, when you go to western models of healing, it almost
6 feels like you're being blamed for the circumstance that
7 you're in because it's so individualised.

8 And in the feminist framework you do examine
9 and analyse together as a group what's going on. And like
10 I said we don't sit there and just continue to complain
11 about what's going on. We actually take the next step of
12 taking action and we take action together.

13 And within that political process, a huge
14 part of our healing journey happens. Within that process
15 we are educated about systems and policies and beliefs that
16 impact us. So that's why I was advocating so much
17 yesterday about the importance of having feminist
18 frameworks and the consciousness raising process be
19 integral to what I'm recommending for Indigenous women.
20 And I've seen it play out time and time again.

21 And, you know, your organisation supported
22 us to do the two meetings before the Inquiry began so that
23 Indigenous women could learn, you know, what was about to
24 happen.

25 **MS. HILLA KERNER:** Thank you.

1 **MS. FAY BLANEY:** And there they -- it was
2 amazing what happened to those women in those three days
3 and you witnessed that. You witnessed what happened to the
4 Indigenous women and how we came together.

5 **MS. HILLA KERNER:** Thank you.

6 Naomi, you spoke yesterday about the role
7 of law as a key element of democracy. You confirming that?

8 **MS. NAIOMI METALLIC:** Yes.

9 **MS. HILLA KERNER:** You argue that when it
10 comes to delivery of essential services First Nations'
11 peoples are not benefitting from the rule of law.

12 **MS. NAIOMI METALLIC:** Yes.

13 **MS. HILLA KERNER:** So would it be true to
14 say that First Nations' people in that aspect do not have
15 democracy?

16 **MS. NAIOMI METALLIC:** Well, democracy and
17 rule of law are related in distinct concepts, but they sort
18 of, you know, inform each other. To the extent that there
19 are elections in some communities, I mean, some people say
20 that's a form of some sort of nuance in that, but I think
21 within the greater, broader Canadian society we are
22 certainly -- some people do vote who are Indigenous. Some
23 people don't. It's a conscious choice. But -- so they may
24 have that. But I think the -- perhaps the broader question
25 maybe that you're getting at, maybe you can clarify is ---

1 MS. HILLA KERNER: Yes. Okay.

2 MS. NAIOMI METALLIC: --- simply that ---

3 MS. HILLA KERNER: Because I ---

4 MS. NAIOMI METALLIC: Yeah.

5 MS. HILLA KERNER: --- I want -- since you
6 spoke earlier about substantive equality versus formal
7 equality ---

8 MS. NAIOMI METALLIC: Yes.

9 MS. HILLA KERNER: --- I want to separate
10 between formal democracy and ---

11 MS. NAIOMI METALLIC: Right.

12 MS. HILLA KERNER: --- real democracy. So
13 let's see if you can agree with that.

14 My collective and political support, any
15 form of self governments or sovereignty, or any form of
16 social organising that will provide each member an equal
17 share of power and an equal share of resources -- and when
18 we say "each member", we mean women too -- which we believe
19 is crucial to manifestation of real democracy. Would you
20 agree that real share -- equal share of power and equal
21 share of resources is a manifestation of democracy?

22 MS. NAIOMI METALLIC: Yes. I would only
23 qualify that by saying that it should be up to the
24 tradition -- not just the traditions. Traditions can
25 evolve as well. I just wanted to not sort of make it into

1 one particular type of -- you know, democracy may not
2 necessarily reflect potentially everyone having one vote.
3 I'm just trying to make room for whatever the collective
4 group, and the voice of women have to be prominent in that.
5 I don't disagree with that whatsoever. But I just want to
6 make space for whatever it is the particular group ---

7 **MS. HILLA KERNER:** Yeah, I do not mean the
8 western form of ---

9 **MS. NAIOMI METALLIC:** Okay.

10 **MS. HILLA KERNER:** --- democracy.

11 **MS. NAIOMI METALLIC:** Otherwise I agree with
12 your point. I just ---

13 **MS. HILLA KERNER:** No.

14 **MS. NAIOMI METALLIC:** --- wanted to make
15 that nuance.

16 **MS. HILLA KERNER:** Fay, you mentioned
17 yesterday about the systemic racism and the treatment of
18 Indigenous people to justify Indigenous peoples'
19 oppression. And you mentioned today the systemic
20 oppression of women. And I would like -- it's an open
21 question -- if you can say a few words about the similarity
22 and the difference between sexism, misogyny, patriarchy as
23 a form of oppression based on sex and racism, colonialism
24 as a form of oppression based on race.

25 **MS. FAY BLANEY:** Wow. My goodness, I don't

1 know how to answer that.

2 Sexism as we know is informed by patriarchy.
3 What I was getting at yesterday about systemic racism is
4 the belief that we're inferior and that we deserve to be in
5 the lower echelons of Canadian society. And I would say
6 that it's the same belief systems that inform patriarchy
7 where the men in our communities often believe that we're
8 not capable of leadership or responsibility or power.

9 **MS. HILLA KERNER:** Would you agree that
10 similar principle works on the oppression of capitalism in
11 relation to poor? And when we talk about intersection
12 lands, we mean understanding Indigenous women's lives so
13 the oppression of the race of Indigenous peoples through
14 the oppression of their sex as women and through oppression
15 of their economic class, which is poverty?

16 **MS. FAY BLANEY:** Yes. There is a book
17 written about poor bashing, and often the wealthy do blame
18 the poor for the poverty that they live with without
19 looking at the systemic process that keeps them there.

20 **MS. HILLA KERNER:** Thank you.

21 I want to thank the witnesses, I want to
22 thank the Commissioners and lead counsel.

23 **MS. CHRISTA BIG CANOE:** Thank you.

24 Chief Commissioner and Commissioners, I
25 would suggest that now is an opportune time for a break

1 because the next party withstanding will actually be
2 allotted 50 minutes.

3 And I would actually ask that it be
4 20 minutes and that counsel meet in Room H, please, for
5 just a brief 5-minute meeting, and then we will -- it will
6 entitle us to 15.

7 So can we have a 20-minute break?

8 **CHIEF COMMISSIONER MARION BULLER:** M'hm.

9 **MS. CHRISTA BIG CANOE:** It's now 9:55, so
10 I'm asking to come back at 10:15, please.

11 **CHIEF COMMISSIONER MARION BULLER:** Yes.

12 --- Upon recessing at 9:58 a.m.

13 --- Upon resuming at 10:26 a.m.

14 **MS. CHRISTA BIG CANOE:** If we can
15 recommence, I'd like to call the next party withstanding,
16 the Assembly of First Nations. Julie McGregor will be
17 doing the cross-examination on behalf of them.

18 Again, Counsel -- I'm sorry, I just
19 introduced you -- but once you start asking the first
20 question, the time will begin.

21 **CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR**

22 **MS. MCGREGOR:**

23 **MS. JULIE MCGREGOR:** Good morning,
24 Chief Commissioner and Commissioners and panel members. As
25 Christa mentioned, my name is Julie McGregor. I'm an

1 Algonquin from Kitigan Zibi Anishinabeg in Quebec, and I
2 represent the Assembly of First Nations.

3 I'd like to begin by acknowledging the
4 territory we are on of the Huron-Wendat, and I'd like to
5 thank the Elder for her prayer. I would also like to thank
6 the Assembly of Manitoba Chiefs for designating their time
7 to the Assembly of First Nations.

8 As I mentioned, I represent the Assembly of
9 First Nations, which is a national advocacy organization.
10 It represents First Nation citizens in Canada and includes
11 more 900,000 people living in 634 First Nation communities
12 across Canada.

13 So as the FN is my client, much of my
14 questions will be directed to Ms. Blaney and
15 Professor Metallic this morning.

16 And specifically, I'd like my evidence to
17 deal with how their evidence -- sorry, I would like my
18 questions to deal with how their evidence relates to First
19 Nations.

20 So for my first question, I'd like to direct
21 it to Ms. Blaney.

22 In August of 2017, the National Inquiry had
23 its first expert hearing on Indigenous laws and legal
24 traditions. Were you aware of this?

25 **MS. FAY BLANEY:** No.

1 **MS. JULIE MCGREGOR:** Okay. What I wanted to
2 do, what my intention was to discuss the relationship
3 between this hearing and human rights, which was Indigenous
4 law and human rights. But during your presentation, you
5 spoke about cultural clashes and the dual world that you
6 live in, your academic life versus your way of life, your
7 traditional way of life. Is that correct?

8 **MS. FAY BLANEY:** Yes.

9 **MS. JULIE MCGREGOR:** Based on your evidence
10 and expertise, can you speak to, if any, cultural clashes
11 you have observed or lived that exist between human rights,
12 which focuses on the individual libertarian rights and --
13 of humans and individuals, and your way of being and
14 knowing and the laws of your nation, your traditional laws?

15 **MS. FAY BLANEY:** Yes. I realize that the
16 International Human Rights Declaration was developed after
17 the Second World War at a time when a lot of the nations
18 around the world were still under colonialism and under
19 Western ideals, and so it is developed from quite an
20 individualistic perspective. And our collective way of
21 viewing the world is not really included in that.

22 Human rights -- I didn't really -- my
23 evidence isn't really focused on the international
24 instruments, per se, like I'm not looking at the
25 Declaration or even the Indigenous Declaration or the

1 Seedaw Declaration, I am primarily interested in this work
2 from a grassroots perspective. I mean, that was the
3 discussion before we arrived here of who would this panel
4 consist of.

5 My concern with focusing on international
6 human rights instruments is the fact that there are no
7 mechanisms in place to monitor or enforce any of those
8 things. So I think the knowledge and expertise of our
9 natural rights exists with us at the grassroots level.

10 **MS. JULIE MCGREGOR:** So you don't think that
11 the UN Declaration on the Rights of Indigenous People is an
12 instrument which could be used for furthering traditional
13 knowledge, traditional laws?

14 **MS. FAY BLANEY:** Well, I wouldn't want to
15 undermine all the work that's gone into that. I know that
16 a lot of people have devoted a lot of time and energy, and
17 I commend them for the work that they have done. It's just
18 not necessarily an area that I focus on.

19 I've looked at some of those things, and --
20 from my gendered lens, and I always say when I look at
21 things developed within the Indigenous community, oh, they
22 forgot the women or there's a mention here or there about
23 Indigenous women. But you don't recognize and absolute
24 presence of Indigenous women because it would be a
25 different document if women were involved in the process.

1 Very much in line with what I said about the
2 Universal Human Rights Declaration, if our tribal or
3 community -- communal societies were included, it would be
4 a different universal declaration.

5 **MS. JULIE MCGREGOR:** Thank you. Based on
6 your evidence, you discuss the Fraser River Journey for
7 Justice?

8 **MS. FAY BLANEY:** Yes.

9 **MS. JULIE MCGREGOR:** You stated that you
10 heard from many women who have experienced violence, and
11 that in your experience there was so many Indigenous women
12 who had similar stories. Is that correct?

13 **MS. FAY BLANEY:** Absolutely.

14 **MS. JULIE MCGREGOR:** In all of these
15 instances and these experiences you heard, were the
16 perpetrators of violence Indigenous men?

17 **MS. FAY BLANEY:** I wouldn't say solely. In
18 the communities, of course. You know, on Reserve, I don't
19 think we experience the same dynamic as they would in the
20 States, for instance, where perpetrators are coming on to
21 the Reserves are non-Indigenous people. So in the
22 communities, it would be Indigenous men.

23 But when it comes to urban centres, the
24 perpetrators are a broad mix. And in the last question, or
25 Hilla was asking me about the intersections of race, class

1 and gender, and in all of those hierarchy's Indigenous
2 women are at the bottom. And so, the perpetrators come
3 from all those areas. It comes from wealthy white men, it
4 comes from the people that are new to our country. We're
5 lower in status than anybody in Canadian society, so we're
6 targeted by all of those.

7 So I would say in the urban areas, it's
8 probably equally divided between Indigenous and
9 non-Indigenous, but in our communities, it is primarily
10 Indigenous, and often people in our families.

11 **MS. JULIE MCGREGOR:** Do you -- so you would
12 agree that, you know, in urban settings, but -- that
13 non-Indigenous men are perpetrators of violence against
14 Indigenous women?

15 **MS. FAY BLANEY:** Yeah, that's what I just
16 said. About half, thereabouts.

17 **MS. JULIE MCGREGOR:** Are you -- so I want to
18 explore the idea of natural resource extraction and the
19 relationship it has with violence against Indigenous women.
20 Are you aware of the term "man camps"?

21 **MS. FAY BLANEY:** Yes. I read the Human
22 Rights Watch report that they did in Northern B.C., and in
23 that report, they talked about the level of service
24 delivery and the fact that there is zero increase in
25 service delivery for the safety and protection of people

1 within those communities. And of course, the most
2 marginalized are the ones that are the most exploited.

3 So they were looking at areas like -- I
4 think it was Fort St. John in Northern B.C. where there is
5 a lot of oil and gas exploration and those kinds of things.

6 **MS. JULIE MCGREGOR:** So you would agree that
7 there natural resource extraction and the lack of services
8 provided for Indigenous communities, First Nation
9 Communities, and those surrounding areas would lead to the
10 protection and safety of those Indigenous women from those
11 First Nations?

12 **MS. FAY BLANEY:** I don't think Human Rights
13 Watch was really looking at the programs and services
14 within the Indigenous community. I think they were looking
15 at the town itself. So there wasn't, for instance, an
16 increase in policing, you know, women's service, the
17 women's centres or anti-violence centres, transition
18 houses. So it doesn't really factor any of those things in
19 to ensure the safety of women and children, girls.

20 **MS. JULIE MCGREGOR:** Thank you. In your
21 evidence you discussed how women are targeted because of
22 their gender. What are the ways in which Indigenous women
23 are targeted specifically, and why?

24 **MS. FAY BLANEY:** I think women are targeted
25 within our communities because we -- there are no

1 consequences really. Usually there -- the violence is
2 perpetrated with impunity. We self-police ourselves to
3 ensure that we don't go to the outside world and talk about
4 the violence. I think in my testimony yesterday I talked
5 about the Ontario Native Women's Association when they
6 produced their very first report in 1989, and your
7 organization opposed the release of their Breaking the
8 Silence report because you thought that the level of racism
9 would be harmful for Indigenous men. And so it's really
10 difficult for Indigenous women to break the silence when
11 we're constantly being silenced within our own communities.

12 **MS. JULIE MCGREGOR:** You talked in your
13 testimony about the empowerment of Indigenous women and
14 throughout the community hearings that have happened across
15 Canada. We've heard of the strength and resilience of many
16 Indigenous women who were put in very dire circumstances.
17 Would you agree that Indigenous women themselves are
18 inherently powerful?

19 **MS. FAY BLANEY:** We are.

20 **MS. JULIE MCGREGOR:** That's ---

21 **MS. FAY BLANEY:** We are.

22 **MS. JULIE MCGREGOR:** My second part to that
23 is that what's missing here is a lack of opportunities for
24 Indigenous women to participate in either economies or
25 have, I guess, comparable services to non-Indigenous women.

1 **MS. FAY BLANEY:** I think those opportunities
2 are probably available, as they would be to men, but I
3 think it's the dynamic in the community. I made reference
4 to the Royal Commission on Aboriginal Peoples that told us
5 that primarily the university educated status Indian
6 members were women. And yet, the leading positions were
7 occupied by men.

8 So you know, maybe the opportunities are
9 there but we just are not able to access those
10 opportunities due to the sexism and misogyny, this attitude
11 that women are not capable. And yesterday I also made
12 reference to the triangle, you know, where we have our
13 personal experiences and we often blame ourselves for the
14 short -- supposed shortcomings that we have, or
15 disadvantages, or what have you. But the other aspects of
16 the triangle are equally important. It's the belief
17 systems which you know, undermine us and it's the laws and
18 policies, practices, regulations, that we encounter.

19 **MS. JULIE MCGREGOR:** You mentioned in urban
20 areas you think the perpetrators are about 50/50
21 Indigenous, non-Indigenous. And you mentioned that they
22 feel they can treat Indigenous women however they feel like
23 it, without impunity. Why do you feel that? Why do you
24 think that these non-Indigenous perpetrators of sexual
25 violence who target Indigenous women feel they can do that

1 without impunity?

2 **MS. FAY BLANEY:** I think they've openly said
3 that in a number of cases. The Green River killer said
4 that he targets prostitutes and he targets poor women
5 because he knows that no one's going to pay attention. And
6 in Vancouver that was proven to be true in the Pickton case
7 where the police didn't listen to anybody whenever they
8 came to report a missing person.

9 And in the downtown east side they -- the
10 organizations commissioned a report to see what the
11 relationship was. Well, it was actually a report on the
12 need for safety and security of women, and in the outcome,
13 the findings of that report -- I'm not sure if it's okay
14 for me to talk about a report that's not here. It's called
15 "Getting to the Roots" and in that report they talk about
16 how they wouldn't go to the police. When they're at risk,
17 when they're feeling unsafe, the women would rather go to
18 each other and to friends, the people that they know for
19 support when they're at risk, when they're in danger.

20 So that gives you an indication of the trust
21 level that they have with the police. I know the police
22 are trying to remedy that right now, but I'm not so sure
23 that I agree with the ways in which they're trying to
24 remedy it.

25 **MS. JULIE MCGREGOR:** Why's that?

1 **MS. FAY BLANEY:** Well, I'm old, as you know.
2 And I've been doing this for a long time. In the '90s when
3 I was involved with a counselling agency on alcohol and
4 drug counselling, we had a relationship with the police and
5 we had quarterly meetings with them. We drove the agenda.
6 We determined the agenda, and the counselors brought cases
7 forward to the police. We currently have a sister watch
8 and I don't see it as being community driven.

9 I have huge concerns about the fact that
10 Indigenous women don't sit in roles of power or privilege.
11 The issues that I've been raising forever is that
12 Indigenous women need to have greater roles in issues that
13 affect our lives.

14 **MS. JULIE MCGREGOR:** Ms. Blaney, are you
15 aware that the AFN includes two First Nations women,
16 Regional Chiefs?

17 **MS. FAY BLANEY:** Yes.

18 **MS. JULIE MCGREGOR:** Did you know that the
19 CEO of the AFN is a First Nations woman?

20 **MS. FAY BLANEY:** No, I didn't.

21 **MS. JULIE MCGREGOR:** Are you aware that over
22 half of the directors of the Assembly of First Nations are
23 First Nations women?

24 **MS. FAY BLANEY:** The directors? No, I
25 didn't. No.

1 **MS. JULIE MCGREGOR:** Did you know that over
2 half of the staff of the Assembly of First Nations are
3 First Nations women?

4 **MS. FAY BLANEY:** I'm not surprised. A lot
5 of band offices are like 90 percent women. They run the
6 place, but they don't lead them.

7 **MS. JULIE MCGREGOR:** You spoke in your --
8 you spoke in your evidence about the lack of capacity in
9 our communities for services for First Nations. In today's
10 reality of underfunding, for example, the recent -- which
11 Professor Metallic referred to in her evidence, the child
12 welfare cases -- that the federal government discriminates
13 against First Nations' children on reserves in that
14 circumstance. Do you agree that First Nations across
15 Canada are overwhelmingly underfunded for gender-based
16 violence and healing programs?

17 **MS. FAY BLANEY:** I actually worked with my
18 own band for a time in the early 2000s as a Treaty Manager,
19 and I was on council. And I started a women's group to try
20 and address the gang rapes that were happening on my
21 reserve and the brutalization of women and children. And I
22 went to some of the -- like, the Health Authority and to
23 Indian Affairs, and I got the same answer over, and over,
24 and over, that there's no funding for violence against
25 women.

1 I also know that the welfare rates on
2 reserve are way worse than the welfare rights --rates off
3 reserve. So I do know the crunch that happens on reserve,
4 and I know the lateral violence that comes from the
5 membership against anybody that sits on the band council or
6 works in the band office.

7 **MS. JULIE MCGREGOR:** Would you agree that
8 the federal government has a responsibility to fund gender-
9 based violence prevention and healing programs?

10 **MS. FAY BLANEY:** Yes. Of course.

11 **MS. JULIE MCGREGOR:** Yesterday in your
12 response to Commissioner Audette's questions regarding the
13 1951 amendments to the *Indian Act* you stated that the
14 following -- that following the Bill C-31 Act amendments,
15 that the names of First Nations women who had regained
16 their status were made public and that those women were
17 pushed out of their communities. Is it your evidence that
18 this occurred in all First Nations across Canada, or were
19 you making a generalized comment based on the stories
20 you've heard?

21 **MS. FAY BLANEY:** No, I didn't say that. I
22 said that in 1951, they were required to publicly post the
23 Band membership list. When children were born, those
24 children could be contested by the membership and I do know
25 individuals that had their membership contested with other

1 Band members coming forward and saying that child has
2 either a non-status or a non-Indigenous father and they
3 were struck from the Band membership list.

4 **MS. JULIE MCGREGOR:** So that is your
5 evidence based on stories or experiences that individuals
6 have advised you about?

7 **MS. FAY BLANEY:** The Aboriginal Women's
8 Action Network did a research project in 1998 and '97 on
9 Bill C-31. We were compelled through consciousness raising
10 groups that we should have another look at what was
11 happening under Bill C-31. The law was passed in '85 and
12 yet the women coming forward were saying that they still
13 had no rights, that they weren't welcomed back onto the
14 reserves. And I think there's a community in the Maritimes
15 that are all Bill C-31 people and that is due to the fact
16 that communities don't include them.

17 In our research, we worked with a law
18 student and she did extensive research on the cases that
19 were currently going forward, as well as historic cases.
20 So the evidence that I'm giving about Bill C-31 comes from
21 a great deal of research on many fronts.

22 There's our own literature search and then
23 there's the legal search, and then we accompanied that with
24 the participatory action research that we undertook in
25 which we had about 27 women from all around the province

1 that came to our gathering and they each went home and
2 conducted interviews on these questions of how their rights
3 were being met and they were pretty consistent. Their
4 rights weren't being met on their reserves.

5 **MS. JULIE MCGREGOR:** I just have two final
6 questions for you for clarification purposes.

7 When you stated that First Nations
8 perpetuate a patriarchal power structure by denying their
9 traditional societies are in fact matriarchal, would you
10 agree that not all First Nations across Canada are
11 patriarchal and that there are in fact many First Nations
12 in Canada that follow traditional systems of matriarchal
13 governance?

14 **MS. FAY BLANEY:** They are probably few and
15 far between.

16 **MS. JULIE MCGREGOR:** But are there some that
17 do have matriarchal traditional governance?

18 **MS. FAY BLANEY:** There may be. I haven't
19 researched that question. I just -- I know that we really
20 need to research a lot of questions around the power
21 imbalance. That was one of my recommendations yesterday
22 was to have a serious look at this notion of balance in our
23 communities. We know that there's no balance and yet
24 whenever we try to put women forward, there's always
25 someone saying what about the men. And you know, we have

1 to have balance here, so they attempt to bring Indigenous
2 men into circles where we're trying to have women only
3 spaces.

4 So there might be but it's not widely heard
5 of. It's not a role model community that we're aspiring to
6 follow. We do know that there are male leaders that are
7 saying that patriarchy is their tradition even though we
8 know for a fact that matriarchy is their ancestry.

9 **MS. JULIE MCGREGOR:** So there are no First
10 Nations across Canada that are role models for matriarchal
11 governance?

12 **MS. FAY BLANEY:** I haven't heard of one.

13 **MS. JULIE MCGREGOR:** Okay. Thank you.

14 I'm going to move my questions now to --
15 turn my question to Professor Metallic. Professor, in your
16 evidence, you discuss the evolution of essential service
17 delivery on reserve.

18 **MS. NAIOMI METALLIC:** Yes.

19 **MS. JULIE MCGREGOR:** You discuss the post-
20 war era and how there was a realization that services
21 provided to First Nations were not the same as the rest of
22 Canada. Is that correct?

23 **MS. NAIOMI METALLIC:** Yes.

24 **MS. JULIE MCGREGOR:** You mentioned that
25 there was an impetus for the inclusion -- that the impetus

1 for the inclusion of section 88 of the *Indian Act* was in
2 fact this, that there was this understanding that there was
3 this lack of services provided to First Nations. Correct?

4 **MS. NAIOMI METALLIC:** Yeah. There was a
5 joint committee struck by Canada at the Senate and House
6 and they looked at this issue for a few years and, yeah,
7 one of their recommendations was that there would be --
8 that provinces and territories should have a greater role.
9 And my evidence was that one of Canada's initial responses
10 to that was to put section 88 into the *Indian Act*.

11 **MS. JULIE MCGREGOR:** So would you describe
12 it as Canada's first -- that section 88 was Canada's first
13 attempt to offload litigations onto the provinces?

14 **MS. NAIOMI METALLIC:** I don't know if it was
15 maybe their first attempt. There could have been earlier
16 attempts before in 1951 but with respect to the delivery of
17 how we now think of essential services as a sort of social
18 safety net and trying to download that to the provinces,
19 yes.

20 **MS. JULIE MCGREGOR:** And so this lead to the
21 negotiation. Your evidence stated that this led to the
22 negotiation, the federal government negotiation --
23 negotiating, sorry, funding agreements between the
24 provinces and which often -- which was exemplified in the
25 *Caring Society* case that have led to inequitable funding in

1 comparison to funding provided to the provinces and
2 territories, so inequitable funding provided to First
3 Nations rather than the funding provided to the provinces
4 and the territories for essential services. Correct?

5 **MS. NAIOMI METALLIC:** Yeah. Over the course
6 of -- at first it was simply the -- well, it was
7 negotiation for -- the initial negotiations in the fifties
8 and sixties were after the sort of lack of success on
9 section 88 because the provinces sort of balked at that and
10 said, you know, we're not going to take over these services
11 unless you pay for them. And over the next 10-15 years or
12 so, some agreements were come to especially with respect to
13 child welfare services where there was a split. I believe
14 in most cases -- yeah, so there was a split in terms of
15 payment but the bulk of it is usually paid by the federal
16 government.

17 Other areas not so successful in terms of
18 negotiating that takeover and so the feds ended up offering
19 the services themselves to these treasury board
20 authorities. So that was the first types of agreements.
21 And then later I said that when some -- you know, after the
22 White Paper and the reaction to that, then the feds started
23 negotiating funding agreements with First Nations
24 themselves for the delivery of these services. So two
25 different types of agreements, just to make that

1 distinction clear.

2 **MS. JULIE MCGREGOR:** Thank you. Therefore,
3 is it a fair statement that First Nations, the on-reserve
4 population, have experienced the brunt of the funding
5 inequities as opposed to other Indigenous groups in Canada?

6 **MS. NAIOMI METALLIC:** I haven't researched
7 other groups in Canada, so I'm not going to pretend to
8 suggest that. You know, there's a term that's used
9 sometimes in human rights "it's not a race to the bottom,
10 every world at the bottom", you know what I mean.

11 So I don't want to get into, you know, we're
12 worse off than you are but I know that we're really --
13 we're bad off, right, and I think that that's what the
14 Commission needs to hear.

15 **MS. JULIE MCGREGOR:** Yeah. I don't think -
16 - I think what I was trying to say is that because of the
17 way that funding structure occurred ---

18 **MS. NAIOMI METALLIC:** Yeah.

19 **MS. JULIE MCGREGOR:** -- that it targeted
20 First Nations because they were the ones that were left out
21 of the provincial sphere of things of service delivery. Is
22 that correct?

23 **MS. NAIOMI METALLIC:** Yes, yes. So they in
24 negotiations that happened between the province and the
25 feds, First Nations generally were not included in that.

1 It's interesting with respect to child
2 welfare, there was a point there -- it's talked about in
3 this decision that came out in 2017 called *Brown* about the
4 Sixties Scoop but they talk about these discussions between
5 the feds and the provinces at this time and there was this
6 ministers' meeting and actually talked about how in the
7 delivery of these services or in transferring or
8 downloading to the provinces, there should be the consent
9 of Indigenous groups.

10 But it's found in *Brown* and that and it
11 seems across the board that didn't happen, even though all
12 the politicians recognized that the consent for these types
13 of service to be downloaded and applied on reserves, there
14 actually wasn't.

15 So Indigenous people were by and large left
16 out of those conversations until maybe later the funding
17 agreements with the First Nations about the program
18 devolution. But event then, as I said, the agreements for
19 the most part in my opinion are sort of take it or leave
20 it. So they've been -- you know, they've been offered pots
21 -- you know, my comment yesterday about pots of money.
22 They've been offered money for delivery of services often
23 with very little negotiation and the formulas and the
24 amounts are determined by the federal government.

25 **MS. JULIE MCGREGOR:** Thank you.

1 So based on your evidence and your research
2 you've done, is it a fair statement to say that in order
3 for these types of funding inequities in service provision
4 to First Nations on reserves to end, First Nations need to
5 assert their jurisdiction? Their assertions of
6 jurisdiction must be recognized and supported with the
7 appropriate resources to take over these services and
8 provide them to their people?

9 **MS. NAIOMI METALLIC:** Yeah, that's what I
10 think the solution is.

11 **MS. JULIE MCGREGOR:** In light of the
12 historic disadvantage a First Nation's people -- the
13 historic disadvantage that First Nations face, and as a
14 result of more than a century of discrimination, which
15 you've provided in your evidence, discrimination of federal
16 policies and the current patterns and practices of
17 underfunding in Canada, which was exemplified in the *Caring*
18 *Society* case, together these perpetuate the historical
19 advantages which amount to discrimination. Would you agree
20 with that?

21 **MS. NAIOMI METALLIC:** Sorry, can you say
22 that again? Sorry.

23 **MS. JULIE MCGREGOR:** Sorry. In light of the
24 historic disadvantage First Nations face because of the
25 historical discrimination that they've had -- that they

1 faced, the current patterns and practices of underfunding
2 in Canada perpetuate that historical disadvantage ---

3 **MS. NAIOMI METALLIC:** Yeah.

4 **MS. JULIE MCGREGOR:** --- and discrimination.

5 **MS. NAIOMI METALLIC:** Perpetuate ---

6 **MS. JULIE MCGREGOR:** That amount to ---

7 **MS. NAIOMI METALLIC:** Yeah.

8 **MS. JULIE MCGREGOR:** --- discrimination,
9 yeah.

10 **MS. NAIOMI METALLIC:** Yeah. So my evidence
11 yesterday is that I think that they exacerbate it. So,
12 yes, there are intergenerational impacts and the damage
13 that we feel from that translate into how our communities
14 work, but this is making it so much worse because we're not
15 able -- our communities are not able to get ahead, and the
16 Auditor General has said that and so has the Special
17 Rapporteur referred to it, but we're not moving ahead
18 because of that.

19 **MS. JULIE MCGREGOR:** So it's a fair
20 statement that we're stuck in one place because the
21 historical disadvantages and discrimination are continually
22 perpetuated by the system today.

23 **MS. NAIOMI METALLIC:** Making it worse.

24 **MS. JULIE MCGREGOR:** Making it worse,
25 exacerbating it.

1 **MS. NAIOMI METALLIC:** Yeah.

2 **MS. JULIE MCGREGOR:** And this
3 discrimination, the -- and this discrimination affects the
4 collective; correct? Like the ---

5 **MS. NAIOMI METALLIC:** Yes. Absolutely. The
6 individual and the collective. It's all affected.

7 **MS. JULIE MCGREGOR:** Would you agree that,
8 based on the research you've done, that Indigenous
9 individuals or First Nations who do not reside on reserve
10 or receive services from First Nations, that population
11 generally receives services from the province that are in
12 most cases comparable to non-Indigenous people?

13 **MS. NAIOMI METALLIC:** So I would say a
14 couple things on that. Some of the research that I did
15 around social assistance -- so some of the policies that
16 the federal government has with respect to social
17 assistance is that the Bands cannot provide welfare or even
18 any assistance to their community members. And often
19 that's not well understood so they feel like they're being
20 abandoned by their community when, in fact, under the
21 policy they're not actually allowed to. And if they do,
22 that money will get clawed back from the First Nation
23 government itself.

24 And, also, if an officer, community member
25 in welfare is under provincial welfare, if they receive

1 monies -- and this happens sometimes in the case of treaty
2 entitlements or other monies -- that can get clawed back
3 under the provincial system. So I don't know if they're
4 any better off.

5 And often what we've -- some people -- in
6 some of the interviews we did last year, we heard from
7 people who were both living on the on and off reserve
8 system. And some said that, you know, living on the off
9 reserve system was worse as some of the rules are stricter,
10 or that they didn't understand all the rules. So there are
11 -- you know, it's -- if they're not able to sort of
12 navigate even the provincial system there can sometimes be
13 quite a bit of problems with access too.

14 So I don't know if it's any better. I just
15 know that it seems that people are having a hard time,
16 certainly within the on reserve system, and there we found
17 that the rates are not comparable and also even the expanse
18 of services wasn't comparable. There may be other issues
19 that present themselves in the provincial system too, which
20 I didn't study as fully. I just heard some things as we
21 were doing the more on reserve focus research.

22 **MS. JULIE MCGREGOR:** Yeah. Would you agree
23 that based on the work you've done that a lot of service
24 providers on First Nations are non-Indigenous service
25 providers?

1 **MS. NAIOMI METALLIC:** No.

2 **MS. JULIE MCGREGOR:** Or that provide
3 services. Sorry, let me clarify that. Service providers
4 providing services to First Nations and on many cases are
5 non-Indigenous organisations or service providers.

6 **MS. NAIOMI METALLIC:** So when I'm thinking
7 about the -- like, let's say, social assistance, my
8 experience -- and I haven't gone across the country, I
9 looked mostly at the Maritimes, but most of what they call
10 social development administrators, SDAs, often they were
11 community members. They were members of the community. I
12 think some -- you know, child welfare might be a different
13 issue I think in some places, so maybe that's what you were
14 thinking.

15 **MS. JULIE MCGREGOR:** Yeah, I was thinking
16 more ---

17 **MS. NAIOMI METALLIC:** Often ---

18 **MS. JULIE MCGREGOR:** --- with your
19 experience of your work on the child welfare case and ---

20 **MS. NAIOMI METALLIC:** Right.

21 **MS. JULIE MCGREGOR:** --- your research
22 there. A lot of CFS, Child Family Services ---

23 **MS. NAIOMI METALLIC:** Yeah.

24 **MS. JULIE MCGREGOR:** --- providers are non-
25 Indigenous; is that correct?

1 **MS. NAIOMI METALLIC:** So, yeah, and maybe
2 the point you're trying to make is in terms of where you
3 require the professionalization or there's a requirement
4 that people who deliver services have to have a social work
5 degree. I mean, we obviously do have people who have
6 social work degrees. Some of them are at the table. But
7 there are -- yeah, in delivery of some services for
8 certain, particularly where there's that government may
9 impose some form of credentialization, it may happen that
10 more of the people who are providing the service are non-
11 Indigenous or non-First Nations.

12 **MS. JULIE MCGREGOR:** And would you agree
13 that if First Nations were provided the appropriate
14 resources to take over these essential services, providing
15 these essential services, like in the child welfare
16 circumstance ---

17 **MS. NAIOMI METALLIC:** Yeah.

18 **MS. JULIE MCGREGOR:** --- that there would be
19 a greater level of accountability to the communities
20 because non-Indigenous service providers, child welfare
21 service providers often don't have accountability to the
22 communities that they serve.

23 **MS. NAIOMI METALLIC:** Yeah. No, I would
24 agree with that. I mean, I think that there is -- hearing
25 from some of the stuff that Fay was talking about too, I

1 mean, there's lots of healing that needs to happen and
2 there's lots of governance work that we need to do, but no
3 question do I feel that if services were delivered by our
4 own people who have a sense of what the needs are of people
5 that that helps. I mean, it's not to denigrate the role
6 that, you know, allies and non-Indigenous people have been
7 playing, but there is a real importance of -- you know,
8 when people from our communities are helping, we know --
9 you know the issues, you know.

10 **MS. JULIE MCGREGOR:** M'hm. And I'm just
11 going to segue that into the culturally appropriate
12 services. So in certain jurisdictions the legislative
13 scheme entitles children to the provision of culturally
14 appropriate services, so, for example, the Manitoba CFS and
15 the *Ontario Child and Family Services Act*.

16 **MS. NAIOMI METALLIC:** M'hm.

17 **MS. JULIE MCGREGOR:** And I'm not going to
18 ask you to -- whether you're familiar with those Acts or
19 not, I'm just providing them as examples. But the problem
20 is, in those circumstances, it's that how this -- these
21 requirements for culturally appropriate services are
22 interpreted by the provincial government, how it plays out
23 in practice in terms of day-to-day delivery of culturally
24 appropriate services is haphazard and, in some cases,
25 inappropriate or inadequate for the -- for Indigenous

1 children. I would suggest that as a result the Child
2 Welfare System then perpetuates assimilation or cultural
3 assimilation where you have different groups all, you know,
4 engaging in cultural activities that necessarily don't
5 reflect their background.

6 Do you agree with that comment? And when --
7 what should be done to address the problematic practical
8 implication of this cultural assimilation?

9 **MS. NAIOMI METALLIC:** So I'll tell you how I
10 understood the question and then I'll answer it if I've
11 understood it properly.

12 **MS. JULIE MCGREGOR:** Okay.

13 **MS. NAIOMI METALLIC:** That there are certain
14 jurisdictions, provincial jurisdictions that have done --
15 gone some way in their laws to accommodate Indigenous
16 difference.

17 **MS. JULIE MCGREGOR:** Yes.

18 **MS. NAIOMI METALLIC:** But I think what
19 you're suggesting is that in some cases they have -- that
20 although they're doing that -- some form of accommodation,
21 it's not really translating into real results on the
22 ground.

23 **MS. JULIE MCGREGOR:** Yes.

24 **MS. NAIOMI METALLIC:** And what do I think
25 about that or what can improve that?

1 **MS. JULIE MCGREGOR:** M'hm.

2 **MS. NAIOMI METALLIC:** I talk a little bit in
3 my paper -- I do think that there are roles for -- there is
4 this -- you know, there are provinces and territories in
5 the federal government and I do think that there are roles
6 for the province and territories to play, but I don't think
7 that that should take up all the space that should be given
8 to Indigenous people to try to come up with solutions that
9 address their problems and they're the best suited. And I
10 do think that it is problematic sometimes.

11 I don't want to completely suggest that, you
12 know, there isn't a role for provinces to play, especially
13 around things like Jordan's Principle where we want to make
14 sure that if there is a service that actually is delivered
15 by the province they should be able to pay for it. But
16 when it -- and I also think that provincial staff, if they
17 are going to have to necessarily interact with Indigenous
18 people should be culturally competent.

19 But it shouldn't be the be all and end all
20 when it comes to looking at solutions that we should just
21 say, oh, well, the provinces can come -- you know, tweak
22 their legislation. Often provinces won't go that far.
23 That's one of my concerns is that they may not go far
24 enough to accommodate. They also might feel constrained by
25 legislative or, you know, the division of powers to

1 accommodate fully. And also, you know, are they well
2 placed to create culturally appropriate roles. If it's a
3 bunch of non-Indigenous people who have not, or barely
4 ever, stepped foot in a community, are they well suited.

5 So I have real concerns about simply saying
6 the solution is just for the provinces to do more
7 accommodation within their legislation. I think they have
8 a role to play. I don't think that they're the -- you
9 know, that's the solution.

10 **MS. JULIE MCGREGOR:** So they have a role to
11 play but First Nations should be the driver in that -- in
12 those sorts of circumstances.

13 **MS. NAIOMI METALLIC:** absolutely,
14 yes.

15 **MS. JULIE MCGREGOR:** Would you agree with
16 that?

17 **MS. NAIOMI METALLIC:** Yes.

18 **MS. JULIE MCGREGOR:** So, I just want to
19 segue now into human rights law, and your discussion of the
20 Child and Family Services case. So, would you agree that
21 human rights law frequently requires a comparator group?

22 **MS. NAIOMI METALLIC:** Yes, although the
23 Supreme Court in -- oh, God, the name is escaping me, but a
24 more recent case has talked about -- Whitley (ph), that,
25 you know, this idea of mirroring comparative groups can be

1 inappropriate, because sometimes you just have one group
2 that is very different from everybody else. And so, you
3 can't use those comparator groups.

4 **MS. JULIE MCGREGOR:** Okay. So, generally,
5 does human rights law ---

6 **MS. NAIOMI METALLIC:** Yes, with caution.

7 **MS. JULIE MCGREGOR:** Caution noted. Would
8 you agree that an analysis based on substantive equality,
9 and there was discussion earlier about substantive
10 equality, focuses much less on some imagined comparator
11 group, but much more on the service or benefit that is at
12 issue, meaning the group that receives the full benefit of
13 the service?

14 **MS. NAIOMI METALLIC:** Are you asking me if
15 it should -- that should be the focus?

16 **MS. JULIE MCGREGOR:** Yes. Well, do you
17 agree with me that it should be ---

18 **MS. NAIOMI METALLIC:** Yes, it should be
19 about the needs of the group in question, and not simply
20 whether some other group that is differently situated,
21 they're getting about what they get.

22 **MS. JULIE MCGREGOR:** So, you agree that the
23 conversation around this should not be on the substantive
24 equality, informal or formal equality, but the needs base,
25 the need -- what need is equitable -- what the need is

1 equitable funding and address current forms of
2 discrimination, and also historical disadvantage. So, the
3 needs of equitable funding should address current forms of
4 discrimination and the historical disadvantage?

5 **MS. NAIOMI METALLIC:** I agree that that is
6 the definition of substantive equality, as it relates to
7 Indigenous people.

8 **MS. JULIE MCGREGOR:** Do you agree that First
9 Nations require more in terms of funding programs and
10 services than other Canadians are getting to address their
11 needs and to overcome the historic disadvantages that they
12 faced as a collective?

13 **MS. NAIOMI METALLIC:** I can't say -- you
14 know, I, again, don't want to get into races to the bottom.
15 I don't know what the needs are of actual Canadian people
16 or new immigrants. They have particular needs, too. What
17 I do think is the case is that substantive equality
18 actually requires that the needs and circumstances of
19 Indigenous people, and they have extreme needs; right?
20 Because of the history of colonialism, because of the
21 geographic remoteness of some of our communities, because
22 of the intergenerational harm, because of all those things,
23 they have special needs. Whether they are more or less
24 than other needy groups in Canada, I don't know, but that
25 doesn't matter. It's the fact that those are the needs

1 that need to be addressed.

2 **MS. JULIE MCGREGOR:** Well, I think what I
3 mean is that, I'm not -- again, I'm not trying to get into
4 the issue of a race to the bottom. It's more of First
5 Nations have a unique experience in Canada. We've had that
6 history of colonialism that many other groups have not.

7 **MS. NAIOMI METALLIC:** Yes.

8 **MS. JULIE MCGREGOR:** So, it is that unique
9 history that we have to address and overcome, and that just
10 bringing substantive equality so that First Nations are at
11 levels with other groups in Canada, or the Canadian
12 population in general, doesn't account for that historical
13 experience.

14 **MS. NAIOMI METALLIC:** The way I understand
15 real substantive equality is to recognize that difference.
16 I think your definition or how you were just using
17 "substantive equality" is actually formal, where it's just
18 saying we're just going to bring you up to the level of
19 where, you know, privileged, let's say, settler Canadians
20 are at. That's formal equality. But, to say that, you
21 know, you have particular needs that need to be addressed,
22 and we need to look at what they are and look at your
23 particular circumstances, that's actually substantive
24 equality.

25 So, I don't have a problem with substantive

1 equality, because that is -- I think that that is -- it
2 does reflect actual needs. Yes.

3 **MS. JULIE MCGREGOR:** And, I think what I was
4 trying to do was tie in that with the fact of the
5 historical disadvantage of First Nations. So, you agree
6 that there is that tie in right there?

7 **MS. NAIOMI METALLIC:** Absolutely.

8 **MS. JULIE MCGREGOR:** Okay. Yesterday, you
9 gave evidence on the child welfare case filed by the Caring
10 Society and the AFN. Are you aware that the tribunal in
11 that case, the Canadian Human Rights Tribunal, ordered
12 Canada to pay for services based on need?

13 **MS. NAIOMI METALLIC:** Yes, I am.

14 **MS. JULIE MCGREGOR:** Can you describe in
15 human rights' terms what needs-based funding entails?

16 **MS. NAIOMI METALLIC:** So, in the -- so in
17 the specific context of child welfare, I mean, without
18 getting too deep into what the funding formulas were, they
19 said that the funding formulas actually have to not just be
20 based on some arbitrary number, which they had been under
21 the different funding formulas they had, but had to reflect
22 that, you know, factors of remoteness and the actual amount
23 of children who were in care -- and actually, I think one
24 of the most recent remedial orders actually talked about
25 them having to, you know, fully fund the cost of prevention

1 services. So, they get into quite a bit of detail on what
2 needs to be covered, and it has to really reflect the
3 needs. That's clear.

4 **MS. JULIE MCGREGOR:** Okay. And, I want to
5 discuss a little bit more about the issue of stereotypes,
6 which you discussed yesterday. I think it's interesting
7 that you point out that there was -- that the severe
8 underfunding and the -- well, correct me if I'm wrong.
9 That the severe underfunding experienced by First Nations
10 has led to stereo -- ironically, it has led to stereotypes
11 that some individuals hold that First Nations leadership
12 can't handle their money, they're corrupt, and so forth.

13 Would you agree that Canadians in general
14 and the public, and probably those who hold those
15 misinformed views, need to be better aware of the realities
16 of First Nations living on reserve?

17 **MS. NAIOMI METALLIC:** Absolutely.

18 **MS. JULIE MCGREGOR:** And, to clarify, is it
19 your evidence that it is the federal government who has a
20 responsibility for sustaining this dysfunctional narrative
21 about First Nations, and that, you know, they can't handle
22 the funding, or they can't handle the money, or they're not
23 equipped to do that?

24 **MS. NAIOMI METALLIC:** In part, it's there
25 for certain, and I talk about this in the paper, but I

1 mean, this was a barely concealed narrative within some of
2 the comments that were made by ministers under the last
3 administration; right? So, I mean, certainly not
4 perpetuating those messages. But, I think everybody has a
5 role to play in that; provincial governments, higher
6 education, school systems. I mean, we don't learn any of
7 this stuff in the school systems.

8 Law schools and other professional schools,
9 everybody has a role to play in dispelling these myths, and
10 people need to learn about these problems. I mean, people
11 sort of think that Canada is this bastion of human rights,
12 and we have this wonderful international reputation but,
13 you know, there are human rights violations of Indigenous
14 communities going on every day under our noses, and we're
15 barely talking about it.

16 **MS. JULIE MCGREGOR:** And, that, you know,
17 would you agree that education, including education of our
18 -- of Canadian governments and departments needs to occur
19 more often about these dysfunctional funding systems that
20 are happening right now, and these human rights issues that
21 you've alluded to?

22 **MS. NAIOMI METALLIC:** Yes. Absolutely.
23 Various forms of government. I think there needs to be
24 more happening than just that education. As I've
25 suggested, I think that we really need to look closely at

1 the role, and there's some work that's started to happen.
2 You know, the splitting of INAC between this new -- what is
3 it called? CIRNA for short, and DIS, but the two
4 different, some of that is based on what RCAP was
5 suggesting, although that was only one small part of what
6 RCAP suggested. So, we need to see more. I think we need
7 to look at the role of the department. So, education
8 there, particularly that department, is quite key, but
9 there are other systemic structural things that need to
10 happen there, too.

11 **MS. JULIE MCGREGOR:** And, I just want to
12 end, and I'm conscious I have 4.5 minutes left, just
13 talking about the funding relationships, and in many cases,
14 the impacts of those dysfunctional funding or under
15 funding, those impacts that they have on First Nations, in
16 many cases, First Nations' leadership are forced to make
17 difficult decisions regarding essential services. Would
18 you agree with that?

19 **MS. NAIOMI METALLIC:** Yes.

20 **MS. JULIE MCGREGOR:** So, would you agree
21 also that if these funding systems were remedied, and that
22 goes back to the equality issue, but that we would see in
23 First Nations greater access to essential services, and
24 perhaps much better services that are provided if we had a
25 situation where the leadership weren't having to make those

1 difficult decisions?

2 **MS. NAIOMI METALLIC:** No question there
3 would be an improvement, but I wouldn't just want to see it
4 just being -- I mean, there definitely has to be increases
5 of funding, and all of that has to be addressed. But, my
6 larger point is that it's not just the funding. I mean,
7 funding is key, absolutely necessary, but there's also a
8 bunch of structural changes that I think need to happen in
9 order to ensure that, yeah, this government because it's --
10 of its sunny ways is going to inject a bunch of money in
11 and then the next government is going to come, has perhaps
12 less sunny ways and then they're going to ignore the...

13 Like you cannot have a situation that --
14 we've seen this pattern over and over again, where, you
15 know, a new government comes in and their agenda is not
16 Indigenous issues and then the next one is. We need to put
17 in strong structural mechanisms to make sure that our needs
18 are not forgotten or can be forgotten or lightly dismissed
19 by a different government.

20 **MS. JULIE MCGREGOR:** And can you just
21 clarify what those structural ---?

22 **MS. NAIOMI METALLIC:** I feel that simply
23 just allowing governments to create policies and sort of
24 executive acts or just having these funding agreements are
25 -- have allowed -- although maybe sometimes they have

1 seemed like, you know, a good thing because they allow
2 flexibility or at least they're giving funding for services
3 -- have allowed, I think, many levels of government, Canada
4 and provinces and territories to really ignore their
5 obligations to Indigenous people and sort of say that
6 they're just doing these things because they're good policy
7 things but not because they have any legal obligations.

8 So I want to -- I do think that, you know,
9 short of constitutional amendments, I mean, I think that
10 there needs to be, you know, some of these accountabilities
11 set out in legislation because that will create a stronger
12 basis for us to hold the governments accountable.

13 **MS. JULIE MCGREGOR:** And that those
14 structures have to be based in First Nations' beliefs,
15 traditions, laws and that they -- First Nations have to be
16 the driver for that?

17 **MS. NAIOMI METALLIC:** I definitely feel that
18 First Nations have to be the driver. And I'll make a
19 couple of distinctions, because I know that the whole talk
20 of legislation gives some people concern or cause.

21 There's two different sort of things we're
22 talking about. There's what First Nations do, you know, in
23 delivering service. I think that potentially legislation
24 could actually help implement the inherent right to self-
25 govern around that and sort of help do that. But then

1 there's all the things that other governments have to do in
2 assisting us; right? So that's a whole other set of
3 obligations.

4 I think those could be clearly set out.
5 Indigenous people have to be part of setting what those are
6 out, but sort of the -- I just want to make the distinction
7 between those two things to help see that there's this --
8 it's not just the government setting out what Indigenous
9 people have to do, it's also what they as themselves as
10 government have to do, and I think those should be clearly
11 enshrined in legislation.

12 **MS. JULIE MCGREGOR:** M'hm. Okay. Those are
13 my questions. Miigwech to the panel and to the
14 Commissioners.

15 **MS. NAIOMI METALLIC:** Thank you.

16 **MS. CHRISTA BIG CANOE:** Thank you,
17 Ms. McGregor.

18 Next, I would like to invite the
19 representatives for Women Walking Together. They will come
20 for their cross-examination and will have 25 minutes.

21 **CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR**

22 **MS. OKEMAYSIM-SICOTTE:**

23 **MS. DARLENE OKEMAYSIM-SICOTTE:** I'm Darlene
24 Okemaysim-Sicotte, and I represent Iskwewuk
25 E-wichiwitochik, Women Walking Together, in Saskatoon,

1 Saskatchewan in Treaty 6 territory. We're ad-hoc and a
2 concerned citizen group. We have no government funding, no
3 office. We've been doing volunteer work on this for
4 12 years.

5 And I just want to thank the parties this
6 morning and all the testimony yesterday from all the
7 experts.

8 So my first question is to Fay.

9 **MS. CHRISTA BIG CANOE:** And so, can you
10 start the clock? Thanks.

11 **MS. DARLENE OKEMAYSIM-SICOTTE:** Fay, in your
12 devotion to educating and mobilizing Canadians on the
13 impacts of colonization understanding, how do you see
14 reconciliation playing a role in educating and mobilizing
15 Canadians?

16 **MS. FAY BLANEY:** I think I -- well, there's
17 a whole bunch of different answers to that, I suppose. As
18 an educator, I know the importance of the work that post-
19 secondary educators are working on to try and get things
20 accredited. My dear friend, Sharon McIvor, was just
21 talking about that over the weekend and the challenges that
22 she faces.

23 In the post-secondary level, in the
24 institutions that I taught at, English programs were
25 mandatory, and so any student, whether they were in

1 kinesiology or journalism, or whatever it was, they had to
2 take English. And she's fighting for the university to
3 make it mandatory that they take education -- be educated
4 on what's happened to us in the residential school system.
5 And yesterday, I did share a model that -- one that I'm
6 working in, which is holding reconciliation circles.

7 It's really hard to track the progress and
8 to have a champion to address the needs at a whole variety
9 of different levels. The danger that we're running into
10 right now is that everybody knows the buzzwords and the
11 code words to say we have Indigenous inclusion, but they're
12 just words.

13 It's kind of like where we were at with
14 territorial acknowledgement. Everybody was adopting this
15 sexy idea. I'm on -- like in my area, we're on Musqueam,
16 Squamish and Tsleil-Waututh territory, but what are we
17 really doing about the fact that we're on unceded
18 territory?

19 So there is a lot of work in a whole variety
20 of different sectors in Canadian society to address the
21 education of the non-native people with what we're going
22 through.

23 **MS. DARLENE OKEMAYSIM-SICOTTE:** Okay. Do
24 you have hope for true reconciliation?

25 **MS. FAY BLANEY:** I keep working on it.

1 Sometimes I get really discouraged, but I guess I have to
2 have hope if I'm continuing to do it.

3 I devote some of my time towards
4 reconciliation. Most of my time is -- and I keep saying
5 how old I am, but most of my time is devoted towards
6 women's issues. I really have to make choices about where
7 my time goes. And I recognize the importance of the
8 actions that are happening in B.C.

9 Like right now, the big thing going on is
10 Kinder-Morgan, looking after the environment. And I fought
11 that fight in my own homelands. I took up fights against
12 racism as well, but right now in my golden years, I want to
13 devote all my time and energy towards the rights of
14 Indigenous women just because of the long way that we have
15 to go and the way that we sit at the bottom of all these
16 different hierarchy's.

17 **MS. DARLENE OKEMAYSIM-SICOTTE:** Okay. Fay,
18 how can settler society and allies assist in doing this
19 reconciliation alongside with entities like AWAN?

20 **MS. FAY BLANEY:** Well, in the reconciliation
21 work, the woman that I work with is non-Indigenous, and in
22 our circles, we do have really mixed groups. I said
23 yesterday that when they come into the circle they're
24 entering our space. That has to be clear right up front
25 that these settlers are entering our space, and that

1 usually makes a huge difference.

2 And I also said in my presentation yesterday
3 that I really believe in alliance building with
4 non-Aboriginal feminists. I think the level of silencing
5 that we have in our communities about male violence against
6 women is -- it's so difficult for women to not only speak
7 out but to be educated on the levels of patriarchy.

8 You know, we talk about normalization of
9 violence, and there have been -- I think there was a book
10 written over a decade ago called Black Eyes All of the
11 Time. That's what we experience. It's very normal. And
12 when you look at the statistics, it's like 80 percent. And
13 that's what AWAN said a long time ago, and I think it's
14 still up there for Indigenous women in our communities.

15 So -- yeah. Education is really critical.

16 **MS. DARLENE OKEMAYSIM-SICOTTE:** Okay. Fay,
17 my next few questions are about your testimony yesterday on
18 the memorial watches -- marches.

19 **MS. FAY BLANEY:** M'hm.

20 **MS. DARLENE OKEMAYSIM-SICOTTE:** In your
21 participation with the Women's Memorial March, does this
22 march get city funding?

23 **MS. FAY BLANEY:** No. No. The women
24 fundraise at the beginning of the year.

25 **MS. DARLENE OKEMAYSIM-SICOTTE:** Does the

1 memorial march get provincial funding?

2 **MS. FAY BLANEY:** No. No government funding
3 whatsoever.

4 **MS. DARLENE OKEMAYSIM-SICOTTE:** Does the
5 memorial march involve family stories and full
6 participation?

7 **MS. FAY BLANEY:** Family stories, for sure.
8 There are families that give testimony in the first part of
9 the march. What I've been pushing for a whole lot more is
10 families of the heart. We've really adopted that idea that
11 we have families of the heart, that we have the families
12 that we create in the cities, and it seems to be a tough
13 sell, but not so much in the downtown east side because
14 there's strong ties amongst the women that live in the
15 downtown east side. My cousins that I mentioned that are
16 involved in prostitution, they've been there since they
17 were little girls and that's like 30, 40 years. So they
18 really develop ties with one another. So ---

19 **MS. DARLENE OKEMAYSIM-SICOTTE:** Okay. This
20 still goes to the memorial march. Does the police service
21 involve themselves in the speaking of the march?

22 **MS. FAY BLANEY:** In the speaking, no.

23 **MS. DARLENE OKEMAYSIM-SICOTTE:** Do the
24 police involve themselves in the planning?

25 **MS. FAY BLANEY:** No.

1 **MS. DARLENE OKEMAYSIM-SICOTTE:** Do the
2 police ---

3 **MS. FAY BLANEY:** They get told by the
4 committee what we're doing.

5 **MS. DARLENE OKEMAYSIM-SICOTTE:** Okay.

6 **MS. FAY BLANEY:** They get told the route and
7 they ask questions ---

8 **MS. DARLENE OKEMAYSIM-SICOTTE:** Okay.

9 **MS. FAY BLANEY:** --- and we answer them.

10 **MS. DARLENE OKEMAYSIM-SICOTTE:** Okay. In a
11 big city like Vancouver, does any of the participants ever
12 experience acts of prejudice, racism, for example, like
13 jeers and profanity?

14 **MS. FAY BLANEY:** In the march?

15 **MS. DARLENE OKEMAYSIM-SICOTTE:** Yes.

16 **MS. FAY BLANEY:** The march is huge. I don't
17 think anyone would have the audacity to do that because
18 it's into the thousands now, I think. Every year we have
19 such large numbers.

20 **MS. DARLENE OKEMAYSIM-SICOTTE:** Okay. I'm
21 going back to -- Fay, you spoke of conciseness raising.
22 That's the first time I'm hearing it, being from the
23 prairies, is it different from awareness and advocacy? If
24 so, can you expand?

25 **MS. FAY BLANEY:** No, not really. It's -- it

1 was a term brought on by the second wave feminists, just in
2 -- and in our culture we talk about healing circles. In
3 education they talk about popular education. So it's just
4 a way of including people at the grassroots level rather
5 than having a hierarchy. You know, we -- we get told to do
6 -- what to do, when to do it all the time, and we had that
7 in residential school. But this is an opportunity for us
8 to have a say in our own lives. It's very empowering.

9 **MS. DARLENE OKEMAYSIM-SICOTTE:** Okay. In --
10 -

11 **MS. FAY BLANEY:** And the second part you
12 said was about action. It always has to have action. It
13 would be meaningless if we just sat and talked. I mean, we
14 have to respond to the issues that we're confronted with as
15 well.

16 **MS. DARLENE OKEMAYSIM-SICOTTE:** Okay. In
17 your restorative justice policy and in your testimony
18 yesterday, I sense that the process would not go well for
19 like convicted adults due to the structure of power
20 imbalances of the abuser and the abused. Even though this
21 is one of your positions, would you support Tracy's
22 mentions of the accused to have their justice, their
23 healing, their remedy in violence and battery of women and
24 children?

25 **MS. FAY BLANEY:** You want me to debate

1 Tracy, I don't think so. I don't support restorative
2 justice in cases of male violence against women, and I'll
3 give you an example of what happened to us on the Journey
4 for Justice. We rafted over two weeks along the Fraser
5 River and held focus groups, and we had it planned like to
6 the minute. We had things planned and what we were going
7 to do. Out of the blue we heard about this pole raising
8 that was happening to honour women that were reinstated
9 under Bill C-31, and so we looked like Teletubbies, anyway
10 these women with colourful lifejackets climbing up off of
11 the riverbanks. We were coming off of our rafts and
12 climbing up this little hill to the park where the ceremony
13 was happening. So that was quite the sight to take in.

14 But when we arrived they had an Elder in the
15 front row and we knew that Elder had engaged in, I think it
16 would be called ritual abuse. He was working at a
17 counselling agency that I was working at and in the sweat
18 lodge ceremony he was sexually abusing women. So it could
19 be called sexual violence or ritual abuse. I think both
20 fit. And we called him out and we didn't name him, but we
21 called him out and said we know -- we know who you are and
22 you know who you are and you know what you've done, and
23 it's not okay. And we talked about it.

24 So there's a couple of things to this story.
25 One relating to restorative justice is that Elder is very

1 respected in that community. The fact that he was sitting
2 right in the front row says that that community holds him
3 in high esteem. So he could very well be one of the people
4 sitting in the healing circle or a sentencing circle, and
5 whose side do you think he would take in cases of sexual
6 assault since he himself is an offender? So that was one
7 side of the story that I'd really like to tell.

8 The other side of the story is that when we
9 were doing an evaluation, the woman from that territory
10 told us in the evaluation that a lot of Indigenous men from
11 that community thought we were talking to them.

12 **MS. DARLENE OKEMAYSIM-SICOTTE:** Okay.

13 **MS. FAY BLANEY:** I mean, that's just
14 flabbergasting and upsetting, but it just ---

15 **MS. DARLENE OKEMAYSIM-SICOTTE:** Okay.
16 Despite your feelings about restorative justice in those
17 experiences, what would you recommend to Tracy in her
18 territory about an alternate restorative justice?

19 **MS. FAY BLANEY:** I can't really recommend to
20 the Inuit people how they should conduct themselves. That
21 would be really presumptuous of me to do that. All I can
22 do is advocate for the Indigenous women that I work with,
23 which is mainly the First Nations. Now, if Tracy wanted me
24 to come there and work with her, I would be so happy to do
25 so. I have been in the north, I've been invited and they

1 like hearing what I say about, you know, women and male
2 violence and feminism and those sorts of things. I mean,
3 they appreciate that, and they have invited me in the past.
4 I've been to Yellowknife a couple of times. So -- but
5 yeah. No, I wouldn't recommend to Inuit people.

6 **MS. DARLENE OKEMAYSIM-SICOTTE:** Okay. And
7 you -- this is going towards your -- Fay, public awareness
8 and education activities and collaborations, I would think,
9 finding Dawn.

10 **MS. FAY BLANEY:** M'hm.

11 **MS. DARLENE OKEMAYSIM-SICOTTE:** You were
12 part of that documentary, I would call it?

13 **MS. FAY BLANEY:** Yeah. Yeah.

14 **MS. DARLENE OKEMAYSIM-SICOTTE:** Could you
15 share who the filmmaker was?

16 **MS. FAY BLANEY:** Oh, sure. Yeah, it's
17 Christine Welsh. I'm a huge fan of hers. She's a Metis
18 woman that used to teach at the University of Victoria.
19 Her first film was called "Woman in the Shadows" and
20 because she looks like me she really had to explore her
21 Indigenous identity. And the other members of her family
22 wanted to identify white all the time, and she just felt
23 out of place. So she did this documentary on her own
24 search and she mapped out her Metis heritage. It's a very
25 powerful film and she wrote -- she did another film called

1 "Keepers of the Fire". And it's women warriors. She does
2 a great job in doing films.

3 And in that film, "Finding Dawn" who she is
4 referring to is Dawn Crey one of the women that was
5 disappeared in the downtown east side. And she looked at
6 Daleen Bosse in Saskatchewan, where you guys are from, and
7 she looked at the Highway of Tears. She just looked at
8 this phenomenon that we're going through with so many
9 murdered and missing Indigenous women and girls. But she
10 didn't want to portray us as victims, similar to the last
11 questioner asking about the resilience of Indigenous women.
12 In the face of so many of us going missing we are
13 resilient, and we are strong, and we don't give up. We
14 keep organizing. We keep surviving. This past birthday
15 for my daughter I got her a sweatshirt that says, "I am
16 resilient". You know, I'm still here. And that's it with
17 us, we're still here and we're still surviving. So she
18 wanted to present, I don't know if we're called, I guess
19 we're activists or role models.

20 So she interviewed me and Janice Acres
21 (phon.) to show the work that we continue to do to, in my
22 case, be very active, and in Janice's case, she's a writer
23 and educator, I'm an educator as well.

24 So we're active on this issue, we're not
25 just taking the violence; we're doing something about it.

1 **MS. DARLENE OKEMAYSIM-SICOTTE:** Okay. And in
2 Finding Dawn, did she allude to the focus of Pickton during
3 the time?

4 **MS. FAY BLANEY:** Yes, that's where the film
5 started. She looked down, and that's where Dawn Cray
6 (phon.) came into the story, she did look at Pickton.

7 **MS. DARLENE OKEMAYSIM-SICOTTE:** You are
8 educators, that means you've created curriculum and
9 learning. Did you create only kind of learning mechanism
10 with Finding Dawn?

11 **MS. FAY BLANEY:** Yes, I did the guide that
12 goes with the film and it's on the National Film Board
13 website. I have done curriculum design at the basic
14 literacy level, as well.

15 And I do that often when I'm doing my
16 speeches or my workshops. I did that for my, in spite of
17 what the AFN might think of me, I did that in my band as
18 well, with 3-D, and I did a series of, like, ten workshops.
19 So I do develop curriculum.

20 No, I can hear you but you're- I think her
21 mic is off.

22 **MS. DARLENE OKEMAYSIM-SICOTTE:** Here we go.
23 With the study guide and your curriculum, what would be the
24 age appropriate environment for the learner?

25 **MS. FAY BLANEY:** Well, I've always taught

1 adults, so it's intended for an adult audience, and it's
2 intended for them at the end of it to take action on the
3 issue that they're confronting.

4 **MS. DARLENE OKEMAYSIM-SICOTTE:** With your
5 study guide, how would you feel about allowing or
6 authorizing settler society delivery of that work, would
7 you, yes or no?

8 **MS. FAY BLANEY:** It may happen, because it's
9 out there. I sort of understand the question you're
10 getting at, it's often dangerous to have members of that
11 power group being in a position to interpret the
12 information. It is a touchy subject, but it's out there, I
13 think, it's... gonna happen.

14 **MS. DARLENE OKEMAYSIM-SICOTTE:** Yes. If you
15 had the power, a magic wand, would you suggest to all the
16 presidents and vice-presidents and academia across the
17 country, to have a mandatory course missing and murdered
18 Aboriginal women and girls?

19 **MS. FAY BLANEY:** I think that Jordan might
20 teach him. I did make it part of almost every course that
21 I taught, I brought my students to the Memorial March.
22 "The Murdered and Missing" is a really important piece.

23 I think I was a news bulletin to a lot of my
24 students about the 1951 amendment to the Indian Act and the
25 urbanisation of Native people at that time. And they never

1 knew about it, they never knew about residential school.

2 And did you know that in the '51 amendment,
3 the majority of the people at the hearings were the priest
4 and the Indian agents, and the Native people really had a
5 hard time getting into to be heard? (laughs)

6 So those things I taught in my classrooms,
7 and definitely the education system has a long way to go.
8 It was a huge struggle just to get residential school into
9 the elementary and secondary level. And as Sharon McIver
10 says, it's really difficult, even at the post-secondary
11 level in this day and age.

12 And I'd like the Prime Minister to take a
13 course (laughs), I'd like to teach him a thing or two.

14 **MS. DARLENE OKEMAYSIM-SICOTTE:** Yes, good
15 idea.

16 After the production of Finding Dawn and
17 your participation in the curriculum and teaching, do you
18 feel that Canadians are capable of deeply understanding
19 this analysis of the disappearances and deaths of the
20 missing and murdered Indigenous women and girls?

21 **MS. FAY BLANEY:** Are they capable?

22 I think they could, there could be some
23 movement. I don't know that they would ever know what we
24 go through fully, but they have to try. I think they have
25 to try and understand. I know there's a lot of them that

1 are digging in their heels.

2 The reconciliations circle that I'm
3 organising with my friend Kyser (phon.) right now, we're
4 doing it, she's going to kick me if she hears me not
5 remembering the date, but it's in the end of September.

6 So we're doing that with church groups, and
7 some of those folks in those groups talk about not being
8 able to include their or bring their parishioners on board.
9 They're at that level of wanting to acknowledge the
10 territorial lots or hear a speaker and that's enough. And
11 it's really difficult to deepen that understanding or to
12 bring about a willingness.

13 And it's a power dynamic, where people with
14 privilege just aren't that anxious to give up their
15 privilege, and you know, that's the argument that I'm
16 making about the power relations between Indigenous men and
17 women as well that there's a power of relation there. And
18 it's very difficult to convince Indigenous men that they
19 should stop violence when they've benefit from it.

20 **MS. DARLENE OKEMAYSIM-SICOTTE:** Okay. Going
21 back to your reconciliation activities and mobilizing, do
22 you work with other groups or big entities, like Amnesty
23 International, Human Rights Watch New York, those kind of,
24 to do that kind of work?

25 **MS. FAY BLANEY:** I don't really participate

1 at the international level anymore. I used to when I was
2 involved with NAC.

3 Mainly, I work at the grassroots level and I
4 work with the local community. We have an excellent
5 program, the Reconciliation Circles that we do now are very
6 affective and I think that's the way that we reach people,
7 cause they don't know what they don't know. When they get
8 into our circles, they soon begin to realize that they know
9 nothing, and that goes from there.

10 **MS. DARLENE OKEMAYSIM-SICOTTE:** Okay. That's
11 the end of my questions, thank you very much.

12 **MS. CHRISTA BIG CANOE:** Thank you to the
13 representatives of Women Walking Together.

14 Chief Commissioner and Commissioners, I
15 would suggest that we do call one more prior to a lunch
16 break, because I believe even though it will go a little
17 after 12, that it'll be going... well into the schedule. So
18 on that bases, I'm gonna ask and request that Alternative
19 Women's Association, please, come forward to begin your
20 cross-examination.

21 **CHIEF COMMISSIONER MARION BULLER:** Three
22 minute break.

23 **CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR MS. DIANE**
24 **MATTE :**

25 **MS. DIANE MATTE:** Vous ne pouvez peut-être

1 pas donner d'informations détaillées, mais est-ce que vous
2 avez une connaissance de la forme que prend la prostitution
3 pour les femmes inuites? Excusez-moi, je vais répéter. Vous
4 n'avez peut-être pas le détail du nombre de la situation en
5 tant que telle, mais ce qui est connu, disons, dans les
6 communautés inuites par rapport au lien entre... ou le vécu
7 des femmes inuites par rapport à la prostitution, est-ce
8 que vous pouvez quand même nous donner quelques indications
9 ou pas du tout?

10 **MS. TRACY DENNISTON:** No. I can't really
11 answer that question. I'm sorry.

12 **MS. DIANE MATTE :** Ce n'était pas pour vous
13 piéger, mais c'était pour noter qu'effectivement, il y a
14 très peu d'information qui existe sur les réalités de la
15 prostitution en général, des femmes en général ou des
16 enfants et plus particulièrement des femmes autochtones. La
17 clé a soumis à Fay Blaney hier un document qu'on a produit,
18 je pense ; malheureusement, je pense qu'il n'y a pas eu
19 distribution du document aux autres personnes. Je ne sais
20 pas si les commissaires l'ont eu? C'est un dépliant sur les
21 femmes autochtones et la prostitution?

22 **MS MICHÈLE AUDETTE :** Si vous permettez, le
23 document a été soumis à l'expert.

24 **MS. DIANE MATTE :** Okay, c'est beau. Mais les
25 commissaires en ont une copie également. Fay, I am going

1 to... je vais te poser des questions en fonction de ce
2 document-là plus particulièrement. Donc, c'est basé sur une
3 recherche que la Clé a fait sur les besoins des femmes dans
4 la prostitution et les survivantes de la prostitution en
5 2014, dans le cadre duquel nous avons eu la possibilité de
6 parler avec 16 femmes autochtones de Val-d'Or et Montréal.

7 Les données qui ressortent de façon plus
8 particulière parlent entre autres de l'âge d'entrée des
9 femmes dans la prostitution, des femmes autochtones dans la
10 prostitution. L'une des premières données dont on parle
11 dans notre dépliant, c'est que 46 % des femmes autochtones
12 qui ont répondu au questionnaire ou qui ont été
13 interviewées sont entrées dans la prostitution en bas de
14 18 ans, avant l'âge de 18 ans. J'aimerais bien que tu me
15 dises : est-ce que c'est la réalité telle que toi, la
16 connais, par rapport à la question des femmes autochtones
17 et la prostitution à travers le Canada ou, à tout le moins,
18 en Colombie-Britannique?

19 **MS. FAY BLANEY :** Mary Ellen Turpel-Lafond
20 released a report in 2016, and it was a report on the
21 sexual abuse of children in the foster care system. And
22 she said that of the cases that she examined over a three-
23 year period, the total number of Indigenous girls in care
24 was about 25 percent, and yet the number of sexually abused
25 Indigenous girls was at about 67-68 percent.

1 So Indigenous girls are targeted in foster
2 care, they're targeted in school yards. There's an attempt
3 to recruit because it's the same issue with impunity, that
4 they don't really care that -- what they're doing because
5 they don't feel like anyone is going to hold them
6 accountable anyway.

7 So there is a big issue, especially with
8 children in foster care, I think.

9 **MS. DIANE MATTE** : Okay. Dans notre
10 recherche, également, quand on regardait les facteurs
11 d'entrée, en fait... excusez-moi, c'est l'aller-retour des
12 appareils. Dans notre recherche, on regardait également les
13 facteurs d'entrées. Qu'est-ce qui amène les femmes dans la
14 prostitution? Évidemment, on a posé la question aux femmes
15 autochtones également. Et, pas nécessairement dans un ordre
16 de grandeur, mais dans les facteurs qui les ont amenés, les
17 femmes mentionnaient d'une part le fait que les hommes leur
18 demandent des actes sexuels. La question d'avoir perdu
19 leurs enfants, également, tout le rapport avec les services
20 sociaux et plus particulièrement les services de protection
21 de la jeunesse, le fait de connaître une personne qui est
22 dans l'industrie du sexe, soit un membre de la famille ou
23 des amis. Aussi, évidemment, la question de la pauvreté et
24 l'absence d'argent, la question des dépendances à la drogue
25 et évidemment, le fait d'avoir été victime très souvent

1 d'agression sexuelle, comme des push factor, comme on dit
2 en anglais.

3 J'aimerais savoir aussi : peux-tu nous
4 parler de ta connaissance des facteurs qui amènent les
5 femmes autochtones dans la prostitution?

6 **MS. FAY BLANEY:** I think the same holds true
7 for what you have here with regard to having their children
8 apprehended. I think the separation from culture and
9 community is one of the factors.

10 With my cousins, there was a time in my
11 community where we were forced to relocate, the government
12 had an end isolation policy and our people were scattered
13 into three main areas, and one of them was the downtown
14 east side. And so, my cousins grew up there. They have no
15 knowledge of our language or our culture, and they have no
16 education, no educational opportunities, no employment
17 opportunities, and so they just -- they end up being stuck
18 there.

19 The thing with child apprehension, I just --
20 I can't fathom the pain associated with losing your
21 children.

22 In the report that you cite here with
23 Melissa Farley and Jackie Lynne. I know Jackie Lynne,
24 she's a Métis woman, and in their research, they talk about
25 what I just mentioned, that there's so much sexual violence

1 in our childhoods as it is, and they think, okay, I might
2 as well just do this because now I'll get paid for doing
3 it, rather than just being abused.

4 Addictions is pretty prevalent. I
5 definitely went through my stage of addictions. I started
6 running when I was about 13 years old, and I really started
7 getting into alcohol, mostly, and then towards the end of
8 it getting into some drugs.

9 And it was my politicization that pulled me
10 out of that downward spiral. And I'm very active in the
11 native sobriety movement in Vancouver. Not so active now,
12 because I'm just busy doing this stuff, but I've been there
13 for like a lot of years and I support Indigenous women
14 coming into the program.

15 And that was another finding in their
16 research, was that addictions were often at play. So
17 childhood sexual violence, addictions, child apprehensions,
18 forced prostitution is one of the factors as well.

19 **MS. DIANE MATTE:** Okay. Dans les femmes
20 autochtones à qui nous avons parlé, si je veux les comparer
21 avec les femmes non autochtones qui ont participé à la
22 recherche, elles avaient un vécu de violence sexuelle,
23 physique, psychologique beaucoup plus élevé que les femmes
24 non autochtones. Elles donnaient, évidemment, comme impact
25 de ça ou on constatait comme impact de ça la piètre estime

1 de soi.

2 Les femmes autochtones nous parlaient
3 également du fait que la stigmatisation qu'elles vivent
4 comme femmes dans la prostitution, surtout celles qui sont
5 dans la prostitution de rue, elle est plus acceptable
6 encore pour elles que la stigmatisation qu'elles vivent
7 comme femmes autochtones ; je pense entre autres à Val-D'Or
8 particulièrement.

9 Et ça ne nous a pas étonné en tant que tel,
10 mais disons que comme on utilise souvent la terminologie de
11 stigmatisation des femmes dans la prostitution pour
12 défendre l'industrie du sexe, j'aimerais avoir ton avis sur
13 comment, dans le cadre d'une telle recherche, pourquoi la
14 stigmatisation, donc le racisme colonialiste que les femmes
15 subissent, est plus importante pour elles encore que la
16 façon dont on regarde la prostitution?

17 **MS. FAY BLANEY :** So I did talk about
18 sitting at the bottom of these various hierarchy's along
19 the lines of race and socioeconomic status, and of our
20 gender. I think the -- for us in the Indigenous community,
21 we are really attached to our Indigenous heritage, and --
22 and yet, we've been forced to -- not minimize, to condemn
23 it.

24 Like in the residential schools, we were
25 taught that it was -- that we had to do better than our

1 parents, that they were no good. And I think that message
2 is fairly consistent within Canadian society.

3 I mean, last year, MacLean's released an
4 article about the racism in Manitoba, and that's one of
5 those times when the media took note. I think that we are
6 put down an awful lot, and that is a really integral part
7 of who we are.

8 The stigma associated with prostitution, I
9 don't think it's a big leap from the stigma that we feel as
10 sexual abuse survivors. Marcia Crosby is one of the
11 Indigenous women who writes about the horror that she went
12 through in her childhood where she was sexually abused and
13 tried to tell her grandma about it. And in the article,
14 she's asking why -- why grandma, why are you silent? Like,
15 why are you not trying to help me and why are you doing
16 nothing about this?

17 So I think it's akin to the
18 institutionalization that we went through in residential
19 school and then continuing in other institutions. So it's
20 a graduation from incest and sexual abuse into the street
21 level prostitution.

22 I'm not sure if I answered. I'm not sure if
23 I heard your question correctly.

24 **MS. DIANE MATTE:** Oui, je pense que c'était
25 correct - avec la traduction, c'est toujours un peu plus

1 compliqué, mais non, c'est correct, ça va. Je crois
2 qu'hier, dans votre témoignage, vous avez parlé du dommage
3 que fait aussi l'utilisation des termes « travail du
4 sexe », particulièrement pour les femmes autochtones.
5 J'aimerais que tu élabores là-dessus : pourquoi est-ce une
6 terminologie qui est dangereuse pour les femmes?

7 **MS. FAY BLANEY** : Yeah, this is at the heart
8 of my passion. It seems that the word "sex worker" is
9 identifying it as a viable profession, and it's like, in my
10 opinion, the normalization of violence or the normalization
11 of having black eyes all of the time, or even the
12 normalization of the sexual violence that we go through and
13 then we graduate into prostitution.

14 The so-called progressive lobby in this
15 country, including the governments on the left, are really
16 in favour of the legalization of prostitution. And the
17 ones that need to have a voice in that process are
18 Indigenous women, and we don't have an organized voice.

19 And -- but what I experienced is that when I
20 encounter Indigenous women, they overwhelming are
21 abolitionists like I am. Sherry Smiley was just presenting
22 at the symposium I was at on the weekend, and she had done
23 a focus group, and the women were survivors of prostitution
24 in her focus group. And she was telling them about this
25 term "sex work", and she explained to them that it was

1 about making this a job, a career, a profession. And those
2 women were horrified. They said, "Who is doing that?" And
3 she said, "Oh, the universities." And they were saying,
4 "Which one?"

5 And Julie Bindle writes a book about the
6 pimping of prostitution. There is a huge promotion of this
7 notion that it's a feminist right to be able to sell your
8 body for -- you know, for sexual purposes.

9 And we have that progressive group, you know
10 of university professors across this country that are
11 promoting it as a viable profession, but I wish they would
12 ask us what we think about it. I think that the debates
13 around sexual consent, like they said that Cindy Gladue
14 consented, and then she died at the end of that consent. I
15 don't know, you know, what their definition of consent is.

16 But when you look at the lives of Indigenous
17 women that are coming out of foster care and are estranged
18 or coming out of our Reserves and fleeing violence, where
19 is the choice in that? It's similar to the choice that the
20 social workers give us when they're at the hospital
21 doorstep trying to take our children. You have a choice
22 here. You either voluntarily place your child into care or
23 we will apprehend. Like those are the two choices.

24 And -- you know, the women that are really
25 struggling and not wanting to come out of our communities

1 but are being forced out of our communities, where is the
2 choice in that?

3 But -- and so this whole notion of consent
4 is highly problematic because the segment of society that
5 have the smallest amount of choice are being promoted as
6 they're choosing prostitution or they're choosing sex work.

7 And they're -- and they are building a whole
8 industry around it. I just really -- I often use the word
9 "poverty pimps" because that's what they are, these groups
10 that really benefit from delivering programs and services
11 to women that are lost in that world of prostitution and
12 there is no way out.

13 **MS. DIANE MATTE :** Parlant de sortie de la
14 prostitution, l'une des données qu'on a ramassées avec
15 notre étude, c'est que chez les femmes autochtones, encore
16 une fois, le pourcentage était encore plus élevé ; il y
17 avait 91 % des femmes autochtones qui étaient dans la
18 prostitution au moment de l'enquête qui souhaite quitter
19 l'industrie du sexe et seulement 6 % d'entre elles
20 connaissaient des ressources pour les aider à en sortir.

21 On travaille, comme CLÉ (phon.), depuis
22 plusieurs années... je sais que tu connais aussi des groupes
23 qui le font pour s'assurer justement qu'on offre des
24 alternatives aux femmes et qu'on offre du soutien pour en
25 sortir, incluant des compensations, incluant des services

1 de désintox pour femmes seulement, l'effacement des casiers
2 judiciaires... il y a une longue liste de recommandations ou
3 de propositions qu'on met de l'avant.

4 Mais il demeure qu'effectivement, il y a une
5 méconnaissance de la possibilité de sortir de la
6 prostitution. Nous, on l'associe beaucoup avec l'adoption
7 d'une analyse basée sur la réduction des méfaits et non pas
8 sur une visée de stopper la prostitution comme forme de
9 violence envers les femmes. J'aimerais savoir ce que tu
10 penses de cette visée-là.

11 **INTERLOCUTRICE NON-IDENTIFIÉE:** Je m'excuse
12 Madame Matte, quelle est votre question? Parce que vous
13 semblez faire une soumission plutôt que de poser une
14 question...

15 **MS. DIANE MATTE :** Oui, ça, j'aime ça faire
16 des soumissions! [Rires] En fait, c'est le pourcentage,
17 parce qu'effectivement, 91 % des femmes veulent sortir,
18 seulement 6 % connaissent des ressources et il existe peu
19 de ressources, on le sait. Donc, j'aimerais t'entendre là-
20 dessus, vous entendre là-dessus, sur cette question de
21 sortie de la prostitution.

22 **MS. FAY BLANEY :** Again, that's addressed in
23 the research that Jackie Lynne did with Melissa Farley in
24 the downtown east side, and I think her number was
25 95 percent. She said 95 percent of the women wanted to get

1 out of prostitution.

2 And in terms of the resources and services.
3 You know, when the action was being taken by the -- in the
4 courts, at the Supreme Court level, we were arguing for the
5 Nordic model. And the Nordic model is very much a model
6 that looks at not only the law, like you were in favour of
7 protecting prostituted women and prosecuting pimps and
8 Johns in that process.

9 The other part of that model includes --
10 well, in their case, in the Nordic regions of the world,
11 they take seriously the issue of the status of women, and
12 that's what we're missing here in Canada. Women in
13 general, and Indigenous women, in particular, do not have
14 equality, substantive equality in this country. We still
15 are deemed to be a lower class. And -- so we -- so that
16 piece of the formula is missing.

17 And you mentioned detox. We've already
18 talked about the inability of women to escape the
19 addictions. It's a vicious cycle to be caught in an
20 addiction and needing to do prostitution to be able to get
21 money for more of the addictive substance, and I guess your
22 last question kind of fits in here as well, because the
23 groups that I call the poverty pimps, I mean, they deliver
24 services to women that are prostituting, such as false
25 eyelashes, and lipstick, and stilettos, and miniskirts and,

1 you know, all these things that you require to participate
2 in that. And, they don't pay enough attention to her
3 aspiration to get out. You know, there isn't a whole lot
4 of beds out there to be able to exit. And, in Vancouver,
5 the ones that I know of are Christian based, and you know
6 our relationship with Christianity through the residential
7 schools. And, to immerse myself in a program that's about
8 Jesus is not a program I want to be in.

9 And so, I think the statistics that you have
10 here are very similar there, and they are what I'm hearing
11 as well, although what I'm hearing is anecdotal evidence.
12 But, what Jackie Lynn did is an actual research project,
13 and she -- I think her number is at 95 percent, and I'm
14 just wondering if it's -- I don't know the legal process
15 here, but is it possible to get Jackie Lynn's article in as
16 an exhibit here, or into evidence?

17 **MS. DIANNE MATTE:** We can discuss that
18 outside of my clock.

19 **MS. FAY BLANEY:** Okay.

20 **MS. DIANNE MATTE:** Because there's nothing
21 left, almost.

22 En fait, justement je voulais savoir, tu as
23 parlé beaucoup de libération de la parole des femmes
24 autochtones. Je serais très intéressée de savoir ce que tu
25 recommanderais à la Commission et au mouvement féministe

1 Women and Prostitution - A Reality Check be marked as an
2 exhibit?

3 **MS. CHRISTA BIG CANOE:** Do the parties which
4 to have this exhibited?

5 **MS. DIANE MATTE:** Est-ce qu'on parle du
6 dépliant ou de la recherche dont Fay parlait dans le ---

7 **Mme FANNY WYLDE:** En fait, Madame Matte, le
8 document auquel vous faisiez référence et que vous avez
9 distribué à l'expert et également aux Commissaires, est-ce
10 que vous désirez le produire en preuve?

11 **Mme DIANE MATTE:** Oui, oui.

12 **Mme FANNY WYLDE:** Alors la réponse est oui.

13 **Mme DIANE MATTE:** Y en d'autres aussi mais
14 je pouvais pas les -- j'ai pas eu le temps de les donner à
15 Fay. Y a d'autres recherches qui auraient pu être
16 soumises.

17 **CHIEF COMMISSIONER MARION BULLER:** Okay.
18 Native Women and Prostitution - A Reality Check, is the
19 next exhibit, please.

20 --- **EXHIBIT NO./PIÈCE No. A22:**

21 Colour printout of Concertation des luttes
22 contre l'exploitation sexuelle pamphlet
23 "Native Women and Prostitution: A Reality
24 Check" (two pages)

25 Submitted by: Dianne Matte,

1 Representativefor Concertation des luttes
2 contre l'exploitation sexuelle

3 **MS. CHRISTA BIG CANOE:** Chief Commissioner
4 and Commissioners, we would like to request that we take
5 the lunch break now, but we are proposing that we break
6 until 1:00. So, it gives us approximately 40 minutes for
7 lunch, and then we can come back. We can advise at this
8 point that we've heard from half of the parties that we
9 will be crossing. And so, that would afford us the
10 remainder of the afternoon to complete it.

11 **CHIEF COMMISSIONER MARION BULLER:** Okay,
12 thank you. 1:00.

13 --- Upon recessing at 12:21

14 --- Upon resuming at 13:32

15 **MS. CHRISTA BIG CANOE:** Good afternoon,
16 Chief Commissioner, Commissioners. We'd like to
17 recommence. We are calling next the Ontario Native Women's
18 Association. They have 25 minutes. Before we start the
19 time, counsel will just be doing a brief introduction and
20 explanation, and then I will ask for the time to start.

21 **MS. CHRISTINA COMACCHIO:** Good afternoon,
22 Commissioners. My name is Christina Comacchio. I'm
23 counsel for the Ontario Native Women's Association, but
24 Cora-Lee McGuire-Cyrette is going to actually be doing the
25 questioning today, and I'm just going to take a step back.

1 **MS. CHRISTA BIG CANOE:** Thank you. So,
2 Cora, please come up. Feel free to come up, and you will
3 have 25 minutes once you start asking your first question.

4 **CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR MRS. CORA-**
5 **LEE McGUIRE-CYRETTE :**

6 **MRS. CORA-LEE McGUIRE-CYRETTE:** Okay. I've
7 just got a small introduction at the beginning, prior to
8 the questions.

9 **MS. CHRISTA BIG CANOE:** Yes, just a short
10 one.

11 **MRS. CORA-LEE McGUIRE-CYRETTE:** Yes. I have
12 issues with the title of cross-examination. My culture and
13 history is about story-telling and oral history as part of
14 our culture and traditions. And so, I really do want to
15 note that I don't feel what I'm about to do is cross-
16 examination for my fellow Indigenous women and Indigenous
17 men -- man who is on the panel here today.

18 My intent is to honour missing and murdered
19 Indigenous women and girls. My vision is to create safety
20 and address sexual violence today. And so, I really want
21 to honour and acknowledge that this is story telling from
22 my perspective, and I don't mean any disrespect of any of
23 the questions I'm about to ask.

24 **MS. CHRISTA BIG CANOE:** Okay. So, we can
25 start the time, please.

1 **MRS. CORA-LEE MCGUIRE-CYRETTE:** Bonjour,
2 bob-a-ka-nee-kwai-indiginikas (ph). Cora-Lee McGuire.
3 (States name and where she's from in Native language). I
4 want to start by thanking, honouring Indigenous women and
5 girls that have been affected by the reason we're here
6 today in the National Inquiry, including my own cousin who
7 has been murdered, and I have not seen her voice
8 represented throughout the past couple of days, and I want
9 to bring her forward here today. And, she's not the only
10 one who has suffered, as we also do have family members
11 living within violence regularly and day-to-day.

12 And so, I'm coming here today to bring
13 forward those stories that have not been heard, and to look
14 at how we create safety within a human rights framework to
15 honour the stories and the reasons why we're here today, to
16 honour missing and murdered Indigenous women and girls, and
17 the families that have been affected by this.

18 I also want to begin by asking Naomi, if
19 that's okay. I will seek your permission for asking
20 questions. That's part of our culture and our history, is
21 to seek permission, and I believe that's also a way that we
22 give voice back to women, is we ask their permission. And
23 so, I will ask your permission as we go through.

24 **MS. NAIOMI METALLIC:** You have my
25 permission.

1 **MRS. CORA-LEE McGUIRE-CYRETTE:** Thank you.

2 In your experience as a lawyer, has the Supreme Court of
3 Canada recognized stories as a form of evidence in the
4 western legal system?

5 **MS. NAIOMI METALLIC:** A little bit, but not
6 a lot. Do you want me to elaborate?

7 **MRS. CORA-LEE McGUIRE-CYRETTE:** Yes, please.

8 **MS. NAIOMI METALLIC:** So, in the Section 35
9 cases on Aboriginal rights, to date, I believe I think
10 starting maybe in Van Der Peet, the court does talk about
11 how in defining Aboriginal rights, they must take into
12 account -- courts must take into account the Aboriginal
13 perspective. That's what they call it. And, they've done
14 a better job sometimes than others in some cases of
15 bringing that in. Probably the best example I can give is
16 the *Tsilhqot'in* case, which did recognise Aboriginal title
17 in parts of B.C. and their stories -- stories, law, from
18 the *Tsilhqot'in* people came in to inform that, but many
19 scholars write that the courts are not doing enough to
20 recognise not just the perspective but the laws and that we
21 need to go further in that regard.

22 **MRS. CORA-LEE McGUIRE-CYRETTE:** M'hm. Thank
23 you.

24 So, Fay, I may -- can I ask your permission
25 to ask you a question as well?

1 **MS. FAY BLANEY:** Yes.

2 **MRS. CORA-LEE McGUIRE-CYRETTE:** When you
3 were speaking you spoke to a lot of stories that you have
4 been tasked and are responsible to bring forward. And so
5 would you agree that storytelling and bringing forward the
6 woman's voices is part of our culture and our history and
7 is needed in order to honour women's voices?

8 **MS. FAY BLANEY:** Yes.

9 **MRS. CORA-LEE McGUIRE-CYRETTE:** Thank you.
10 Naomi ---

11 **MS. NAIOMI METALLIC:** M'hm.

12 **MRS. CORA-LEE McGUIRE-CYRETTE:** --- as you
13 spoke to the *Indian Act* quite a bit in your report and in
14 your paper ---

15 **MS. NAIOMI METALLIC:** M'hm.

16 **MRS. CORA-LEE McGUIRE-CYRETTE:** --- can you
17 connect the *Indian Act* and violence against Indigenous
18 women for me?

19 **MS. NAIOMI METALLIC:** Where does one start
20 on that one? I mean, there's so many things. I think Fay
21 also spoke about it. I mean, in my paper there's a whole
22 bunch of stuff I didn't talk about, right, because in mine
23 it was mostly focussed on the absence of structures around
24 services, but you could talk at length, we could have a
25 whole day or a whole week perhaps on the impacts of the

1 status roles, right, and the long and sordid history going
2 back to, you know, the first definitions and all the rules
3 on that. Then you can talk about all the rules around
4 elections and how women didn't have the right to vote. And
5 I'm sure there's a bunch of other ways that you could point
6 ---

7 **MRS. CORA-LEE MCGUIRE-CYRETTE:** M'hm.

8 **MS. NAIOMI METALLIC:** --- to sort of
9 patriarchy that's been built into and how it's defined our
10 identities and ---

11 **MRS. CORA-LEE MCGUIRE-CYRETTE:** Yeah.

12 **MS. NAIOMI METALLIC:** So, yeah.

13 **MRS. CORA-LEE MCGUIRE-CYRETTE:** Perfect.

14 **MS. NAIOMI METALLIC:** You got all day?

15 **MRS. CORA-LEE MCGUIRE-CYRETTE:** Yeah. Thank
16 you. I just wanted it referenced.

17 **MS. NAIOMI METALLIC:** Thanks.

18 **MRS. CORA-LEE MCGUIRE-CYRETTE:** Based on
19 your research and understanding, how might the permanent
20 mechanisms, as you referenced in your report, distinct to
21 Indigenous women's organisations be established?

22 **MS. NAIOMI METALLIC:** Sorry, can you just
23 repeat the question again? I just want to make sure I
24 understand it.

25 **MRS. CORA-LEE MCGUIRE-CYRETTE:** Yeah, so in

1 your report you reference mechanisms ---

2 **MS. NAIOMI METALLIC:** M'hm.

3 **MRS. CORA-LEE McGUIRE-CYRETTE:** --- and
4 looking at how to create distinct Indigenous women's
5 mechanisms be established?

6 **MS. NAIOMI METALLIC:** So what I'm mostly
7 getting at in my report, just to be clear, that I --
8 there's a bigger conversation to be had around the
9 recognition of inherent rights and how we do that and how
10 we introduce Indigenous law. So my piece here is mostly
11 just about the essential services, right, so that a lot of
12 my recommendations are on that. I have other papers where
13 I've explored other things like what our CAP had
14 recommended in terms of the way to move forward on the
15 recognition of inherent rights and different Acts to be
16 introduced in terms of recognising that.

17 So, you know, and I don't have all the
18 answers and I don't ---

19 **MRS. CORA-LEE McGUIRE-CYRETTE:** Yeah.

20 **MS. NAIOMI METALLIC:** --- pretend to. And,
21 you know, really it's about going back to communities.

22 And I think to sort of echo some of the
23 stuff that we've heard from Fay, it needs to be that
24 women's voices need to be prominent in their community
25 grassroots, and also people who have been acting in

1 positions of leadership too. I think that those were
2 conversations. But I think that there are things like the
3 Royal Commission on Aboriginal Peoples that give us at
4 least starting points and tools to work with. So the best
5 I can do is point back there.

6 **MRS. CORA-LEE MCGUIRE-CYRETTE:** M'hm. Thank
7 you.

8 One last question for you.

9 **MS. NAIOMI METALLIC:** Okay.

10 **MRS. CORA-LEE MCGUIRE-CYRETTE:** In your
11 paper you spoke about the discrimination of the *Indian Act*.
12 Do you believe that it is acceptable that First Nations'
13 women's rights to be free from gender based discrimination
14 in the *Indian Act* is currently being delayed due to the
15 duty to consult with elected Band councils? Do you believe
16 this is a form of discrimination?

17 **MS. NAIOMI METALLIC:** Well, I didn't exactly
18 get in -- I wasn't really thinking about that big question
19 around, like, I think you were talking about what's
20 happened since the Descheneaux decision and the second
21 process that the federal -- I mean -- yeah, the government
22 is -- it's really complex and nuance, and so I don't like
23 giving binary answers. Yes it is or no, it -- or isn't. I
24 mean, it's complicated. And yet there are people who have
25 argued that, you know, it's just -- should be 6.1.A all the

1 way and let's go that route. Other people have said that
2 we need to, you know, figure out how this is going to work.
3 And I don't know. It's really complex and I don't know if
4 I can give, like, a straight answer.

5 There are resourcing issues that do have to
6 be addressed. I mean, this is what happened with Bill C31
7 ---

8 **MRS. CORA-LEE MCGUIRE-CYRETTE:** Yeah.

9 **MS. NAIOMI METALLIC:** --- right, and the
10 government sort of ignored the resourcing issues, somewhat
11 fixed ---

12 **MRS. CORA-LEE MCGUIRE-CYRETTE:** Yeah.

13 **MS. NAIOMI METALLIC:** --- but didn't really
14 and created a bunch of new problems in the definitions
15 under Bill C31. And so there are, you know, there is going
16 to have to be, you know, some discussion around that, but I
17 take your point too that, you know, there are women who
18 have been waiting for a really long time.

19 So I don't have the answers on this one,
20 just to say that I think it's extremely complex. And there
21 are discussions that have to happen; right? To figure out
22 -- I mean, we're talking about how there's no housing, how
23 people don't have any. So government has to step up and
24 have discussions with us and we have to point -- give them
25 pointed questions about well, what are you going to do

1 about that? If we are going to say, yes, everyone -- you
2 know, there's more status Indians. Can they come home?

3 **MRS. CORA-LEE McGUIRE-CYRETTE:** Yes.

4 **MS. NAIOMI METALLIC:** And can we actually
5 give them homes?

6 **MRS. CORA-LEE McGUIRE-CYRETTE:** Thank you.

7 **MS. NAIOMI METALLIC:** Thank you.

8 **MRS. CORA-LEE McGUIRE-CYRETTE:** Fay, I have
9 a question -- a follow-up question to you. Do you believe
10 that there is a link between the status register and
11 Indigenous women's identity?

12 **MS. FAY BLANEY:** Well, there is a link in
13 the sense that we're denied access to our homelands. If
14 you'll recall on yesterday when I was being qualified as an
15 expert witness, I did -- the first thing I said is that a
16 big part of who we are is our ties to our land and our
17 territory. And so when you're not allowed to go on your
18 territory, when you're not allowed to practice your rights
19 and your responsibilities of teaching the young ones your
20 language and your culture, it's -- yeah, but it's a big
21 barrier.

22 **MRS. CORA-LEE McGUIRE-CYRETTE:** M'hm. Thank
23 you.

24 Tim, may I ask you a question?

25 **MR. TIM ARGETSINGER:** Yes.

1 **MRS. CORA-LEE McGUIRE-CYRETTE:** In your
2 experience as a health policy analyst, are you aware of any
3 research related to the impact of trauma related to
4 Indigenous women's health?

5 **MR. TIM ARGETSINGER:** Indigenous women's
6 health?

7 **MRS. CORA-LEE McGUIRE-CYRETTE:** Yes.
8 Violence -- so if you look at trauma and the impacts of
9 trauma and violence on Indigenous women, do you know --
10 have you seen any research or studies or have any expertise
11 related to how this trauma affects her health?

12 **MR. TIM ARGETSINGER:** I have. I can't
13 pinpoint or cite at the moment the specific articles or
14 which population.

15 **MRS. CORA-LEE McGUIRE-CYRETTE:** M'hm. Would
16 you agree of -- I can reframe it a little bit then. Would
17 you agree that trauma has an impact on health?

18 **MR. TIM ARGETSINGER:** Absolutely. Come to
19 think of it, the 2007/2008 Inuit Health Survey is an
20 example of research that looked -- that used a number of
21 different measures, among them the measures or the
22 indicators that it looked at were experiences of violence,
23 including child sexual abuse, associations between those
24 experiences and current self reported mental health status
25 at the time that the survey was carried out. Those are

1 linked.

2 So that -- I'm just citing an example of ---

3 **MRS. CORA-LEE McGUIRE-CYRETTE:** M'hm.

4 **MR. TIM ARGETSINGER:** --- of research that
5 you could point to.

6 **MRS. CORA-LEE McGUIRE-CYRETTE:** Thank you.

7 Tracy, may I ask you a question?

8 **MS. TRACY DENNISTON:** Yes.

9 **MRS. CORA-LEE McGUIRE-CYRETTE:** Yesterday
10 you mentioned several barriers facing women related to
11 violence, vulnerabilities and their lack of agencies in
12 their life and options in support of services. Based on
13 your experience as a frontline worker, what is your
14 recommendations for safety planning?

15 **MS. TRACY DENNISTON:** A part of safety
16 planning I think is the bigger problems we have -- need
17 addressed like the housing. If we had more housing, I
18 think that would be an issue to -- that would be a safety
19 plan for our women, they were able to have bigger access to
20 more services as well.

21 **MRS. CORA-LEE McGUIRE-CYRETTE:** Do you
22 believe safety planning for escaping and fleeing violence
23 is a necessity?

24 **MS. TRACY DENNISTON:** Yes, I think it does.
25 It's important, but I don't think it's done very often.

1 Like, and when you say safety planning in regards to just
2 working with the women you mean?

3 **MRS. CORA-LEE McGUIRE-CYRETTE:** Women who
4 are escaping violence. That's -- within the shelter
5 experience is women escaping violence and the need to look
6 at creating safety plans for them, you know.

7 **MS. TRACY DENNISTON:** Yes.

8 **MRS. CORA-LEE McGUIRE-CYRETTE:** Yeah. Okay.
9 Thank you.

10 **MS. TRACY DENNISTON:** Thank you.

11 **MRS. CORA-LEE McGUIRE-CYRETTE:** Fay, you
12 spoke to Indigenous women's power imbalance. How do you --
13 how can you -- how can Indigenous women overcome these
14 barriers?

15 **MS. FAY BLANEY:** I don't think we can
16 overcome them individually, and that's very much a western
17 idea anyway to have so much individualism. I've talked
18 about working together as Indigenous women and the need for
19 the federal government to step up and take the
20 responsibility that is guaranteed to us in the charter of
21 rights and freedoms that we have substantive equality.

22 And so, we need that funding reinstated and
23 we need support to be able to establish autonomous or
24 independent women's groups. I think that's what we need to
25 do.

1 **MRS. CORA-LEE McGUIRE-CYRETTE:** I agree. May
2 I ask you a question about sexual violence?

3 **MS. FAY BLANEY:** Yes.

4 **MRS. CORA-LEE McGUIRE-CYRETTE:** You spoke
5 very courageously about sexual violence, and I wanted to
6 acknowledge your bravery and honour you with these
7 questions.

8 **MS. FAY BLANEY:** Thank you.

9 **MRS. CORA-LEE McGUIRE-CYRETTE:** Feel free not
10 to answer any of them. Do you believe that work around
11 sexual violence needs to be led by survivors of sexual
12 violence?

13 **MS. FAY BLANEY:** I mean, it helps in my own
14 healing process, I'm thinking about that.

15 I had an excellent therapist that worked
16 with the Indigenous community and she worked with us in-
17 group. She wasn't a survivor herself, but she knew that we
18 had a culture of collectivity or communal work. And so, my
19 healing process was through that.

20 I do believe that peer support is very
21 important amongst us and it goes along with the ideal of us
22 doing consciousness-raising groups together. And I did find
23 issues that are finding our commonalities and analysing
24 power relations and what puts us at the bottom of these
25 hierarchies and then being able to respond to it.

1 **MRS. CORA-LEE McGUIRE-CYRETTE:** Do you
2 believe that a specific Indigenous women and girls sexual
3 violence action plan is needed, that has a gender-based and
4 trauma informed basis?

5 **MS. FAY BLANEY:** That would be fabulous if
6 they would pay that much attention to it.

7 **MRS. CORA-LEE McGUIRE-CYRETTE:** Would you
8 make that as a recommendation for the National Inquiry?

9 **MS. FAY BLANEY:** I would agree with that
10 recommendation.

11 **MRS. CORA-LEE McGUIRE-CYRETTE:** Do you agree
12 that permanent mechanisms for stabilized Indigenous women's
13 autonomous organisations is needed?

14 **MS. FAY BLANEY:** Yes, I think that was from
15 the last question. I do believe that our groups require
16 core funding.

17 At the end of the time that women's groups
18 were receiving funding, they discontinued core-funding. We
19 can't function with project-based funding, it just doesn't
20 work.

21 **MRS. CORA-LEE McGUIRE-CYRETTE:** Do you agree
22 that the work of these organisations include the right to
23 articulate their needs, priorities, safety, dignity,
24 culture, traditional, history and aspirations?

25 **MS. FAY BLANEY:** Which groups?

1 **MRS. CORA-LEE McGUIRE-CYRETTE:** Indigenous
2 Women's Autonomous Organisations?

3 **MS. FAY BLANEY:** Yes, I don't remember all
4 the list, but yes, I think we should be self-determining,
5 self-actualizing, and be independent.

6 I know that earlier this morning I was being
7 told by the assembly of First Nations that they had all
8 these women working there. But their mandate is not to
9 address Indigenous women's concerns per say, it may be part
10 of, but it's not the main focus.

11 And in the case of what you're describing,
12 Indigenous women would be the primary focus, so that's where
13 it should be coming from.

14 **MRS. CORA-LEE McGUIRE-CYRETTE:** Do you agree
15 Indigenous women have the right to have input in decision-
16 making power on issues that affect them?

17 **MS. FAY BLANEY:** That was one of my
18 recommendations yesterday, I was saying that once we're
19 established that there should be a duty to consult and
20 accommodate Indigenous women.

21 I know that Nwac (phon.) went to court for
22 that, Charlottetown, a court, the constitutional discussions
23 where they were trying to be included in the consultation on
24 the constitution. And I think that should be an ongoing, a
25 permanent condition for the bans as well as the state.

1 Like, federal and provincial governments
2 should be required to consult with us, and I think, I hope
3 that this Inquiry goes a long way to acknowledging and
4 recognizing the fact that colonization is experienced very
5 differently by men than it is by women. We have a very
6 different experience of colonization.

7 **MRS. CORA-LEE McGUIRE-CYRETTE:** I have
8 questions for the entire panel, I have a couple in here.

9 So do you agree safety of Indigenous women
10 is a human right and a priority that needs to be the
11 foundation of the Commissioners final report?

12 **MS. FAY BLANEY:** It's urgent. Yes, I think
13 it is.

14 **MRS. CORA-LEE McGUIRE-CYRETTE:** Naomi?
15 Sorry, it's for the whole panel.

16 **MS. NAIOMI METALLIC:** Okay, sorry, I missed
17 that part. So the question is whether I think that the
18 needs of women is a human right?

19 **MRS. CORA-LEE McGUIRE-CYRETTE:** Safety.

20 **MS. NAIOMI METALLIC:** Safety, yes.

21 **MRS. CORA-LEE McGUIRE-CYRETTE:** The specific
22 safety of Indigenous women and that would be the foundation
23 in the Commissioners final report.

24 **MS. NAIOMI METALLIC:** Yes, and I think that
25 is informed even, you know, it's informed by various things

1 but even Canadian constitutional and human rights documents
2 support that right, section 7 and section 15 of the charter,
3 and also international human rights stuff, so absolutely.

4 **MRS. CORA-LEE McGUIRE-CYRETTE:** Tim?

5 **M. TIMOTHY ARGETSINGER:** Yes, I agree.

6 **MRS. CORA-LEE McGUIRE-CYRETTE:** Tracy?

7 **MS. TRACY DENNISTON:** Same, yes, I agree.

8 **MRS. CORA-LEE McGUIRE-CYRETTE:** One of the
9 recommendations in the interim report of the National
10 Inquiry is to re-establish the Aboriginal healing
11 foundation.

12 Do you agree with this recommendation and
13 should it be a priority with the trauma informed gendered
14 lens?

15 **MS. FAY BLANEY:** Yes, I agree. I think that
16 the federal government needs to go after the Catholic Church
17 again to get that money back, and it has to have gender-
18 focus.

19 I like the way that they were doing it in
20 BC, they had sexual abuse groups for women and they had
21 separate ones for men, and it was highly effective.

22 **MS. NAIOMI METALLIC:** Yes, I agree with the
23 AHF being re-instated and having a mandate to do really
24 important work.

25 **M. TIMOTHY ARGETSINGER:** I don't know enough

1 about your organisation, so I can't say one way or the
2 other.

3 **MRS. CORA-LEE MCGUIRE-CYRETTE:** Tracy?

4 **MS. TRACY DENNISTON:** Same with Tim. I
5 really don't know enough about the organisation as well.

6 **MRS. CORA-LEE MCGUIRE-CYRETTE:** Thank you.
7 Do you have any recommendations for the Commissioners on how
8 to implement these recommendations?

9 **MS. FAY BLANEY:** Which recommendations?

10 **MRS. CORA-LEE MCGUIRE-CYRETTE:** The
11 recommendations that will come out of the National Inquiry
12 and for your recommendations specifically, as the expert
13 panel.

14 **MS. FAY BLANEY:** Well, I hope they take our
15 recommendations seriously. I don't know what it's gonna
16 look like in the final report.

17 I am concerned about what I came here to
18 say, which is that it has a gendered lens. I think in terms
19 of implementation that's gonna be a huge task in the
20 Indigenous community. And I'm quite afraid that it's gonna
21 be like the Royal Commission report and other, like, the
22 Manitoba Aboriginal Justice Inquiry report. I hope it won't
23 be left, be ignored.

24 **MS. NAIOMI METALLIC:** The same, there's been
25 so many inquiries in this that's been raised, all that. You

1 know, there's still outstanding recommendations, but you
2 know, there's one that seems to be having some staying
3 power, which is the TRC cause to actions.

4 So I don't know if there's any other way to,
5 you know, get governments to comply with, you know,
6 recommendations from Commissions. Except that there needs
7 to be, you know, I think, public pressure and support.

8 And so hopefully the message gets out and it
9 has, you know, more comments from this Commission also has a
10 sort of moral force to move other institutions in Canada,
11 including government, to do what they should be doing.

12 **M. TIMOTHY ARGETSINGER:** I haven't myself
13 articulated specific recommendations, but I would, based on
14 what I've all been hearing, the framing of the issue is
15 incredibly important.

16 The human rights framework approach is
17 important, linking Canada's solemn commitments and
18 obligations to various human rights instruments, which
19 implicate a number of obligations related to some of the
20 basic needs. We've heard a lot about in the last day or so,
21 such as housing, right to food, safety, and then the larger
22 issue of violence against women and girls and how gaps or
23 failures to act on those obligations, create vulnerability.

24 I think that framing is incredibly
25 important. So I mean, my, the extend that I have firm

1 recommendations, it is just to keep the focus on those
2 things.

3 **MS. TRACY DENNISTON:** I too also didn't give
4 recommendations, but just from a community-based
5 perspective, I see many reports coming in, people doing --
6 giving recommendations, and I just hope that from these
7 recommendations, there's action put into place, and there is
8 funding implemented for more programming to happen for our
9 smaller, isolated communities, because I find we get left
10 out quite often. So, I just hope something comes out of
11 this.

12 **MRS. CORA-LEE MCGUIRE-CYRETTE:** One or two
13 final last questions. Would you agree that the work moving
14 forward from here for the Commissioners must stay focused
15 in on missing and murdered Indigenous women and girls and
16 have a gendered lens that is based off of how to create
17 safety for the women that have been affected by this
18 Inquiry and the purpose and reason why we're here?

19 So, I'm looking to stay focused on if you
20 have expertise and are willing to agree that the future
21 work must stay focused in on women, violence against
22 Indigenous women that have led to their murders, as well as
23 that it has to look at how to counteract this from a place
24 of safety, and how to create safety within legislation in
25 all of your expert testimony.

1 **MS. FAY BLANEY:** Are you asking me?

2 **MRS. CORA-LEE MCGUIRE-CYRETTE:** Yes.

3 **MS. FAY BLANEY:** Okay. I am concerned that
4 we deviate from exactly what you said. I still am pushing
5 for this Inquiry to focus in much more on what you're
6 talking about, that we focus in on Indigenous women's
7 issues, and especially the issue of violence against women,
8 and from my perspective, male violence against women, and
9 that the final report focus on that. And, they are hearing
10 about other things, though, and some of the questions are
11 based on other things than that. And so, I'm concerned,
12 but I hope that they will focus in on that.

13 **MS. NAIOMI METALLIC:** I'm afraid I'm not 100
14 percent sure about what the other things are. I don't know
15 if that's, sort of, vaguely references to stuff I was
16 talking about, because I do think that there's a broader
17 holistic lens, too, and I completely agree. I mean, what
18 Fay said as well, there are root causes. I mean, a lot of
19 those root causes have been identified in previous
20 Commissions as well. I don't know. Maybe you can
21 enlighten me on what -- if there is a hard distinction.
22 But, certainly, like, the root causes of poverty, and
23 structures and systems that continue them, if that's the
24 other part that shouldn't be less focused, I don't know,
25 because I think that those are so key to what are sort of

1 -- what give roots to the violence.

2 **MRS. CORA-LEE McGUIRE-CYRETTE:** My time is
3 up.

4 **MS. CHRISTA BIG CANOE:** But, the question
5 you did ask can be answered, because you asked all panel
6 members. So, if Tim and Tracy want to answer, they can.

7 **MR. TIM ARGETSINGER:** Sure. I mean, I
8 myself, I don't completely understand the question, so I'd
9 ask, I guess. Yes, I agree. That's what the focus should
10 generally be.

11 **MS. TRACY DENNISTON:** I agree, too, that the
12 focus should be that too, as well, but in regards to -- can
13 you ask the question again? Because I really -- I'm
14 struggling to understand what you mean.

15 **MRS. CORA-LEE McGUIRE-CYRETTE:** Yes. Do you
16 agree that the focus of the work of the Commissioners and
17 the Inquiry moving forward must stay focused in on
18 Indigenous women and ways to create safety for Indigenous
19 women?

20 **MS. TRACY DENNISTON:** Yes, I agree with
21 that, but I also cannot separate the men in our communities
22 that still need some help as well. So, for me, that's the
23 part that's included. That would be important for my
24 region.

25 **MS. CHRISTA BIG CANOE:** Thank you. And,

1 that is time. Thank you.

2 **MRS. CORA-LEE McGUIRE-CYRETTE:** Migwetch.

3 **MS. CHRISTA BIG CANOE:** Chief Commissioner
4 and Commissioners, the next party that we will be calling
5 is the Treaty Alliance Northern Ontario for Nishnawbe Aski
6 Nation and Grand Council Treaty 3. They will have 25
7 minutes.

8 **MS. KRISTYN ORDYNIEC:** Good afternoon.

9 **MS. CHRISTA BIG CANOE:** So, yes, if you
10 could just introduce yourself? And then once you start
11 asking questions, the time will start.

12 **CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR MS. KRISTYN**
13 **ORDYNIEC :**

14 **MS. KRISTYN ORDYNIEC:** So, my name is
15 Krystyn Ordyniec. I'm a representative for the Treaty
16 Alliance, and I do have more to say as an introduction, but
17 I'm happy to have my time begin before I do that.

18 **MS. CHRISTA BIG CANOE:** Yes.

19 **MS. KRISTYN ORDYNIEC:** Sure. (Speaks in
20 Native language), bonjour, hello. I'm here as a
21 representative of the Treaty Alliance of Northern Ontario,
22 which is composed of Nishnawbe Aski Nation, as well as
23 Grand Council Treaty 3, and that represents 77 communities
24 in Northern Ontario and Eastern Manitoba. And, with me,
25 I'm honoured to have Deputy Grand Chief Anna Betty

1 Achneepineskum beside me, and on her behalf and on the
2 behalf of all of our communities, I want to deliver a
3 message that is a reminder to everybody that the Indigenous
4 women who went missing or murdered were not on welfare,
5 addicted to drugs, or sex trade workers. They became a
6 statistic and part of a category simply because they were
7 Indigenous. So, for our 77 communities today, we want to
8 let them know that we stand with them through this process
9 as we continue on through the hearings, especially given
10 the remote nature of the community.

11 So, my first question will be to Naomi. In
12 your study and experience, have you focused at all on the
13 demographic of young Indigenous women or -- young
14 Indigenous women who are aging out of the child welfare
15 system so that is that they are no longer in care or the
16 protection of the legislation?

17 **MS. NAIOMI METALLIC:** No, I'm sorry, that
18 hasn't been yet a focus of my research.

19 **MS. KRISTYN ORDYNIEC:** Do you believe that
20 that's an important part of service delivery as you've
21 studied it?

22 **MS. NAIOMI METALLIC:** I've had limited
23 exposure to it, although it does certainly seem, from what
24 I have read, it does seem that there is a real issue at the
25 aging-out stage, and there's not a lot of supports or

1 transitions, and people are sort of -- they're immediately
2 out and without any supports.

3 **MS. KRISTYN ORDYNIEC:** Okay. Fay, perhaps I
4 could ask you. In your work, have you worked with
5 individuals that have just come -- young girls that have
6 just come out of the childcare system, and if so, are there
7 specific supports that you believe are important for them?

8 **MS. FAY BLANEY:** I haven't worked with them
9 directly. I worked with moms that have had their children
10 apprehended in the past. I haven't done it for quite a
11 while, but I have paid close attention to it, and I'm sure
12 that you heard me mention Mary Ellen Turpel Lafond's
13 research, for instance, and there are quite a few research
14 documents that she has conducted on children that are aging
15 out.

16 And, there is a young woman in the Lower
17 Mainland that was living in a tent after she aged out, and
18 she was found -- she was killed in her tent, and there's
19 many stories like that. One of my close friends, her
20 daughter died after she aged out from a drug overdose.
21 And, measures are being taken in B.C. It's kind of weird.
22 You're talking about different jurisdictions, but in B.C.,
23 they are making efforts to address that, so they're
24 providing support after that age, for instance. Like, the
25 age that they leave their foster homes. They're able to

1 access higher education and other types of supports.

2 **MS. KRYSZTYN ORDYNIEC:** Thank you. So, you
3 would agree that that is a very important part of
4 protecting the women through this process?

5 **MS. FAY BLANEY:** It is really serious.
6 Like, it's serious in terms of the safety aspect that I've
7 described, and it's also quite important from the cultural
8 and community aspect, because if they've grown up in care
9 all of their lives, they're, you know, floating out there
10 in the middle of the deep blue sea with no connections to
11 family or community often. And so, it's very critical that
12 they have the support that they need, especially since the
13 state are stealing them from us to begin with, and they're
14 not responsible for what has happened to them, and yet,
15 they're left to fend for themselves after they've aged out.

16 **MS. KRYSZTYN ORDYNIEC:** Thank you. And, you
17 mentioned remaining connected to the family and community.
18 Is there anything specifically you could point to that has
19 worked as a measure to ensure that young girls and women
20 are able to connect to their communities?

21 **MS. FAY BLANEY:** I really like the program
22 that we had before. We used to have the family
23 reunification program that was run out of the United Nations,
24 and Viola is behind me, one of the presidents of
25 that organization, but it's no longer. And we now have

1 delegated authority, and I understand that the family
2 reunification happens with that group.

3 But yeah, I have huge concerns about
4 delegated authority because the central power and control
5 still lies with the provincial government. So I would
6 really like to see that family reunification program come
7 back to our people.

8 And the famous one from our home is Liz
9 Hall. Everybody knows Liz Hall because she reunited so
10 many people when they reach that age they start to look for
11 their families. She has a record of them.

12 **MS. KRYSZYN ORDYNIEC:** Thank you. So in
13 terms of a specific -- specific strategies, you would
14 agree, then, that it has to be also community driven and
15 come from the communities?

16 **MS. FAY BLANEY:** Yes. Well, that one was
17 community driven. There's other measures. That was just
18 one example. There is other things.

19 Like at the Friendship Centre, they hold
20 family nights, and on Tuesday night it's Pow Wow Night, and
21 on Wednesday night, it's West Coast Family Night, and then
22 -- I don't know which night is Métis Night, but Yvonne
23 Chartrand continues to teach people about Métis culture and
24 traditions and jigging.

25 So those kinds of initiatives are really

1 important, and people do come out, especially when there's
2 a special event. So that -- people that are not from B.C.,
3 you now, there's a night there where they can come and see
4 themselves recognized in the cultural celebration.

5 **MS. KRYSZTYN ORDYNIEC:** And how do you -- how
6 would you describe the -- and if you would agree with me
7 that there is a disconnect between people that come from
8 communities to urban areas and knowing about certain
9 initiatives and programming like that. Is that an issue
10 for you?

11 **MS. FAY BLANEY:** Yeah, it was an issue for
12 me when I came into the city. I mean, I'm -- I can
13 identify with what Tracy was saying. She thinks that this
14 is huge where we are now and it's disorienting because
15 there are so many people.

16 And I felt that way when I first came out of
17 the city, and there wasn't much. Thank goodness for people
18 like Marge White that started the Friendship Centre in
19 Vancouver.

20 **MS. KRYSZTYN ORDYNIEC:** Thank you.

21 And Tracy, perhaps I can ask you the same
22 question. I know you referenced that you were able to
23 identify and educate yourself on certain things because you
24 realized that things were wrong. And what were the
25 supports in place, or what measures could you point to that

1 assisted you as you move forward in your life?

2 **MS. TRACY DENNISTON:** The thing that
3 supported me the most was my parents. My dad wasn't -- he
4 was very uneducated, he didn't have an education. So
5 throughout my whole life, he was a big part of my role
6 modelling of saying -- making sure education was important,
7 for me to get my education.

8 But to him it was Grade 12, like Grade 12
9 was everything. But then, for me, I knew in order for me
10 to go on we needed more education to get through in just
11 getting a job. Like Grade 12 wasn't going to cut it
12 anymore.

13 So our Nunatsiavut Government was a big key
14 player in helping us because they do provide education
15 services for us. We can apply for and then they do fund us
16 to go to school. So that was a big key one that helped me,
17 and also, the support from the communities knowing that we
18 needed our own people to come back to work, it was a big
19 part.

20 **MS. KRYSYTN ORDYNIIEC:** Thank you. Do you
21 believe that all your community members have the awareness
22 of those services that helped you?

23 **MS. TRACY DENNISTON:** Yes, but I think also
24 in saying that, it's very hard to leave a community when
25 you're used to a smaller area and having to go to bigger

1 centres, where sometimes it's not as easy to get by. Like
2 when you don't have the support of your family, like
3 there's some level of independence you've got to be able to
4 have in order to survive without... Because our
5 communities are very family oriented, so we -- everybody
6 helps each other.

7 **MS. KRISTYN ORDYNIC:** I'm going to move on,
8 actually. The question is directed at Tim.

9 Yesterday, you mentioned, and I -- correct
10 me if I'm wrong, in your cross, you said that the cost of
11 living of Inuit individuals is the highest of any in
12 Canada. And I just wondered if you could point me to where
13 you got that statistic from?

14 **MR. TIMOTHY ARGETSINGER:** There isn't any
15 one statistic from which you could draw that conclusion.
16 The statement comes from my awareness of costs of food,
17 costs of housing and just general living costs that tend to
18 be two to three times higher in Inuit Nunavut than in other
19 parts, most other parts of Canada.

20 **MS. KRISTYN ORDYNIC:** Sure. Would it be
21 fair to say that other Northern and remote communities in
22 Canada would face those same types of issues that you
23 describe in your report and in your evidence yesterday?

24 **MR. TIMOTHY ARGETSINGER:** Can you say that
25 again?

1 **MS. KRISTYN ORDYNEC:** Would it be fair to
2 say that other remote northern communities in Canada face
3 the same struggles and issues that you described yesterday
4 in your testimony and in your reporting?

5 **MR. TIMOTHY ARGETSINGER:** With regard to
6 cost of living ---

7 **MS. KRISTYN ORDYNEC:** That's right.

8 **MR. TIMOTHY ARGETSINGER:** --- specifically?

9 **MS. KRISTYN ORDYNEC:** Yes.

10 **MR. TIMOTHY ARGETSINGER:** I'd be
11 speculating, but I assume so, yeah.

12 **MS. KRISTYN ORDYNEC:** Do you know of any
13 reports that specifically will address remoteness and the
14 northern aspect of cost of living across Canada?

15 **MR. TIMOTHY ARGETSINGER:** What do you mean
16 by address?

17 **MS. KRISTYN ORDYNEC:** Are there any reports
18 that specifically ---

19 **MR. TIMOTHY ARGETSINGER:** Just talk about
20 it?

21 **MS. KRISTYN ORDYNEC:** --- speak to -- yes.

22 **MR. TIMOTHY ARGETSINGER:** Yeah. I -- Inuit
23 Tapiriit Kanatami's submission -- recent submission on the
24 potential revisions to the NNC Program is something that I
25 could share with the Commission, where those issues are

1 discussed as well as potential solutions to improve the
2 program, which is a federally-funded food subsidy program.

3 The way the subsidy works is that the
4 retailer is subsidized to reduce or intent to pass on the
5 subsidy to the consumer. And that's an example.

6 **MS. KRISTYN ORDYNIC:** And are -- do you
7 think that the country as a whole is truly aware of the
8 issues that -- the remoteness issues that are faced by your
9 communities and other northern communities?

10 **MR. TIMOTHY ARGETSINGER:** That the country
11 as a whole?

12 **MS. KRISTYN ORDYNIC:** That's right.

13 **MR. TIMOTHY ARGETSINGER:** Meaning, every
14 Canadian? Most Canadians?

15 **MS. KRISTYN ORDYNIC:** Most Canadians.

16 **MR. TIMOTHY ARGETSINGER:** No.

17 **MS. KRISTYN ORDYNIC:** And what type of
18 study or research do you think is required to truly capture
19 the issues that are going on in your communities in
20 northern communities in Canada?

21 **MR. TIMOTHY ARGETSINGER:** Can you say that
22 again?

23 **MS. KRISTYN ORDYNIC:** What type of research
24 or methodology, would it be traditional research, or would
25 you have recommendations as to how to address northern

1 issues or remoteness issues?

2 **MR. TIMOTHY ARGETSINGER:** I mean, it's
3 complicated. To cite one example, so the Inuit Health
4 Survey, 2007-2008 Inuit Health Survey, has been really
5 useful in the work that we do in providing point in time
6 data on a number of indicators.

7 In the last federal budget, there was an
8 allocation for the development of -- of a permanent Inuit
9 health survey, which would be incredibly useful for
10 providing longitudinal data. So if you had that point in
11 time information every year over a number of years, it
12 would tell us a lot about how things may or may not be
13 changing in some of the areas I have talked about in ways
14 that say Statistics Canada data or Aboriginal Peoples
15 survey data just don't get into the details about.

16 So -- I mean, that's something that we
17 believe is necessary in the work that we do.

18 **MS. KRISTYN ORDYNIC:** Thank you.

19 And I will address this question to Tracy.
20 In terms of resource allocation for things like shelters
21 for women who are fleeing violence, would you agree that
22 there are more resource allocated to urban centres than
23 your communities?

24 **MS. TRACY DENNISTON:** I can't answer that
25 because I don't know if -- how -- what the... In urban

1 centres, meaning access to more resources while in an urban
2 city?

3 **MS. KRYSZTYN ORDYNIEC:** That's right.

4 **MS. TRACY DENNISTON:** Yes. Yes.

5 **MS. KRYSZTYN ORDYNIEC:** Okay. And if your
6 communities had access to those same resources, how do you
7 think that the conversations would change with the
8 individuals that you deal with on a daily basis?

9 **TRACY DENNISTON:** I don't think we would see
10 as many women in the shelters, honestly, because if they
11 had access to the resources out in urban cities compared to
12 in our small communities, then I think they would be able
13 to build ourself up I guess to be able to know that they
14 can do stuff on their own. It's hard. It's a really tough
15 spot.

16 **MS. KRYSZTYN ORDYNIEC:** Thank you. And I
17 recognise that and I thank you all for your time.

18 Thank you.

19 **MS. CHRISTA BIG CANOE:** Commissioners, if we
20 can call the next? We'll be asking Families for Justice to
21 please come up. Families for Justice will have 25 minutes.
22 Your counsel can introduce themselves briefly and once we
23 start asking the question we'll start the time.

24 **MS. SUSAN FRASER:** Hello. My name's Susan
25 Fraser. I'm here on behalf of Families for Justice, which

1 is a name that we gave an organisation -- well, a group of
2 20 families, and so they sought and obtained standing at
3 this Inquiry, from across the country, from British
4 Columbia, from Saskatchewan, from Alberta, from Manitoba,
5 Ontario and Quebec.

6 They lost daughters. They lost mothers.
7 Vanessa Brousseau (ph) lost her sister, Pamela Holipen
8 (ph), in December 14th, 2003 when she disappeared one night
9 and never returned. So the families waited for answers.
10 They're grateful for you to be here and we're grateful,
11 Commissioners, for the opportunity to participate in the
12 process.

13 So ---

14 **MS. CHRISTA BIG CANOE:** You can start.

15 **MS. SUSAN FRASER:** --- I'm finished my
16 introduction.

17 **CROSS-EXAMINATION BY/CROSS-EXAMINATION BY MS. SUSAN FRASER:**

18 **MS. SUSAN FRASER:** I have listened with
19 interest to all of the experience and expertise that you
20 bring to the issues, panel members, and want to just
21 summarise what I think I understand. And forgive me
22 because it's my tradition to -- and by that I mean my legal
23 tradition to ask things in a binary way, but I'll try to
24 respect the need to expand, if that's the case.

25 We've heard from all of you about the impact

1 of colonization. I understand that that history of
2 colonization, although not explicitly referenced by any of
3 you today, includes Canada's attempt at cultural genocide
4 through the residential school program.

5 So am I right that when you speak of
6 colonization you're speaking of Canada's attempts as
7 cultural genocide? Fay, is that -- am I right?

8 **MS. FAY BLANEY:** Do I include residential
9 school in that?

10 **MS. SUSAN FRASER:** Yes.

11 **MS. FAY BLANEY:** I absolutely do.

12 **MS. SUSAN FRASER:** And you -- do you accept
13 that that -- that residential schools were an attempt at
14 cultural genocide?

15 **MS. FAY BLANEY:** They were.

16 **MS. SUSAN FRASER:** Yes.

17 **MS. FAY BLANEY:** They definitely were. I
18 mean, they made every effort to try and paint a different
19 picture of that and it's fairly recently that we've come to
20 recognise what the true intention was, which is what you're
21 describing.

22 **MS. SUSAN FRASER:** Right. And so it's not
23 just about arriving on this territory, settling here,
24 introducing a new form of law, but it's actually that
25 history which is not fairly well accepted that this was an

1 attempted cultural genocide. And I take it everybody on
2 the panel I think is nodding their heads. If anybody
3 disagrees with me -- so we have a unanimous agreement that
4 that history of colonization includes an attempt to
5 eradicate culture.

6 And so but I think we can also agree that
7 Canada's attempts at assimilation have failed and should no
8 longer be attempted.

9 **MS. CHRISTA BIG CANOE:** So is that a
10 question you're directing to any one of the ---

11 **MS. SUSAN FRASER:** Yes.

12 **MS. CHRISTA BIG CANOE:** --- members or all
13 of them?

14 **MS. SUSAN FRASER:** Yes. Right? That we --
15 perhaps Professor Metallic.

16 **MS. NAIOMI METALLIC:** Okay.

17 **MS. SUSAN FRASER:** Just in terms of I think
18 you ---

19 **MS. NAIOMI METALLIC:** I agree, but I do
20 think that there are aspects of current policy that are
21 continuing to colonize and assimilate.

22 **MS. SUSAN FRASER:** Right. So that it's not
23 as overt but that the impact of some of the ongoing issues
24 that you're discussing can play out in the same way as an
25 attempt to assimilate Indigenous people.

1 **MS. NAIOMI METALLIC:** Yeah, and they are
2 playing out in that way.

3 **MS. SUSAN FRASER:** Right. And we have that
4 because people are forced to leave communities to obtain
5 education because there's inequality within those
6 communities. And that's one example.

7 **MS. NAIOMI METALLIC:** Yeah. I think it's
8 the lack of recognition of, you know, Indigenous control,
9 sovereignty, whatever you want to call that, and also
10 providing the resources and support to actually do that and
11 repair past harms. But, yes, your example's one.

12 **MS. SUSAN FRASER:** Right. But it just -- it
13 seemed to me you were all quite generous to Canadians and
14 the history of colonization by not actually using terms of
15 genocide, cultural genocide and assimilation, because those
16 are really at the heart of some of the issues in terms of
17 the root causes.

18 **MS. NAOIMI METALLIC:** Absolutely.

19 **MS. FAY BLANEY:** I did talk about
20 colonialism and neo-colonialism. I think that the new
21 colonialism that we have now is having our own people do
22 the colonizing on our own and the delegated authority is a
23 good example of that where we still have state control but
24 it's our own people being the new Indian agents.

25 **MS. SUSAN FRASER:** Okay. And so what we're

1 seeing now in Canada now in terms of its -- the harm that
2 is being perpetrated on Indigenous communities is by the
3 failure to provide the opportunities to communities to
4 protect their children, protect their women by affording
5 them equal advantage to other communities. Is that fair,
6 Professor Metallic?

7 **MS. NAOIMI METALLIC:** Yes, I would say so.

8 **MS. SUSAN FRASER:** Okay. And so one of the
9 things that I think I'm hearing from you is that for
10 communities to rebuild or communities to recover that there
11 is a need for services to meet the self-identified needs of
12 the community rather than being imposed top down. Is that
13 fair? I'm going to -- I think just in terms of time I'll
14 just direct the questions to Professor Metallic, and if I
15 see that there's some disagreement in the -- feel free to
16 jump in. I'm quite happy. But is that fair, Professor
17 Metallic?

18 **MS. NAOIMI METALLIC:** Yes, so the question
19 was giving the control to the communities would be ---

20 **MS. SUSAN FRASER:** Yes.

21 **MS. NAOIMI METALLIC:** Yeah, I mean, that's
22 part of it. I think there's accountabilities that also
23 have to be built into that, significantly and sufficient
24 and adequate and permanent funding.

25 **MS. SUSAN FRASER:** Right. So I'm going to

1 go there in a minute.

2 **MS. NAOIMI METALLIC:** Okay.

3 **MS. SUSAN FRASER:** So but I just want to
4 sort of talk about what we need to look forward. So
5 building capacity within communities and listening to the
6 self-identified needs rather than imposing solutions top
7 down, is -- would be place -- a good way to go?

8 **MS. NAOIMI METALLIC:** Yes.

9 **MS. SUSAN FRASER:** Okay.

10 **MS. FAY BLANEY:** I would say though that
11 you're speaking about communities as if we're a
12 homogeneous, unified group. And what I've been saying in
13 the past couple of days is that we're not. And that
14 overwhelmingly Indigenous women are the ones that are
15 driven out of the communities. And the group that you're
16 representing I respect and appreciate and love them for all
17 the work and the advocacy that they have done and they've
18 played a huge role in making this Inquiry possible. But
19 there is another group of women that aren't adequately
20 represented and I really apologise to the previous group
21 that were up that were saying, you know, we're not all
22 prostitutes and we're not all in urban areas and those
23 sorts of things. But those people are neglected.

24 **MS. SUSAN FRASER:** I ---

25 **MS. FAY BLANEY:** So if you're talking about

1 community control of programming, there's a huge problem
2 there. There's a big problem. And she's talking about
3 accountability, but how do we do that when there's zero
4 accountability right now and, you know, internally we've
5 had our debates about who are *Indian Act* chiefs responsible
6 to. In the *Indian Act* it says they're responsible to the
7 Department of Indian Affairs. And what about the
8 membership that they represent and how do they enforce what
9 it is that they want? And so there's no mechanism to go
10 back to respecting Indigenous women. So if you're
11 downloading these programs to -- I shouldn't use the word
12 downloading, I take that back. But if the control is going
13 back to Indigenous communities, how do you ensure that
14 Indigenous women have a large role in that process when we
15 don't -- we have zero balance, zero respect right now, and
16 we're not going to be included in that process.

17 **MS. SUSAN FRASER:** Right. Where ---

18 **MS. FAY BLANEY:** So that's the outside issue
19 that I was talking about earlier.

20 **MS. SUSAN FRASER:** Okay. I don't -- I don't
21 think you know all of the people in my group in terms of
22 the assumptions that you've built into the questions about
23 the group of women and families that I represent. But I'm
24 going to put that aside for a minute and just go to where,
25 what you were talking about. Is when I'm talking about

1 communities, I think what you're saying to me is that what
2 works for a Dene woman who happens to be living in Calgary,
3 Alberta may not be the same thing that the women in Nane in
4 -- need. That we have to actually look, we can't just
5 apply a broad brush to what women need in Canada. You
6 actually need to go ---

7 **MS. FAY BLANEY:** I don't know if that's what
8 I was saying. I was talking about the need for women to
9 have a role within their own communities. I don't know how
10 we build that in because we don't have a model right now.
11 We've have been colonized for how long, you're calling it
12 genocide, you know, call it what you will. I know what it
13 is. I've lived it and the fact is that in my community I'm
14 this small, you know? With all my sobriety, and my
15 education, and my political experience, and everything that
16 I bring to it. I go home and that's how big I am. You
17 know, my needs count for nothing, you know? And I
18 apologize for getting so emotional, but I'm very passionate
19 about this.

20 This is an issue of the silencing of
21 Indigenous women. When we start downloading or -- I keep
22 using that word, but I don't mean downloading. There is an
23 article that was written by Sharon McIvor year ago that
24 said, I'm scared of self-government and I don't blame her
25 one bit. Heaven forget -- forbid that we should ever get

1 self-government because then we truly will have a neo-
2 colonial state where we're -- we have these men in charge
3 of us and making decisions on our behalf. We don't have
4 democracy and accountability in our communities yet.

5 **MS. SUSAN FRASER:** I appreciate ---

6 **MS. FAY BLANEY:** Because we're still under
7 the *Indian Act*.

8 **MS. SUSAN FRASER:** I appreciate those words
9 and I appreciate that passion. And I don't think you
10 should even apologize for the passion that you bring to the
11 issues. I want to -- what I was actually -- where I was
12 going is actually looking to survivors of violence and
13 looking to them to identify their needs and what they need
14 in their community.

15 So for example, if somebody is being human
16 trafficked in Winnipeg, that we actually look to the
17 victims of human trafficking to say, "How can we help you
18 exit?" How can we -- and if those women are calling for
19 exit plans and shelters and 24-hour services within
20 Winnipeg, then that's a place to start in terms of building
21 a service. But that might be completely different than
22 empowering women in your community who have no voice, who
23 may need a robust funding for feminist organizations that
24 can build the capacity of the women in that community to
25 allow their voices to be heard.

1 What -- all I was trying to say is that the
2 principal -- the proposition I was trying to put was that
3 the principled approach is to hear the voices of women,
4 hear the voices of survivors and to listen to them to build
5 the services around them. And to build from them.

6 **MS. FAY BLANEY:** That's fabulous, that's
7 good. You're directing your question to Naomi, her
8 research is in the area of on reserve. If you're talking
9 about Winnipeg or maybe my city, Vancouver, that's a whole
10 different ball game. We're not talking about the *Indian*
11 Act and the ways that programs and services are delivered
12 there.

13 **MS. SUSAN FRASER:** Yes. And simply the
14 proposition I would put to you, Ms. Blaney, and to
15 Professor Metallic, would be that we can't just assume that
16 one size fits all, or one solution fits all because of the
17 diversity that we have across the country. Is that fair?

18 **MS. FAY BLANEY:** I'm sorry, are you talking
19 to me?

20 **MS. SUSAN FRASER:** I was, yes.

21 **MS. FAY BLANEY:** Oh. I didn't hear the
22 question. I zoned out. I'm getting a little upset.

23 **MS. SUSAN FRASER:** That's all right. That's
24 all right. The point being that we can't assume that what
25 works in one community works for people who are living in a

1 completely different part of the province. That actually,
2 if we're looking for solutions, it has to be meeting the
3 needs of the women in a particular community. And that
4 might be very different across the country.

5 **MS. FAY BLANEY:** Yeah, we've been
6 homogenised. I mean there's a pan-Indian -- a pan-
7 Indianism going on as well and I know that we were asked
8 that about the Inuit story that was shared yesterday. We
9 were asked to think about that with an offender being
10 incarcerated in the south and having to undergo healing
11 therapy in a completely different culture. So we are in a
12 place of having our cultures erased and we don't get to
13 work within our own cultural communities. Smudging for
14 example, isn't my culture and it's been a chore having that
15 recognized in Vancouver, because everybody smudges in
16 Vancouver. And finally, with the work of some of my B.C.
17 sisters, like Bernie here and Audrey, we are now having
18 some of our cultural ways be brought back. So there is
19 differences among cultures on one level.

20 There's also privilege differences amongst
21 our people. I mean, we -- you can't assume that all
22 Homathko women are all the same. There are some -- I mean
23 I do have the privilege of my education and my sobriety,
24 but on the other hand, I have my political views which put
25 me on the bottom rung of the ladder. And there are other

1 women that have -- from my home that are extremely wealthy
2 and earn a really good salary and their views around
3 prostitution are probably way different than my views
4 because they're never going to have to do it, right?

5 **MS. SUSAN FRASER:** Yes.

6 **MS. FAY BLANEY:** And in an urban setting
7 you're talking about the differences there. In the lower
8 mainland we have every culture there of First Nations,
9 Inuit, Metis, and you know that there's differences amongst
10 those three groups as well. And I just learned from my
11 friend Tracy that there's different Inuit dialects.

12 **MS. SUSAN FRASER:** Thank you. I think those
13 are all important issues. I'm going to switch hears now
14 and just talk a little bit about the First Nations Caring
15 Society decision. So I'm going to have some questions for
16 Professor Metallic, just to understand the backdrop of that
17 and how that plays out. But I understand from that
18 decision that it was -- it's certainly not easily won.
19 That the -- Ms. Blackstock on behalf of First Nations
20 Caring Society had to fight a long battle at the beginning
21 of that decision, even for the tribunal to even be able to
22 hear it. So there was a jurisdictional battle at the
23 outset of that case. Is that right?

24 **MS. NAIOMI METALLIC:** Yes. That's right. I
25 think it started in 2007, and at one point the tribunal, it

1 was a different composition, the first sort of composition
2 of the tribunal. There was a motion to dismiss the entire
3 case on the basis that a -- that you couldn't use -- going
4 back to a question earlier that I got from Julie about
5 comparator groups, that you couldn't compare what the
6 provinces were doing to what the federal government were
7 doing. And that almost got thrown out on that basis, but
8 then it was J.R.'d, Judicially Reviewed, to the federal
9 Court and the Federal Court of Appeal.

10 So it got saved on that basis and there was
11 also things that came up about Cindy Blackstock being
12 retaliated against and her privacy -- she had government
13 officials following her and keeping tabs on her. So a
14 very, very hard fought battle. And she's written about
15 that in a recent article on that that's in the McGill Law
16 Journal, so it's a good read.

17 **MS. SUSAN FRASER:** Right. So there's -- so
18 the issue of retaliation, there's the issue of
19 jurisdictional fight that relied on the contribution of
20 many lawyers, is my understanding.

21 **MS. FAY BLANEY:** Pro bono.

22 **MS. SUSAN FRASER:** Yes, pro bono lawyers.
23 And her personal fortitude to endure all of that on behalf
24 of First Nations children.

25 **MS. FAY BLANEY:** Yes.

1 **MS. SUSAN FRASER:** And she actually, in
2 terms of the retaliation, there was a finding of
3 retaliation under the *Canadian Human Rights Act*, that was a
4 separate hearing.

5 **MS. FAY BLANEY:** That's right.

6 **MS. SUSAN FRASER:** And even though they were
7 successful on that decision, they have -- First Nations
8 Caring Society had to go back to the tribunal four times to
9 get compliance orders in order to get the federal
10 government to comply with the tribunal's decision.

11 **MS. FAY BLANEY:** That's right.

12 **MS. SUSAN FRASER:** So even though you win,
13 it may not actually make a difference on the ground, right?

14 **MS. FAY BLANEY:** Yes.

15 **MS. SUSAN FRASER:** And so that when we look
16 at litigation and the ability to litigate, we have to
17 remember always that that's out -- thought to be a last
18 resort, just in terms of the fortitude and resources that
19 it requires, right?

20 **MS. FAY BLANEY:** Yeah.

21 **MS. SUSAN FRASER:** And that in an ideal
22 world people would comply with their obligations and treat
23 people equally, right?

24 **MS. FAY BLANEY:** In an ideal world, yes.

25 **MS. SUSAN FRASER:** Without being ordered to

1 or forced to.

2 **MS. FAY BLANEY:** Yes.

3 **MS. SUSAN FRASER:** Right. And it should go
4 without saying that our rights are our rights, is that we
5 actually don't have to go to Court to enforce them.

6 **MS. FAY BLANEY:** In an ideal world.

7 **MS. SUSAN FRASER:** Right. So -- and, just
8 in terms of the number of children that are affected in the
9 First Nations Caring Society, I understand from hearing
10 Cindy Blackstock speak that we're talking -- you know, at
11 one point in time, I heard her say 163,000 children in care
12 in Canada.

13 **MS. NAIOMI METALLIC:** I've heard, yes, a
14 similar number.

15 **MS. SUSAN FRASER:** Right? And, that between
16 1989 and 2012, First Nations children spent 66 million
17 nights in foster care. Are you familiar with her ---

18 **MS. NAIOMI METALLIC:** Yes, I've heard her
19 say that many times.

20 **MS. SUSAN FRASER:** Okay? And so, that
21 equates to 187,000 years of children living away from their
22 parents; right?

23 **MS. NAIOMI METALLIC:** Yes.

24 **MS. SUSAN FRASER:** You've heard her say that
25 as well?

1 **MS. NAIOMI METALLIC:** Yes.

2 **MS. SUSAN FRASER:** Okay. So, then, when we
3 look at that decision, and we go -- part of that decision
4 is the distinction between prevention and protection
5 services; right? So, what they call protection services is
6 actually the apprehension of children and placing them in
7 foster care or other arrangements.

8 **MS. NAIOMI METALLIC:** That's right.

9 **MS. SUSAN FRASER:** And, the protection
10 services are the things that get offered in other
11 communities. In fact, in the south, in Toronto, for
12 example, 90 percent of the work is done on a prevention
13 basis. Are you familiar with that sort of differential?

14 **MS. NAIOMI METALLIC:** Yes.

15 **MS. SUSAN FRASER:** So that what isn't funded
16 in First Nations communities are those preventative
17 services.

18 **MS. NAIOMI METALLIC:** That's right. The
19 case involves a couple of different funding agreements, one
20 called Directive 20-1, and that had no dollars for
21 prevention, and then there was a more recent 2007 call for
22 short EPFAs. I talk a little more in the paper. There was
23 some prevention dollars, but certainly not sufficient, and
24 it turned out that they had to either dip into operating
25 funds for prevention dollars or go without those services.

1 **MS. SUSAN FRASER:** And so, when you combine
2 that with some of the structural inequalities in terms of
3 housing and poverty, there's no opportunity to prevent --
4 to do the prevention work within communities because of the
5 lack of funding, but also the lack of local resources like
6 alternative housing arrangements.

7 **MS. NAIOMI METALLIC:** Yes. Yes, that's --
8 and I've even heard, you know, sometimes because of the
9 fact that communities have, like, all those different
10 services bundled in one budget, this has been an argument
11 made for why there should be agencies and First Nations
12 child welfare agencies sort of separate, so that in certain
13 situations, you know, bands have sort of gone to a point of
14 desperation where they dip into different budgets. You
15 know, they dip into child welfare, probably something in
16 social assistance, or in education from housing, because
17 they're all insufficient. And so, yes, they all end up,
18 you know, using these different budgets, because they're
19 all underfunded, and they all impact on each other.

20 **MS. SUSAN FRASER:** Right. And so, then, I
21 just want to take it one step further to talk about funding
22 agreements versus a regulated framework for the provision
23 of services. So, moving away from child welfare and using
24 social benefits as an example, are you familiar with an
25 Ontario scheme for providing a provision of social welfare

1 benefits like Ontario Disability Support Program or other
2 social benefits?

3 **MS. NAIOMI METALLIC:** Vaguely, yes, but I'll
4 try.

5 **MS. SUSAN FRASER:** You have -- but in most
6 provinces and Ontario, there are regulations that govern
7 when you're entitled to receive social benefits.

8 **MS. NAIOMI METALLIC:** Yes.

9 **MS. SUSAN FRASER:** How much they are, and in
10 the circumstances in which you're to get them; right?

11 **MS. NAIOMI METALLIC:** Yes.

12 **MS. SUSAN FRASER:** And, that's what you're
13 talking about when you talk about regulated frameworks?

14 **MS. NAIOMI METALLIC:** Yes.

15 **MS. SUSAN FRASER:** So that when you apply to
16 get benefits, you actually know the criteria you have to
17 meet?

18 **MS. NAIOMI METALLIC:** Mm-hmm.

19 **MS. SUSAN FRASER:** And, if you don't meet
20 that criteria, then you can apply for a review, or you can
21 appeal that.

22 **MS. NAIOMI METALLIC:** An appeal. Yes.

23 **MS. SUSAN FRASER:** And so, when you work
24 through funding agreements, you take away that ability to
25 say this is the actual legislated and regulatory

1 entitlements, but also, the ability to review it, as you've
2 stated in your evidence in-chief.

3 **MS. NAIOMI METALLIC:** There are some -- so,
4 under the policies that Indigenous Affairs has developed,
5 the ones that I'm familiar with from the Maritimes, in
6 theory, there is, you know, sort of an informal appeal
7 mechanism such that if you didn't like the benefits or you
8 were denied a benefit for social assistance, you could
9 appeal it either to a social development administrator for
10 the Band or the Band Council itself. But, there's not the
11 same sort of mechanisms to really judicially review it or
12 appeal it in the same way that you would under, sort of,
13 the provincial systems.

14 And, within the funding agreements, there's
15 virtually -- there is a way to -- there's a dispute
16 resolution mechanism built into most of the funding
17 agreements, except they have so many exceptions that it's
18 basically hollowed out. You can't review, or you can't
19 bring a dispute to policy issues, to funding. There's a
20 variety. I mention it in the paper.

21 **MS. SUSAN FRASER:** Right. Okay. So, I just
22 want to shift gears, because I'm running short of time, to
23 the comments that you made, Professor Metallic, on the
24 question of reports and previous reports. And, I'm going
25 to put some questions to Professor Gunn when she comes

1 tomorrow about a number of studies. And, as I understand,
2 there's over 50 studies that have reviewed the causes of
3 violence, and hundreds of recommendations that had been
4 made about violence towards Indigenous women, and are you
5 familiar with that sort of broad number? I'm going to take
6 -- I expect we'll hear that from her.

7 So, I'm just -- the information that you
8 have provided to us today, I'm putting the paper aside, but
9 the themes of poverty, inequality, food insecurity,
10 substandard housing - all these issues where the
11 community's capacity to care for themselves has been
12 reduced because of government policy, these are not
13 surprises that we're hearing in 2018; right?

14 **MS. NAIOMI METALLIC:** Right.

15 **MS. SUSAN FRASER:** We've heard all of these
16 issues before.

17 **MS. NAIOMI METALLIC:** Yes.

18 **MS. SUSAN FRASER:** These are issues that
19 have been reported on for many, many years.

20 **MS. NAIOMI METALLIC:** Yes.

21 **MS. SUSAN FRASER:** For decades in some
22 cases.

23 **MS. NAIOMI METALLIC:** Some of the general
24 stuff comes from the mid-1990's.

25 **MS. SUSAN FRASER:** Right? And, even though

1 the date may change, over time, the issues don't -- we
2 haven't really -- and I think the Inuit statistics sort of
3 give life to that, that there hasn't really been
4 substantial change and, in fact, sometimes things get
5 worse.

6 **MS. NAIOMI METALLIC:** Right.

7 **MS. SUSAN FRASER:** And so, political will is
8 one answer in terms of enforcement, but also, having us
9 look -- pushing for -- in your view, one of the ways to
10 make change is to push for legislation that speaks to
11 entitlements and rights so that those become actionable,
12 because that's the only point in time where you can
13 actually enforce something, is if you go to court?

14 **MS. NAIOMI METALLIC:** I think that's part of
15 it. Also, clearly setting out government accountability.
16 So, not just the First Nations' rights side of it, but
17 also, the governments' accountabilities.

18 **MS. SUSAN FRASER:** Yes. I was thinking more
19 of government accountability.

20 **MS. NAIOMI METALLIC:** Yes.

21 **MS. SUSAN FRASER:** But, actually, if you're
22 going to create a program, that that program actually
23 should have its genesis and could have its genesis in
24 legislation in order to be enforceable?

25 **MS. NAIOMI METALLIC:** Well, it would make it

1 more of an essential service as well, aside from just sort
2 of a program that may or may not have funding. We often
3 hear that, that these are not actually viewed by government
4 as essential services so much, because there's no --
5 they're not actually enshrined anywhere. And, there's
6 actually a court decision from last year where -- regarding
7 policing where the federal government and the provincial
8 government, it was Quebec that was involved, basically said
9 these are just -- you know, these are just agreements.
10 These are just contracts for these services, and that's all
11 they are.

12 **MS. SUSAN FRASER:** Thank you very much.

13 **MS. CHRISTA BIG CANOE:** Thank you, Ms.
14 Fraser.

15 **MS. SUSAN FRASER:** Thank you very much,
16 Commissioners.

17 **MS. CHRISTA BIG CANOE:** Chief Commissioner
18 and Commissioners, I'm going to propose that we do call the
19 next party and then have a break. The next party is
20 welcome to come up. It is Native Women's Association of
21 Canada, and they will have 20 minutes, as they had
22 designated or assigned five of their minutes to Pauktuutit
23 this morning.

24 So, counsel, please feel free to introduce
25 yourself, and then once you ---

1 **MS. VIRGINIA LOMAX:** I was actually hoping
2 -- could I respectfully ask to take the 10-minute break
3 now?

4 **MS. CHRISTA BIG CANOE:** Okay.
5 Commissioners, can we take the break now? Ten minutes?
6 Yes, thank you.

7 **MS. VIRGINIA LOMAX:** Thank you.

8 --- Upon recessing at 14:45

9 --- Upon resuming at 15:09

10 **MS. CHRISTA BIG CANOE:** Chief Commissioner?

11 **CHIEF COMMISSIONER MARION BULLER:** Thank
12 you. Just before we get started, I want to remind all
13 counsel present of our Rule 45(b) that states, "Parties
14 granted standing to examine witnesses in Parts 2 and/or 3
15 may then have an opportunity to question the witness in a
16 non-traumatizing manner to the extent of their interest."
17 That's just a gentle reminder. Thank you. Go ahead.

18 **MS. CHRISTA BIG CANOE:** Thank you. I'd like
19 to call the next party that will be doing cross-
20 examination, which is Native Women's Association of Canada.
21 They have 20 minutes, because they had assigned some
22 minutes to other counsel.

23 **CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR MS. LOMAX:**

24 **MS. VIRGINIA LOMAX:** Good afternoon. Before
25 I -- oh, I am Virginia Lomax. I'm legal counsel to the

1 Native Women's Association of Canada.

2 Before I begin my questions, I have some
3 questions about my questions.

4 (LAUGHTER/RIRES)

5 MS. VIRGINIA LOMAX: First of all, I'd like
6 to ask the witnesses, may I address you all by your first
7 names?

8 MS. FAY BLANEY: Yes.

9 MS. VIRGINIA LOMAX: And to Fay, is it okay
10 with you if I begin by questioning you?

11 MS. FAY BLANEY: If you wish.

12 MS. VIRGINIA LOMAX: May I begin with you?

13 MS. FAY BLANEY: Yes.

14 MS. VIRGINIA LOMAX: Thank you.

15 So yesterday, you spoke of an initiative
16 where you invited settlers to join you on your territory to
17 follow your protocols and to hear your stories and to also
18 tell their stories of how their settler background
19 unfolded. Is that correct?

20 MS. FAY BLANEY: Yes.

21 MS. VIRGINIA LOMAX: Can you tell me some of
22 the reactions ---

23 MS. FAY BLANEY: I'm sorry. This was off.
24 Okay.

25 MS. VIRGINIA LOMAX: Can you tell me some of

1 the reactions that you received from some of those
2 settlers?

3 **MS. FAY BLANEY:** It's always quite an
4 awakening. Always you see a dramatic shift in people when
5 they at first come into the room thinking of all their
6 entitlements that they think they have, and then they begin
7 the gradual process or the gradual realization that they
8 don't actually have the entitlements that they thought they
9 did, and they begin to understand what unceded means when
10 we're talking about our traditional territory.

11 **MS. VIRGINIA LOMAX:** And so -- did you
12 observe changes in the settlers' attitudes through this
13 initiative?

14 **MS. FAY BLANEY:** Yes, I have.

15 **MS. VIRGINIA LOMAX:** Do you think that this
16 initiative would be as effective if settlers were somehow
17 required to engage in this process, either through a school
18 program or through, say a mandatory workplace training if
19 it were, for example, government workers?

20 **MS. FAY BLANEY:** I would be very reluctant
21 to make it mandatory. I think you can't force people to
22 change, and the ones that do come, they're coming due to a
23 willingness to learn and to engage.

24 **MS. VIRGINIA LOMAX:** And so, this is a
25 program better suited for people who are already open to

1 hearing stories and sharing their own?

2 **MS. FAY BLANEY:** M'hm. I've never tried the
3 other way, so I don't know. Maybe it would work, but I --
4 I kind of doubt it.

5 **MS. VIRGINIA LOMAX:** Thank you. And you
6 mentioned yesterday that a gendered lens is required when
7 discussing colonialism; correct?

8 **MS. FAY BLANEY:** Yes.

9 **MS. VIRGINIA LOMAX:** And you mentioned
10 yesterday that removing Indigenous women from power and
11 governance was a distinct function of colonialism; correct?

12 **MS. FAY BLANEY:** Yes.

13 **MS. VIRGINIA LOMAX:** And is it fair to say
14 that part of reconciliation and decolonization is restoring
15 Indigenous women to power and governance decisions?

16 **MS. FAY BLANEY:** Yes.

17 **MS. VIRGINIA LOMAX:** Do you agree that a
18 government that wishes to pursue reconciliation and
19 decolonization must have Indigenous women at all government
20 decisions that may impact their human rights and the lives
21 of Indigenous women and girls?

22 **MS. FAY BLANEY:** Yes.

23 **MS. VIRGINIA LOMAX:** And you have
24 extensively studied and advocated against violence against
25 Indigenous women and girls; correct?

1 **MS. FAY BLANEY:** That's right.

2 **MS. VIRGINIA LOMAX:** And as an expert before
3 this Inquiry, do you agree that there are many areas of law
4 and policy that impact or intersect with violence against
5 Indigenous women and girls?

6 **MS. FAY BLANEY:** Yes.

7 **MS. VIRGINIA LOMAX:** Would these areas
8 include legal reform?

9 **MS. FAY BLANEY:** Legal reform? Yes.

10 **MS. VIRGINIA LOMAX:** Criminal justice?

11 **MS. FAY BLANEY:** M'hm. Criminal justice.

12 **MS. VIRGINIA LOMAX:** Housing?

13 **MS. FAY BLANEY:** Housing is definitely an
14 area.

15 **MS. VIRGINIA LOMAX:** And poverty?

16 **MS. FAY BLANEY:** Housing and poverty is an
17 area that Tracy spoke about, so yes, I would agree with
18 that.

19 **MS. VIRGINIA LOMAX:** And economic
20 development?

21 **MS. FAY BLANEY:** Yes.

22 **MS. VIRGINIA LOMAX:** And corrections and
23 prisons?

24 **MS. FAY BLANEY:** Yes.

25 **MS. VIRGINIA LOMAX:** And environment and

1 conservation?

2 MS. FAY BLANEY: Yes.

3 MS. VIRGINIA LOMAX: And natural resource
4 extraction?

5 MS. FAY BLANEY: Definitely, yeah.

6 MS. VIRGINIA LOMAX: And land management?

7 MS. FAY BLANEY: Those are areas that
8 Indigenous women should have a role in but do not.

9 MS. VIRGINIA LOMAX: And even something like
10 food security?

11 MS. FAY BLANEY: Yes, food security.

12 MS. VIRGINIA LOMAX: And child welfare?

13 MS. FAY BLANEY: M'hm.

14 MS. VIRGINIA LOMAX: And education?

15 MS. FAY BLANEY: And education.

16 MS. VIRGINIA LOMAX: Even science technology
17 and innovation?

18 MS. FAY BLANEY: Yes.

19 MS. VIRGINIA LOMAX: And infrastructure?

20 MS. FAY BLANEY: Buildings? Yes.

21 MS. VIRGINIA LOMAX: And so, would you agree
22 then that in order to properly address violence against
23 Indigenous women and Indigenous women and girls' human
24 rights, reconciliation and decolonization, Indigenous women
25 must be directly involved in governance and decision-making

1 in all of the aforementioned areas?

2 **MS. FAY BLANEY:** I agree with that.

3 **MS. VIRGINIA LOMAX:** Thank you very much.

4 My next questions are for Naimoi.

5 You spoke about needing a system to make the
6 government accountable for funding decisions and for coming
7 -- making good on funding promises yesterday. Is that
8 correct?

9 **MS. NAIOMI METALLIC:** M'hm. Yes.

10 **MS. VIRGINIA LOMAX:** And can you give me an
11 idea of what this system might look like?

12 **MS. NAIOMI METALLIC:** So there has been
13 suggestions before that actually the sort of funding
14 arrangements could be legislated, that there could be a
15 provision, yes, set out in law that sort of set out the
16 parameters around funding so that they're more secure. I
17 think there are examples from the U.S.

18 I think that RCAP also talked about it, I
19 think that the AFN has also suggested that at some point,
20 and there's some reference to some of those sources in my
21 paper. Yeah. So I think that there is some models to look
22 at. I also suggested yesterday that we needed maybe to
23 also look at not just contribution agreements but what the
24 feds do with the provinces and territories for
25 intergovernmental transfers.

1 **MS. VIRGINIA LOMAX:** And so specifically,
2 you could maybe give me some ideas of what a -- a mechanism
3 for enforcing that type of funding might look like?

4 **MS. NAIOMI METALLIC:** Well, if there's
5 legislation, it may well -- you know, there -- it could --
6 you can take it to court if they're not actually abiding by
7 the law. So I think those sorts of mechanisms are -- you
8 know, provide clear avenues, and maybe there can be dispute
9 resolution mechanisms built into that as well, so long as
10 they're robust.

11 But -- you know, the whole idea of putting
12 things into law is that there would be greater mechanisms
13 for both in discussing it and when it's being passed, and
14 at the same time, also having mechanisms to enforce it.
15 Right now, there's not a lot.

16 **MS. VIRGINIA LOMAX:** And so, if this Inquiry
17 were to recommend specific funding for the many different
18 issues that cause violence and lack of safety for
19 Indigenous women and girls, as well as two-spirited LGBTQ+
20 individuals, for example, in housing or education, healing
21 funds, could the funding model that you are describing,
22 could that enforcement structure also work for that
23 funding?

24 **MS. NAIOMI METALLIC:** Well, I would hope
25 that there would be some recommendation that there be more

1 permanent structures and maybe some suggestions on what
2 those can look like. I mean, I'm just thinking back to the
3 reports that I'm familiar with.

4 Like the Marshall -- the Donald Marshall
5 Junior report from Nova Scotia, which is about the wrongful
6 conviction. But there was, you know, 81 recommendations
7 that came from that. Part of that being a Mi'kmaq justice
8 initiatives and a Mi'kmaq court.

9 And what happens you see is those little
10 projects that get sort of implemented over the years, and
11 then they stop funding them; right? And that's happened
12 over and over again. So there's got to be a way to figure
13 out a better way to actually enforce these things in a
14 long-term way.

15 **MS. VIRGINIA LOMAX:** And speaking about
16 long-term enforcement, do you think it would be possible to
17 adapt that type of mechanism to intangible and
18 non-financial recommendations that could come with regard
19 to even UN human rights decisions or recommendations coming
20 out of public inquiries?

21 **MS. NAIOMI METALLIC:** I'm not entirely sure
22 of the question, but if you're asking if it's like basic
23 standards, like if there should be legislation about what
24 are the government's obligations with respect to providing
25 adequate sustainable housing, I think you could do that.

1 You could say you should have legislation that actually
2 sets out your obligations.

3 **MS. VIRGINIA LOMAX:** Thank you.

4 And so, my next questions are for Tracy.
5 You mentioned yesterday that you keep statistics of
6 admissions to your shelter. Is that correct?

7 **MS. TRACY DENNISTON:** Yes.

8 **MS. VIRGINIA LOMAX:** And -- but can you give
9 me an idea of what types of statistics you're able to
10 gather?

11 **MS. TRACY DENNISTON:** Can you explain?

12 **MS. VIRGINIA LOMAX:** Sure. I can narrow
13 down my questions a little bit better. Do you have
14 statistics of how many youth access your services?

15 **MS. TRACY DENNISTON:** Yes.

16 **MS. VIRGINIA LOMAX:** And do you happen to
17 know those statistics right now?

18 **MS. TRACY DENNISTON:** Yes.

19 **MS. VIRGINIA LOMAX:** So can you give me an
20 idea of maybe how many youth are accessing your services on
21 maybe a monthly basis?

22 **MS. TRACY DENNISTON:** Well, I just started
23 my position in January, so since then there have been one.

24 **MS. VIRGINIA LOMAX:** Okay. And do you keep
25 any sort of statistics on two-spirit LGBTQ+ people who are

1 accessing your services?

2 **MS. TRACY DENNISTON:** No.

3 **MS. VIRGINIA LOMAX:** Okay. Do you know of
4 any other services in your area that are specific to two-
5 spirit LGBTQ+ individuals who are seeking safety from
6 violence?

7 **MS. TRACY DENNISTON:** No.

8 **MS. VIRGINIA LOMAX:** You spoke of violence
9 against women as normalized in your communities yesterday.
10 Is that correct?

11 **MS. TRACY DENNISTON:** Yes.

12 **MS. VIRGINIA LOMAX:** Have you witnessed the
13 same normalization of violence against two-spirit LGBTQ+ or
14 gender-diverse people in your communities?

15 **MS. TRACY DENNISTON:** No, I don't think so.

16 **MS. VIRGINIA LOMAX:** Okay, thank you.

17 **MS. TRACY DENNISTON:** Thank you.

18 **MS. VIRGINIA LOMAX:** And for Timothy, do the
19 social determinants of health that you spoke of yesterday
20 drive inequalities for Inuit youth differently than for
21 adults?

22 **MR. TIMOTHY ARGETSINGER:** I would say yes
23 but I'd say that's the case of every population.

24 **MS. VIRGINIA LOMAX:** Can you give me an idea
25 of how the impacts may be different between Inuit youth and

1 Inuit adults?

2 **MR. TIMOTHY ARGETSINGER:** Say that again,
3 sorry?

4 **MS. VIRGINIA LOMAX:** Sorry. Can you give an
5 idea of the differences of the impacts on Inuit youth and
6 Inuit adults, if you know?

7 **MR. TIMOTHY ARGETSINGER:** I think maybe what
8 you're referring to are -- maybe are social inequities,
9 social and economic inequities rather than social
10 determinants. If I were to give you an idea, I could just
11 say generally that youth who may lack the resources that an
12 adult has to things like employment opportunities, to
13 resources, that that limits their agency in a way that
14 maybe an adult would -- might experience something in a
15 different way. Does that make sense?

16 **MS. VIRGINIA LOMAX:** Yes, thank you. So do
17 these same determinants drive inequalities differently for
18 Inuit 2S and LGBTQ+ individuals than maybe straight-
19 identified individuals?

20 **MR. TIMOTHY ARGETSINGER:** I don't know.

21 **MS. VIRGINIA LOMAX:** Okay. And you
22 mentioned in your testimony yesterday that you're aware of
23 one addiction services in your region. Does this service
24 have any resources or strategies specific to Inuit youth?

25 **MR. TIMOTHY ARGETSINGER:** I'm not sure.

1 **MS. VIRGINIA LOMAX:** And do you know if
2 there are any strategies specific to Inuit 2S LGBTQ+
3 individuals?

4 **MR. TIMOTHY ARGETSINGER:** I'm not aware of
5 any.

6 **MS. VIRGINIA LOMAX:** Okay.

7 I think I'm going to end my questioning here
8 for today then. Thank you very much.

9 **MS. CHRISTA BIG CANOE:** Thank you.

10 The next party that we would like to call up
11 is the Battered Women's Support Services.

12 So the Battered Women's Support Services
13 actually has 50 minutes, that's five-zero. If we could
14 please set that on the clock? And if you could introduce
15 yourselves.

16 **CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR MS. ANEMKI**
17 **WEDOM:**

18 **MS. ANGELA MacDOUGALL:** Good afternoon.
19 Thank you to the Elders, the Commissioners, Chief Council
20 and witnesses. My name is Angela MacDougall and I am with
21 Battered Women's Support Services and I'm with my colleague
22 Anemki Wedom and we are sharing our time today. Anemki
23 will begin.

24 **MS. CHRISTA BIG CANOE:** Okay. And so we can
25 start time.

1 **MS. ANEMKI WEDOM:** Qukshiem (phon.)
2 grandmothers, qukshiem (phon.) to the people of this
3 territory for your continued generosity, for sharing your
4 beautiful land with us and I want to say qukshiem (phon.)
5 to the Elders for offering the beautiful prayer today to
6 give us strengths for good mind to be able to share in a
7 good way the challenges that our Indigenous women and girls
8 face across Kanata.

9 So I would like to first of all ask my first
10 question to Fay. In your responsibility as a matriarch and
11 as a grandmother, could you share with us some of the
12 cultural worldviews that can help deconstruct patriarchy
13 within our communities?

14 **MS. FAY BLANEY:** Our cultural worldviews,
15 well I think that there's a lot in our culture that we can
16 work with. One of them is our language. In our language,
17 well first of all, we believe in not talking a whole bunch
18 and that we spend a lot of time reflecting and engaging
19 with our spirituality.

20 I think within our spirituality, there is a
21 lot of room for us to be able to -- like in my way we go
22 and I think in a lot of different cultures too we go off
23 except for us we do it for like a whole year. You go and
24 bathe in the river for a full year and just be off on your
25 own. And I think in those ways, when we're separated from

1 this western society, it's a lot of time to think about
2 what's been happening in your community.

3 I think right now we're so immersed in
4 what's going on in the community such as the addictions and
5 the poverty, the efforts at our assimilation, like all of
6 that stuff is really bearing down heavily. But if we were
7 to return to the land and be part of the land, I think it
8 would shift a whole bunch of things for a lot of us.

9 I don't know. We're so colonized and
10 assimilated, like in my community, we were part of the
11 burning that happened in 1900. They asked us to bring all
12 of our ceremonial objects and our masks and everything and
13 they burned it and we weren't allowed to look back and yet,
14 people continued to do that.

15 And so the bringing back of our culture and
16 our tradition is -- it's very challenging but it's being
17 done bit by bit and there are some young people in my
18 community now, including my daughter and my niece, that
19 continue to go bathing in the river.

20 Yesterday morning, I talked about my own
21 puberty rights and bathing in the river every day for a
22 whole year. I think that really helped me to grow up and
23 it helped me to recognize my role as an adult in that
24 community but I had teachers all around me. And so it
25 makes it challenging to think about teachers right now. I

1 think that I'm one of, you know, the last that did that and
2 there's a huge gap until now.

3 But I think some of those ways can help and
4 there are parts of the teachings that are with other
5 nations as well. We have relatives. Like there's the
6 groups that speak my language, there's three other
7 communities and then there's the other Coast Salish people
8 and then there's the Interior Salish and we have bits and
9 pieces of that. It's very challenging though to access
10 those teachings when we're so busy and caught up in this
11 world.

12 **MS. ANEMKI WEDOM:** Could you share with us
13 what your definition of a feminist is and does your
14 Indigenous heritage influence that definition?

15 **MS. FAY BLANEY:** Yes. Yesterday I did begin
16 -- when I was being asked about that, I began by saying
17 that, you know, like all my other family and relatives, I
18 do have a very strong attachment to the land and the
19 territory and it means so much to me when I'm there.

20 There are women's places in my territory
21 that we go to for various things and you know my Auntie
22 Florence, I mean she's been like one of my main teachers in
23 my life. In fact, she like shoved me into the women's
24 movement early on and she was the one that did that work
25 long before I did.

1 What I understand of feminism at its very
2 basic is that it's putting women at the centre of the
3 conversation and that is extremely rare anywhere we go. I
4 really love the -- you know, as I've said many times here
5 that I love the consciousness raising and I mentioned to
6 these women that it's very similar to the healing circles
7 that we do, where we sit in circle and we share. And, I
8 love the things that come out of our consciousness raising.
9 That's a key part of feminism, that the personal is
10 political, and it really helped me in university to
11 understand systems of oppression. And, it's hard when
12 you're, like, in the oppression to name what it is, and
13 when I was studying at SFU and taking my history degree, I
14 didn't have a word for the fact that there was nothing in
15 the university for me except this one course on Maritime
16 fur trade. And, it was upon entering into women's studies
17 and applying those models and looking at systems of
18 oppression that I was able to take from that model and
19 apply it to my experiences as an Indigenous woman, and that
20 meant a whole lot to me.

21 **MS. ANEMKI WEDOM:** Through your efforts on
22 the research relating to the *Indian Act* and Bill C-31, can
23 you -- did you come across, in any of your research, the
24 impacts of the *Indian Act's* policy on state of paternity
25 and how that impacts on women fleeing violence from their

1 communities? Particularly in relation to their rights and
2 benefits, if they've been violated by someone within their
3 member community, and the way it seems to work is that
4 they're automatically designated a different category in
5 the *Indian Act*.

6 **MS. FAY BLANEY:** Yes. And, you supported us
7 when we did the Bill C-31 research, and we shared stuff
8 with you. One of the things that we discovered about that
9 paternity is that I was so impressed with this one chief.
10 He claimed all the children of the single moms on his
11 reserve, because it guaranteed that they would have Section
12 6(1) status, rather than having -- because if the fathers
13 aren't willing to be written onto the birth certificate,
14 then the child is automatically relegated to a different
15 category, 6(2) possibly.

16 And so, I think that was a pretty heroic
17 effort on the part of that chief, but that's one case and
18 one community, and there were quite a few people that got
19 half status, as we call it, Section 6(2) status, and that
20 was the issue that Sharon McIvor was fighting in courts,
21 along with others like Lynn Gayle (ph). There were quite a
22 few women, isolated pockets all across the country that
23 were fighting on the case of Bill C-31 after its passage
24 and obtaining their rights.

25 **MS. ANEMKI WEDOM:** I'd like to ask Professor

1 Metallic some questions regarding your area of expertise
2 and discussing the Constitution as well as discussing, you
3 know, potential legislation to address the funding
4 inequalities for Indigenous peoples across Canada. And, I
5 guess one of the things that came out very loud and clear
6 on the *First Nations Childcare and Society* decision was not
7 only in terms of the rights of the children with regard to
8 equitable support for funding of services, but the other
9 critical piece that came out was the denial of their rights
10 because of residency.

11 And so, we have a situation where a lot of
12 Indigenous women that are fleeing violence away from their
13 territories, because of the lack of housing, because of the
14 lack of funding, the lack of supports, it's basically
15 causing forced displacement, and I'm wondering if you could
16 elaborate on that aspect of it?

17 **MS. NAIOMI METALLIC:** Are you asking me
18 about Jordan's Principle?

19 **MS. ANEMKI WEDOM:** Yes.

20 **MS. NAIOMI METALLIC:** Okay. So, the
21 decision also very much confirmed Jordan's Principle, which
22 is that, you know, a child should not be denied, you know,
23 basic services because two other levels of government are
24 bickering over who has to pay the bills; right? And, that
25 was -- I mean, Jordan's Principle was something that was

1 before Parliament, and Parliament agreed to it, but then
2 adopted a very narrow interpretation. And, one of the
3 wonderful things about the decision from the tribunal is
4 that it adopts the broadest possible interpretation of
5 Jordan's Principle.

6 So, it's not just about the most disabled
7 children having access to certain services for children
8 with disability; it's about all services, and it's about
9 ensuring that they get equitable, timely access, and
10 jurisdictional disputes do not get in the way.

11 **MS. ANEMKI WEDOM:** Tim, you alluded to the
12 idea of utilizing a human rights lens framework to apply
13 standards with regard to access to services for Inuit,
14 regardless of where they live and how they're being denied
15 accessibility of service, whether it's health, or shelters,
16 or housing. I'm wondering, can you offer some insights on
17 how we can use those instruments to ensure that Canada and
18 provinces and territories have become in compliance with
19 those international human rights standards, as well as
20 addressing it in terms of the prevention of violence lens
21 context as well? Because it seems the way that services
22 are funded, it's short term. And so, I'm just wondering if
23 you have any insights you could offer, and how we could
24 implement that as part of making Canada accountable?

25 **MR. TIM ARGETSINGER:** Yes, I believe my

1 colleague Dalee Sambo will be speaking about this a bit
2 tomorrow, but just to give you, I guess, a short
3 elaboration on the point, human rights framework, it's a
4 way of understanding the challenge. It's a lens through
5 which we can understand the nature of the inequities that
6 are being experienced. That's one side of it. The other
7 piece of it, in my mind, is how we use a human-rights-based
8 framework or approach to create remedies for those
9 challenges or solutions.

10 In the work that we've done at ITK, one of
11 our recommendations to this government is that it explore
12 the creation of an Indigenous Human Rights Tribunal that
13 could be utilized by Indigenous peoples and communities to
14 seek remedies for specific human rights abuses. Right now,
15 there isn't -- there is a Human Rights Commission, but my
16 understanding of it, my limited understanding of the work
17 that it does is that it doesn't have a strong focus
18 specifically on Indigenous peoples and issues. Hopefully
19 that's helpful.

20 **MS. ANEMKI WEDOM:** I'd like to ask Tracy my
21 last question before I turn it over to my colleague.
22 Yesterday, you shared the profound trauma invoked against
23 Indigenous peoples and Inuit people as well as the result
24 of the residential school. And, what I'm curious to know
25 within your area, I know that there was a settlement

1 agreement through the residential school in ITK, along with
2 other communities received a settlement agreement.

3 But, I guess my question is with the
4 limitations that are faced within our communities around
5 addressing the multiple trauma, because what I find is that
6 you can't address the trauma without addressing multiple
7 trauma. So, for example, in human rights law, if I want to
8 file a complaint, I have to decide, "Oh, am I going to file
9 it as a woman, or am I going to file it as an Indigenous
10 woman?" So, the way the human rights framework works, it
11 doesn't take into account the systemic challenges of
12 discrimination faced by women and girls specifically,
13 particularly when it's multiple forms of discrimination and
14 abuse.

15 So, I'm wondering if you have any
16 recommendations on how we can better address the historic
17 collective trauma and its rippling effects as a result of
18 residential school? And there other part is; how do we --
19 how can we better reach out to the men to address the harms
20 that they've invoked as a result of the trauma that they
21 may have experienced? And it's not to have that presented
22 as an excuse, but it's a reality in our communities.

23 **MS. CHRISTA BIG CANOE:** There's no objection
24 to either question but maybe if she answer the first one
25 and then you ask the second? Because it's a lot for her to

1 take in.

2 **MS. TRACY DENNISTON:** The first part of the
3 question was around -- can you just explain the first part
4 of the question again? Sorry.

5 **MS. ANEMKI WEDOM:** In terms of the impacts
6 of trauma created through residential schools, and how we
7 can better address that through services in the
8 communities, because it's not really being adequately
9 addressed.

10 **MS. TRACY DENNISTON:** No. I even still
11 think for even for me as a -- even though I didn't attend
12 residential school myself, I still feel the impacts myself
13 as a person from a family who has attended residential
14 school. I don't think there's enough information out about
15 what the symptoms are of what families had endured as they
16 went through residential school and relocation, and those
17 things -- there's all these symptoms that people are
18 displaying and it can come out in hurt, it can come out in
19 substance abuse, and all those kinds of things.

20 There's a bunch of different things and I
21 still really can't even pinpoint myself because I'm still a
22 part of the struggle of understanding where it all fits.
23 And I can see where -- as a community member, I can
24 understand some of the symptoms but I don't know how to put
25 to words how to deal with that.

1 So I'm still -- the scenario that we haven't
2 really touched on -- like, even though we know they're
3 symptoms, it's just that I think we're so confused that we
4 don't know where we are.

5 **MS. ANGELA MacDOUGALL:** Was there one more
6 question that you had?

7 **MS. ANEMKI WEDOM:** That's fine.

8 **CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR MS. ANGELA**
9 **MacDOUGALL:**

10 **MS. ANGELA MacDOUGALL:** Okay.

11 I wonder if I may direct my first question
12 to Tim, please?

13 I enjoyed reading the *Examining the Justice*
14 *System in Nunavut*. I understand that you wrote that
15 document.

16 In the document you have several
17 recommendations; I think there are eight recommendations
18 that related to justice and health and social issues.

19 Recommendation number 5, you refer to the
20 *Family Abuse Intervention Act*. Would you be willing to
21 tell us what that Act is, please?

22 **MR. TIM ARGETSINGER:** You're testing my
23 memory a bit. I am reading ---

24 **MS. ANGELA MacDOUGALL:** May I offer a
25 suggestion? Is it a policy that relates to how police

1 respond to violence, or how community responds to violence?

2 **MR. TIM ARGETSINGER:** The Act is a piece of
3 Territorial legislation.

4 **MS. ANGELA MacDOUGALL:** Okay. And what is
5 -- to achieve which purpose?

6 **MR. TIM ARGETSINGER:** I'm actually reading
7 this at the moment -- right now.

8 **MS. CHRISTA BIG CANOE:** If I might state,
9 too, for one party has a copy as well, that's referenced on
10 page 2 of that report that's been put into that exhibit,
11 *Examining the Justice System in Nunavut*, so...

12 **MS. ANGELA MacDOUGALL:** In the
13 recommendation you point to a few -- at least two
14 instruments, one is a community intervention order and the
15 emergency protection order which I know that both -- both
16 you and Tracy spoke to yesterday.

17 I'm interested in hearing more about how the
18 criminal system and the Territorial system respond
19 systemically to the Criminal Code, as it relates to
20 assault.

21 **MR. TIM ARGETSINGER:** In Nunavut?

22 **MS. ANGELA MacDOUGALL:** Yes, please.

23 **MR. TIM ARGETSINGER:** Again, I mean, this is
24 a six-year-old document that I'm looking at for the first
25 time in six years.

1 **MS. ANGELA MacDOUGALL:** Okay.

2 **MR. TIM ARGETSINGER:** I feel ill-equipped to
3 recite the contents of the report. And things may have
4 changed. I just don't have the comfort level.

5 **MS. ANGELA MacDOUGALL:** Okay, thank you.

6 Tracy, any comment? Any thoughts for you
7 and your frontline work with women?

8 **MS. TRACY DENNISTON:** Is that in relation to
9 the emergency protection order?

10 **MS. ANGELA MacDOUGALL:** The emergency
11 protection order and the community intervention order.

12 **MS. TRACY DENNISTON:** Can you reframe the
13 question, please? Sorry.

14 **MS. ANGELA MacDOUGALL:** Certainly. I'm
15 curious if you -- well, maybe I'll reframe it better than I
16 did the first time.

17 I'm curious how you may work or if those
18 tools are available to you as a frontline worker in
19 supporting women, if a community intervention order, an
20 emergency protection order specifically, in your frontline
21 work?

22 **MS. TRACY DENNISTON:** Yes, they are
23 available.

24 **MS. ANGELA MacDOUGALL:** Would you be willing
25 to comment on the effectiveness of both of those tools, in

1 terms of women's safety?

2 **MS. TRACY DENNISTON:** It's effectiveness?

3 **MS. ANGELA MacDOUGALL:** Yes, please.

4 **MS. TRACY DENNISTON:** This is just my
5 opinion, and as a community person I feel the emergency
6 protection orders are not effective in our communities,
7 based on the remoteness and how small our communities are,
8 I feel safety would not be guaranteed for women.

9 **MS. ANGELA MacDOUGALL:** Thank you. Thank
10 you.

11 Fay, I wonder if I may ask a question that's
12 related, and it's the B.C. context. You spoke, I believe
13 yesterday or maybe it was today, about the Violence Against
14 Women in Relationships Policy, would you be willing to tell
15 us a bit about that policy as you understand it?

16 **MS. FAY BLANEY:** Well, at one point, women
17 used to be expected to be the ones to press the charges.
18 And the policy that came in, I don't know when it came in
19 but we did have a workshop on it during the Journey for
20 Justice in 2000. And at that time I understand that the
21 police were required, or compelled, to be the ones to press
22 the charges against the offender.

23 **MS. ANGELA MacDOUGALL:** Thank you.

24 So some of the jargon that we've been using
25 in anti-violence circles and feminist circles is calling it

1 a polar arrest policy that taking the responsibility from
2 the woman and putting it into the police; that they do a
3 proper investigation if they've been called to a, quote-
4 unquote, "domestic violence situation".

5 **MS. TRACY DENNISTON:** Yes.

6 **MS. ANGELA MacDOUGALL:** I'm wondering in
7 your work -- in your frontline work for you, Fay, and for
8 you also, Tracy, if you're noticing in your work where
9 women are being arrested and maybe charged for allegedly
10 perpetrating domestic violence, when there has been a
11 history where the woman has been a victim?

12 **MS. FAY BLANEY:** I've heard a lot of that
13 and we call it cross-charging.

14 So when women are in the situation where
15 they're being brutalized, they're not allowed to defend
16 themselves in any way, shape, or form, and if they do then
17 they're charged also, and both are arrested. And that
18 poses a lot of risk for the other policy that we learned
19 about, the Children who Witness Violence Policy. So if
20 there are reports of what they call domestic violence,
21 there's a danger that the child may be apprehended.

22 **MS. ANGELA MacDOUGALL:** Thank you.

23 Tracy, any thoughts in your experience?

24 **MS. TRACY DENNISTON:** Yeah. In my work as a
25 frontline worker I have seen experiences where women were

1 actually charged as well as the men in relationships. And
2 it had a negative impact because it ended up causing more
3 problems for the whole family.

4 **MS. ANGELA MacDOUGALL:** Thank you for that.

5 Fay, we are in the same -- we work in the
6 same community and I'm wondering, in the community that we
7 work in, if you've noticed in British Columbia that
8 Indigenous women -- or have you have heard that Indigenous
9 women are more likely to be charged with an offence
10 compared with other, quote-unquote, "Canadians"?

11 **MS. FAY BLANEY:** I haven't heard about this
12 particular situation but I have heard that the numbers of
13 Indigenous women and Black women is, like, skyrocketing in
14 the prison system. I'm not sure what those arrests are
15 for, though.

16 **MS. ANGELA MacDOUGALL:** So would you say,
17 then, that some of the work that feminists have done early
18 in the nineties, and even prior to that, was to bring a
19 level of accountability to the systems, and one of those
20 systems would be the police system; that they would take
21 male violence against women seriously and that they would
22 investigate; how do we understand -- and that we fought for
23 we wanted to see there was effort for there to be a policy
24 such as VAWR Policy? How do we explain now in 2018 that we
25 would see women being arrested? How might you characterize

1 that, understand that?

2 **MS. FAY BLANEY:** Well, I think it's similar
3 to the backlash that we've experienced on the anti-racism
4 front as well where when there's affirmative action, it
5 becomes the dominant group that take advantage of those
6 measures and say, "We're experiencing discrimination based
7 on race." And so I would say that, you know, that's
8 happening in anti-violence as well, that the gains that
9 feminists make in anti-violence are -- they turn into a
10 backlash.

11 **MS. ANGELA MacDOUGALL:** Thank you.

12 I've heard from, I think, all of the
13 witnesses, some version of an analysis and a way of framing
14 these issues is to have an interconnection of colonization
15 and patriarchy, poverty. I don't know that everybody has
16 said that themselves but I've heard some version of it in
17 some way.

18 And I'm wondering if we're wanting to think
19 about how we're framing the issues and if we're talking
20 about a gendered lens and wanting to apply a gendered lens
21 more comprehensively through this process and through any
22 recommendations and through any subsequent legislation and
23 policies and regulations.

24 How can we thoroughly understand the
25 relationship, how -- could you give us a sense of how we

1 could thoroughly understand the relationship of gender and
2 race with respect to Indigenous women, and would it be
3 limiting to have a framing of the issues, in terms of
4 gender only?

5 **MS. FAY BLANEY:** To separate out the two?

6 **MS. ANGELA MacDOUGALL:** I'm suggesting that
7 the -- I'm wondering if it might be better that they're not
8 separated. That we think about some -- that there's an
9 opportunity -- let me know if you think this is something
10 to contemplate -- where we understand that Indigenous women
11 experience a version of misogyny and racism where we don't
12 know where the misogyny begins and where the racism ends,
13 that they're merged.

14 **MS. FAY BLANEY:** Yes, it's an issue that I
15 have faced forever and ever and ever. I mean, when I --
16 when the feminist movement was thriving and there were
17 women's groups, I was challenging the women's groups for
18 the racism that I experienced there and tried to get a seat
19 at the table. And now there's been this attack on women's
20 groups and so we're just struggling to survive as women's
21 groups.

22 And in this particular circumstance with the
23 National Inquiry, I have been extremely alarmed that they
24 have forgotten the gendered lens; that they have spent so
25 much time on the colonial aspect without looking at the

1 gendered. And I'm not advocating that we divide them all
2 up but I've been, like, really gung-ho going forward on
3 just the gendered lens just because there -- it's been not
4 taken seriously enough. And so I've been really pushing.

5 **MS. ANGELA MacDOUGALL:** Thank you.

6 **MS. FAY BLANEY:** But I do appreciate what
7 you're saying about looking at the intersections, like with
8 the work on housing.

9 But an earlier part of your question where
10 you were talking about how do we get from here to there? I
11 guess that's where there's some disagreement amongst us.
12 And from my perspective I think that a self-analysis as
13 Indigenous people is very critical to understand in the
14 larger political scheme of things where we sit and what are
15 the systems of oppression that affect us.

16 So I don't want healing to be just conducted
17 by those doctors and those psychiatrists and those
18 counsellors and those treatment centres and detox centres.

19 All this focus on service delivery really
20 bothers me because it's still a colonial model with someone
21 from the outside coming to fix you. And what I would
22 really like to see is a revolution in the hearts of
23 Indigenous women, and I guess at another level, Indigenous
24 peoples, but currently my focus is on the revolution for
25 Indigenous women that, you know, we can organize on our

1 own, we can make changes on our own, and we need to end the
2 discrimination on our own.

3 And just getting back to your question on
4 how do we decolonize, I just -- I forgot to mention that
5 the clan system is something that we really lost, and how
6 we organized our family systems. And that's been so
7 devastating for us. And if we're able to return to our own
8 kinship systems it'll be a different world altogether.

9 **MS. ANGELA MacDOUGALL:** Thank you.

10 Tracy, I have a question to expand a bit on
11 a comment that you made yesterday, and a response to a
12 question.

13 You spoke about women who are pregnant need
14 to travel in order to have their babies.

15 **MS. TRACY DENNISTON:** Yes.

16 **MS. ANGELA MacDOUGALL:** And I think I heard,
17 maybe it was you or Tim, that said Ottawa even, that's one
18 location where women have to go a month in advance?

19 **MR. TIM ARGETSINGER:** Just to clarify, I
20 mean, there are a number of -- so there are birthing
21 centres in some communities.

22 **MS. ANGELA MacDOUGALL:** Okay.

23 **MR. TIM ARGETSINGER:** Like Salluit or
24 Puvirnitug or Inujjuaq, for example, where there are -- I'm
25 spacing on the term, people who assist in birth.

1 **MS. ANGELA MacDOUGALL:** Like midwives,
2 or...?

3 **MR. TIM ARGETSINGER:** Midwives.

4 **MS. ANGELA MacDOUGALL:** Midwives.

5 **MR. TIM ARGETSINGER:** In cases of
6 complications in some cases -- or, for example, if someone
7 -- if it looked like someone might need to get a C-section,
8 for example, and they were living in Rankin Inlet where
9 there is a birthing centre, they might need to travel
10 outside of the territory to give birth. So it depends on
11 the community.

12 **MS. ANGELA MacDOUGALL:** Thank you.

13 Any comment, Tracy, for you, your
14 experience, you know, women travelling and sort of what
15 happens for women particularly; women maybe that you know
16 through your work, specifically, who've experienced
17 violence?

18 **MS. TRACY DENNISTON:** Experienced violence
19 while they were waiting to have their -- like ---

20 **MS. ANGELA MacDOUGALL:** They're pregnant.
21 Like, some of the stats tell us that pregnant women are at
22 greater risk and do experience physical violence. And so
23 I'm wondering -- I'm just wanting to get a picture of
24 pregnant women and violence and their healthcare.

25 **MS. TRACY DENNISTON:** Yeah, our pregnant

1 women have to leave a month in advance for their babies
2 unless they sign a waiver to say they're allowed to stay
3 for another two weeks. I think that impacts some women's
4 decisions because sometimes they may have other children
5 that they're taking care of, even though the husband or the
6 partner is involved. Sometimes it may mean that they're
7 putting their child -- unborn child at risk because they
8 need to stay to help for the other two because it's too
9 long of a timeframe for them to be gone for a month versus
10 the two weeks.

11 **MS. ANGELA MacDOUGALL:** Okay.

12 **MS. TRACY DENNISTON:** I could see some of
13 that being a part of the decision-making in women's minds.

14 **MS. ANGELA MacDOUGALL:** Thank you.

15 Do you have experience where Child
16 Protective Services become involved in essence where women
17 have given birth to their children outside of the community
18 at one of the birthing centres or one of the larger urban
19 settings?

20 **MS. TRACY DENNISTON:** Yes.

21 **MS. ANGELA MacDOUGALL:** And have the
22 children been removed?

23 **MS. TRACY DENNISTON:** Yes, right at birth.

24 **MS. ANGELA MacDOUGALL:** Are you able to
25 comment on what you noticed; were women able to return, do

1 women -- do they end up -- do they stay -- like, sort of
2 getting a sense of what happens in those situations?

3 **MS. TRACY DENNISTON:** Just from my
4 experience from a community perspective and knowing what's
5 happening, because our communities are so small, the
6 majority of the families -- well, the mothers who end up
7 getting their children removed when they're giving birth
8 are usually ones who have had prior children apprehended.
9 And because of the risk, I guess, that they have with the
10 other children and no change happening with the mother or
11 the parents, then they do take the children who are unborn
12 -- right at birth when they're birthed, they do -- they are
13 apprehended from Child Services and put out in foster
14 homes.

15 **MS. ANGELA MacDOUGALL:** Have you had
16 instances where women have not returned home after the
17 children have been removed? Just to, say, they stay in the
18 community where they had the child?

19 **MS. TRACY DENNISTON:** No, not that I can
20 recall.

21 **MS. ANGELA MacDOUGALL:** Okay. Thank you.
22 I'd just like to spend the last few moments
23 here talking a bit about accountability for those that
24 perpetrate violence.

25 And in your CV, Tim, you have done work in

1 Alaska, and I think you may still be involved with some --
2 an organization there, doing work?

3 **MR. TIM ARGETSINGER:** Yeah, I'm from Alaska.

4 **MS. ANGELA MacDOUGALL:** And I notice that
5 you had spoken about with respect to men's role in ending
6 violence against women with respect to domestic and sexual
7 violence. Would you be able to speak about that a bit?

8 **MR. TIMOTHY ARGETSINGER:** Sure. So the --
9 what you're referring to is an op-ed I wrote some years ago
10 relating to the *Violence Against Women Act* in the U.S. and
11 its reauthorization. And there was a conversation in the
12 country at the time among American Indian, Alaska Native
13 community, about the issue.

14 And the way -- and I took issue with the way
15 that the challenge was being characterized. It was relying
16 and -- without going into too much details, it was relying
17 on a statistic that was published. It was -- the
18 misrepresentation of a statistic that was published in a
19 report, an Amnesty International report ---

20 **MS. ANGELA MacDOUGALL:** M'hm.

21 **MR. TIMOTHY ARGETSINGER:** --- which
22 characterized violence against American Indian and Alaska
23 Native women as -- the way that the statistic was being
24 mischaracterized is that non-Native men were the main
25 culprits in violence against Alaska Native and American

1 Indian women.

2 **MS. ANGELA MacDOUGALL:** And we've heard
3 evidence here today that that's not the experience of
4 Indigenous women entirely?

5 **MR. TIMOTHY ARGETSINGER:** Yeah. I mean,
6 that's U.S. context.

7 **MS. ANGELA MacDOUGALL:** For sure. For sure.
8 Would it be okay for me to read a line that you -- from the
9 op-ed, just near the end?

10 **MR. TIMOTHY ARGETSINGER:** Sure.

11 **MS. ANGELA MacDOUGALL:** Thank you. You
12 write:

13 "At the end of the day, the only way to
14 prevent rape and domestic violence is
15 to teach men not to rape and batter
16 women." (As read)

17 Would you agree with that today?

18 **MR. TIMOTHY ARGETSINGER:** Absolutely.

19 **MS. ANGELA MacDOUGALL:** I'm wondering if we
20 could talk a bit now about accountability. And I know that
21 Fay, I've watched you work over the years relating to
22 restorative justice. And one of the things that we
23 understand and that has been researched is that it is
24 contraindicated when in domestic and sexual violence
25 situations however it's used ---

1 **MS. FAY BLANEY:** M'hm.

2 **MS. ANGELA MacDOUGALL:** --- continues to be
3 used.

4 Would you be willing to give us a sense,
5 then, and I'm thinking about the communities that are
6 overpoliced and under protected, such as Indigenous
7 communities in terms of the -- and there's lots of
8 statistics all around Canada to tell it -- to show that as
9 far as the relationship between RCMP and municipal police
10 over policing with respect to criminalizing survival ---

11 **MS. FAY BLANEY:** M'hm.

12 **MS. ANGELA MacDOUGALL:** --- and under
13 protecting as far as, you know, we talked about just now
14 about women that are experiencing domestic violence being
15 arrested for defending themselves.

16 **MS. FAY BLANEY:** Yeah. Anecdotal evidence
17 I'll give. I haven't done a lot of research in this area.

18 Anecdotal evidence. There are some women
19 from my Reserve that have been murdered and the police have
20 done nothing about it. And that hurts a lot when you think
21 about, you know, your own community and you know the women
22 that have died as a result of male violence.

23 **MS. ANGELA MacDOUGALL:** Recognizing that the
24 RCMP has had a historical role to move Indigenous people
25 off the lands in order for ---

1 **MS. FAY BLANEY:** M'hm.

2 **MS. ANGELA MacDOUGALL:** --- the government
3 and business corporations and settlers to have access ---

4 **MS. FAY BLANEY:** M'hm.

5 **MS. ANGELA MacDOUGALL:** --- and the role of
6 RCMP in that and then municipal police thereafter.

7 **MS. FAY BLANEY:** M'hm.

8 **MS. ANGELA MacDOUGALL:** And thinking about,
9 you know, women's safety. To what extent do you think that
10 police can be part of a woman's safety plan?

11 **MS. FAY BLANEY:** I really have my doubts.
12 I'm trying to be grown up about it and trying to, you know,
13 be positive and think that we could build a relationship,
14 but I'm really sceptical. Just because there's so many bad
15 things that they're doing right now. My friend here can
16 tell you story that she shared at the Inquiry when it was
17 in Vancouver. The women in Val D'or and what happened to
18 them and just so many other stories of what the police are
19 doing.

20 The women within the police the force that
21 are currently charging for the sexual harassment that
22 they've endured, and the Native women that are within those
23 ranks that haven't really come out and spoken about what's
24 happened to them. Because we know the double whammy that
25 they get as Indigenous women.

1 Occasionally, they'll get someone that --
2 some Native officers in there, but they just don't seem to
3 have a critical mass. I think that's one of the issues, is
4 that it's overwhelmingly like white men that occupy the
5 police force.

6 And we had George. I'm pretty sure you guys
7 remember George from a while ago. He was fabulous. And he
8 used to come to family night and everybody in the community
9 knew him.

10 But in my Reserve, we had a Native man, he
11 was Nisga'a, and he was being belittled and insulted over
12 the police scanner. On my Reserve, everybody have a
13 scanner because they want to know when the cops are coming.
14 And on the scanner, they would say really gross things
15 about this Native cop. They would say very demeaning, very
16 racist things about him, and that's not very long ago.

17 And also, very recently, I -- I have a
18 cousin at home who was being brutalized by her husband, and
19 they're deep in addictions. I mean, they're -- I'm trying
20 to adopt my grandnephew from that family, my cousins, my
21 relatives, and they're like third generation into the
22 foster care system. So needless to say, there's addictions
23 because of all the anguish they've been through.

24 My cousin was getting beaten up and she
25 called the cops, and he said, "Oh, well we'll throw him in

1 jail overnight if you can give us a blow job", to her. So
2 that was like a few months ago.

3 And so, our relationship with the cops is
4 hugely problematic. And again, I reiterate, I wish that
5 this Inquiry had that included in their terms of reference
6 to be able to look at policing and the huge egregious
7 problems that are there that they seem to be doing with
8 impunity.

9 **MS. ANGELA MacDOUGALL:** Thank you. So
10 thinking of the limitations and the problems with
11 restorative justice, and recognizing that police services
12 are not only ineffective but actually can do harm in terms
13 of arresting ---

14 **MS. FAY BLANEY:** M'hm.

15 **MS. ANGELA MacDOUGALL:** --- Indigenous women
16 for defending themselves ---

17 **MS. FAY BLANEY:** M'hm.

18 **MS. ANGELA MacDOUGALL:** --- and thinking
19 about how communities then can, you know, build
20 accountability for men that are abusive, while ensuring
21 women's safety.

22 **MS. FAY BLANEY:** M'hm.

23 **MS. ANGELA MacDOUGALL:** Right?

24 That was the reason why I asked the question
25 earlier, Tim, regarding the community intervention order.

1 I was -- I'm always thoughtful about which ways communities
2 are taking on some of these challenges.

3 One of the things that I've heard about in
4 regions and in British Columbia in Indigenous communities
5 is about banishing.

6 **MS. FAY BLANEY:** About what? Oh, banishing.

7 **MS. ANGELA MacDOUGALL:** Banishing.

8 **MS. FAY BLANEY:** Yeah. Yeah, yeah.

9 **MS. ANGELA MacDOUGALL:** I'm wondering if
10 anybody feel -- anybody on the panel feels comfortable
11 speaking a bit about that concept.

12 **MS. FAY BLANEY:** I was just with Sharon
13 McIvor, and she says she'd like to roll the clock back
14 150 years to that time of banishment. Yeah, we're always
15 tickled at that prospect of being able to banish offenders
16 from our communities.

17 But seriously, the restorative justice
18 models that we know of haven't been working. The cases
19 where -- you know the famous film about Hollow Water, I
20 understand from recent reports that the levels of sexual
21 violence, particularly against children, have not
22 diminished, they haven't decreased any.

23 So what does that tell us about this
24 alternative justice model as a means of addressing or
25 trying to stem the tide of male violence against women and

1 children? It confirms what I thought to begin with, that
2 it silences those that are being victimized and empowers
3 victims to remain in the community.

4 I think -- the laws in the country, I think
5 that's a theme that we've heard throughout. There
6 currently are laws, human rights protections and laws in
7 place, and it's a matter of getting the state to enforce
8 the laws that exist.

9 And, you know, we talked about the Valware
10 (phon.) Policy. Like they need to examine themselves, the
11 police forces, and they need to be teachable, you know, in
12 being involved with LEAF and some of these other groups
13 that deal with judges in the horrible cases in Alberta. I
14 think there's a couple over there that has been spoken
15 about with -- that the judge that -- I think his name is
16 Robin Camp; is it? In that case there was an effort to try
17 and educate the judiciary on sexual assault, but
18 predominantly women think that judges are unteachable.
19 Those judges that perpetrate those kinds of I would say
20 crimes, they don't want to be taught. They don't want
21 feminists coming in and educating them on sexual violence.
22 They just don't want any of that, what they see as a
23 special lobby coming in and educating them, and that's a
24 huge problem.

25 And so I would venture to say the same holds

1 true for the police, but we do need political will from
2 higher up to begin to make them do their job. And they're
3 not doing their job.

4 **MS. ANGELA MacDOUGALL:** So given, you know,
5 all these limitations, I'm wondering, Professor Metallic,
6 in your work and as you I guess imagine and contemplate
7 effective strategies, I wasn't sure if I heard you speak
8 earlier, and if you did I apologise that I may have missed
9 that, to the ways in which a gender lens would be applied
10 through addressing the service issues, the legislation, the
11 regulation and policy.

12 **MS. NAIOMI METALLIC:** It's not something
13 that my paper specifically addresses, and but I think
14 getting to -- I mean, I guess I could say it's not as much
15 in my area as an expertise but, I mean, I agree with a lot
16 of what I'm hearing coming from Fay and I can, you know,
17 see some of the arguments that are being forward put.

18 We were talking earlier a little bit on the
19 break about, you know, the point that she made around the
20 fear and this -- she said it was expressed by, you know,
21 people like Sharon McIvor who said earlier, you know, that
22 she wrote a paper called "I'm Afraid of Self Government"
23 and sort of concerns about. So it was weird having a bit
24 of a conversation.

25 It's like but we need to move forward out of

1 this colonial structure because it's keeping us all down;
2 right? But at the same time, I can completely see the
3 fears, particularly of Indigenous feminists who say, well,
4 we don't want a system that is simply just going to
5 recreate the harms; right?

6 And so, I mean -- and I don't have all the
7 answers, but like there's got to be a way out of it. We
8 can't, you know, say in one not to move the other, so how
9 do they move forward together?

10 And I don't have all the answers to this, as
11 I say, but there's got to be a way that we can talk about
12 moving forward in a way that involves, you know, Indigenous
13 control but it's not an Indigenous control that's simply
14 just mimicking the patriarchy and -- and, again, I'll
15 repeat that I don't have all the answers.

16 But, you know, there's people who are doing
17 amazing work. And the last expert panel that you had had,
18 like, Hadley Friedland and Val Napoleon and they talked
19 about the use of our Indigenous laws and returning to our
20 original teachings. And to me that -- I guess that's the
21 thing that I go back to as well and I'm not an expert in
22 this either, but I do think that there's great people who
23 are doing great work.

24 And, you know, our original teachings were
25 not to have this patriarchy, as Fay was saying; right? So

1 I think that that's where the answer lies.

2 **MS. ANGELA MacDOUGALL:** Okay. Thank you.

3 I have one final question relating to the
4 Gladue ---

5 **MS. NAIOMI METALLIC:** Okay.

6 **MS. ANGELA MacDOUGALL:** --- Principle and
7 thinking about violence against women and accountability.
8 Have you seen instances where the Gladue Principle has been
9 applied in power-based offences, such as sexual assault,
10 domestic violence?

11 **MS. FAY BLANEY:** Yes, I did mention that
12 yesterday. Due to confidentiality I can't really say her
13 name, but it was a situation where the man murdered his
14 partner and they have a little girl. And that happened,
15 like, a couple years ago, maybe three years ago. And now
16 in the sentencing process they are using Gladue. And my
17 cousin is -- like, the really big thing on her mind and she
18 keeps repeating it is that he can get off on a light
19 sentence but what is he doing to address what he did and
20 he's going to get out a lot sooner and what's -- is he
21 going to go and kill another woman when he comes out?

22 And also, the other complication with that
23 is that she is adopting her niece's -- this is her niece
24 that was murdered. She's adopting that baby. I mean,
25 she's not a baby. She's probably about four, five. And

1 she needs to know if the baby girl is going to be safe to
2 visit with him and she's afraid the court's going to compel
3 her to make that little girl go and visit her father.

4 And so there isn't accountability there as
5 far as she's concerned because she doesn't see a mechanism
6 that's going to make him do something.

7 And that case that I raised yesterday isn't
8 a Gladue decision but it's along the similar lines of
9 accountability where that -- the guy on Indian Horse that
10 was charged with the brutality against those women, they
11 did force him to go and get treatment for his addictions,
12 but he has refused to do anything regarding his violent
13 behaviour towards those women. And he was happy to
14 apologise, which I roll my eyeballs at right now.

15 He apologises now when, you know, he's on
16 the firing line and the world is looking at him for his bad
17 behaviour. You know, fine time to apologise. Why didn't
18 he make amends a long time ago? Why didn't he make amends
19 by addressing his behaviour?

20 So I guess that's an issue with the penal
21 system where, you know, it's a huge problem with penal
22 system. Some of the members from my Band have been
23 incarcerated, including members of my family, for sexual
24 violence, and nothing happens while they're in prison.
25 They're not compelled to take any kind of program to deal

1 with what they have done. And so they come back into the
2 community and they're unrehabilitated but they're much more
3 seriously damaged because of what they went through in
4 prison.

5 **MS. ANGELA MacDOUGALL:** Thank you. And with
6 that our time is up.

7 **MS. CHRISTA BIG CANOE:** Thank you very much.

8 **MS. ANGELA MacDOUGALL:** Thank you.

9 **MS. CHRISTA BIG CANOE:** Next we'd like to
10 invite up West Coast LEAF. West Coast LEAF will have 15
11 minutes because they assigned the 10 minutes to another
12 party.

13 **CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR MS. RAJI**
14 **MANGAT:**

15 **MS. RAJI MANGAT:** I'm good, yeah. I guess
16 I'm just going to start.

17 My name is Raji Mangat, and as Christa said,
18 I represent West Coast LEAF. Thank you to the witnesses on
19 the panel for sharing their insights today and yesterday.
20 Much of what I had hoped to explore with you has already
21 been covered very well by my friends here today, a hazard
22 when you appear so late in the day, but I do have a few
23 questions, specifically for Professor Metallic, and maybe
24 one for Tracy Denniston if I get the time.

25 Professor Metallic, are you familiar with

1 the best interests of the child legal standard?

2 **MS. NAIOMI METALLIC:** You mean the general
3 one that's supplied in family law?

4 **MS. RAJI MANGAT:** Yeah.

5 **MS. NAIOMI METALLIC:** Yes.

6 **MS. RAJI MANGAT:** That's the -- yes,
7 exactly.

8 So I wanted to explore with you whether and
9 how the current system of program delivery on reserve that
10 you described in your paper, which I think was marked maybe
11 as Exhibit 13 yesterday, how that engages the best
12 interests of children as well as more generally the safety
13 of women and children.

14 So I'll ask if you'd agree would me -- with
15 the proposition rather that the best interests of children
16 are inextricably linked to the lived experiences of the
17 female caregivers in their lives. And by female caregivers
18 I mean the mothers, the grandmothers, the aunties, the
19 sisters.

20 **MS. NAIOMI METALLIC:** Yeah, I mean, it's a
21 broad term and I think that that's part of the problem
22 that, you know, if you -- some of the scholarship that I've
23 read around that you can sort of insert into best interests
24 of the child if you're coming from a very specific
25 Eurocentric sort of model, you might see it one particular

1 way versus somebody in a community that has a holistic lens
2 and is ---

3 **MS. RAJI MANGAT:** M'hm.

4 **MS. NAIOMI METALLIC:** --- collective.

5 So but I think, you know, the way that you
6 just described it, I think that that is a better way to see
7 the best interests of the child than perhaps one from a
8 very narrow lens of that's only focussed on perhaps
9 economic rights or something to that effect, or economic
10 wellbeing.

11 **MS. RAJI MANGAT:** Thank you.

12 So, what I'd like to kind of do with that
13 acknowledgment on your part is that would you agree with
14 me, then, that it's important to look at the services that
15 are provided to children and youth on reserve together with
16 the services that are provided to female caregivers?

17 **MS. NAIOMI METALLIC:** Yes.

18 **MS. RAJI MANGAT:** That we can't isolate
19 those things?

20 **MS. NAIOMI METALLIC:** Yes, and that was
21 actually commented on in the decision itself, that you
22 cannot separate child welfare services from all the other
23 services, and I think that you're right to sort of even add
24 that additional lens, in particular about the caregiver,
25 the caregiver's relationship to the child. I mean, in many

1 Indigenous communities, I mean, kinship models are quite
2 broad; right? So, we have many caregivers, but primary
3 caregiver, givers, perhaps, I think that that's a -- you're
4 suggesting an interesting approach.

5 **MS. RAJI MANGAT:** Yes. Absolutely. So,
6 that would not include just what we might, in a western
7 model, think about as the parent or the mother.

8 **MS. NAIOMI METALLIC:** That's right.

9 **MS. RAJI MANGAT:** But, also, the many
10 mothers, the many caregivers, kinship carers in many
11 Indigenous cultures.

12 **MS. NAIOMI METALLIC:** Yes.

13 **MS. RAJI MANGAT:** So, then, when we -- sort
14 of, taking that a little bit further, would you agree that
15 our understanding of how child welfare services are
16 administered and funded, and to whom the supports are
17 directed - particularly, I'm thinking of children on
18 reserves here - that that can't be isolated, again, from
19 the socio-economic status, the health and the safety of
20 those female caregivers that we just talked about.

21 **MS. NAIOMI METALLIC:** I agree.

22 **MS. RAJI MANGAT:** And, if Indigenous women
23 lack that safety and the supports, whether that's on
24 reserve or in urban communities, or in the remote northern
25 communities that both Mr. Argetsinger and Tracy Denniston

1 spoke about, that that would put Indigenous children at
2 risk of removal from their community.

3 **MS. NAIOMI METALLIC:** Yes.

4 **MS. RAJI MANGAT:** Do you agree with that?

5 **MS. NAIOMI METALLIC:** Yes.

6 **MS. RAJI MANGAT:** Risk of being harmed
7 themselves, having violence perpetrated on them themselves?

8 **MS. NAIOMI METALLIC:** Yes.

9 **MS. RAJI MANGAT:** And then, of course, well,
10 maybe not of course. Would you agree with me that that
11 lack of safety and supports for women would exacerbate that
12 sort of harm to women as well?

13 **MS. NAIOMI METALLIC:** Yes.

14 **MS. RAJI MANGAT:** So, I'd like to just
15 switch gears a little bit, and I had a number of questions,
16 but they were covered off by other people. So, I'm just
17 kind of flipping through here a little bit. You know,
18 maybe this is a little bit of my cynicism, but earlier, you
19 were talking about maybe how can some of the, sort of,
20 service delivery -- how can this be legislated in some way
21 so that it does have that rule of law that's missing at the
22 current moment? And, this might be, you know, sort of
23 having some experience with having -- trying to have things
24 legislated and sort of seeing bills die on the table and
25 all of that sort of stuff.

1 **MS. NAIOMI METALLIC:** Yes.

2 **MS. RAJI MANGAT:** I wonder if you have any
3 thoughts about whether Section 35(4) of the *Constitution*,
4 which is guaranteeing Aboriginal and treaty rights equally
5 to male and female persons has a role here to play? I
6 know, you know, you talked a bit yesterday about how the
7 expansiveness of understanding what that means. We are not
8 there yet, but I would be interested in hearing if you see
9 a role, because that's something that's constitutional;
10 right? That's not just going to be legislation that we
11 have to try to get passed.

12 **MS. NAIOMI METALLIC:** Yes. 35(4) has not
13 received much attention, nor has many of the other
14 interpretive provisions in the *Charter* or the broader
15 *Constitution Act, 1982*. But, sometimes LEAF has made
16 arguments on, you know, Section 25 and 28 as well. So, I
17 think that there is, you know, work -- you can bolster
18 arguments with those provisions, and it's very clear.

19 I mean, there's a section of the *Charter*
20 itself that also underlines that, you know, rights have to
21 be guaranteed equally to male and female. But, they go
22 that extra step in 35(4) to underline it again with respect
23 to Aboriginal rights. And, I think it's a matter of also
24 more expansively understanding what Aboriginal rights
25 means, and the current government has been talking about

1 how, you know, the UN Declaration on the Rights of
2 Indigenous People is going to provide us with a full box of
3 rights, and maybe other speakers or other experts here will
4 say that.

5 But, you know, in moving in that direction,
6 I think that that's true, that underlining the fact that
7 these rights are guaranteed equally to male and females is
8 important, and I think there's language in the UN
9 Declaration, too, along those lines and other experts can
10 speak to that later in the week.

11 **MS. RAJI MANGAT:** Yes, absolutely. Thank
12 you. And, now I will -- I do have time for my question to
13 Tracy Denniston. You just shared with Ms. McDougall that
14 experience of knowing about the removal of infants from
15 their mothers right at birth. And, in one instance, I
16 think that you just mentioned was because that mother had
17 had other children of hers removed.

18 **MS. TRACY DENNISTON:** Yes.

19 **MS. RAJI MANGAT:** And so, that was kind of
20 the ---

21 **MS. TRACY DENNISTON:** Yes.

22 **MS. RAJI MANGAT:** Okay. I've just learned
23 of a recent experience in British Columbia where a baby was
24 removed -- an Indigenous baby was removed from his mother
25 right after birth, and the explanation was that the mother

1 herself had been removed from her family. Have you ever
2 heard of anything like that happening in the communities
3 that you work in?

4 **MS. TRACY DENNISTON:** No.

5 **MS. RAJI MANGAT:** Okay.

6 **MS. TRACY DENNISTON:** The only times I've
7 ever heard of it was because they've already had prior
8 children and they were removed based on reasons they had
9 for that time, for those other children, and they weren't
10 -- no changes were being done, I think.

11 **MS. RAJI MANGAT:** I see. Okay. Thank you.
12 I'm done with my time.

13 **MS. FANNY WYLDE:** Thank you. The next
14 standing party is Regina/Treaty Status Indian Services.
15 So, Chief Commissioner and Commissioners, that standing
16 party has 25 minutes. So, I would invite you to introduce
17 yourself, and once you ask your first question, we can
18 start the clock. Thank you.

19 **CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR MS. ERICA**
20 **BEAUDIN :**

21 **MS. ERICA BEAUDIN:** First of all, I would
22 like to acknowledge the welcome to this territory in which
23 I'm a guest from Treaty 4. Secondly, I would like to thank
24 the knowledge keepers and elders for their prayers and
25 medicines that we're all protected by. Finally, I would

1 like to ask for every ones' prayers for two people from
2 Treaty 4 and Treaty 6, in which the Province of
3 Saskatchewan is now located. We have two active searches
4 going on as we speak, one in Saskatchewan and one in B.C.
5 One search is for a 4-year-old boy, and the second is for a
6 33-year-old woman. I know we all hope and pray they make
7 their way home to their families and communities.

8 My name is Erica Beaudin. I am the
9 executive director of the Regina/Treaty Status Indian
10 Services Incorporated, and we provide direct services and
11 advocacies for families of MMIWG2S, as well as sit at
12 various government tables to address the systemic issues of
13 MMIWG2S.

14 In an around Regina, we have the Cree,
15 Salteaux, Nekota, Dakota, Lakota and Métis that have
16 distinct languages, traditions and cultures. I'm a citizen
17 of the Cowessess First Nation, and the Maryvale (ph) Métis
18 community. My husband is Salteaux Dakota, and my children
19 are Mi'kmaw citizens of Membertou First Nation from their
20 father. So, I guess you can call us an urban Indigenous
21 Heinz 57 family.

22 Before I get into my questions, I will
23 disclose that as part of my life experiences or traumas is
24 incest, sexual abuse and intimate-partner violence. These
25 experiences have impacted the way -- this is the first time

1 I've disclosed this, so pardon me -- have impacted the way
2 I interact with families, as well as my scholarly and
3 community studies. My first questions are for Ms. Fay
4 Blaney.

5 Question one: Thank you for your discussion
6 on our collective journey as Indigenous women for equity
7 and equality. I also thank you for your fierce advocacy,
8 for the safety and security of our women. My first
9 question is, you state that all First Nations were
10 matriarchal. We have over 500 Indigenous tribes in Canada.
11 Do you stand by this statement?

12 **MS. FAY BLANEY:** No, I do not. I said most
13 of us are, and I can't speak for everybody. I know that
14 there are some nations that were not, and even in my Coast
15 Salish community that I'm from, we were matriarchal, but
16 sometimes we didn't follow that. So, I can't speak for
17 everybody. I don't know that they all were.

18 **MS. ERICA BEAUDIN:** Okay, thank you. For
19 those tribes who state they have always been patriarchal,
20 what is a way forward for gender equality in this
21 situation?

22 **MS. FAY BLANEY:** Well, those women have been
23 fighting in the courts. I think one example is the three
24 bands in Alberta. Those Indigenous women have banned
25 together and consistently fought for access to their

1 homelands. Like in '85, the women that were being
2 reinstated were being reinstated for both Indian status and
3 the Band membership, and those women were denied that
4 access to their homelands. So they continued to ban
5 together and fight.

6 **MS. ERICA BEAUDIN:** Okay. So do you feel
7 that it is possible, and if so, is it possible for equity
8 and equality in matriarchal societies as well?

9 **MS. FAY BLANEY:** I think it would take us a
10 long way to that. I don't know that we were completely
11 absent of male violence pre-contact. It may have happened.
12 But I think the protections under the clan systems that
13 existed there would give us much greater protection.

14 As my aunties described it to me, they --
15 all the women lived together with sisters and grandmothers
16 and aunties, and it was the men that left the community to
17 go and live with their wife.

18 **MS. ERICA BEAUDIN:** M'hm.

19 **MS. FAY BLANEY:** And I think if I had all of
20 those women living with me, that there would be far less
21 opportunity for men to harm me in any way, shape or form,
22 and if they did, there would be severe consequences coming
23 from all those women that are surrounding me. So I do have
24 a lot of hope for the strengthening of our communities
25 through that process.

1 **MS. ERICA BEAUDIN:** Thank you. Yesterday,
2 you spoke to your belief that alliances between Indigenous
3 and non-Indigenous women is assisting to create equality
4 and equity. The women's movements since the time of
5 suffragettes have shown that when there is a decision to be
6 made between non-Indigenous women and Indigenous women or
7 men, non-Indigenous women historically have chosen race
8 over gender.

9 **MS. FAY BLANEY:** M'hm.

10 **MS. ERICA BEAUDIN:** Do you believe this to
11 be true?

12 **MS. FAY BLANEY:** Oh, yeah. I mean, they --
13 the suffrage movement -- I'm a history student so I know
14 those things. The suffrage movement in Canada that fought
15 for the vote and got it in 1917, they didn't care about the
16 fact that we didn't get the vote until the early sixties.
17 And there are other issues like that in our history.

18 But I also think that women have been allies
19 of our different movements. As it is today, they support
20 reconciliation, they're supporting some of our land claims
21 and treaty negotiations, well, Aboriginal rights oriented
22 kinds of issues.

23 I remember participating in that occupation
24 that I spoke about yesterday of Indian Affairs when I was
25 very young. And I was behind those walls for eight days

1 and living there all the time.

2 And we were on the inside and there were
3 women -- the feminist movement, the women's movement were
4 outside those doors by the elevator. They were looking --
5 they were protecting and guarding us. And there were
6 points in there that we were really discouraged because the
7 cops were wanting to use their battering rams to come and
8 arrest us.

9 And one night, we were feeling really down,
10 and we looked out the window and there were -- 14 floors
11 down, there were these women below with their candles and
12 they were holding a vigil on our behalf. And years later,
13 I found out that one of those women was Lee Lakeman.

14 Lee Lakeman means a lot to me today. She's
15 one of the godmothers, I guess, of Vancouver Rape Relief
16 and Women's Shelter.

17 I did start working with the women's
18 movement when I got involved in the National Action
19 Committee on the Status of Women in the mid-nineties. And
20 at that point, they were going through an amazing
21 transition process.

22 They were doing a lot of affirmative action.
23 They had their first woman of colour president in Sunera
24 Thobani, and then the following presidency was with Joan
25 Grant-Cummings, a black woman.

1 And so they were working at Affirmative
2 Action. Shortly after that they developed a position for
3 me so that -- they insisted that they would have an
4 Aboriginal vice-president and chair so that we were
5 represented in women's concerns.

6 And I think the transition houses across the
7 country are coming along. There was a day and an age where
8 I was really annoyed with them because they were run by
9 everybody else and the services being delivered were mostly
10 for Indigenous women. But I think some of that is
11 beginning to change and they are recognizing the importance
12 of having us on board. And -- so we've been working as
13 allies for -- well, I have been since those mid-nineties.

14 So yeah, I do take into account the racism
15 historically, and recognize that the progress that has been
16 made.

17 **MS. ERICA BEAUDIN:** Thank you. You have
18 stated that Indigenous men are the still the leaders and
19 decisionmakers and women carry those directives out. What
20 is the role of Indigenous men in creating an equal and
21 equitable Indigenous society?

22 **MS. FAY BLANEY:** Well, I really like what
23 Angela read of Tim's. You know, I -- that's what I think
24 that -- in terms of male violence against women, I think it
25 is the men's responsibility to hold other men accountable

1 for male violence in very real ways.

2 Like on my Reserve, an Elder, he was
3 sexually assaulting the very young ones, like under age, it
4 was, you know, child sexual exploitation, and he'd been
5 getting away with it for quite a while. But when it came
6 up into the public, the Chief stood behind that Elder and
7 the charges never moved forward.

8 And I think that that dynamic has been going
9 on -- I mean, it's -- again, I haven't studied it. I don't
10 have actual research data to show you. I'm just sharing my
11 experience in organizing with Indigenous women and my own
12 experience of that issue.

13 **MS. ERICA BEAUDIN:** Thank you for that. You
14 stated that you don't believe in restorative justice, how
15 it works and that you don't support it when it comes to
16 Indigenous women being abused by Indigenous men. Do you
17 then support a completely Western concept of justice, with
18 men being dealt with by the Canadian judicial system that
19 is racist in its entirety?

20 **MS. FAY BLANEY:** I think the courts don't
21 deal with it very effectively either.

22 **MS. ERICA BEAUDIN:** M'hm.

23 **MS. FAY BLANEY:** I still don't support
24 restorative justice, though, being applied to our
25 communities because I think it's a much worse colonial

1 model.

2 The restorative justice that they introduced
3 to us was not even Indigenous to this land, it was
4 indigenous to another continent, even, when they first
5 brought it in.

6 And who talked about banishment? Was that
7 Angela? Our version of justice was banishment, and it was
8 pretty fatal. You know, if someone was banished, that
9 would be the end.

10 And I think -- my memory fails me, but I
11 think someone else, maybe from your territory, talked about
12 removing a portion of their nose to indicate what they had
13 done so that they wouldn't be able to gain access to
14 another community as well so that it definitely meant the
15 end of their lives.

16 I can't see -- that Elder that I spoke about
17 on my Reserve that raped that 13 year old girl, I cannot
18 see him sitting in a healing circle sentencing another
19 offender. We know which side that he'll be on.

20 And also, when you think about the levels of
21 socialization, and Sharon McIvor would say brainwashing,
22 that we've undergone to believe in a patriarchal model,
23 it's very difficult to have women in our communities side
24 with victims or women that have been sexually assaulted as
25 well.

1 But when we were doing that research, what
2 we found out was -- I don't know the exact ratio, but you
3 know, there's -- and probably the Chief Commissioner would
4 know the answer to those -- to these issues. So if you're
5 putting an offender through the justice system where they
6 go through the court system and then get incarcerated,
7 there's a dollar value attached to that.

8 But what they gave to the community was a
9 tiny little drop in the bucket. So the communities were so
10 under resourced that they weren't able to do anything
11 effective with those folks that were being charged and
12 anyway, even if they threw a whole bunch of money at us, I
13 still would not support the idea of offenders in a
14 community having any say over what happens to those that
15 are being victimized by male violence.

16 Whether it's sexual assault or wife
17 battering or child abuse, I wouldn't want to see those
18 systems -- those situations being brought into restorative
19 justice and for now I guess I would rather go with the
20 Canadian state even though it has -- that it's steeped in
21 racism.

22 **MS. ERICA BEAUDIN:** So in the case of
23 intimate partner violence or domestic violence, what would
24 be an idea or your, I guess, solution if you will -- and
25 you can just say Erica, no -- for family reunification if

1 it's desired by the woman?

2 **MS. FAY BLANEY:** I mean if she wanted to do
3 that, I mean whom am I to stand in the way of that? I
4 would really like an opportunity to sit and talk with her
5 and for other feminists to sit and talk with her to
6 understand her place in the world.

7 You know, for myself when I went through so
8 much sexual violence as a child, like starting at three
9 years old and onward, when I got to like 14, I didn't
10 understand boundaries. I didn't know this was my body and
11 they're not allowed to touch it and it was a process of
12 growing, of sobering up, of, you know, going through the
13 healing process to reach a point of recognizing that this
14 body is mine and I don't have to allow everyone to violate
15 my boundaries.

16 And so I think for women that are in -- if
17 they're a battered wife that they maybe can see some hope
18 in going back at some point but I think that they really
19 need to reclaim their power before any of that happens and
20 have some assurances in place.

21 It's a really tough one. I have cousins
22 that are -- they just refuse. They've taken all their kids
23 away from them and they still refuse to be apart. And so
24 it's a choice of do I want my children or my spouse, and
25 that woman has chosen her spouse every time and all six of

1 her children ended up in care.

2 **MS. ERICA BEAUDIN:** You spoke about the
3 *Gladue* decision in that Indigenous men's reality and
4 background should not be considered when they are charged
5 with intimate partner or other types of violence against
6 Indigenous women.

7 What do you believe would be fair in this
8 case?

9 **MS. FAY BLANEY:** Well, I did mention earlier
10 that they should be compelled to go through programming. I
11 know that some people like my friend Doreen Sterling did a
12 whole lot of work on people that are charged with sexual
13 assault and indigenized the corrections programs and a lot
14 of people find a great deal of benefit from that program.

15 But there are some offenders that just
16 refuse to go through any kind of program like my cousin
17 that I just mentioned who her niece was just killed and
18 they are not making him undergo any kind of healing
19 program. Yet, he's benefitted from *Gladue* and she says
20 well, he has this residential school experience. What
21 about my niece? She's never coming back. This child is
22 going to grow up without a mother.

23 **MS. ERICA BEAUDIN:** Would you support *Gladue*
24 for women who are charged of filing offences against men or
25 children?

1 **MS. FAY BLANEY:** Well there's a whole body
2 of literature around -- I don't know if that's what you're
3 talking about but a lot of women retaliate after years of
4 abuse and sometimes it results in the death of that man and
5 I don't think the criminal justice system adequately
6 factors in the levels of violence that they've endured to
7 the extent that *Gladue* does for your -- you know, what
8 you've been through through colonization. They don't apply
9 that same thing to women and what they have been through in
10 battering or violent relationships. And women often do get
11 killed after they leave too. That's the other factor.

12 **MS. ERICA BEAUDIN:** Yes, that is definitely
13 a factor. So back to the clarification of a previous
14 question, would you consider restorative justice measures
15 if restorative justice programs were properly funded and
16 had a feminist lens, or do you believe this would still not
17 be a solution?

18 **MS. FAY BLANEY:** I think that there's merit
19 to the *Gladue* decision especially since I understand that
20 there is a really steep increase in the numbers of
21 Indigenous and Black women that are being incarcerated
22 today. I don't know what explains that steep rise in those
23 numbers. It's just very scary that our young women are
24 being -- are growing in numbers to being incarcerated. So
25 something has to be done about that.

1 **MS. ERICA BEAUDIN:** Since the push by
2 families of MMIWG two-spirited to have government address
3 this issue, government or systems that govern and support
4 such as the RCMP have come out with reports and stated they
5 believe that Indigenous men are mostly responsible for
6 Indigenous women being murdered or going missing.

7 Do you believe this to be true? Does this
8 message create a blame and therefore it is not worthy of
9 being addressed by the Canadian nation as a whole?

10 And then finally because I know that I'm
11 asking multiple questions here, does this belief excuse
12 non-Indigenous men from taking responsibility?

13 **MS. FAY BLANEY:** I know that in their
14 racism, they do try to blame Indigenous men. On the other
15 side of that racism equation, they're telling Indigenous
16 women not to talk about indigenous men.

17 I have a friend who is working on her PhD in
18 this area of male violence against women and she's getting
19 a lot of pushback. There are people saying you cannot talk
20 about Indigenous men and male violence and so there's that
21 pushback that's going on.

22 I don't think Indigenous men are
23 perpetrating wife battering or male violence against women
24 more than the general population. I just think that the
25 issue is Indigenous women and the fact that we are targeted

1 much more from all men because of the hierarchies that we
2 are at the bottom of, whether it's poverty or if it's our
3 Indigenous status or because we're women.

4 **MS. ERICA BEAUDIN:** Okay, thank you.

5 I'm cognizant of the time and so I'm going
6 to try quickly to go through these and pick out what
7 questions are the most pertinent.

8 But my next question is, as well as being a
9 survivor of intergenerational effects of residential school
10 myself, I have also been working with MMIWG two families
11 since 2004. Since then, I have found there's a direct
12 correlation between both issues.

13 Do you believe that MMIWG is a result of the
14 genocidal nature of residential schools or do you feel it
15 is a coincidence?

16 **MS. FAY BLANEY:** No, it's definitely not a
17 coincidence and I do work in the area of residential school
18 and I'm a survivor of residential school. My auntie tells
19 me that in her time, they always told her that, oh those
20 men, they only want one thing, and then -- or those boys,
21 and then they would tell the boys the same thing and it
22 really created disfunction, like sexual disfunction amongst
23 our people.

24 And not to mention the fact that so many of
25 us were sexually abused and molested in residential school

1 and I think the way that it's exacerbated today is the fact
2 that in the IAP, they really lowballed us in terms of the
3 settlement and we did not get the same benefits that the
4 women's movement had fought for for such a long time around
5 various forms of sexual assault. We were really lowballed.

6 So it conveys to us very clearly that we're
7 nothing. You know, that's what it told us and it conveys
8 that to our whole community. So we're definitely treated
9 like what they expect that we're nothing.

10 **MS. ERICA BEAUDIN:** Many of our families are
11 single parent households headed by women. What role do you
12 believe we, as Indigenous women, play in continuing the
13 patriarchy through our sons? What would be initial
14 suggestions or recommendations we require to break these
15 cycles to create allies in our sons?

16 **MS. FAY BLANEY:** Yeah. I would definitely
17 not want to beat up on those moms. I wouldn't say it's
18 their fault that they raise patriarchal sons. You know, in
19 the diagram that I laid out yesterday of the triangle, I
20 think you could have the most perfect mom and all the
21 struggles that she's up against as a single mom, and you
22 would still have patriarchal sons because of the beliefs in
23 Canadian society.

24 Like my boy, he tried so darn hard to have a
25 gun when he was growing up, but I said no bloody way. When

1 he wanted a doll, I got him his Stacy right away. And even
2 with that, you know, we still have patriarchy.

3 I reflect back on Celia Haig-Brown, who was
4 my first senior supervisor for my Masters. She said that
5 every settler should start off by saying my name is
6 so-and-so and I'm a racist because this is a racist
7 society.

8 I would apply that same notion to the men.
9 I mean, we are steeped in patriarchy, and we live in a
10 patriarchal society.

11 **MS. ERICA BEAUDIN:** Thank you.

12 **MS. FAY BLANEY:** All the laws, everything.

13 **MS. ERICA BEAUDIN:** My son had plenty of
14 dolls and Barbies as well, no guns.

15 You mentioned the Pickton case yesterday and
16 mentioned -- I'm very cognizant of the time, and I don't
17 think I'll get to Professor Metallic. But you mentioned
18 the Pickton case yesterday and mentioned victim services.

19 Oftentimes, victim services are assigned to
20 be the primary workers on behalf of the police services
21 with families of MMIWG2S. Do you believe that victim
22 services should sit with police services, or do you believe
23 that families would be better served by community-based
24 organizations to advocate with and for them with police?

25 **MS. FAY BLANEY:** I think they're better off

1 outside, like within the different organizations. I really
2 have issues with the way that they conduct themselves. And
3 I don't want to use up all your time. I'll just answer
4 that way.

5 **MS. ERICA BEAUDIN:** Thank you very much.

6 I have -- I guess I'll have -- thank you
7 very, very much for your patience and answering my
8 questions. And I volunteer to be a soldier in the
9 revolution.

10 (LAUGHTER/RIRES)

11 **MS. ERICA BEAUDIN:** Now, for questions for
12 Professor Metallic. And I did originally have five, but
13 I'll just do one.

14 Yesterday, when you discussed rules of law
15 and government's responsibility to act in a way that's
16 transparent, the National Inquiry and its Commissioners
17 have come under intense fire and criticism from many MMIWG
18 families and organizations. If a person took a closer
19 look, do you believe that much of the criticism surrounding
20 the administration of the National Inquiry would show that
21 government, in particular, Privy Council, did not apply a
22 rule of law in their role in the National Inquiry?

23 In other words, did the government and its
24 systems set up processes and timelines they ---?

25 **MS. CHRISTA BIG CANOE:** So I'm sorry. I'm

1 going to have to stop you because Professor Metallic may,
2 and she can weigh in if she feels she can answer this, but
3 she may not have enough information or have looked at the
4 information required.

5 You're all of a sudden talking not just
6 about a terms of reference but a whole host of things, like
7 administrative documents that she would never see. So I
8 don't know if you want to rephrase that.

9 **MS. ERICA BEAUDIN:** Well, I could rephrase,
10 or else I'll just withdraw it. So I'll leave that for
11 maybe somebody else to ask.

12 **MS. NAIOMI METALLIC:** I think it's a stinger
13 point, but yeah, I don't think I'm the best person to
14 answer it.

15 **MS. ERICA BEAUDIN:** All right. In other
16 words, the government and its systems set up processes and
17 timelines they did not take responsibility for because they
18 didn't write down their own rules, and therefore, they
19 became -- they -- therefore, they become flexible for them,
20 and we, as Indigenous people, would have difficulty holding
21 them accountable, and therefore, the blame of any perceived
22 failings of this National Inquiry would be easily put on
23 the Commissioners and staff.

24 **MS. NAIOMI METALLIC:** I think that's more of
25 a rhetorical question; right?

1 (LAUGHTER/RIRES)

2 **MS. NAIOMI METALLIC:** I mean, I think --
3 it's a point that has been certainly been made, and I think
4 you've raised about those things, and I am sympathetic to
5 those arguments. I don't have ---

6 **MS. CHRISTA BIG CANOE:** Enough information.

7 **MS. NAIOMI METALLIC:** It's a bit of a hard
8 one to answer.

9 **MS. CHRISTA BIG CANOE:** I would just suggest
10 she doesn't have enough information before her to answer
11 more than what she has.

12 **MS. ERICA BEAUDIN:** That's fine. That's my
13 final question. Thank you very much.

14 **MS. CHRISTA BIG CANOE:** Yeah. Perfect.

15 So that actually concludes the cross-
16 examination. So Chief Commissioner and Commissioners, I am
17 requesting a short break, but what remains for this
18 particular panel is your opportunity to ask questions in
19 re-examination. I can anticipate that Commission counsel
20 will probably require 10 to 15 minutes for re-examination.

21 So if we could take 10 minutes, and it's
22 4:55. If we could be back at 5:05, that would be great.

23 --- Upon recessing at 4:55 p.m./

24 l'audience est suspendue à 16h55

25 --- Upon resuming at 5:12 p.m./

1 l'audience est reprise à 17h12

2 **MS. CHRISTA BIG CANOE:** Chief Commissioner
3 and Commissioners, just for the record purposes. Cross-
4 examination is now closed, and I understand that you, at a
5 number of times when witnesses were speaking, deferred your
6 questions until after cross. So I invite you to ask your
7 questions.

8 Commissioner Eyolfson?

9 **COMMISSIONER EYOLFSON:** Thank you.

10 **QUESTIONS BY/QUESTIONS PAR LE COMMISSIONER EYOLFSON:**

11 **COMMISSIONER EYOLFSON:** I just have a couple
12 of follow up questions.

13 Ms. Blaney, if I could just ask you. A
14 couple of times you spoke about consciousness-raising and
15 the benefits of getting together and having consciousness-
16 raising, I know it's a bit like a healing circle. You
17 mentioned a few of the benefits of -- coming out of that,
18 women being able to take control over their own minds.

19 So I wonder if you can comment any further
20 on any of the benefits of that, and also, is there anything
21 that can be done to better support that sort of
22 consciousness-raising, like in terms of recommendations
23 going forward?

24 **MS. FAY BLANEY:** Yes. One of the topics
25 that we were talking about during the break is -- and I'm

1 not naming anybody -- but you know I am very open about the
2 sexual violence that I went through in my childhood, like
3 starting at the age of 3, and it just went on and on until
4 I started running at the age of 13.

5 And I was like so deeply ashamed of that
6 fact. And so one way that I dealt with it was through
7 alcohol and drugs, and I did that not too long. Like I
8 sobered up pretty quick from my political work.

9 But we don't often think that the next
10 person has gone through the very same thing, or the next
11 woman has gone through the very same thing. And often, her
12 courage gives me courage when she says well I went through
13 this. And I'm able to quietly, you know, in my little
14 corner say, oh my goodness, she went through that too.

15 And so it very much fits within the triangle
16 that I mentioned yesterday, where we have our personal
17 experiences and the personal can become political in the
18 process of consciousness-raising. Because in our talking
19 with one another, we're able to identify the perpetrators,
20 like which systems or institutions are causing harm, such
21 as the topic that was flying earlier before the break
22 around child apprehension of babies right at the hospital.
23 And I've advocated for a whole bunch of those very
24 recently, so we're very much still targeted by that.

25 But when we're sitting in, you know, what

1 started out as a drop-in for Indigenous women, we got to
2 that place of raising our consciousness collectively to
3 recognize that we were all experiencing gendered violence
4 and racism and poor bashing together. And then we really
5 began to -- like women right away are saying, we should go
6 tell them off, or you know, whatever these actions are that
7 they're talking about, they want to do something.

8 And from those tiny budding roots of rage
9 and anger, we can actually begin the conversation of what
10 kind of action should we be taking, and we begin to plan
11 and strategize. And from that, we developed the Aboriginal
12 Women's Action Network.

13 It was those women in that circle in the
14 early nineties where we were being battered around pretty
15 badly, and we came together, and the simple aboriginal
16 tradition of bringing in refreshments and pastries and
17 fruit and whatever. And pretty soon they're sharing
18 clothes with each other and sharing babysitting service
19 with each other, and you build a community.

20 And you asked -- the second part of your
21 question was asking how do we ensure that that happens or
22 what measures can we take to see that that does happen.
23 And I think our -- the way that we got there was through
24 the Vancouver Status of Women. They offered us a space to
25 do our drop-ins. We had drop-ins every Tuesday and

1 Thursday and we got the word out.

2 And -- so it was through women's centres and
3 I really maintain that women need the right to be organised
4 and the Women's Centres are so critical. And do I need to
5 say again, substantive equality. Federal government
6 reinstate funding to women's groups across this country so
7 that we're able to work together and organise together and
8 address these issues that are plaguing us right now.

9 **COMMISSIONER EYOLFSON:** Thank you very much.

10 I just had a follow-up question for
11 Professor Metallic as well. Talking about the Caring
12 Society case, you were asked about the compliance issue,
13 having to go back about four times regarding compliance.
14 I'm just wondering if you can explain a little bit further
15 or add any further comments on what the compliance issue is
16 or was and where the matter is right now in terms of
17 compliance.

18 **MS. NAIOMI METALLIC:** I'm going to have to
19 consult my notes on that one. Just a sec.

20 Yeah, so the way that the remedies were
21 structured, there was the sort of immediate ones and sort
22 of long-term ones. And so I think the dispute to date
23 that's gone back and forth, and this is just from my
24 readings and I hadn't prepared to -- I didn't reread all
25 the compliance orders, but it's about whether, you know,

1 the government was complying with the immediate order to,
2 you know, to ensure that funding was equal, substantively
3 equal in the immediate term.

4 And the most recent orders -- yeah, the 2018
5 one actually told Canada to cease its discriminatory
6 funding practices and not -- of not fully funding the cost
7 of prevention. So my understanding is that there was this
8 sort of back and forth after the decision came down, then
9 the budget came down and I believe the government felt that
10 the budget was responding to the decision. That was one of
11 the first compliance orders. And anyway, it was
12 established that -- or it was argued that -- yeah, that
13 still was not complying with that order.

14 So to this point it's just been about
15 compliance with that initial order and the larger issues of
16 broader reform, we've not even gotten to that point yet.

17 And some of the concerns that had been
18 raised by the parties, but I think they're in -- they have
19 been resolving this and I know that the new Minister
20 Philpott, they have been -- the parties have been working
21 together. But one was that, you know, that sometimes
22 consultation was being used as an excuse for inaction for
23 implementing immediate relief, but I think the parties are
24 closer now. And I'm sorry I can't speak to that better.

25 **COMMISSIONER EYOLFSON:** Thank you very much.

1 **MS. NAIOMI METALLIC:** Okay.

2 **COMMISSIONER EYOLFSON:** Those are all my
3 questions.

4 **QUESTIONS BY/QUESTIONS PAR LE COMMISSIONER ROBINSON :**

5 **COMMISSIONER QAJAQ ROBINSON:** Thank you.
6 Thank you to all of you. And thank you for all the
7 questions. Questions raise questions and that happened
8 here too, so I have a number of questions. I was hoping I
9 could start with you, Tim.

10 There was some discussion I think by
11 Professor Metallic about dynamics in governance and I guess
12 jurisdiction being a little bit different for Inuit in a
13 modern land claims context. And you shared with us that in
14 Inuit Nunangat the four regions have -- I guess four or
15 five different -- I guess the offshore in Nunavik is the
16 fifth one in my mind -- different land claim agreements.
17 Of the current land claim agreements and self-governance
18 agreements in place in Inuit Nunangat, how many of those
19 convey or allow for Inuit jurisdiction or self-
20 determination on the factors outlined in ITK's report on
21 the social determinants of Inuit health?

22 So, for example, in the four regions of the
23 four Inuit organisations or governments, how many have
24 actual jurisdiction over housing, for example?

25 **MR. TIM ARGETSINGER:** My understanding is

1 that of the four Inuit land claim regions that only
2 Nunatsiavut is a Inuit self government and would have
3 jurisdiction over certain social areas.

4 **COMMISSIONER QAJAQ ROBINSON:** And in the
5 other regions do Inuit organisations or governments have an
6 ability to influence or be part of the decision making when
7 it comes to essential services?

8 **MR. TIM ARGETSINGER:** It varies. So the
9 agreement I suppose I'm most familiar with is the Nunavut
10 agreement. In Article 32 it is intended to create an
11 obligation for the government of Nunavut, as well as the
12 federal government, to basically seek the -- I won't put it
13 that way -- to basically engage with Nunavut Tunngavik,
14 which is the Inuit representational organisation in
15 Nunavut, on social policy and legislation.

16 So how that would work, let's say education
17 legislation is that there would be the expectation from the
18 Inuit that Inuit would have a partnership role, or at least
19 an advisor role, in the development of legislation. But
20 that article is the subject, as you can probably imagine,
21 of oftentimes of acrimony, of different interpretations, of
22 potentially litigation, so it's there but it is not perfect
23 by any means.

24 **COMMISSIONER QAJAQ ROBINSON:** And Professor
25 Metallic in the child welfare context talked about the

1 decision-making involvement of Indigenous peoples being
2 largely dependent on state political will. Is that
3 something that when it comes to essential services and the
4 key areas, sort of jurisdictional areas where these -- that
5 these essential -- or these social determinants are related
6 to, is this sort of dependence on political will a reality
7 for Inuit as well when it comes to these factors in these
8 areas?

9 **MR. TIM ARGETSINGER:** I think what you may
10 be getting at is whether or not Inuit have any jurisdiction
11 over the areas that -- and influence the social
12 determinants of health. In some cases they do, in most
13 cases I would say no. So, again, the Nunatsiavut
14 government I don't know its departments, all this
15 departments well. But, for example, the Nunatsiavut
16 government doesn't have jurisdiction over its education
17 system. In Nunavut it is the government of Nunavut is a
18 public government. There's not an Inuit government, at
19 least in the area of education policy. The government of
20 Northwest Territories has jurisdiction over education in
21 the Inuvialuit settlement region. In Nunavik it's the
22 Kativik regional government, which again is a public
23 government so.

24 **COMMISSIONER QAJAQ ROBINSON:** Thank you. It
25 is what I'm getting at, this issue of jurisdiction, this

1 issue of decision making.

2 And, Professor Metallic, in your
3 presentation under sort of the practical principles moving
4 forward you identified in the area of making space, this
5 term or concept of vacating jurisdiction. Would you
6 elaborate on that a little bit more?

7 **MS. NAIOMI METALLIC:** So, you know, there's
8 different models or approaches that one can take to
9 Indigenous groups, you know, gaining control. And I talked
10 a little bit about it yesterday in terms of, you know, some
11 have taken the just do it model where they just say, well,
12 the heck with what -- whether we've go -- you know, got the
13 other governments on side, we're just going to -- we're
14 just going to do it. And some have done that in the area -
15 - different areas, sometimes child welfare or other areas,
16 and sometimes they run up against, you know, the challenge.
17 They may end up litigating or something like this. But you
18 know, what's sort of the concept of vacating jurisdiction I
19 guess, can be seen as a couple of ways. There are some
20 cases where governments -- other governments have either
21 given their permission or agreed to, or -- not that they
22 have to give their permission, I'm just saying that they
23 haven't been involved in the group that has asserted that
24 they have to do it, and sometimes they've just sort of
25 accepted that.

1 There's a few examples where I think that
2 given the Spallumcheen bylaw on child welfare, I think you
3 might be able to make an -- I mean, the government
4 recognized it under a Section 81 bylaw, but at the same
5 time, so Spallumcheen was allowed to pass a child welfare
6 bylaw and exercise quite a bit of jurisdiction. And they
7 passed it both under inherent right, which they should be
8 able to, but they also tied it to an *Indian Act* bylaw. And
9 anyway, the other levels of government, it seems to sort of
10 gave them that space, right? So there's that sort of, you
11 know, I guess forbearance, or just not -- not challenging
12 that.

13 Then you can have sort of more active ways
14 of recognition, there can be recognition in legislation.
15 And ARCAP talked about vacating jurisdiction which in fact,
16 perhaps the -- a government could have something that may
17 not necessarily recognize jurisdiction and legislation, but
18 they may say, we're not going to be exercising our
19 jurisdiction.

20 There's a few pieces of legislation and
21 certain provinces, for example, that in New Brunswick, I'll
22 just take that one because it's top of mind. In -- with
23 respect to Social Assistance, they have a provision in
24 their statute that says that their laws do not apply on
25 reserve, right? Which potentially you can see it both

1 ways, one being problematic. But you know -- but they're
2 not asserting any jurisdiction in that area. And you might
3 go look at ARCAP and have your researchers look at what
4 they meant in terms of vacating jurisdiction, but they're
5 actually saying -- pulling back and actually not
6 legislating and making it very clear that they're not
7 asserting jurisdiction in an area.

8 **COMMISSIONER QAJAQ ROBINSON:** You said
9 earlier in response to another question other than
10 Constitutional reform, this could be done. For example,
11 the creation of legislative reform frameworks. So I guess
12 when you look at jurisdiction that's where it's defined to
13 a large degree in the Constitution. I invite you to go
14 there. I guess what I hear a lot is that this space, the
15 vacation of space is subject to another government who's
16 assumed that jurisdiction or holds it in one way or
17 another, legally or not is another question. Gives it up,
18 or doesn't occupy that space and lets Indigenous Peoples
19 occupy it piecemeal. Is that sustainable, or do we have to
20 go further and reopen the Constitution?

21 **MS. NAIOMI METALLIC:** It's a great question.
22 Other smarter people than me have tackled it.

23 **COMMISSIONER QAJAQ ROBINSON:** I asked well.

24 **MS. NAIOMI METALLIC:** So ARCAP considered
25 this as well, and Mary Ellen Turpel and Peter Hogg wrote

1 papers on this and you know, there's been developments in
2 the law since. So let's first start there. But you know,
3 this was post the Charlottetown Accord, which would have
4 included a provision that would have amended Section 35 to
5 specifically recognize the inherent right to self-
6 government. And yeah, so the conclusion and ARCAP adopted
7 this, that it's a right recognized under Section 35 and
8 that it is -- that is supported by customary international
9 law and now you would say, UNDRIP as well. There's some
10 Court decisions I'll touch on in a sec too.

11 There was -- well, let me talk about them
12 now. For those of you from British Columbia, but the
13 Campbell decision where the Judge in that case, based on
14 the fact that Canada has had a self-government policy and
15 has signed several self-government agreements which were
16 challenged in Court twice, and in both decisions upheld by
17 the Court. So you know, and some of the argument was that,
18 well, how can you have -- sign these agreements when we
19 don't have a specific provision in the *Constitution Act*
20 actually, you know, recognizing that. And in the Campbell
21 decision they said there is the jurisdiction outside of 91
22 and 92 of the *Constitution* and so that doesn't take up all
23 this space.

24 The other decision which was more recent,
25 Chief Mountain sort of more saw it as delegated forms of

1 governance. Which I understand is problematic and I don't
2 think -- I think that they were just sort of, you know,
3 trying to avoid that. But I think the approach -- the
4 interesting approach is in the B.C. Campbell case, and I
5 think also that, you know, our Constitution has to be read
6 consistent with international law as well. So I think the
7 arguments are there that you don't -- you don't need that
8 recognition in Constitutional law, you don't have to reopen
9 the Constitution in order to do that. And you know, the
10 United States is an example that one can look at. They've
11 had jurisprudence since the mid-1800s that have recognized
12 the inherent right to self-government without a specific
13 provision in their Constitution recognizing that.

14 But in the '60s, and '70s, and '80s, and
15 John Burrows writes on this and a few other authors,
16 they've has much more legislation that is not about giving
17 permission to the Indigenous groups. It's a fine
18 distinction, I'll grant it, but it's about implementing
19 that inherent jurisdiction and setting in place the ways to
20 do that. So there is a John Burrows article, and I can
21 pull up my computer after to sort of, perhaps the
22 Commission should have that as well. And he does make that
23 comparison and talks about how the U.S. has a much more
24 robust history of passing legislation which is not about
25 giving the rights, it's about implementing and recognizing

1 them and that there is perhaps something to be learned from
2 that approach. That's okay? I'll find that reference.

3 **COMMISSIONER QAJAQ ROBINSON:** That would be
4 great, thank you.

5 In terms of -- with recognition and with
6 frameworks in place that afford that, we've heard a number
7 of times, questions about actionability and recourse, and
8 that being an issue. You raised it as well in the context
9 of the child welfare case that -- the absence of that
10 framework is difficult because it fails to have obligations
11 and standards and whatnot identified. Mr. Argetsinger
12 raised that idea of an Indigenous Human Rights Tribunal.
13 In world where, sort of those frameworks were clear, what
14 do you think of this, this idea?

15 **MS. NAIOMI METALLIC:** I thought it was a
16 great idea. I wrote it down, but I forgot it since then,
17 but I actually do think that there needs to be more robust
18 remedies. So around the child welfare decision and the
19 four compliance orders, I mean, I did say I think that they
20 are trying to work on it and resolve it. But you know,
21 there's been rumblings that there's -- it's really
22 difficult to -- what do you do when a government doesn't do
23 what a tribunal has ordered in Canada for it to do, you
24 know? And so there's some questions around, like, can you
25 actually hold the government of Canada in contempt for not

1 following through? And so there's been some, you know,
2 issues around that.

3 And there's been some other decisions, the
4 one I was -- the case I was involved with there was sort of
5 a point where we thought, I don't think they're actually
6 following what the Court ordered them to do in an
7 injunction, and we tried to look at whether we could
8 actually force the government to comply with the order. So
9 there does -- there's some real, I think important work
10 that you're hitting on and that Tim hit on, that there
11 needs to be something more robust to give Indigenous people
12 more remedies. Because right now the Courts are a poor
13 substitute for that, even the Canadian Human Rights
14 Tribunal was not made in such a way, or that -- to really
15 address or thinking about the particular challenges that
16 Indigenous people face.

17 So Cindy talks about, in one of her papers
18 that she wrote, like how Supreme Court of Canada decision
19 not too long ago decided that the Commission cannot order
20 cost, right? And she wouldn't have got as far in that case
21 after whatever, nine years, had she not had a bunch of
22 great lawyers who did it pro bono, right? And she can't
23 even get costs in that decision, right? And it's so hard
24 to bring these cases forward. So I think that a model that
25 will allow that sort of remedies and also take into account

1 the real power imbalance and try to figure out a way to
2 resolve that, that would be great. So I'm in favour of his
3 idea.

4 **COMMISSIONER QAJAQ ROBINSON:** Tim, do you
5 want to raise a little bit more of the context around that
6 idea, or ---

7 **MR. TIMOTHY ARGETSINGER:** Sure. Maybe I can
8 just reference the place where it's discussed in quite a
9 bit more detail than time probably allows for right now.
10 But so ITK released a couple of -- has released a couple of
11 position papers on implementation of the UN Declaration on
12 the Rights of Indigenous Peoples.

13 As many of you may know, the Government of
14 Canada -- the current government committed to implementing
15 the UN Declaration in a statement made in, I guess, it was
16 May 2016 at the UN Permanent Forum in New York. But the
17 way it's characterized the manner in which the rights that
18 are affirmed in the Declaration should be or will be
19 implemented is problematic in the sense that the -- to
20 simplify, the way in which those rights -- the government
21 often frames those rights is as if they can be -- going to
22 cherry-pick from the Declaration and implement it through
23 discrete pieces of legislation or through policy changes
24 that don't necessarily take into account the fact that
25 human rights work together in a integrated in a holistic

1 manner.

2 So anyway, the -- those -- among our
3 recommendations is that a Indigenous human rights body
4 would be necessary to create -- it all comes down to this
5 idea of what is a right without a remedy. And when we talk
6 about the rights, like a did a bit yesterday, such as right
7 to housing or food, shelter, if there isn't some remedy in
8 place within Canada that allows for individuals or
9 communities to seek redress for the government's failings
10 in those areas, then we're not going to necessarily see the
11 action required that we're all hoping for and talking
12 about.

13 **COMMISSIONER QAJAQ ROBINSON:** Thank you both
14 very much.

15 We hear from a lot of the families and
16 survivors that we have heard from, and there is -- there is
17 these political rights, governance rights at play, and then
18 the rights, like life, liberty and security of the person,
19 individual and collective rights.

20 And I'm not sure exactly how to phrase this
21 as a question, but when you're talking about exercising
22 those rights, when there is issues with having clean water
23 in your community and having access to food, having access
24 to healthcare, having access to these fundamental essential
25 services is an issue, there's huge interplay between those

1 fundamental rights and sort of the more political
2 collective of rights.

3 Do either -- anybody on the panel want to
4 talk a little bit about that? It's so broad, and I'm
5 sorry. It's just something that I am thinking about, is in
6 the interconnectedness and the indivisibility of rights
7 from each other is really important, I think, as we're
8 looking at the issue of violence against Indigenous women
9 and girls.

10 So perhaps I'll just leave it at that,
11 rather than going -- unless you want to.

12 **MS. NAIOMI METALLIC:** It may -- I'm not
13 sure, but it may go back to -- I think I was taken by
14 something that Fay said too when she referenced that paper
15 that Cindy McIvor wrote about, you know -- what was it
16 called again? I wrote it down somewhere. You said, "I'm
17 afraid of self-government." That's what her paper was
18 called.

19 And just the -- you know, there is, I think,
20 a fear, and legitimate fear, perhaps, that if we're going
21 to be -- if did go to self-government that we'd somehow be
22 replicating patriarchal systems; right? And that was, I
23 think, brought home by a lot of things that Fay said, and I
24 think it is, as I say, a legitimate fear.

25 But at the same time my next reaction, and

1 I'm just trying to work these things out too, is that --
2 but -- like the answer can't be that we do nothing; right?
3 Or we stay in this or we allow colonial governments to
4 continue to call the...

5 I mean, the only way forward is one that
6 gives more control, but we have to figure out a way within
7 providing that control that it's fair and equitable and it
8 reflects the voices of women, right, in a really important
9 way. And I don't have all the answers of how we do that.

10 Again, I kind of like copped that one. I
11 didn't cop out. I think the real answer is it's -- I think
12 -- international law and our own Indigenous laws can help
13 us. And you've heard from some experts, and we'll hear
14 from more experts who maybe can help us flesh out what that
15 is. It's the best place that I can come to, but I don't
16 have all the answers. You might have answers.

17 **COMMISSIONER QAJAQ ROBINSON:** Okay. Thank
18 you.

19 One of -- and Fay, thank you -- you spoke
20 about this, and Tracy, you did as well, this idea of
21 rights. Well, if you don't know what your rights are, and
22 you don't have a recourse, what is that thing really? And
23 I've heard from families talking about, well, it's just a
24 piece of paper in this government office until it means
25 something to me on the ground.

1 Is access to information about rights, about
2 entitlements an issue you see in your communities? So
3 Tracy and Fay?

4 **MS. TRACY DENNISTON:** Yes. It's something
5 that we -- I don't know if it's based on us not asking for
6 it, or -- yeah. It's not provided, so it's not really
7 explained. So it's something that we really don't take
8 much interest in, I guess. It's just something we just
9 don't do.

10 **MS. FAY BLANEY:** I think in a climate of the
11 normalization of violence, your right to safety is just not
12 even brought to bear on the circumstance. And it is a
13 double-edged sword, because we're also dealing with racism
14 from the larger society.

15 And so one of the things I mentioned
16 yesterday is that we're deemed to be traitors when we're
17 calling in the police or any outside forces, yet if we do
18 nothing the end result could be our own death, you know,
19 and I have seen that happen.

20 **COMMISSIONER QAJAQ ROBINSON:** Yeah.

21 **MS. FAY BLANEY:** So I think our rights are
22 meaningless when -- you know, in those circumstances in our
23 own communities.

24 **COMMISSIONER QAJAQ ROBINSON:** Now, there
25 were some questions asked about access to justice, like

1 access to legal services. Do you think that that plays a
2 role in that continued inability to access and exercise
3 those rights?

4 **MS. FAY BLANEY:** Oh, yeah, for sure. In
5 B.C. we've -- I think the women's groups, I haven't been
6 that engaged with that struggle, but it's definitely
7 impacted women that there were all the cuts to Legal Aid in
8 our province.

9 **COMMISSIONER QAJAQ ROBINSON:** Tracy, is that
10 something in Nunatsiavut?

11 **MS. TRACY DENNISTON:** Yeah. I think it's a
12 problem in our community. And the way our court systems
13 work in our remote communities is there -- it's a flying
14 court system. It comes in, and usually when people want to
15 access services for the court it's just very last minute
16 when -- just before court gets in. And there's just not no
17 time to spend with the victims or the offenders to deal
18 with information, making sure they understand all the
19 information. I think that's a problem.

20 **COMMISSIONER QAJAQ ROBINSON:** So it's mostly
21 for criminal law ---

22 **MS. TRACY DENNISTON:** Yeah.

23 **COMMISSIONER QAJAQ ROBINSON:** --- am I
24 right? So if you have a family law case or you have an
25 issue with ---

1 **MS. TRACY DENNISTON:** Family law comes in.

2 **COMMISSIONER QAJAQ ROBINSON:** Okay.

3 **MS. TRACY DENNISTON:** Family law comes in as
4 well, but then I find they're only there for -- we only
5 have circuit court like probably 10 or 12 times a year.
6 They come in to deal with court matters.

7 **COMMISSIONER QAJAQ ROBINSON:** Okay. Do they
8 assist with any other access to essential service type
9 issues, like Legal Aid?

10 **MS. TRACY DENNISTON:** I don't know.

11 **COMMISSIONER QAJAQ ROBINSON:** Okay. Okay.
12 I think those are all my questions, and I thank you all so
13 much. Nakurmiik.

14 **COMMISSAIRE MICHELE AUDETTE:** Merci, Qajaq.
15 Still learning my Inuktitut.

16 **(LAUGHTER/RIRES)**

17 **QUESTIONS BY/QUESTIONS PAR LA COMMISSAIRE AUDETTE :**

18 **COMMISSAIRE MICHELE AUDETTE:** Alors, je vais
19 profiter de la traduction simultanée pour pouvoir poser
20 quelques questions en français et je vais commencer avec
21 Mme Metallic.

22 Professeur Metallic, juste pour... vous
23 savez que l'Enquête nationale a aussi comme mandant de
24 faire l'éducation auprès des canadiens et canadiennes sur
25 des questions très importantes pour les femmes autochtones,

1 les familles et les victimes.

2 Les Premières nations au Canada, ceux et
3 celles qui sont statuées, nous sommes régies sous la *Loi*
4 *sur les indiens*, n'est-ce pas? Est-ce qu'il est vrai de
5 dire qu'avec cette loi-là nous sommes considérés comme des
6 mineurs?

7 **Mme NAIOMI METALLIC:** Minorités ou...

8 **COMMISSAIRE MICHELE AUDETTE:** Non, mineurs
9 en bas de 18 ans.

10 **Mme NAIOMI METALLIC:** Je ne sais pas si je
11 comprends tout à fait.

12 **COMMISSAIRE MICHELE AUDETTE:** Je ne sais pas
13 c'est quoi en anglais considéré sous la responsabilité
14 de...

15 **Mme NAIOMI METALLIC:** La tutelle ou quelque
16 chose...

17 **COMMISSAIRE MICHELE AUDETTE:** La tutelle,
18 oui.

19 **Mme NAIOMI METALLIC:** Oui, oui, oui. Bien,
20 tu sais, une des doctrines que la Cour suprême du Canada
21 avait développée pendant... ç'a commencé dans la cause
22 *Garren* en 1983, mais le concept d'une obligation fiduciaire
23 c'est des fois... même il y avait des causes avant ça
24 plus... avant ça qu'ils ont parlé de l'obligation
25 fiduciaire et puis des fois il y a quelqu'un qui critique

1 ça comme ça nous garde comme des enfants. Ça nous traite
2 de cette manière. C'est une idée vraiment paternaliste que
3 le Canada est le papa et nous sommes les enfants.

4 Mais je dirais qu'en même temps, peut-être
5 qu'il y a une autre notion, la notion de la nation. La
6 nation ça serait une idée qui aurait quand même des
7 concepts.

8 La bonne chose avec l'obligation fiduciaire,
9 ça met des obligations sur le fédéral. Et puis même je
10 dis, quand j'enseigne mes cours, qu'on marque des
11 obligations sur le Canada et puis la loi nous donne pas
12 beaucoup. Alors la Cour suprême est venue avec l'idée de
13 la fiduciaire... l'obligation fiduciaire.

14 Puis après des fils d'années, ils n'ont pas
15 aimé ça parce que ça donnait trop d'obligations. Alors ils
16 ont commencé de parler de l'honneur de la Couronne.

17 **COMMISSAIRE MICHELE AUDETTE:** O.k.

18 **Mme NAIOMI METALLIC:** Ils sont toujours en
19 recherche des concepts qu'on pourrait utiliser pour garder
20 l'état plus comptable, tu sais. Puis en tout cas, on a
21 besoin de quelque chose qui garde l'état comptable assez
22 mais qui en même temps nous respecte pas comme des enfants
23 mais comme des partenaires.

24 **COMMISSAIRE MICHELE AUDETTE:** O.k.

25 **Mme NAIOMI METALLIC:** Je ne sais pas si ça

1 répond aux questions?

2 **COMMISSAIRE MICHELE AUDETTE:** Oui, ça
3 répond.

4 Puis dans la *Loi sur les indiens*, n'étant
5 pas avocate de mon côté, mon interprétation, lorsque j'ai
6 fait la lecture de cette loi-là, c'est une loi qui régit
7 mon présent et mon futur mais ne protège pas ma langue
8 innue, ne reconnaît pas ma langue innue. Est-ce vrai?

9 **Mme NAIOMI METALLIC:** C'est vrai.

10 **COMMISSAIRE MICHELE AUDETTE:** Ne reconnaît
11 pas ma spiritualité.

12 **Mme NAIOMI METALLIC:** Bien non.

13 **COMMISSAIRE MICHELE AUDETTE:** Ne reconnaît
14 pas que je pourrais avoir des droits et des responsabilités
15 comme les Canadiens et Canadiennes.

16 **Mme NAIOMI METALLIC:** Non.

17 **COMMISSAIRE MICHELE AUDETTE:** Alors cette
18 loi-là, c'est ce qui me fait penser que je suis traitée
19 comme un enfant quand je fais une lecture, n'étant pas
20 avocate.

21 Est-ce qu'en 2018 il est normal que les
22 Premières nations statuées en vertu de cette loi-là soient
23 traitées de la sorte?

24 **Mme NAIOMI METALLIC:** Non. J'aimerais
25 nuancer un petit peu, mais tu as bien raison. Puis il y a

1 des manières que la loi... ben, la loi est utilisée pendant
2 plus d'une centaine d'années pour nous assimiler.

3 Une chose que je pourrais dire par rapport à
4 la loi, mais il y aurait d'autres manières de le faire,
5 c'est l'idée d'avoir des terres collectives, tu sais, mais
6 au même bout, de tout régir comment les communautés gèrent
7 leurs argents et puis comment ils laissent leurs
8 successions et toutes ces choses comme ça. Le monde dirait
9 qu'on devrait avoir notre propre... le propre contrôle là-
10 dessus.

11 Alors, non, on n'a pas besoin d'un Acte
12 indien en 2018. Mais au même bout, le seul souci que
13 j'aurais c'est qu'on ne veut pas dire ça et tout perdre.
14 On veut pas que ce soit *The White Paper* encore, tu sais.
15 On a les droits collectifs. On a des terres collectives.
16 On veut plus de terres collectives ou on veut le choix
17 d'avoir des terres collectives ou individuelles, mais on
18 veut le choix. On veut pas que ce soit dicté.

19 **COMMISSAIRE MICHELE AUDETTE:** Donc c'est un
20 exercice qui doit se faire de façon graduelle et
21 intelligente, si je...

22 **Mme NAIOMI METALLIC:** Oui.

23 **COMMISSAIRE MICHELE AUDETTE:** Et sachant...

24 **Mme NAIOMI METALLIC:** Mais pas si graduel
25 que ça. They've had a lot of time.

1 **COMMISSAIRE MICHELE AUDETTE:** O.k. Mais ça
2 doit se faire.

3 **Mme NAIOMI METALLIC:** Oui.

4 **COMMISSAIRE MICHELE AUDETTE:** Pour avoir été
5 témoin dans la lecture de plusieurs rapports et puis
6 témoins lors des rencontres, oui, on a plus de femmes
7 autochtones en politique, et je les félicite. Elles ont
8 tout mon respect. Mais on entend par ces femmes-cheffes,
9 la plupart, ou femmes conseillères, cette difficulté
10 d'accéder à ces postes de décision ou d'influence. Bon, ça
11 c'est une réalité qu'on entend. Mme Blaney l'a mentionné à
12 quelques reprises. En ce moment, la loi n'offre pas des
13 dispositions pour soutenir les femmes à aller en politique.

14 Alors pensez-vous que ça devrait être des
15 recommandations dans le cadre de cette enquête-là de
16 soutenir les femmes, peu importe leur statut social, leur
17 revenu, et ainsi de suite, de pouvoir les soutenir en
18 termes de formation ou de services pour faire en sorte
19 qu'elles aussi aient accès à ces postes-là, influence et de
20 leadership?

21 **Mme NAIOMI METALLIC:** Bien sûr, je pense que
22 ça serait une bonne idée.

23 **COMMISSAIRE MICHELE AUDETTE:** O.k. Merci
24 beaucoup.

25 Et pour terminer, pour ceux et celles qui

1 nous écoutent, la *Loi sur les Indiens* définit qui est
2 Indien, qui ne l'est pas mais ne définit pas qui est Innu,
3 qui est Atikamekw, qui est Mohawk, qui est Anishinaabe et
4 ainsi de suite.

5 **Mme NAIOMI METALLIC:** M'hm.

6 **COMMISSAIRE MICHELE AUDETTE:** On s'entend
7 là-dessus. Donc on nait avec un numéro de bande, n'est-ce
8 pas? Moi, je suis une 6-2... maintenant 6-1, pour vrai.
9 J'ai *upgradé* a-t-on dit. J'ai su ça il y a quelques
10 semaines.

11 **Mme NAIOMI METALLIC:** Félicitations.

12 (RIRES/LAUGHTER)

13 **COMMISSAIRE MICHELE AUDETTE:** C'est une *cute*
14 anecdote, mais c'est pas l'espace pour le faire.

15 Bon, de façon hypothétique, je suis une 6-2.
16 Ma question va être pour Mme Blaney et Professeur Metallic.
17 Vous avez, à quelques reprises, mentionné toutes les femmes
18 qui ont perdu leur statut avant '85 ou leurs droits au
19 cours de l'histoire. Ça, on vous a entendu le mentionner
20 dans votre présentation... vos présentations. On s'entend
21 que c'est une histoire qui s'est déroulée à travers le
22 Canada, tant pour les femmes métis, les femmes inuit, les
23 femmes des Premières nations. On s'entend là-dessus.

24 Pour la *Loi sur les Indiens*, en 1985 arrive
25 la *Loi C-31* qui redonne le statut aux femmes ayant marié un

1 non-Indien. C'est ce qu'on m'apprend. C'est ce qu'on nous
2 enseigne dans les rapports et c'est ce qu'on vit.

3 Étiez-vous au courant... vous avez
4 mentionné, pardon, avec un échange avec Mme Thomas... Viola
5 Thomas... l'obligation de divulguer le nom du père. C'est
6 un règlement. Ce n'est pas un article de la *Loi sur les*
7 *Indiens*, n'est-ce pas?

8 **Mme NAIOMI METALLIC:** Oui.

9 **MS. FAY BLANEY:** I don't know.

10 **Mme NAIOMI METALLIC:** Oui, c'est une
11 politique, oui.

12 **COMMISSAIRE MICHELE AUDETTE:** C'est une
13 politique.

14 **Mme NAIOMI METALLIC:** Oui, c'est ça. Puis
15 il y a une décision récente de la Cour de l'Ontario d'appel
16 *Guelde*, qui en parle.

17 **COMMISSAIRE MICHELE AUDETTE:** Parfait.

18 Donc ce qui veut dire pour moi, 6-2...
19 oublions que je suis *upgradée*, là... ce qui veut dire si
20 depuis 1985 je mets au monde... aye, puis j'en ai mis cinq
21 au monde, là, vraiment une maman fière... mais dans des
22 circonstances difficiles, je me retrouve en situation de
23 violence familiale, je me sauve de mon milieu. Le père
24 signe pas parce que je suis plus dans la maison. Qu'est-ce
25 qui arrive avec mon enfant? Je suis une 6-2.

1 **Mme NAIOMI METALLIC:** Tu veux pas mettre son
2 nom sur le certificat de...

3 **COMMISSAIRE MICHELE AUDETTE:** Je peux pas
4 pour des raisons de survie et de sécurité.

5 **Mme NAIOMI METALLIC:** La politique, je pense
6 que... ben, je pense maintenant elle est
7 inconstitutionnelle, mais pas totalement. Mais oui, ça
8 rendrait que tes enfants probablement se seront dit que...
9 ben, ils diraient que le papa est pas statué, alors ils
10 seront pas un statut indien.

11 **COMMISSAIRE MICHELE AUDETTE:** Donc si vous
12 me dites le papa n'est pas statué, donc il y a une
13 présomption d'un père non-autochtone?

14 **Mme NAIOMI METALLIC:** C'est ça.

15 **COMMISSAIRE MICHELE AUDETTE:** D'accord. Il
16 est écrit « père blanc », comme si les Canadiens étaient
17 tous blancs, mais...

18 Alors ça l'a aussi un impact si mon conjoint
19 meurt ou un suicide ou un viol?

20 **Mme NAIOMI METALLIC:** M'hm.

21 **COMMISSAIRE MICHELE AUDETTE:** La loi va
22 présumer, n'est-ce pas, que le père est non-Indien, donc il
23 n'y a pas de statut pour cet enfant-là?

24 J'habite à Attawapiskat.

25 Seule l'avion peut se rendre là où la route

1 d'hiver. J'habite à Schefferville. Seul le train ou
2 l'avion peut se rendre là.

3 Est-ce qu'il est vrai dans certains moments
4 les conseils de bande vont offrir des services seulement
5 aux gens statués, les services essentiels? C'est les
6 règlements j'imagine. C'est la loi.

7 **Mme NAIOMI METALLIC:** Si je pourrais
8 répondre, y a une décision du tribunal des droits humains
9 et de la personne, j'oublie le nom, mais c'était une cause
10 -- mais la chose avec certains conseils de bande, ils
11 reçoivent seulement de l'argent pour donner des services à
12 ceux et celles qui sont statués d'habitude dans leur
13 convention d'emplacement.

14 Mais y avait une décision du tribunal --
15 j'oublie le nom mais je pourrais le retrouver -- qui a dit
16 que s'ils sont vivants sur la réserve, faut que tu leur
17 offres les services mais les conseils de bande sont
18 défendus de -- si tu vivais à côté de la communauté mais
19 pas dans la réserve, ils pourraient pas te donner des
20 services.

21 **COMMISSAIRE MICHÈLE AUDETTE:** Oui. Mais on
22 sait aussi que les communautés sont sous-financées.

23 **Mme NAIOMI METALLIC:** Oui.

24 **COMMISSAIRE MICHÈLE AUDETTE:** Alors c'est
25 difficile de répondre à des situations comme celle-là.

1 Donc je comprends, merci.

2 Puis pour terminer, d'après vous, est-ce que
3 les Canadiennes qui mettent au monde un enfant dont le père
4 n'a pas signé la paternité de cet enfant-là, est-ce que
5 l'hôpital ou un service essentiel va être refusé à une
6 Canadienne qui a un enfant sans père?

7 **Mme NAIOMI METALLIC:** Non, je pense que les
8 lois sur la citoyenneté canadienne te laissent avoir un
9 parent pour être un citoyen.

10 **COMMISSAIRE MICHÈLE AUDETTE:** Bon, merci
11 beaucoup pour cette information-là.

12 Alors pour Fay, est-ce que vous avez entendu
13 dans votre recherche au niveau du C-31, sur la loi C-31,
14 des situations de mères qui se sont retrouvées avec des --
15 à cause du règlement ou de la politique de divulguer le nom
16 du père dans des situations d'injustice?

17 **MS. FAY BLANEY:** We spoke to women that had
18 been sexually assaulted and didn't want to name the
19 offender. That came up a few times in the work that we did
20 on Bill C-31.

21 **COMMISSIONER MICHÈLE AUDETTE:** And what was
22 the impact on their children?

23 **MS. FAY BLANEY:** Then she -- then the
24 children lose status or they get half status.

25 **COMMISSAIRE MICHÈLE AUDETTE:** Alors merci

1 beaucoup là pour nous expliquer et de répondre à mes
2 questions-là au sujet du règlement-là instauré depuis 1985
3 sur l'obligation de divulguer le nom du père.

4 D'après vous, quelles seraient les solutions
5 ou les recommandations face à cette politique? La
6 maintenir, l'abolir?

7 **Mme NAIOMI METALLIC:** Celui-là pour sûr
8 l'abolir. Y a pas de question. Excusez. Pour moi c'est de
9 l'abolir puis y a plusieurs rapports même avant la décision
10 *Guel't* (phon.) que le monde soulevait le problème avec
11 celui-là. Pourquoi pas prendre la parole de la mère? Mais
12 même c'est tout le problème avec le fait que le statut
13 indien est déterminé sur le "second generation cut-off
14 rule", puis ça c'est un grand problème.

15 **COMMISSAIRE MICHÈLE AUDETTE:** O.k. Merci
16 beaucoup.

17 Maintenant mes questions sont pour nos
18 panellistes, nos experts et gardiens du savoir-là inuit.
19 Moi-même je suis, comme commissaire mais comme femme aussi,
20 à l'apprentissage de votre richesse, de votre culture, de
21 vos savoirs. Et je suis très, très, très attentive à tout
22 ce qu'on a entendu dans les témoignages lors des audiences
23 à Rankin Inlet ou lors des rencontres informelles avec des
24 organisations de femmes inuites, pour femmes inuites, ou
25 pour les Inuits aussi.

1 Et j'étais surprise je vous dirais parce
2 qu'on doit rester neutre là comme commissaire mais on est
3 aussi très, très humain puis moi je peux pas rester neutre
4 par rapport à ça. Tout ce qui est question de sécurité,
5 tout ce qui est question de survie, qu'on soit Inuit,
6 Première Nation ou Canadienne-là, je suis convaincue pour
7 moi c'est un droit que tout le monde doit avoir d'être en
8 sécurité.

9 Et lorsqu'on a entendu les témoignages des
10 femmes qui habitent le nord, qui étaient en situation de
11 détresse puis que dans leur famille de façon
12 intergénérationnelle les grands-parents, eux comme parents,
13 et leurs enfants et petits-enfants pouvaient vivre aussi
14 cette situation de détresse et plusieurs raisons amenaient
15 cette réalité-là et qu'elle se retrouvaient sans services
16 au niveau de la santé mentale, sans services adaptés
17 culturellement à votre culture à vous.

18 Pouvez-vous me dire dans les 54 communautés
19 ou villages qu'y a pour le peuple inuit, y a combien de
20 centres de désintoxication ou de vouloir reprendre sa vie
21 en main? Combien de centres aussi pour soutenir la
22 situation de crise-là, "suicide centre", des centres-là
23 contre le suicide? Et ce qui m'a frappé c'est hier matin
24 en lisant un article du Huffington Post qui disait 12
25 suicides, tentatives de suicide en deux semaines dans une

1 région chez les Inuits. C'était ici là au Canada-là.

2 Est-ce qu'y a des centres pour soutenir la
3 santé mentale de votre peuple? Si oui, combien?

4 **MS. TRACY DENNISTON:** For Nunatsiavut
5 regions, there's different parts to that. I need to answer
6 in different ways. So there are mental health services
7 available through the hospital and if you want services but
8 sometimes that can be a barrier if you don't want service
9 from a person who is from outside. So that is a barrier
10 but you can still have services. Sometimes it works to
11 their advantage, sometimes it doesn't. So it's all
12 dependent on the person.

13 But in regards to detoxing and treatment,
14 there's none in our communities, none. Like if a person
15 wanted to get off drugs or if they wanted to get off -- if
16 they wanted to stop drinking, they had an alcohol problem,
17 they wanted to stop, they need to detox, they wouldn't be
18 able to get those services in our communities. They would
19 have to go -- the closest place is in Newfoundland
20 somewhere. Corner Brook would be for the detox.

21 And treatment, if they want to go for
22 treatment, then a lot of families end up having to being
23 forced to get treatment because they need to get their
24 treatment done in order to get their children back based on
25 apprehension of their children and sometimes it's through

1 Corner Brook, sometimes it's through other like First
2 Nations' places where they offer treatment in Nova Scotia
3 or somewhere -- somewhere not even closely connected to our
4 culture but still maybe better than Newfoundland because
5 it's not of the same culture. Like the services that we
6 have are not of the same culture.

7 So if there's something else that I'm
8 supposed to -- am I missing something else?

9 **COMMISSAIRE MICHÈLE AUDETTE:** Non.

10 **MS. TRACY DENNISTON:** Okay.

11 **COMMISSIONER MICHÈLE AUDETTE:** How many
12 centres do you have, you said none.

13 **MS. TRACY DENNISTON:** We have zero, zero
14 detox. For the heavier issues, we don't have the services
15 that are required.

16 **COMMISSIONER MICHÈLE AUDETTE:** And what
17 about for suicide crisis, where do they go? Is there
18 centres or places?

19 **MS. TRACY DENNISTON:** There's a -- there is
20 -- when I finished my bachelor of social program, I worked
21 as a mental health and addictions counsellor in my home
22 community and one of my problems for me was I said I would
23 never put one of my own people in jail but that was what I
24 had to do in order for the person's safety based on the
25 policy that I had to follow according to my job rules. But

1 for me that was only a band-aid solution because you were
2 dealing with it at that time.

3 To me we're not dealing with the root issues
4 of the problems that cause them to get to these places of
5 wanting to commit suicide, heavy drinking issues. Those
6 are the things that we struggle with and I still feel there
7 needs to be a lot of work in that area for Nunatsiavut
8 anyway.

9 **MR. TIMOTHY ARGETSINGER:** I had mentioned
10 earlier that Kuujjuaq is the only community that has a
11 dedicated Inuit-specific addictions treatment centre.

12 **COMMISSIONER MICHÈLE AUDETTE:** In Quebec?

13 **MR. TIMOTHY ARGETSINGER:** In Inuit-Nunangat.
14 So of the communities within Inuit-Nunangat that is the
15 only one. But that is discounting, potentially, programs
16 that have the same intended outcome that -- but that may
17 lack a dedicated intake facility.

18 **COMMISSAIRE MICHELE AUDETTE:** Et pour
19 terminer, je veux saluer le courage de toutes ces femmes et
20 familles inuit qui sont venues nous parler, que ce soit en
21 audience publique ou audience privée, ou déclarations. De
22 venir nous dire qu'elles ont le désir de vouloir se sortir
23 de ces situations-là, de vouloir vivre et non survivre, ça,
24 elles ont toute mon admiration.

25 Ce qui m'a fait réagir, on nous a expliqué

1 que si j'ai un problème de santé mentale ou tentative de
2 suicide, récidive, ainsi de suite, le psychologue vient
3 seulement une fois par mois et c'est pas nécessairement le
4 même psychologue à chaque mois.

5 Est-ce que c'est partout comme ça à travers
6 votre territoire, vos quatre territoires?

7 **MR. TIMOTHY ARGETSINGER:** So there's a
8 difference between -- I mean, when you talk about mental
9 health services, it's a really general term, but there's a
10 difference between say counselling or psychiatric care, for
11 example. So there are communities, say the Ilisqisvuk
12 Program in Clyde River in Nunavut, they have Inuit-specific
13 counselling that they provide, they train Inuit
14 counsellors.

15 When it comes to psychiatric care in the
16 territory, and I'm just talking about the area that I know
17 the most about, the psychiatrists are coming in, flying
18 into communities, evaluating, potentially prescribing
19 medication, you know, adjusting dosages and making those
20 kinds of decisions and then -- and leaving again.

21 So it -- you know, in our National Inuit
22 Suicide Prevention Strategy, I mean, we focus a lot on our
23 -- what are often called upstream measures in where risk
24 begins, beginning in early childhood and even prenatally.

25 So I guess to answer your question, it

1 differs from region to region and from community to
2 community in terms of just the access that someone might
3 have to mental health services.

4 It -- oftentimes, unfortunately, it comes to
5 somebody who is, you know, at risk, potentially attempting
6 suicide or -- and then the intervention is at that point
7 would even be, you know, someone ending up in a jail cell
8 because they are under the influence and they might be
9 feeling suicidal and expressing that to someone. So that's
10 -- that is just generally speaking the picture.

11 **COMMISSIONER MICHELE AUDETTE:** Thank you.

12 Alors pour terminer, juste pour reprendre un
13 commentaire de Tracy, et j'ai vu dans votre rapport,
14 Timothy, qu'il y a en effet des centres correctionnels dans
15 vos régions, mais il n'y a pas de centre qui a une approche
16 préventive. Donc, on peut parler des centres de traitement
17 ou des centres pour contrer le suicide et ainsi de suite,
18 mais on a des centres pour punir les gens... comment on
19 appelle ça... des services correctionnels.

20 Je vous dirais pour ma part, pour avoir été
21 témoin, les gens disent que vous êtes loin. Beaucoup de
22 gens canadiens, et moi je disais ça avant, vous êtes loin.
23 Et Qajaq m'a dit, « C'est toi qui est loin. » Depuis ce
24 temps-là je dis plus jamais « Vous êtes loin. » Nous
25 sommes loin de vous, qu'on soit Premières nations ou le

1 Canada en général et vous méritez de vous faire connaître.

2 Merci à ceux et à celles lorsqu'on est allé
3 dans votre région... dans une de vos régions... pour la
4 première fois de ma vie j'ai mangé à terre avec tout le
5 monde et pour moi c'est gravé ici et puis ici pour le
6 restant de mes jours. Et je le dis encore, le Canada
7 mérite de vous connaître et j'espère, par cette enquête-ci,
8 par les nombreux rapports que vous avez faits, que des
9 recommandations qui existent depuis longtemps,
10 éventuellement les nôtres, que les gens qui ont le bâton
11 magique et qui ont cette capacité-là d'amener... de donner
12 vie à ces recommandations-là, ça, je le souhaite
13 sincèrement.

14 Et je reprends un terme qui a été dit par
15 les gens ici, il va falloir une volonté politique pour que
16 cela se réalise et on va faire en sorte, pour ma part... je
17 veux retourner là-bas un jour, manger encore avec vous-
18 autres.

19 Alors merci à ceux et celles qui nous ont
20 accueillis et soyez fiers de votre belle culture. Elle est
21 riche. Elle est vivante. Merci.

22 **(TELEPHONE RINGING/TÉLÉPHONE SONNE)**

23 **COMMISSIONER MICHELE AUDETTE:** That's my
24 mom.

25 **(LAUGHTER/RIRES)**

1 **COMMISSIONER MICHELE AUDETTE:** I used to
2 charge at AFN when their phone rang. *Makumik*. Merci.

3 **QUESTIONS BY/QUESTIONS PAR CHIEF COMMISSIONER MARION**
4 **BULLER:**

5 **CHIEF COMMISSIONER MARION BULLER:** As
6 Counsel said earlier, going last is a little bit easier
7 because people have already asked the questions. So thank
8 you, Panelists, all, for being here today, and yesterday as
9 well.

10 Starting off, Mr. Argetsinger, you said
11 yesterday that the youthful, if that's the right word,
12 population of Inuit is putting pressure on housing stock or
13 housing supply. Is that pressure in terms of type of
14 housing, amount of housing, or both, or something else?

15 **MR. TIMOTHY ARGETSINGER:** I -- all right.
16 So the statement was that rapid population growth is
17 putting a strain on existing housing stock, such that with
18 allocations for -- federal allocations for the provision of
19 social housing and annual budgets that it's not -- the
20 quantities aren't great enough to keep up with the growing
21 need.

22 **CHIEF COMMISSIONER MARION BULLER:** Thank
23 you.

24 Professor Metallic, in reading the *Daniels*
25 decision together with the *Caring Society* decision, what

1 sage advice would you give to Métis communities and
2 organizations across Canada?

3 **MS. NAIOMI METALLIC:** It's an interesting
4 one. You know, with all the, you know, stuff that happened
5 post *Descheneaux* and now these things going on, and then
6 I'm thinking, why are we still fighting on status when
7 *Daniels* tells us that we're all at the party? I don't know
8 about it being a party so much.

9 But -- yeah. In terms of -- I mean, we have
10 *Daniels* that tells us that they're part of the federal
11 government's obligation, but when the government's been
12 arguing for a long time that it has no obligations... I
13 suppose it would have meaning if, you know, we had
14 governments that were truly willing to accept that, you
15 know, they have certain obligations to provide services.

16 And yes. If you read them both together,
17 then similarly, there would be obligations with Canada with
18 respect to the Métis for essential services as well.

19 Now, some provinces have been playing more
20 of a role with Métis but, you know, there's ways that those
21 things can sort of operate together. But you're absolutely
22 right, that you could read those two together to also find
23 obligations on Canada towards Métis.

24 Could I take one thing to add to the comment
25 about housing, just if that's okay? Because I meant to

1 raise this, and since you asked about housing.

2 I had a student who wrote a -- back on my
3 theme about that, you know, these are policies and they're
4 not written. I had a student write a paper last semester
5 about the interaction between INAC's housing policy and
6 default management. Because he said there was a community
7 that we're aware of in New Brunswick who hadn't built a
8 house for 14 years because they were under third-party
9 management.

10 And when you're under third-party
11 management, you can't get any funding to build a house.
12 And the reason they went into debt in the first place is
13 because they built some houses. And so they have a massive
14 overhead, yet -- it's funny but it's so sad, too, because,
15 I mean, this is a community where you have this massive
16 overcrowding.

17 So the student wanted to write a paper on it
18 and one of the things she wanted to do was find INAC's
19 housing policy, and I didn't have it. And she looked
20 online.

21 And so she ended up writing the department
22 and she received it I think a week before her paper was due
23 and it was -- so she received a copy of it and she sent it
24 to me for my records.

25 It's a document from 1996, it still says

1 "Draft" on it, it's nowhere available online, and it's
2 typewritten. You know, and that's what governs -- and I
3 can provide a copy of that to the Commission if you'd like
4 it as well. And, you know, it says something like, "We see
5 the main obligation of the First Nations to provide
6 housing." Right?

7 But this is what we have to govern policy
8 for -- like, one of the -- how many times did we hear,
9 "housing" the last couple of days, and that's their policy
10 that's for housing.

11 So I just wanted to raise that because I
12 didn't have a chance.

13 **CHIEF COMMISSIONER MARION BULLER:** I would
14 like to see that.

15 **MS. NAIOMI METALLIC:** I will send it to you.

16 **CHIEF COMMISSIONER MARION BULLER:** Thank
17 you.

18 Again, Professor Metallic, assuming for the
19 moment that Indigenous people and organizations and
20 governments across Canada are asserting rights, are
21 domestic courts the proper venue, or are international
22 court the proper venue for dealing with those types of
23 disputes?

24 **MS. NAIOMI METALLIC:** A lot of people would
25 say that domestic courts are just not there yet to

1 understand these issues. Most of the judges who are
2 sitting do not have an appropriate understanding of these
3 issues. I know that there's more judicial education that
4 is happening now.

5 I mean, our courts are still very reticent
6 over socioeconomic rights. I know they're also very
7 deferential to government, especially when it comes to
8 socioeconomic rights and things about -- I write about this
9 in my paper that often because there is no legislation
10 they're even more deferential and government lawyers argue
11 strenuously that you have to be deferential because this is
12 only policy, and these sorts of things. So governments
13 benefits in some respects from not legislating.

14 But, you know, another -- probably some of
15 our experts are going to talk about domestic -- or
16 international courts can speak about that better but
17 there's lots of reasons to argue that domestic courts are
18 still very much not in a position to really address a lot
19 of these issues. And maybe something more, like, you know,
20 a tribunal that is -- you know, has -- building on Tim's
21 earlier suggestion but maybe a tribunal that has, you know,
22 a very specific mandate, and to consider particular
23 international documents and other things. Maybe that is an
24 approach.

25 But our courts, they're still a lot to be

1 desired. I mean, once in a while we get some really great
2 decisions but a lot of times we don't. And, again, there's
3 all the access to justice issues. And even to get to
4 court, how hard that is because there's, again, this
5 imbalance of power where the government has essentially
6 taxpayer dollars to be able to fight and fight and fight,
7 and they often do. And we don't even get to hear a lot of
8 these cases on the merits, if a First Nation can even get
9 to the doors of the courtroom.

10 **CHIEF COMMISSIONER MARION BULLER:** Thank
11 you.

12 Ms. Denniston, I just want to clarify
13 something that you just said. In answer to a question that
14 Commissioner Audette asked, you said in response to suicide
15 treatment, rehab, and detox, that we're not dealing with
16 the root issues or not addressing the root issues. Did you
17 mean that on an individual basis or on a community basis?
18 Could you clarify that, please?

19 **MS. TRACY DENNISTON:** On a community basis.
20 I feel this is where the problem exists, is in all our
21 communities, relocation, intergenerational trauma, and also
22 residential school impacts.

23 And I just wanted to add -- I'm glad you
24 asked me the question because I just wanted to clarify on
25 behalf of -- after Tim finished, in our communities,

1 suicide prevention, we don't have -- if there was a suicide
2 attempt, and that happens quite often, they're sent out
3 either -- they're either video-conferenced by the clinic in
4 our communities by a doctor in Goose Bay who says if he's
5 okay to be left to go home or whatever. If not, if it's
6 pretty bad then they get sent to Goose Bay for -- on a
7 medivac flight. And sometimes they can go -- if it's a
8 weekend, they're released and come back to our community
9 Monday without any services, it's just -- it's based on
10 risk and then their risk assessment. And they're released
11 based on what they're saying that they're no longer
12 suicidal but they just had an attempt.

13 **CHIEF COMMISSIONER MARION BULLER:** Okay,
14 thank you.

15 Ms. Blaney, I have a series of questions for
16 you. Yesterday you referred to harm reduction strategies
17 in your evidence. What, if any, affect do harm reduction
18 strategies have on the safety of Indigenous women and
19 girls?

20 **MS. FAY BLANEY:** I don't think they're
21 having much effect, in terms of the Fentanyl crisis that's
22 going on right now. The stats that I hear is that in the
23 Canadian population, the -- it's men primarily that are
24 overdosing, but amongst Indigenous women it's pretty much
25 half and half, men and women.

1 So I don't think they've been very
2 successful in helping people to achieve a healthy lifestyle
3 from the addictions.

4 **CHIEF COMMISSIONER MARION BULLER:** Also
5 yesterday you mentioned a program called Sister Watch that
6 exists -- or used to exist in Vancouver. Similar programs
7 existed across the country. Based on your experience what,
8 if any, affect do those types of programs or services have
9 on the safety of Indigenous women and girls?

10 **MS. FAY BLANEY:** The women that I worked
11 with in the downtown eastside were very critical of the
12 program. They really didn't like having these emergency
13 telephone lines on street corners that they could call in
14 cases of emergency. And then when they do call, they receive an
15 answering service, and so it doesn't do anything to address
16 the urgent situation that they find themselves in.

17 Another concern that they had was that they
18 weren't able to come directly with issues and concerns that
19 they had to the meeting. If something was happening with
20 them, that they had to go through an advocate and they
21 didn't want to do that.

22 The women in my group they just pooh-poohed
23 it when I wanted to do it as an issue that we could work
24 on, you know, learn more about and see what we could do to
25 contribute it. And the women in my group were just opposed

1 to it; they didn't like it at all.

2 **CHIEF COMMISSIONER MARION BULLER:** Earlier
3 on today, Ms. Blaney you said that the United Nations human
4 rights instruments were developed post-World War II, and
5 the Indigenous worldview is not included in those
6 instruments, at the writing of those instruments. You went
7 on to say that they would look different.

8 What do you think those instruments would
9 look like if the Indigenous worldview was included?

10 **MS. FAY BLANEY:** Well, the other Indigenous
11 peoples around the world are also tribal like we are and
12 collective in our outlook on the world, and so I think that
13 much more of our rights would have been protected if it had
14 included these other Indigenous nations around the world.

15 But, you know, I think the countries from
16 the south are critical due to the fact that it was
17 developed without their involvement as they were under
18 colonial regimes.

19 **CHIEF COMMISSIONER MARION BULLER:** Do you
20 think that human rights would have been defined
21 differently?

22 **MS. FAY BLANEY:** It may have been. I think
23 that our rights and responsibilities are really important
24 to us as Indigenous peoples. It's not just about
25 individual rights. It is about our responsibility to

1 community. And, you know, we were talking about that
2 yesterday, about my puberty rights and how I was being
3 groomed to be responsible for my community. And this goes
4 like across the board for every single *homasku* (phonetic)
5 person. Every person would have been groomed to be
6 responsible to the community. And so individual rights are
7 -- it's kind of -- you know, it doesn't quite fit.

8 **CHIEF COMMISSIONER MARION BULLER:** M'hm.
9 Okay.

10 And again, Ms. Blaney, we've heard from
11 women who have been chiefs and councilors ---

12 **MS. FAY BLANEY:** M'hm.

13 **CHIEF COMMISSIONER MARION BULLER:** --- in
14 their communities. We've also heard from them about the
15 horrible lateral violence that they experienced as a result
16 of their roles as chief and/or councilors. You described
17 your own experience and ---

18 **MS. FAY BLANEY:** M'hm.

19 **CHIEF COMMISSIONER MARION BULLER:** --- used
20 the term "one-term wonders" ---

21 **MS. FAY BLANEY:** Yes.

22 **CHIEF COMMISSIONER MARION BULLER:** --- which
23 is quite appropriate.

24 We've also heard about encouraging women to
25 participate in politics. Is it reasonable to expect women

1 to participate more in community politics as band
2 councilors chiefs without addressing the core issue of the
3 impact of patriarchy?

4 **MS. FAY BLANEY:** I think in the meantime,
5 and this has been my thought for the past few years,
6 because my community is in extreme turmoil; it's really
7 toxic, and every time you try and have a discussion with
8 anybody, they condemn you in a really derogatory way. I
9 just got that a couple of days ago. Before I came, I was -
10 - someone was criticizing the Chief, and I made a comment,
11 and I got told off on Facebook.

12 So it just seems to me that this whole
13 system with the *Indian Act* is so pathetic, and it's just
14 not worth my time to participate in band politics.

15 I was advising this young woman that I know
16 to not run because she was so busy with language. She was
17 teaching her children, even though she was really
18 struggling with the language, and she was participating in
19 the ceremony that I spoke of, the river bathing, and she
20 was bringing back drumming and singing. My sister did that
21 too before she -- my sister suicided, but she was one of
22 the first to bring drumming and singing to our community.
23 And all of those seem to build community in a much more
24 effective way than trying to sit on the Band Council or in
25 the Band office and try and effect change that way. I

1 think that a whole lot more can be achieved by working with
2 our culture and our language and being on the land and
3 working with the youth.

4 Currently, the youth are -- yeah, I just got
5 really triggered when I was listening to my Inuit friends
6 and what's happening with their youth, and it's like that
7 in my community as well. The youth are being sexually
8 abused so young. I just think that if some of the youth
9 took up this passion of bringing back our language and our
10 culture and going out onto the land -- we also were
11 relocated and we're landlocked, which really is horrible.
12 We don't have stories of the land because it's not the land
13 we were on, and we aren't beside the water. I mean, I
14 learned the water. I learned to swim really young and
15 could operate boats and could access the seafood resources
16 and all of that. Now the people are landlocked and there's
17 no clams; there's no fish, I mean, just highways and
18 airports.

19 And so my idea of revolution in my homelands
20 is just people saying "To hell with the *Indian Act* and the
21 Band Council and let's build our community over here." And
22 they're sort of on the brink of that right now. Some of
23 those people that are condemning me, they're also involved
24 in the singing and the drumming and going back to the land.
25 So, you know, it's a process.

1 evidence earlier -- the Nunavut Shelter Contact Information
2 I think is what we called it -- and we heard that that was
3 prepared by Puuktitutit (phonetic). I am just simply going
4 to ask if it's possible for you to make an undertaking to
5 confirm, because if I understand, looking at this list, do
6 you know that it's true that all of these exist?

7 **MR. TIMOTHY ARGETSINGER:** I haven't
8 personally vetted the list. I mean, I appreciate that
9 somebody gathered the names of the shelters, but I haven't
10 called each and every region to verify.

11 **MS. CHRISTA BIG CANOE:** And so what I'm
12 simply asking if it's possible for you to please undertake
13 to do that vetting. I'm not presuming the list is
14 inaccurate. I just want you to vet it, because when you
15 answered questions, you answered them while reflecting on
16 this list. Is that true?

17 **MR. TIMOTHY ARGETSINGER:** Yes.

18 **MS. CHRISTA BIG CANOE:** Okay. And so if I
19 could have you undertake to email Commission Counsel Violet
20 Ford, just confirming, and then we will share that email
21 with the Commissioners and all of the parties with
22 standing.

23 And that's actually my only point of
24 clarification for you. And again, there's no assumption
25 that it's inaccurate. We just want to make sure if we're

1 putting that evidence that. So that's just a tactical
2 matter.

3 And again, I wanted to thank you. If you do
4 feel you need to leave, I understand.

5 And my other tactical and remaining
6 questions are for Naomi. Obviously you have been sharing,
7 both in your chief, but the questions out of re-examination
8 only drive out of what we've heard in cross or subsequent
9 questions.

10 **MS. NAIOMI METALLIC:** M'hm.

11 **MS. CHRISTA BIG CANOE:** And we have been
12 hearing throughout the last two days about the First
13 Nations Child and Caring Society. What I do note is we've
14 never put on record the actual case citation. So it's a
15 simple question: can you give me the case citation?

16 **MS. NAIOMI METALLIC:** So just starting at
17 the 216, so 216 CHRT 2.

18 **MS. CHRISTA BIG CANOE:** Okay. And we're not
19 going to put that into exhibit because it's case law, and
20 so we can just recognize it as an authority. And that
21 seems simple, but I want to make sure that it's reflected
22 in the record, the case we've been talking about, and
23 you've referred to it as the *Letter* decision.

24 I also wanted a few follow-up questions. So
25 is it true that the panel retains -- so when I say the

1 panel, I mean the Canadian Human Rights Tribunal -- retains
2 jurisdiction over the matter until any orders are fully
3 implemented?

4 **MS. NAIOMI METALLIC:** Yes.

5 **MS. CHRISTA BIG CANOE:** And that's important
6 because parties today asked about the continuing orders,
7 and so has one of the Commissioners. So as long as the
8 orders are not implemented, the Canadian Human Rights
9 Tribunal actually retains jurisdiction over that?

10 **MS. NAIOMI METALLIC:** Yes.

11 **MS. CHRISTA BIG CANOE:** Okay. And so
12 because they retain jurisdiction, I just want to check with
13 you, and if you could please provide your opinion. These
14 are decisions that are decisions that have been made and
15 they can't be unserved. Is that fair, in a current
16 process. Like there's been no -- there has -- you had
17 mentioned earlier that the -- it had not been appealed.

18 **MS. NAIOMI METALLIC:** Right. So the
19 *216 CHRT2* decision has not been appealed, and the four
20 compliance orders, I understand one was judicially reviewed
21 the the federal court but then the parties have since
22 settled. So that is my understanding.

23 **MS. CHRISTA BIG CANOE:** Okay. So -- and
24 other -- just so I'm clear on this too. I understand, and
25 I'll give you an example, others, such as the TRC, have

1 made calls to action for Canada to follow the decisions.
2 In your opinion, can this Inquiry and should it make
3 recommendations to follow the decisions and compliance
4 orders?

5 **MS. NAIOMI METALLIC:** It should. I mean, a
6 government should follow a Tribunal order if it hasn't
7 appealed it, but yes. I mean, I see no harm in this, you
8 know, re-emphasizing the need to comply with and to work
9 with the parties towards the reform that the Tribunal so
10 strongly urged.

11 **MS. CHRISTA BIG CANOE:** Right. And in your
12 opinion, this Inquiry and making that type of call of
13 action or a recommendation wouldn't be meddling with the
14 jurisdiction that the Canadian Human Right Tribunal had,
15 would it?

16 **MS. NAIOMI METALLIC:** I haven't researched
17 the issue, and I don't know the creative arguments that
18 could be made by the other side on that sort of -- I can't
19 see with the decision that is, you know, standing and
20 binding for another body, but I don't -- I haven't
21 researched this, I say. But I don't see the harm in
22 another body saying, we expect that Canada should fully
23 implement that decision.

24 **MS. CHRISTA BIG CANOE:** And thank you.

25 **MS. NAIOMI METALLIC:** But that's just me.

1 responsibilities."

2 And then it goes on, 84, similarly:

3 "AANDC [or INAC] should not be allowed
4 to evade its responsibilities to [First
5 Nations] children[s] and families
6 residing on reserve by delegating
7 implementation of child and family
8 services to FNCFS Agencies or [the]
9 provinces/territor[ies]."

10 **MS. CHRISTA BIG CANOE:** Right. And so my
11 question, just for more clarification, is so you're
12 agreeing, in your opinion -- and this is a similar position
13 that you've made -- in your opinion you support the
14 Tribunal's finding on this. And is this what derives --
15 when you were talking about this issue around the --
16 particularly, the funding or the government or jurisdiction
17 not being allowed to evade, is this where you derive that
18 authority from, or is there more to it?

19 **MS. NAIOMI METALLIC:** When I talk about in
20 the paper one of the aspects that is so important about
21 this case, this is this area of the decision. But it goes
22 on -- really, the passage probably goes on to about the
23 115th paragraph. But it's a long section, but it talks
24 about how Canada has section 91(24) jurisdiction when it
25 comes to child welfare.

1 And yes, just because it chooses to delegate
2 aspects of that to the province, it doesn't mean that it
3 doesn't -- it still has section 91(24) jurisdiction.

4 **MS. CHRISTA BIG CANOE:** Thanks. And I just
5 wanted one more question in relation to Jordan's principle
6 and what the decision actually has to say about Jordan's
7 principle. Because you did answer questions in relation to
8 Jordan's principle today. I just want to clarify or have
9 you expand slightly ---

10 **MS. NAIOMI METALLIC:** M'hm.

11 **MS. CHRISTA BIG CANOE:** --- so that we can
12 understand.

13 The decision references, in paragraph 351,
14 Jordan's principle being the child first principle you
15 discussed earlier today. And there's a conversation in the
16 case, and particularly in that paragraph, about -- between
17 departments in the same government.

18 **MS. NAIOMI METALLIC:** That's right.

19 **MS. CHRISTA BIG CANOE:** So not only the
20 jurisdictions between Canada and provincial territories,
21 but also -- or between departments in the same government.
22 And I know that most of the questions you answered today
23 were in relation to differing jurisdictions as opposed to
24 between departmental.

25 So I'm wondering if you can help us

1 understand a little bit about Jordan's principle when it's
2 -- you know, when you -- the principle that one
3 jurisdiction where the child is, who is supposed to be
4 receiving the services, rather than them battling it out as
5 a provincial or a federal.

6 But is it true that even if it was between
7 two federal departments, so say, someone was having a
8 concurrent issue, so maybe medical as one service but
9 another service was -- would exist out of a different
10 department, there can't -- Jordan's principle applies that
11 too. That that same jurisdiction, even departmentally...
12 Because -- and the reason I ask this question is the way
13 government sometimes silo their services -- their essential
14 services.

15 So can you please explain to us how Jordan's
16 principle would apply, even to one jurisdiction as between
17 departments of that jurisdiction?

18 **MS. NAIOMI METALLIC:** Sorry. One of the
19 areas that came up in the case was the fact that not only
20 were there disputes between the provinces and the federal
21 government with respect to services, and I did sort of
22 gloss this over, but one area that came up quite
23 significantly was that there could be disputes between
24 Health Canada versus INAC over who had the responsibility
25 over service, or other departments, but that being one of

1 the main ones.

2 And so the Tribunal underlined that Jordan's
3 principle is not just about interjurisdictional disputes
4 between the provincial governments and the federal
5 government, but it also includes interdepartmental
6 disputes. And that -- that Jordan's principle says that
7 there shouldn't be this debate while the child waits for
8 service.

9 **MS. CHRISTA BIG CANOE:** Right. And then
10 just to clarify. You know, part of the position you've
11 given -- and this is the question. Because when we look at
12 Jordan's principle, it seems to always be applying to other
13 jurisdictions. Where is the Indigenous perspective or
14 where is the Indigenous jurisdiction in the whole concept
15 of Jordan's principle, other than trying to enforce it?

16 **MS. NAIOMI METALLIC:** It's a question? I
17 think -- I don't think it was -- I think that's an
18 excellent point, and potentially it comes up... I mean at
19 this point, the issue is, is that most of the -- it's
20 services provided, right, and who's paying for the
21 services.

22 And -- so this would -- maybe the question
23 assumes that, you know, the First Nations jurisdiction
24 could also fund the service, but at this point, you know,
25 the -- you know, the communities do require, and I think

1 there's an obligation to fund the services from, you know,
2 other levels of government as well.

3 So -- no, you're right. It didn't come up
4 in the case, but possibly when that actually becomes a
5 reality, potentially that could be part of what we
6 understand as Jordan's principle.

7 And I think the biggest issue and the
8 reality is, is that -- again, going back to my presentation
9 yesterday -- Indigenous issues and especially the funding
10 and also control has always been a hot potato issue, right,
11 and it's always been bounced back and forth primarily
12 between provinces and the federal government, but also
13 between departments too. So that's really what this was
14 addressing.

15 **MS. CHRISTA BIG CANOE:** And just in terms of
16 the first question I asked you about the case in the first
17 place, and I mean, it may seem obvious given all that
18 you've presented. But should the -- should this Inquiry
19 make recommendations, not just the bare minimum
20 recommendations, but recommendations to endorse and support
21 the broad interpretation that the Canadian Human Rights
22 Tribunal has to Jordan's principles in areas of all
23 essential services?

24 **MS. NAIOMI METALLIC:** Yes. And I think
25 that's consistent with the decision.

1 **MS. CHRISTA BIG CANOE:** Thank you. Those
2 are my questions of clarification.

3 The examination is complete, and so this
4 panel is finished. So -- and I understand there may be --
5 I'm not sure, before I ask you to close if there'll be a
6 prayer or anything. So...

7 **CHIEF COMMISSIONER BULLER:** Yeah. Yes, the
8 grandmothers are just getting us organized here. We have a
9 tradition with all of the witnesses who come and share
10 their truths with us, and the -- it's to give gifts.

11 And our gifts for you are two-fold. First -
12 - well, three, I guess. First, is our heartfelt thanks
13 that you've come for two days and shared your knowledge
14 with us. Our second way of thanking you is to give you
15 eagle feathers, hold you up, lift you up when you need to
16 be lifted and held up.

17 And also, we have our own little experiment
18 going on, and I hope you have better luck than I did. We
19 have seeds for you to plant, and it goes back to when we
20 first started this national inquiry. We hoped that new
21 growth, new hope, would come out of the hearings that we
22 held. So we have seeds and we're going to ask you to plant
23 them. If something grows, would you please take a picture
24 and send it to us, so we can keep track. As I said, better
25 luck than me.

1 So please, I hope you will accept our
2 heartfelt thanks and our gifts to you. It's been indeed a
3 real pleasure to spend the last two days with you. We'll
4 also make sure that Mr. Argetsinger gets his. So then
5 we've finished. We'll hear from the grandmothers.

6 **MS. CHRISTA BIG CANOE:** I'll move out of
7 your way so they can do this.

8 **CHIEF COMMISSIONER MARION BULLER:** I would
9 like to ask -- yeah, she has a beautiful information about
10 the feathers. Oh, there she is.

11 **AUDREY:** I would love to raise my hands to
12 you and say Hetsulka (phon.) for just being experts, being
13 humans. The feathers that are here today are from Musqueam
14 or Sechelt in B.C. And they are the white feathers, the
15 warrior feathers because the work you're doing of putting
16 yourself out on the front lines and out on the tip of the
17 spear is exemplifying what a warrior does look like in our
18 society today. So merci.

19 **MS. LAUREEN "Blu" WALTERS-GAUDIO:** So we'd
20 just like you to hold your places for a few minutes. We're
21 going to have our Inuit grandmother speak first, then we're
22 going to have our local Elder speak second. I will go
23 third today. We're also going to have our women here, our
24 pillars of our communities drum us out today, and to the
25 Coast Salish Song as well as -- sorry, the Women's Warrior

1 Song in honour of all those women, girls, two spirit,
2 LGBTQ, we've talked about. So please hold your places for
3 a few minutes until we finish this part and then you'll all
4 be able to have a restful evening.

5 So we're going to all stand for our Inuit
6 grandmother. She has asked that she's going to do an Inuit
7 closing prayer for you.

8 **MS. REBECCA VEVEE:** Today -- is that on?
9 Thank you for everybody people talking today. Some people
10 give me crying because they touch my heart, and this is my
11 land which I want to pray for God for my thank you. Would
12 you people holding hand because we're standing, sit down
13 all day, and people we have a good time, we have bad time,
14 you know. We're going to pray for my language. Thank you.
15 (Speaking in Native Language)

16 Thank you, Lord for providing us time
17 together. I can't hear some of the words. God, we know
18 you love us all. Thank you, Lord. Those who aren't among
19 us have lost a relative, thank you God through Jesus name,
20 Amen.

21 **MS. PÉNÉLOPE GUAY:** Alors, je vais remercier
22 nos ancêtres, remercier nos grands-mères, nos grands-pères,
23 nos frères, nos sœurs, les femmes disparues et assassinées.
24 Je les ai bien senti présentes dans cette salle pour nous
25 supporter.

1 Je vois qu'on a fait beaucoup de travail
2 mental. Je vous ai trouvé courageuses et courageux. Je
3 vous ai regardé souvent. Ça se sentait, la fatigue, mais
4 vous avez resté là à poser toutes ces questions pour savoir
5 la vérité, savoir qu'est-ce qui va se passer dans l'avenir.

6 Je suis vraiment honorée de participer à
7 cette page d'histoire, puis je vous remercie beaucoup et
8 j'espère ce soir de vous détendre l'esprit et de faire
9 danser le cœur. Je vous remercie beaucoup.

10 **MS. LAUREEN "Blu" WALTERS-GUAY:** You can all
11 sit down now for a minute because I have the gift of gab.
12 So you can sit.

13 So we started off this morning in welcoming
14 in those ancestors. But I just want to share something
15 very briefly with you that one of my teachers told me a
16 story of how in the very beginning when those boats arrived
17 here, they looked at us and we were healthy. We were well.
18 We had no psychiatric institutions. We had no hospitals.
19 We had no need of any outside help and they couldn't figure
20 out how were they going to conquer us.

21 So they went away and they pondered and when
22 they came back they said, "We've figured it out" and they
23 went to the different villages. The first step they did
24 was they handed them that alcohol, and that alcohol they
25 said, "Here this is the spirit, it will help you." That's

1 the name we call our alcohol spirits. And they sat back
2 and they watched and after a little while their plan had
3 started to work, because that alcohol had changed our
4 thinking, changed our understanding, changed who we were as
5 people. And they seen that we were no longer being
6 supportive of each other and caring and gentle.

7 They went away and they said, "Okay, so it's
8 working. We're causing a disruption. So next we're going
9 to introduce the idea of violence to them." So they went
10 and sat and they taught them those behaviours of the
11 patrilineal way, that men are superior. When women are not
12 listening, they would just give them a slap and our men
13 learned that and our women learned that as well. And they
14 said, "The plan is working. Now we have their minds not
15 well, now we have them abusing each other."

16 Since that time our people have not been
17 well. And we talk about mental health, we talk about
18 addictions, we talk about how we're going to bring people
19 back together. I don't listen to a lot of the academic
20 presentation and it's meant with no disrespect. It's that
21 I can't understand them because my PhD is in L-A-N-D,
22 right? And I don't speak that language, so it's not meant
23 as disrespect, but our words happen to come back because
24 ancestor tell me what was said, they translated to me and I
25 can offer the words back out to the people.

1 So we need to go back to our original ways
2 to be well again. We don't need to rely on other systems.
3 We have those things in place. We have our traditional
4 laws which supersede Canadian law.

5 We talk about the child welfare system. I
6 talked about this in British Columbia. How are you going
7 to fix this? Give our children back. Pay our kinships;
8 pay our grandmothers, our aunties, our uncles, our cousins,
9 for taking care of our own children. Bring back our own
10 healers; bring back our own doctors. We knew how to take
11 care of ourselves.

12 So systemic things need to be changed and it
13 starts with us as Indigenous people. That spirit of
14 alcohol, the spirits of those drugs, we have to put them
15 down and walk away from them and go back to our original
16 ways. Because if we're not strong as a community, how are
17 we going to call in other people to help us if we don't
18 even know what we need ourselves, because we're clouded.

19 So I wanted to share that with you because
20 that person that I see has a very good understanding, a
21 very good vision that it starts with us and we have to go
22 back to that.

23 So I want to thank those ancestors for
24 coming today and thank them for allowing our guests, our
25 witnesses, our expert, our knowledge keepers to share their

1 knowledge with us, to bring us a different understanding.
2 So we honour them for the work that they did over the last
3 two days.

4 Those ancestors will travel with you and
5 help you on your journeys. You have those feathers, you
6 have those helpers now. You have that connection back to
7 the land, back to who we are as Indigenous people. You
8 have the tools that you need through the way of education,
9 and now through the tools of our original ways. So they'll
10 help you with your balance in your journey as you walk, and
11 thank you for coming today.

12 We thank each and every one of you again for
13 coming today. Those ancestors, those ones that welcomed us
14 to this territory, this land that is being welcoming every
15 day to us we honour that and say Hai Hai; Meegwetch. Thank
16 you for bringing us here to your territory.

17 As we set out the pillars of our community,
18 our women were our strengths. And no better way to close
19 off today than to have our women stand here, and drum you
20 out, and to drum into our ideas that we need to honour our
21 women; those that have gone missing, those that have been
22 murdered, and those that are still hear to speak, to bring
23 the words to us. So they're going to do this honour song,
24 and we're all going to do it, and you're all welcome to
25 sing with it.

1 I, Nadia Rainville, Court Transcriber, hereby certify that
2 I have transcribed the foregoing and it is a true and
3 accurate transcript of the digital audio provided in this
4 matter.

5

6

A handwritten signature in cursive script that reads "Nadia Rainville". The signature is written in black ink and is positioned above a horizontal line.

7

8

Nadia Rainville

9

May 15, 2018