

2. Understanding Violence Against Indigenous Women and Girls in Canada

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The situation that we are in today is such that our women and children aren't respected as they used to be. It is not the fault of the men. It is because of the layers of influence we have had from another culture. We are in a state of confusion and we are trying to work our way out of it. People are calling it healing. Well, whatever it is, we are trying to find our balance, and when we find the balance, we will know it because the women won't be lost. They will be respected and taken care of and so will the children.

—Kim Anderson (*A Recognition* 13)

WHEN ONE THINKS about what life is supposed to be like in Canada according to its claims as a fair and democratic country, a society where everyone is considered equal and citizens peacefully co-exist should come to mind. Most importantly, these claims should represent a country where all women and girls can feel safe. Unfortunately, this is not true for the Indigenous women and girls of Canada. Rather, this grand narrative of an equal society blinds us to the hidden, ugly truths within this “great multicultural” country.

I only learned of Amnesty International's No More Stolen Sisters campaign during a class I took at Brock University as part of the Gidayaaamin program in 2011. I had never heard of this systemic issue prior to the course. I was just starting a journey of discovery of my own cultural identity, and I was completely taken aback when I learned about the issue of missing and murdered Indigenous

women and girls. It was not something that was publicly known at the time but has thankfully gained much more media attention with the recent coverage of the launch of a national public inquiry. It was disheartening to learn the extent of the discrimination and violence against Indigenous women in Canada. Amnesty International has indicated that Indigenous women between the ages of twenty-five and forty-four with Indian status are five times more likely than other women of the same age to die from violence. According to The Ontario Native Women's Association, Indigenous people make up 4.3 percent of Canada's population and are six times more likely to be victimized than any other women in Canada. Although my understanding was that Indigenous women were being targeted for reasons unknown, which I will explore throughout this chapter, many have argued that poverty, drug and alcohol dependency, and sex work play a factor into why Indigenous women are missing and murdered; Canadian society has overlooked these factors and has ignored their systematic nature.

My attempt in the advocacy work that I now do is to provide a deeper understanding of the racialized and sexualized violence experienced by Indigenous women as a contemporary sociological phenomenon rooted in the history of Canada. I write this chapter, as an Indigenous woman, who wishes to examine the historical perspective on the racialized and sexualized victimization of Indigenous women and girls in Canada. I write this with respect to all our Stolen Sisters and families in mind in hopes that justice will prevail and that this systematic issue can be looked at more closely and be better understood.

DISMANTLING MATRILINEAL SOCIETIES

Racialized and sexualized violence against Indigenous women in Canada is a systematic issue, resulting in alarming rates of missing and murdered Indigenous women. Although women in general have been devalued throughout Canadian history, it is important to recognize the effects that colonization has had on Indigenous women specifically. Patriarchy has had a significant effect on Indigenous women. As Noel notes, “since early settlers have migrated to North America, the patriarchal values have

pushed out decades of Indigenous matriarchal values. Indigenous women were powerful in their communities and there was no battle of the sexes" (77). Noel points out that "In European eyes, gender relations were hierarchical; dominance was all too often integral to male honour; making a powerful woman a rival to be disarmed" (78). In Indigenous communities before colonization, men and women had various roles in their communities that were understood to be egalitarian. The patriarchal division between women's work and men's work was non-existent. Rather, within Indigenous communities, men and women worked together as a unit for their community. Within Haudenosaunee societies, matrilineal understandings can be dated back to the creation story, in which Sky Woman exemplifies the power of women (80). Today, these teachings inform cultural practices and teachings about the reciprocal roles between men and women. Moreover, within Indigenous ideologies, women are revered for the power they hold to sustain and give life (Anderson, *Life Stages*). The ability to cleanse themselves through their monthly cycles is also understood as a time of women's power and is highly respected. The power of Indigenous women filters through all aspects of life. The accounts of early Western explorers describe the considerable amount of power and influence Indigenous women had on their people (Portman and Garrett). These powerful roles stood in contrast to the newcomers view on a women's place in society. Winona Stevenson compares the roles of European and Indigenous women during the colonization period:

Where European women were fragile and weak, Aboriginal women were hard-working and strong; where European women were confined to affairs of the household, Aboriginal women were economically independent and actively involved in the public sphere; where European women were chaste and dependent on men, Aboriginal women had considerable personal autonomy and independence—they controlled their own sexuality, had the right to divorce, and owned the products of their labour. (55)

The very strength of Indigenous women stood in contrast to the

role of settler women and was, therefore, a threat to the development of a patriarchal society. Thus, Indigenous women were poorly treated and demonized as settler women were taught to fear Indigenous women. This strategy, referred to as systemic violence by Andrea Smith, is explained in the following passage:

The relatively egalitarian nature of Native societies belies patriarchy's claims to normality, and thus it is imperative for a patriarchal society to thrive to destroy egalitarian societies that present other ways of living. The demonization of Native women, then, is part of white men's desires to maintain control over white women. (78)

This often quoted Cheyenne proverb speaks to the deliberate attack on Indigenous women as way to conquer the entire nation: "A nation is not conquered until the hearts of its women are on the ground. Then it is done, no matter how brave its warriors or strong its weapons."

The dismantling of the matriarchal society is one of the first acts of racialized and sexualized discrimination against Indigenous women. As Accoose explains, "This male dominated Eurocentric view of the "Indian" or the "Native" has almost totally effaced from history the lives of Indigenous women" (62). This history of patriarchy and colonization, which has led to the racialized and sexualized discrimination of Indigenous women, must be acknowledged as the foundation for the contemporary violence against Indigenous women in Canada. Moreover, the erasure of their presence was deliberate to the development of the Canadian nation.

POLITICAL AND LEGAL DISCRIMINATION

Canada's history of racialized and sexualized discrimination is entrenched in legislated policies that have specifically targeted Indigenous women. These policies, enforced by the Canadian government through the Indian Act, are indeed forms of violence against Indigenous women. Specifically, under section 12 (1) (b) of the *Indian Act* of 1867, Indian status could be removed, which was used to target Indigenous women. Under this section, Indian

status women who married non-status men lost their status and all rights associated with it, including access to community resources (Harry). Not only was this legislation assimilatory in intent and nature, but it also placed Indigenous women in a vulnerable situation, as it cut family and community ties. Moreover, as this act was aimed at the erasure of Indigenous women, its connection to the sociological phenomenon of missing and murdered Indigenous women and girls in Canada is evident. Thus, Canada's hidden history of legislated policy has affected the welfare and well-being of Indigenous women in Canada and is undoubtedly related to the racialized and sexualized violence experience by Indigenous women today.

The *Indian Act* enforced the removal of women from the centre of their community to lessen the amount of power that they held; the rights of Indigenous women were removed and a more patriarchal worldview enforcing male power was instilled. Historically, this power has slowly taken away Indigenous women's authority in their community and has disrupted matrilineal ways of life. Beverly Jacobs describes this disruption in her community in the following:

Once the *Indian Act* was passed, the responsibilities of our men and women changed drastically. As a result of being confined to a reserve, our traditional men and women lost their responsibilities in using their strengths, either physically or mentally. Women were thought of as property by our Ojibweho: we men who became acculturated into believing that they had to think like white men. The entitlement to status under the *Indian Act* itself enabled that to happen, wherein the male would gain status and his wife and his children would gain his status. (113)

Moreover, the *Indian Act* denied Indigenous woman the right to vote in a band election and to hold positions in political office, and to speak at public meetings (Shepard, O'Neil, and Guenet). Women's roles in Indigenous communities have been removed, stripped, and left bare because of colonization. Moreover, Indigenous women continue to be abused by new and complex forms

of gender discrimination in the *Indian Act* (Palmatier).

Indigenous women are discriminated against for being both Indigenous and women. To be an Indigenous woman in Canada is to experience marginalization, oppression, and colonization, which can be felt through many generations of Indigenous women. As the above attests, racialized and sexualized discrimination is not something new to Indigenous women. Historically, when an Indigenous woman was forced to assimilate to Western society, the power of that woman diminished, as the loss of status has shown. Western society is based on a patriarchal worldview, and, thus, Indigenous woman have faced discrimination, ignorance, bigotry, and violence. Patriarchy involves stripping away the very nature and beauty of Indigenous womanhood, leaving women stripped of who they are supposed to be in their community and vulnerable to the violence experienced in settler spaces.

THE ONGOING SEXUALIZATION OF INDIGENOUS WOMEN

Indigenous women have been sexualized by men since settler contact. As Acoose articulates, dominant stereotypes of Indigenous women include the Indian princess-squaw binary. These two very opposing, but equally dangerous, categories both sexualize and romanticize Indigenous womanhood. This type of sexualization is an issue and a concern when it comes to missing and murdered Indigenous women in Canada. Acoose argues that these stereotypes, embedded in Canadian literature, have led to an acceptance and normalization of violence against Indigenous women. Moreover, Emma LaRocque states that "the dehumanizing portrayal of the squaw and the oversexualization of Native females such as in Walt Disney's Pocahontas surely renders all Native female persons vulnerable" (12). The sexualization of Indigenous woman portrayed as either the Indian princess or the "dirty squaw" is seen in literature, historical texts, video games, movies, and music (Acoose). These notions have resulted in harmful stereotypes, which have become accepted throughout all levels of society and entrenched within dominant ideologies that target racialized women, leading to the high rates of missing and murdered Indigenous women. This is a sociological phenomenon that has been happening since

colonization and is deeply entrenched within the settler mindset. Violence against Indigenous women has been imprinted on our women through the experiences of our ancestors and still continues today in this supposedly "fair and democratic" society. In other words, the layers of violence against Indigenous women must be understood as intergenerational as well as a contemporary daily lived experience.

In a fact sheet exploring the root causes of violence against Indigenous women, the Native Women's Association of Canada (N/WAC) states that the National Council of Welfare discusses "the history of colonization has burdened our nation with a continual 'passing down of various loads or degrees of post-traumatic stress. Generation after generation, so that we wind up with this entire burden of our people as they exist today.'" The connection between colonization and intergenerational trauma is apparent in many forms of traumatic experiences that occurred at residential schools has been related to the violence, abuse, alcoholism, that plague many Indigenous communities. Intergenerational trauma also manifests in the prevalence of high suicide rates and other mental health issues, related to the loss of cultural identity. These issues are related to the racialized and sexualized violence experienced by Indigenous women at the hands of both Indigenous and non-Indigenous men. Moreover, it has contributed to Indigenous women's vulnerability to violence.

Honouring Indigenous Women's Strength and Resiliency

Indigenous women endure many traumatic experiences in life, but alongside this trauma, they also display strength and resiliency. For example, the leadership roles of Indigenous women have not been completely dismantled, which is evident in their will to keep advocating for a return to their rightful place in society. The following words shared by Nongom Ikwe during a brief submitted to the Royal Commission on Aboriginal Peoples in 1993 attest to the importance of Indigenous women reclaiming their roles as leaders in their communities:

Our people will not heal and rise toward becoming self

governing and strong people both in spirit and vision until the women rise and give direction and support to our leaders. That time is now, the women are now actively participating in insuring the empowerment of their people. Life is a daily struggle as women, as mothers, as sisters, as aunts and grandmothers. We are responsible for the children of today and those of tomorrow. It is with pure kindness and our respect for life that allows us to gladly take up this responsibility to nurture the children, to teach of what we know, from what we have learned through trial and error. (qtd. in "Highlights from the Report of the Royal Commission on Aboriginal Peoples" 7)

In this long journey, Indigenous women have fought to have their status renewed in society and to regain their identity. Many women have shared their stories and visions of healing through academic papers, novels, poetry, and other forms of writing and advocacy work. In these forms of writings, Indigenous women have had their story heard and have created awareness within society about the trauma that they have endured throughout colonization, including the residential schools, the eugenics movement, and the Sixties Scoop. Indigenous women may not have the voice in society that they once had, but putting a pen to paper is the most powerful weapon that can be used to educate and to bring awareness to these pressing issues. In this way, Indigenous women are working through their collective trauma to offer healing and restore balance within their communities.

Today, Indigenous women, men, families, and communities continue to pursue active roles in Canada. Alongside them, various movements across Canada have been actively requesting an inquiry into missing and murdered Indigenous woman by advocating through social media, protests, Indigenous woman's literature, art, petitions, and other grassroots movements to pressure the federal government for an inquiry. Moreover, media outlets, such as CBC news, are finally starting to provide extensive coverage on this issue as well as a space for Indigenous women to have their voices heard. For example, in an opinion piece entitled "Missing and Murdered: What It Will Take for Indigenous Women to Feel

Safe,” Big Canoe and Massimo draw attention to a recent study released by the Legal Research Strategy Coalition that looked at over fifty-eight studies and recommendations from those studies. They note that Canada’s failure to protect Indigenous women’s lives is evident in its unwillingness to follow through on the aforementioned reports:

Shockingly, researchers found that only a few of over 700 recommendations in these reports have ever been fully implemented. This report demonstrates that the government’s stance that MMIW is not a sociological phenomenon is wrong. This report demonstrates decades-long inaction by the government to even start to adequately address the systemic and structural violence against Indigenous women and girls. (Big Canoe & Massimo)

As they articulate further in the article, Indigenous issues were not high on then Prime Minister Stephen Harper’s radar and this apathy towards Indigenous women’s lives filtered into the social institutions designed to protect them:

The police have failed to adequately prevent and protect Indigenous women and girls from killings, disappearances and extreme forms of violence, and have failed to diligently and promptly investigate these acts.... Every Canadian needs to pay attention and listen to what the federal government is saying or doing, but also, more importantly, what they are not doing. Every Canadian needs to make their own commitment to action that addresses systemic violence against Indigenous peoples. (Big Canoe and Massimo)

These reports provide evidence of the continued oppression that Indigenous women and girls face. Fortunately, with the persistent of Indigenous women, such as Big Canoe and Massimo, who are taking leading roles in the push for action, the demand for a national public inquiry has been heard. The newly elected Prime Minister of Canada Justin Trudeau has followed through on his promise of launching a national public inquiry in missing and murdered Indigenous women, and this is surely the result of

Indigenous women who demanded their voices be heard.

It is my hope that this national public inquiry will present an understanding of the historical issues that I have noted throughout this chapter. The racialization and sexualization of Indigenous women is deeply rooted in the development of Canada as a patriarchal and colonial society. Moreover, Indigenous communities continue to be underfunded, and families there are living in Third World conditions. Reserves in northern communities do not have access to resources that most Canadians have access to. These poor living conditions must not be left out of the discussion of Indigenous women’s vulnerability to violence. Moreover, the continued racialization and sexualization of Indigenous women in Canada today must be acknowledged. The history of Canada, in its treatment of Indigenous women, is a shameful one, which is long and unsettling. It is a history that Canada can no longer ignore. To understand the present experiences and the extent of violence Indigenous women face in their daily lives, all Canadians should know this history and work towards the development of a nation in which all women and girls are safe.

PERSONAL NARRATIVE

As I noted earlier, I first learned about missing and murdered Indigenous women in the Gidayaaamin Program at Brock University in 2011. The instructor was talking about Amnesty International’s No More Stolen Sisters campaign. I sat there listening intently because I had not heard of this campaign and was unaware of the extent of the issue. After class, I went home and immediately read the website in its entirety and signed the petition. I was shocked that this was happening and nothing was being done. As a mother to four girls, I thought of them and thought to myself “what if it happened to one of them?” I thought about how I could make a difference and bring this issue to light. I then thought what if that had been me. It could have been me. I am not removed from the violence that targets Indigenous women, nor are my daughters. As a teenager, I put myself at risk when I ran away from home at sixteen years old with another friend who was having trouble at home. Looking back, I had no reason to leave home other than

I was easily persuaded to do things that I knew I shouldn't do. My home life was great, but I was looking for an adventure. This adventure led me to hitchhike from Sault Ste. Marie to Toronto. What if I had gotten into a vehicle with someone and had never made it back home? I now as a mother realize the hurt my mother must have felt. She had no idea that I had left, where I had gone, or how I gotten to Toronto. I must have put her through so much stress and worry. I remember calling her and hearing the hurt in her voice. I have felt this as a mother myself when my daughter ran away from home when she was fourteen. As a mother, I wondered if she was okay, where she was, and a million other questions. These are questions that would flood through the mind of any mother. Every time there is a documentary, news story, or photograph shown on social media of another missing sister, I think of that mother and family.

I started to write about missing and murdered Indigenous women in my academic classes, and soon after, I was presenting on this important systemic issue because I wanted to be a voice for those who do not have one. I wanted to help to educate people on how important this is to communities and as a country. I was invited to co-present on the issue of missing and murdered Indigenous women at the Niagara Social Justice Forum held at Brock University in 2015. We had almost one hundred people attend the presentation, and the co-ordinator of the forum had to move our session into a larger room. Although I was terrified to speak in front of such a large audience at the time, I wanted to do it for all missing and murdered women. I did not want them only to be a statistic; I wanted them to be known as a real person—a grandmother, a mother, a sister, an aunt, a daughter, a niece, a granddaughter, a cousin, or a friend. These women lived real lives, and they are not a number. They have names. They have stories. They matter.

I had seen the call for this book and thought this is something that I wanted to do to continue to work for these women, to be that voice alongside others who have done so much for missing and murdered Indigenous women. So I sat at my computer and decided to write from the heart and then move on from there. I work to educate people on this issue and bring an understanding to the magnitude of missing and murdered Indigenous women. I

just presented again this year at the 2016 Niagara Social Justice Forum at Brock University. This year, our presentation was on Building Solidarities, but I still felt the need to update what has happened over a year time on missing and murdered women and how we can form allyship from the presentation from the year before. I discussed the inquiry, grassroots movements, missing and murdered Indigenous men, and how to be an ally with the families. I will continue to advocate and educate for my sisters and their families with a good heart and a good mind. My heart goes out to the families affected by this issue and who have lost a loved one. My hope is that they will find the answers that they deserve so to bring some healing and peace, and that justice will be served. I will carry you all in my heart and continue to do this work and be that voice along with others who contribute to the voice for justice and reconciliation. You are Forever Loved.

Kakikaa Sagi'aaganii

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3.

"Only the Silence Remains"

Aboriginal Women as Victims in the Case of the Lower Eastside (Pickton) Murders, Investigative Flaws, and the Aftermath of Violence in Vancouver

PATRICIA O'REILLY AND THOMAS FLEMING

The effects of past discrimination have resulted in the poor socio-economic situation applicable to most Aboriginal women, but it is also attributable to the demeaning image of Aboriginal women that has developed over the years. North American society has adopted a destructive and stereotypical view of Aboriginal women. (Chartrand et al)

THE STATUS OF ABORIGINAL WOMEN within Canadian urban culture can be characterized on one hand by desperation and despair, and on the other hand, as largely invisible to the average Canadian. The first group's interaction with street cultures is characterized by illegal and legal drug abuse, poverty, violence, involvement in the sex trade, health issues, frequent interaction with agencies of social control and treatment programs in a "revolving door" of jail, court, and release. This chapter focuses on individuals drawn from street life and the sex trade, specifically the victims of Robert Pickton. However, we believe it is important to balance our subject matter with a clear recognition that the victims in this case are a specific group of Aboriginal women; they should not form for the reader an overarching portrait of urban Aboriginal women in general. The integration of Aboriginal women into the major urban landscapes of Canada has reflected the general trend of off-reserve residence. Approximately 71 percent of Aboriginal people reside off-reserve, with 59 percent residing in large cities or smaller urban centres (Dickson-Gimore 75). A broader view of the lives of the overwhelming majority of Aboriginal women in the

5.

The Unmournable Body of Cindy Gladue

On Corporeal Integrity and Grievability

CAROLINE FIDAN TYLER DOENMEZ

THE CANADIAN JUSTICE SYSTEM is one of the institutional frameworks in which Indigenous women frequently struggle to be afforded adequate protection and representation. One of the most egregious recent examples of this was the case of Cindy Gladue, a thirty-six-year-old Cree woman and mother of three teenage girls. On March 18, 2015, a nearly all male and entirely non-Native jury acquitted white trucker Bradley Barton for her murder. Gladue, a sex worker, had gone to a hotel in Edmonton, Alberta, with Barton on June 22, 2011. The next morning Barton “discovered” her in the bathtub, submerged in her own blood (“Bradley Barton Found Not Guilty”). The medical examiner at the trial testified that she had died from massive blood loss due to a four-inch wound in her vagina, caused by a sharp object. However, Barton’s lawyer stated that his client “didn’t mean to harm Gladue, and that the wound was caused accidentally by ... rough sex” (Johnston and Lilwall). Despite admitting to causing the laceration that resulted in Gladue’s death, the jury found Barton not guilty of first-degree murder and chose not to convict him of the lesser offence of manslaughter. Barton walked free. Many aspects of the trial undermined the unambiguous and startling brutality that Gladue was subjected to and further violated her bodily integrity, including the unprecedented use of her preserved vagina as an exhibit in the courtroom. What logics were at work that could explain the court’s decision to exonerate Barton, and to condone the continued mutilation of her body? What makes it possible to portray Gladue as someone who consented to this violence?

UNMOURNABLE BODIES, UNGRIEVABLE LIVES

Following the Charlie Hebdo killings in Paris in early January 2015, Teju Cole wrote a piece titled “Unmournable Bodies.” The chapter contrasts the outrage that the Western world exhibits over (white) deaths caused by Muslim extremists with the apathy it displays towards other instances of extreme violence, such as the killings of Palestinian children in Gaza or the recent massacres in the Central African Republic. He writes about the “consensus on mournable bodies,” a concept that speaks to Judith Butler’s 2004 book, *Precarious Life: The Powers of Mourning and Violence*. In it, she writes: “The question that preoccupies me in the light of recent global violence is, Who counts as human? Whose lives count as lives? And, finally, What makes for a grievable life?” (20) Later, she asks:

What, then, is the relation between violence and those lives considered as “unreal”? Does violence effect that unreality? Does violence take place on the condition of that unreality? If violence is done against those who are unreal, then, from the perspective of violence, it fails to injure or negate those lives since those lives are already negated. (33)

I wish to extend Cole’s and Butler’s thinking on “unmournable bodies” and “ungrievable-unreal lives” to the crisis of the missing and murdered Indigenous women and girls in Canada. Despite the sheer quantity and brutality of these crimes against Indigenous women, various state institutions have responded with overwhelming indifference. This indifference is sporadically interrupted by either fleeting empathy (Simpson) or active antagonism, including the dismissal of this crisis as simply an issue of “crime.” This stance blatantly disrespects the concern, the outrage, and the important data of Indigenous leaders, victims’ families, and organizations. The obstinate passivity of the political and legal institutions, I will argue, is tied to colonial conceptions of Indigenous women and girls’ lives as inevitably degenerate and disposable, which is rationalized by the projection of criminality onto their bodies. Moreover, this “unmournability” can be viewed through Lisa

Stevenson’s formulation of a Canadian state that simultaneously disavows and anticipates Indigenous death.

AWAITING INDIGENOUS DEATH

Stevenson’s book *Life Beside Itself: Imagining Care in the Canadian Arctic*, examines regimes of care imposed on the Inuit in Nunavut by the Canadian state. First, she looks at the state’s attempt to curb the tuberculosis epidemic of the 1950s and 1960s, and then juxtaposes it with contemporary suicide-prevention campaigns. In looking at what she calls the “psychic life of biopolitics” (28) she notes the way in which the expectation of death is folded into these ostensibly benevolent projects, wherein “caregivers exhort Inuit to live while simultaneously expecting them to die” (7). She also includes a fruitful discussion of what it means for the state to “have” a dead Indian, to collect it as a statistic, while being indifferent to the individual whom that statistic represents. Although the state of Canada does not, exactly, “exhort” Indigenous women to live, it certainly *postures* as being invested in their survival, as testament to the state’s “caring.” However, the Harper government’s intransigent refusal to co-operate with calls for an inquiry signals its apathy. Moreover, the federal government’s efforts to ameliorate the problem concentrate more power and money in the hands of state actors, such as the police forces, while cutting funds to the Native Women’s Association of Canada (NWWAC) and other Indigenous organizations. By refusing to collaborate with Indigenous peoples on this issue *on their own terms* and take their suggestions seriously, the state ultimately fails to engage with the crisis in a meaningful or productive way. As Stevenson writes, this creates “a simultaneous expectancy—the sense in which we, as bureaucrats and citizens of a bureaucratic regime, are awaiting the deaths we are indifferently trying to prevent” (“The Psychic Life of Biopolitics” 593). This awaiting and indifference depend on the historical and ongoing criminalization of Indigenous female bodies, which casts them as belonging to spaces of ineluctable violence that erases the state’s role in producing their vulnerability. In this way, the state is always waiting for more Indigenous women to disappear, not only to add to its database and numbers but also

to keep capturing them within an imagined space of turpitude and frailty, seized then in death as a statistic. Indigenous women and girls are always on the brink of death for a state that requires their disappearance to legitimize its ongoing acts of dispossession and the evasion of their own history—a history that structures the very problem that they supposedly become.

A BRIEF HISTORY OF THE CRIMINALIZATION OF INDIGENOUS WOMEN

One of the gendered processes of the settler colonial project in Canada has been the attempt of the federal government to undercut the power and status of Indigenous women. One of the most prominent legislative initiatives in this regard was the *Indian Act* of 1876. This act made Indigenous men property owners and heads of households, which legally erased the Indigenous status of any woman who married a white man. The *Indian Act* defines “Indians” as: “*First*. Any male person of Indian blood reputed to belong to a particular band; *Secondly*. Any child of such person; *Thirdly*. Any woman who is or was lawfully married to such person” (Canada, “An Act to Amend”). This bill disenfranchised thousands of Indigenous women and severed their connections to their communities, cultures, and lands, rendering them acutely isolated and vulnerable if they had married non-status or non-Native men. The loss of membership within Indigenous, reserve communities extended then to their children. This assimilationist policy, meant to reduce the number of Indigenous peoples, left the women who “married out” entirely dependent on their husbands; they were geographically cast out of their communities *by law*, often resulting in crises when they faced abusive relationships or divorce. The result of this legislation, as Jabobs and Williams argue “was a major disruption of traditional kinship systems, matrilineal descent patterns, and matrilocal, post-marital residency patterns. Furthermore, it embodied and imposed the principle that Indian women and their children, like European women and their children, would be subject to their fathers and husbands.”

Although this law was amended with Bill C-31 in the case of *Lovelace vs. Canada* in 1985, this state policy has continued to

affect Indigenous communities as they grapple with questions of membership, identity, land, and relations. The imposed androcentric nature of the law undermined, if not obliterated, women’s autonomy and traditional roles and left many of them on the margins of society. This is a critical example of how the Canadian legal system has functioned to erase Indigenous women, whose political and life-giving power has historically threatened the settler colonial project.

Media coverage has often played a potent role in contributing to the perception of the inherent criminality of the Indigenous female body while rendering structural violence opaque. According to Sherene Razack, this expectation can be dated back centuries: “Newspaper records of the nineteenth century indicate that there was a conflation of Aboriginal woman and prostitute and an accompanying belief that when they encountered violence, Aboriginal women simply got what they deserved. Police seldom intervened, even when the victims’ cries could be clearly heard” (130). More recently, as Jennifer England writes, Indigenous women have been rendered either invisible when they suffer violence or hyper-visible as criminals in media reports, where implicit links are made between their indigeneity and their “deviant” behaviour (England 315). Yasmin Jiwani and Mary Lynn Young examine this same hyper-visibility of missing and murdered Indigenous women in Vancouver’s Downtown Eastside in the plethora of toxic media reports that paint them as morally dubious individuals. One example of this was the coverage of the murder of April Roech, who was discursively associated with “every” missing woman: “She had much in common with the women on that list. She was battling a drug problem as were others. She was known to work as a prostitute, as were they” (896). Jiwani goes on to describe the ideological function of this tone: “the coverage conforms to these societal constructions, invoking and re-inscribing popular stereotypes of these women as being hypersexual, thereby minimizing the reality of the violence done to their bodies ... such stereotypes reinforce middle-class notions of propriety and hegemonic femininity” (896). The media projects degeneracy outwards and onto the Indigenous populations, cementing a sense of distance from such violence and their lack of involvement in generating it. Despite these instances

of hyper-visibility, Indigenous women are more frequently rendered invisible in the numerous instances when their cases do not make the news. For example, the “Highway of Tears”—a stretch of road in British Columbia where approximately forty Indigenous women and girls have gone missing—did not garner sustained attention from the police or media until the disappearance of a white woman, Nicole Hoar, in 2002 (Human Rights Watch 37).

Indigenous women are frequently criminalized in their interactions with police and legally disappeared into prisons. Despite making up 3 percent of the female population of Canada, they constitute 34 percent of women in federal correctional facilities (“Aboriginal Women One Third”). This trend is growing progressively dire: between 2002 and 2012, the number of Indigenous women in prison increased by 97 percent, according to a study by the Department of Justice (Rennie). The 1991 Aboriginal Justice Inquiry concludes that the overrepresentation of Indigenous peoples in the criminal justice system has deep historical and social roots; it also emphasizes systemic discrimination at all levels as a contributing factor to the disproportionate incarceration rates. A 2013 Human Rights Watch report expands on the deeply internalized discriminatory practices against Indigenous women and girls in British Columbia by police forces. The report found, for example, that Indigenous women who are intoxicated and lack transportation home are often incarcerated, whereas white women in the same position are likely to be driven home by police (47). Moreover, even when Indigenous families went to police officers for help locating missing loved ones, they often reported experiencing bias and dismissal. One former police officer, referring to the Highway of Tears, was quoted saying: “The native girls on the highway—I was up there. If they’re natives, nobody gives a shit” (37). Indigenous sex workers who report being assaulted are often transmuted from victims into criminals, when police view them as the subject of an investigation (Sayers, “Statement”). The “assumption of criminality” has also been extensively documented in Wally Oppal’s report on the missing and murdered women in Vancouver’s Downtown Eastside, in which he lambasts the conduct of the local police officers, noting their tendency to blame victims, and concludes that “the initiation and conduct of the missing and

murdered women investigations were a blatant failure” due to “gross systemic inadequacies and repeated patterns of error” (3). He underscores the role of “systemic bias, particularly in the form of negative stereotyping” (58) in these cases. These examples exhibit deeply entrenched patterns of discrimination and subsequent criminalization of Indigenous women.

Having established this abbreviated overview of the ways in which the media, the justice system, and the law have disappeared Indigenous women over time, I now want to consider how these colonial logics of Indigenous, female bodies played out in Gladue’s trial, and how, to quote Sherene Razack, there was such “small a chance ... of [her] entering the court’s and Canadian society’s consciousness as a person” (96).

THE WHITE MALE PREROGATIVE TO SEX

Many elements of the trial brought into stark relief the ways in which Gladue’s killer was afforded more humanity and empathy than she was, despite his many inconsistencies and dubious claims. Firstly, Barton maintained that the fatal wound inside of Gladue’s vagina was caused from “rough consensual sex” (Johnston and Lilwall, emphasis added). However, toxicology reports showed that Gladue’s blood alcohol content was four times over the legal driving limit, making it impossible for her to consent (Brake). Moreover, Barton lied about his connection to Gladue: in his 911 call, he reported an “unknown woman” (“Bradley Barton Found Not Guilty”) dead in his bathtub, although video footage from the hotel showed Gladue and Barton entering and exiting his hotel room the day of and the day before her murder. He also claimed in court that Gladue had “told him she was menstruating” (Diamanno) when he first made her bleed by forcing his fist into her vagina. The jury was not told about the violent pornography on Barton’s laptop, which provincial court Judge Ferne LeRevered labeled “disturbing pornography” showing “extreme penetration and torture” (Cormier, “Crown Seeks”). This information was never brought to the trial, as the judge ruled it had been obtained illegally. Despite substantial evidence of Barton’s mendacity and perturbing proclivity for sadistic pornography, the proceedings

of the trial afforded him the benefit of the doubt and reinscribed the right of the white male to "rough sex," even when that sex was so violent it came at the cost of life. This ranking of white male pleasure above the very existence of the Indigenous woman unequivocally casts Gladue's body as unworthy of life itself and then as ungrivable.

THE SANCTITY OF THE COLONIAL CONTRACT

Shereene Razack's groundbreaking piece "Gendered Racial Violence and Spatialized Justice: The Murder of Pamela George," provides haunting parallels with Gladue's story. Razack's work explores the brutal killing of Pamela George—a twenty-eight-year-old Sautaux mother of three from the Sakimay Indian Reserve—who had moved to Regina and began working in the sex trade after struggling financially. On April 18, 1995, after duplicitously luring her into their truck, two college-aged white men sexually assaulted and beat her to death. Despite their later claims in court that they had simply been drunk, one of George's killers, Alex Ternowsky, had reportedly told a friend that "she deserved it. She was an Indian" (Roberts). Razack analyzes how the violence that George was subjected to was essentially unaccounted for in her trial: it was recast as an inevitable outcome of her race and the geographical space that she occupied as someone off her reserve, vulnerable into "dirty" spaces of transactional, unclear, and unsafe sex work. In both cases, the idea of the contract as inherent to sex work was vital to diminishing the violence enacted on her body. Razack writes:

The naturalization of violence is sustained by the legal idea of contract.... Because she consented to provide sexual services, the violence became more permissible. The moment of the violence is contained within the moment of the contract and there can be no history or context, for example, the constraints on her choice and the historical conditions under which the bargain was made. (144)

Myths about autonomy and individual choice cast victims, such

as George and Gladue, as willing participants in the violence that robs them of their own lives. Since sex workers engage in an exchange of services for money, they are then seen to be responsible for what happens to them next. Razack summarizes: "Prostitutes are considered in law to have consented to whatever violence is visited upon them" (126). In the Gladue case, great emphasis was placed on the consensual nature of the sexual torture that resulted in her death, although, as previously stated, records showed that the alcohol content in her blood level would have made it impossible for her to consent. In response to this, Barton's defense argued that Gladue was a heavy drinker (Kaye), again assigning blame to the victim for the violence that was inflicted on her. Moreover, Justice Robert Graesser told the jury that Gladue's consent on the first night that she and Barton had sexual relations "could be used to support a finding of honest but mistaken belief in consent" on the second night (Cormier, "Crown Seeks"). Razack states in relation to George that "While George was to be judged for engaging in prostitution, the men were not to be judged for having purchased her services. Put more plainly, her activity was a crime which carried the risks of violence, while theirs was a contract" (152). Settler male violence becomes legitimized through the rationality of the contract and the legal system's subsequent deference to this concept. Critiquing the Gladue case, scholars and activists Sarah Hunt and Naomi Sayers argue in a piece for *The Globe and Mail* that

The criminalization of prostitution conspired to make the victim's sex work experience the origin of the violence she faced instead of placing fault in the violent actions of the assailant. If the defence concedes that Mr. Barton committed the acts that contributed to Cindy's death, the fact that money changed hands does not magically nullify the act. An acquittal should not have been an option. (2)

The weight placed on the theoretical neutrality and autonomy of the contract shifts the criminal nature of the event onto the sex worker. This manoeuvre diminishes her suffering and personhood and exculpates the perpetrator, which undermines the grievability of Gladue's life.

“SEX WORK IS NOT A DEATH SENTENCE”

Crucial to the proceedings of the trials of Pamela George and Cindy Gladue are the spatialized logics that imagine sex workers and Indigenous peoples as already belonging to a space of violence and criminality. As Razack argues in relation to George, a common perception of the death of an Indigenous sex worker amounts to “an Aboriginal woman got a little more than she bargained for” (127). This bias was reproduced in the legal process, perhaps most starkly illustrated in the infamous moment from George’s trial when the judge instructed jurors that they should take into account that George was “indeed a prostitute” (Razack 152). Similarly, at Barton’s trial, his defense lawyer stated: “And by the way, she’s a prostitute. She’s there for a good time” (Carlson). I want to argue that this commentary represents a strategy through which the lives of Indigenous, female sex workers are cast, in Butler’s terminology, as “unreal.” As Butler posits: “If violence is done against those who are unreal ... it fails to injure or negate those lives since those lives are already negated” (33). In this way, the legal system—with its long history of disappearing Indigenous women and its ongoing pattern of allowing killers to act with impunity—continues to indifferently anticipate deaths of Indigenous women and negate their lives.

DEHUMANIZATION IN DEATH

Gladue was sexually violated twice: once by Barton and a second time by the Crown. As part of their case, Crown lawyers presented her preserved vagina in the courtroom, which is believed to be the first time in Canadian history that a human body part was submitted as an exhibit (Barrera). Neither Barton’s defense team nor Justice Graesser could find a precedent for this decision (Cormier, Personal correspondence). Standard procedure is to use post-mortem photos, with police officers and coroners producing testimony to authenticate the images. However, acting Chief Medical Examiner Graeme Dowling stated that the removal of Gladue’s body parts during autopsy was “rare and disturbing, but necessary for proper examination” (Cormier “‘This will be

Upsetting’”). Dowling testified that Gladue’s wound was caused by a sharp object, such as a knife or a broken piece of glass; the display of Gladue’s vagina was ostensibly meant to convince jurors of this theory. Dowling elaborated: “The photographs, to me as a pathologist, don’t portray the nature of this injury as accurately as the physical specimen itself.... We tried to do the best we could with photographs, but they don’t tell the whole story. They are a bit dark” (Cormier, “‘This was Demeaning’”). During his testimony, Dowling snapped on rubber gloves and moved Gladue’s tissue around on a projector for jurors to view the wound. This bodily intrusion—conducted on a dismembered vagina with an audience of a mostly male and entirely non-Indigenous jury—is unnerveingly macabre. It compelled the jury to engage in a raced and gendered act of voyeurism, as they inspected her most intimate body part. Crown Prosecutor Carole Godfrey supported the admittance of the tissue, stating: “This can be done in absolute good taste, almost like a biology class” (Cormier, “‘This was Demeaning’”). The equation of Cindy’s body with that of a dissected specimen in a science class gives voice to a deep colonial conception of Indigenous bodies as subhuman. Moreover, Godfrey’s comment was directed towards the jury, addressing a concern that *they* might be disturbed by the proceedings, but was not directed towards Gladue’s family members or other Indigenous spectators. In other words, Godfrey’s justification for the use of the body tissue did not make room for the possibility of Indigenous distress or opposition. Despite the Prosecutor’s various attempts at rationalizing their decision, the fact remains that Barton killed Cindy Gladue by cutting through the inside of her vagina. The Crown then replicated this violence by cutting her vagina *out* of her.

The dismemberment and parading of Indigenous body parts is not unprecedented in North American history. However, most documented cases are located in times of early settlement and war between First Nations and European settlers. When British pilgrims killed the Pokanoket King Philip in Rhode Island in 1676, for example, they cut off his head and hands to celebrate the destruction of his physical and national body: “He was quartered and hung up upon four trees.... After which, his head was sent to Plymouth, and exposed upon a gibbet for twenty years; and his

hand to Boston, where it was exhibited in savage triumph" (Apress 48). Ned Blackhawk opens his seminal text *Violence Over Land: Indians and Empire in the early American West* with the image of a young woman stringing together a necklace of severed Indigenous ears, which the Spaniards have commissioned as a show of their strength. In the Sand Creek massacre of 1864, American troops cut the vaginas out of Native women they had slaughtered—"Squaws snatches were cut out for trophies," testified Captain Silas Soule (Horwitz 50)—and worn, along with cut-off breasts, on their hats. These examples all took place against a backdrop of explicit tension and animosity between settlers and Indigenous peoples over dispossession and defense of land. However, the violence committed against Cindy Gladue took place in a supposedly post-racial and post-conflict context. If the dismemberment of the Indigenous body can be understood as a display of the dissymmetry of power between the state and its subjects (Foucault 49), Gladue's treatment is a contemporary manifestation of this often disavowed and disguised colonial insistence on maintaining absolute dominance over Indigenous bodies.

There is also something to be said for the desecration in breaking apart Gladue's physical wholeness. Her body is cremated, yet part of her has remained in the custody of the Crown. The severance of her physical site of reproduction constitutes an act of unmaking the Indigenous woman. Christa Big Canoe, a First Nation lawyer and legal advocacy director at Aboriginal Legal Services of Toronto, notes: "Privacy interests do not end at death and there is nothing more private than the intimate body parts of a woman." Big Canoe goes on to highlight the fact that this act also ignores Indigenous perspectives and traditions surrounding death: "It appears that the court did not contemplate Cindy's dignity, death rites, or any Indigenous perspective on caring for the dead.... Like others, I hope that Cindy can be made whole and she receives proper ceremonial death rites." This shows the way that bodies are treated as ungrivable, in that they are subjected to violence even in death, and denied the traditional mourning rites of their family or community. Moreover, Stevenson's formulation of a government that "has a dead Indian" is visible here. Gladue's body was taken by the state and was handled in a manner that denied

her female indigeneity and reaffirmed the state's total sovereignty over her physical remains.

THE PSYCHIC LIFE OF THE VERDICT AND SENDING CINDY HOME

Gladue's murder and her subsequent brutalization in death require settler societies to interrogate our conceptions of, as Butler puts it, "who counts as human" and "whose lives count as lives" in settler colonial contexts. When the Canadian courts allow men to torture and kill Indigenous women with impunity, the logics that underwrite the violence are recognized as living, breathing, colonial expectations of Indigenous elimination that have inscribed, all around us, a "consensus on mournable bodies" that paint Indigenous peoples as subhuman and undeserving of justice. This case requires us to think beyond the boundaries between racialized and gendered bodies and spaces, and the ways our social, legal, and political systems are complicit in the disappearances of hundreds of Indigenous women and girls.

The treatment of Gladue's body by the court calls into question the professed neutrality of the relationship between Canadian institutions and Indigenous peoples. When the court atomizes her body in such a way and replicates a historically military act of triumph, an act meant to terrorize Indigenous populations into docility and subservience to the state, we are forced to ask whether the genocidal logics of conquest have, in fact, been extinguished. Despite the Crown's professed scientific rationale for using her tissue in the courtroom, I want to refer to Stevenson's discussion in *Life Beside Itself* of how a certain state-mandated act may have "a psychic life all its own" that constitutes "more than the fact of its occurrence" (73) in order to suggest that the impact of the Court's decision has similarly engendered or reiterated a felt knowledge (Million 56) among Indigenous women and their communities. The Crown's willingness to mutilate and display a part of Gladue's body reminded Indigenous women everywhere of their status in the eyes of the state as subsumed in criminality and the expectation of death. As Indigenous scholars and activists Sarah Hunt and Naomi Sayers succinctly summarize: "There is

no justice for Indigenous women" (2). And one of Gladue's close friends, Vanessa Day echoes such a sentiment: "It... seemed like she didn't matter. That spoke volumes to us as Aboriginal women" (Carlson). In reflecting on Gladue's case, it is clear that the state not only failed to uphold its obligation to punish Barton but engaged in an act of bodily dismemberment that perpetuated, not prevented, violence against Indigenous women.

I want to close this chapter by recognizing the ways that Cindy Gladue was reclaimed by Indigenous communities in the days following the case's conclusion. There were protests and marches from St. John's to Vancouver, with participants holding signs that read: "It's not OK to murder us," "Protect our Women," "Cindy is Loved & Valued," and "Cindy Matters" (Jancelewicz). Various scholars and activists ardently affirmed the grievability of her life, while calling out the appalling failure of the state to deliver justice to her and her family. Gladue's life and body were desecrated by Bradley Barton and then by the Court, but Indigenous peoples everywhere refused to accept this verdict and its symbolic overtones. Their displays of love for Gladue sent her on her journey with restored dignity and humanity. Naomi Sayers, Indigenous feminist and sex worker activist, wrote: "Our bodies are not terra nullius. Our bodies are not empty. They belong to us. They belong to this land. Cindy is on her way home. The ancestors will keep her warm and safe now. And her body always belonged to this land" (Sayers, "Our Bodies").

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Shining Light on the Dark Places: Addressing Police Racism and Sexualized Violence against Indigenous Women and Girls in the National Inquiry

Pamela Palmater

Le Canada a un problème de longue date avec le racisme social et institutionnel contre les peuples autochtones, surtout au sein du système de justice. Les rapports de nombreuses commissions et enquêtes nationales ont tous conclu que chaque palier du système de justice a floué les peuples autochtones. Les études les plus récentes indiquent que le racisme contre les peuples autochtones est particulièrement problématique au sein des forces policières du Canada. Pourtant, malgré les faits avérés, on a bien peu fait au Canada pour donner suite aux recommandations émanant de ces rapports. Ce manque d'action s'est traduit par l'incarcération disproportionnée des Autochtones, de nombreux décès d'Autochtones en détention policière et une crise nationale concernant la disparition et le meurtre de milliers de femmes et de filles autochtones. Le présent article jette une lumière sur le problème moins connu de la violence racialisée et sexualisée mettant en cause la police, et de la violence contre les femmes et les filles comme cause fondamentale du grand nombre de disparitions et de meurtres de femmes et de jeunes filles autochtones au Canada. L'auteure soutient qu'une enquête nationale sur le nombre élevé de femmes et de filles autochtones disparues ou assassinées devrait faire une analyse approfondie des disparitions, agressions sexuelles et meurtres de femmes autochtones mettant en cause la police. L'auteure espère qu'une telle enquête de portée nationale entrainera une analyse factuelle et des recommandations de changements aux lois et aux politiques qui soient en harmonie avec les protections des droits de la personne accordées aux femmes et aux filles autochtones, et avec les appels à l'action de la Commission de vérité et de réconciliation du Canada, de divers organes de droits de la personne des Nations Unies, ainsi que des familles, des communautés et des nations des victimes autochtones.

Canada has had a long-standing problem with both societal and institutional racism against Indigenous peoples, especially within the justice system. Numerous national inquiries, commissions, and investigations have all concluded that every level of the justice system has flouted Indigenous peoples. More recent inquiries indicate that racism against Indigenous peoples is particularly problematic in

police forces in Canada. Yet, despite the evidence, little has been done in Canada to act on the recommendations. This has resulted in the over-incarceration of Indigenous peoples, numerous deaths of Indigenous peoples in police custody, and the national crisis of thousands of murdered and missing Indigenous women and girls. This article seeks to highlight the lesser-known problem of police-involved racialized and sexualized abuse and violence against Indigenous women and girls as a root cause of the large numbers of murdered and missing Indigenous women and girls in Canada. It is argued that an in-depth look at police-involved disappearances, sexual assaults, and murders of Indigenous women should be included in a national inquiry into the high rates of murdered and missing Indigenous women and girls. It is hoped that such an investigation under the national inquiry will result in evidence-based analysis and recommendations for legislative and policy-based changes that are consistent with the human rights protections afforded Indigenous women and girls and with the calls for action by Canada's Truth and Reconciliation Commission, various United Nations human rights bodies, and the families, communities, and nations of the Indigenous victims.

Introduction

On 17 August 2014, Tina Fontaine's body was pulled out of the Red River in Winnipeg, Manitoba, eight days after she had been reported missing.¹ Her name has since become synonymous with the crisis of murdered and missing Indigenous women and girls in Canada and our decades-long struggle to get the authorities to take action. The crisis of murdered and missing Indigenous women and girls raises many questions around why this crisis continues, who is responsible to address it, and what can be done to prevent any more deaths in the future. Tina Fontaine's tragic death raises more uncomfortable questions around the quality of care provided by provincial child welfare agencies, the problems within police forces in Canada, and the root causes responsible for putting these little girls in foster care or morgues. While a fifty-three-year-old man has since been charged with Tina's murder, the fact is that her murder was facilitated by a lethal form of racism that infects federal and provincial policies and service providers, including, in particular, the justice system. This crisis calls on all of us to shine a light on the dark places that, for the purposes of this article, are home to the sensitive issues of police racism, abuse, and sexualized violence against Indigenous women and girls.

Sadly, this article is not an exercise in hypothetical scenarios nor is it the story of a rogue serial killer or the tragic death of one young girl. It is an article about Canada's national crisis of murdered and missing Indigenous women and girls

1. "Raymond Cormier, 53, Charged with Murder in Tina Fontaine Death," *CBC News* (11 December 2015) <<http://www.cbc.ca/news/canada/manitoba/tina-fontaine-homicide-arrest-winnipeg-1.3361103>>

where the root causes of the phenomenon have been overshadowed by victim blaming and where police actions as the instigators, perpetrators, and/or enablers of the phenomenon have been overlooked.² Indigenous women and girls are only 2 percent of the population in Canada, but they represent 16 percent of the women who are murdered or go missing.³ Even the term “missing” is a misnomer. It seems to imply these women and girls just got lost or ran away for a few days. The reality is that these women and girls are kidnapped, taken, or otherwise held against their will—a situation far more sinister than the word “missing” might imply. The more appropriate term would be “disappeared” because it represents the conscious act of others involved (usually men) in taking them from their friends, families, support networks, communities, and Nations.⁴

The over-representation of Indigenous women and girls that are murdered or disappeared at the national level is significant, but some of the provincial statistics present a much darker picture as Indigenous women and girls represent 55 percent of all of the women and girls that are murdered or go missing in Saskatchewan and 49 per cent in Manitoba.⁵ They are three times more likely to suffer violence and significantly more likely to be killed by an acquaintance than Canadian women.⁶ While domestic abuse is part of the story, Indigenous women are less likely to be killed by a family member than Canadian women,⁷ so this factor is not the whole answer. If we are to ever get to the “whole answer,” we need the recently announced national inquiry to finally get at all of the root causes of this phenomenon. However, getting to this stage was not easy.

2. Pamela Palmater, “Ontario Policing: Gang Rapes, Murders and Child Porn”, *teleSUR* (1 February 2016) <<http://www.telesur.net/english/opinion/Ontario-Policing-Gang-Rapes-Murders-and-Child-Porn-20160201-0008.html>>.
3. Royal Canadian Mounted Police, *Murdered and Missing Aboriginal Women: A National Operational Overview*, Catalogue No PS64-115/2014E-PDF (Ottawa: RCMP, 2014) at 9 <<http://www.rcmp-gre.gc.ca/pubs/nmanw-faqnp-eng.pdf>> [RCMP, *Overview*].
4. Pamela Palmater, “Canada’s Disappeared Indigenous Women”, *teleSUR* (25 May 2015) <<http://www.telesur.net/english/opinion/Canadas-Disappeared-Indigenous-Women-20150524-0022.html>>.
5. RCMP, *Overview*, *supra* note 3 at 9.
6. *Ibid* at 7, 12. See Statistics Canada, *Victimization and Offending among the Aboriginal Population in Canada*, by Jodi-Anne Brzozowski, Andrea Taylor-Burns & Sara Johnson, Catalogue no 85-002-XIE (Ottawa: Minister of Industry, 2006), vol 26(3) at 1 <<http://publications.gc.ca/Collection/R/Satcan/85-002-XIE/85-002-XIE2006003.pdf>> (between 1997 and 2000, the average homicide rate for Aboriginal people was “almost seven times higher” than for that of non-Aboriginal people).
7. Statistics Canada, *Homicide in Canada, 2014*, by Zoran Mladhrovic & Leah Mulligan, Catalogue No 85-002-X (Ottawa: Statistics Canada, 25 November 2015) at 13 <<http://www.statcan.gc.ca/pub/85-002-x/2015001/article/14244-eng.pdf>>.
8. Amnesty International, *Stolen Sisters: A Human Rights Response to Discrimination*

Getting to an Inquiry

The fact that these statistics are now widely known was a struggle in and of itself. Indigenous women and their allies had to work against many obstacles to bring national attention to this issue. They faced societal racism, victim blaming in the media, government indifference, and a lack of priority even within Indigenous organizations, which are largely dominated by male leaders. But they persisted. After many years of advocacy and working alongside human rights allies, they started to see success. Amnesty International and the Native Women’s Association of Canada (NWAC) (working in collaboration with the families of victims) were able to garner national attention on the crisis after several key reports.⁸

Amnesty’s “Stolen Sisters” highlighted the root causes of vulnerability, including the marginalization of Indigenous women, the way in which racism leads to societal indifference to Indigenous well-being, and the utter failure of police to protect them.⁹ The NWAC’s “Sisters in Spirit” research and education campaign raises awareness about the violence against Indigenous women.¹⁰ Their joint research resulted in a database of more than 582 murdered or missing Indigenous women and girls. Their report to the families highlighted the stories of individual victims and showed that they were more than just statistics—they were mothers, aunts, wives, and sisters.¹¹ Their research findings were presented in a second report that included the analysis of the statistics, challenged the prevailing stereotypes, and emphasized the root causes and impacts of colonization on Indigenous women and girls.¹² Their work received national and international attention because their statistics countered the victim-blaming mentality and demonstrated that prostitution is not a cause of murder, that not all women are killed by their spouses, and

9. *Amnesty International, supra* note 8 at 2.
 10. NWAC, *Sisters in Spirit Report*, *supra* note 8 at 3.
 11. *Ibid* at 9.
 12. NWAC, *Research Findings*, *supra* note 8 at i.
- and Violence against Indigenous Women in Canada* (Ottawa: Amnesty International Canada, 2004) <<https://www.amnesty.ca/sites/default/files/amr200032004enstolensisters.pdf>>; Native Women’s Association of Canada (NWAC), *Voices of Our Sisters in Spirit: A Report to Families and Communities*, 2nd ed (Ottawa: NWAC, 2009) <http://www.nwac.ca/wp-content/uploads/2015/05/NWAC_Voices-of-Our-Sisters-In-Spirit_2nd-Edition_March-2009.pdf> [NWAC, *Sisters in Spirit Report*]; Native Women’s Association of Canada, *What Their Stories Tell Us: Research Findings From the Sisters in Spirit Initiative* (Ottawa: NWAC, 2010) <<http://www.nwac.ca/wp-content/uploads/2015/07/2010-What-Their-Stories-Tell-Us-Research-Findings-SIS-Initiative.pdf>> [NWAC, *Research Findings*]; “Sisters in Spirit: What Happened?” (12 June 2012), <http://voices-voix.ca/en/facts/profile/sisters-spirit>>.

that the causes included violence at the hands of state officials, such as death in police custody.¹³

Unfortunately, there was a change in government in 2006, and former Prime Minister Stephen Harper's Conservatives cut the funding for Sisters in Spirit once it garnered sustained media attention.¹⁴ However, Indigenous women, activists, families, and their human rights allies persisted and could not be stopped. Despite a Prime Minister who denied there was a problem and refused to engage in a national inquiry¹⁵ and despite a Minister of Indian and Northern Affairs Canada (INAC) who blamed the whole problem on First Nations men,¹⁶ the international community began to take notice. Various United Nations (UN) bodies called for Canada to investigate and address the crisis of murdered and missing Indigenous women and girls.¹⁷ The calls for a national inquiry grew stronger and stronger as did the will of the families, communities, and Nations who were impacted. Annual community events, walks, and vigils were held to raise awareness and demand action.¹⁸ The most significant change happened on 19 October 2015, when a new

14. Kenneth Jackson, "Stephen Harper's Longest War: Missing and Murdered Indigenous Women", *APTN National News* (9 September 2015) <<http://apn.ca/news/2015/09/09/stephen-harpers-longest-war-missing-and-murdered-indigenous-women/>>
15. Alex Bouillier, "Native Teen's Slaying a 'Crime' Not a 'Sociological Phenomenon'", *Stephen Harper Says*, *Toronto Star* (21 August 2014) <<http://www.thestar.com/news/canada/2014/08/21/native-teen-slaying-a-crime-not-a-sociological-phenomenon-stephen-harper-says.html>>; "Full Text of Peter Mansbridge's Interview with Stephen Harper", *Valcourt Used* (17 December 2014) <<http://www.cbc.ca/news/politics/full-text-of-peter-mansbridge-s-interview-with-stephen-harper-1.2876934>>
16. Mark Kennedy, "Valcourt Urges First Nations, Provinces to Take Action on Murdered Aboriginal Women", *Ottawa Citizen* (12 December 2014) <<http://ottawacitizen.com/news/politics/bernard-valcourt-rejects-inquiry-on-murdered-aboriginal-women>>; Jorge Barera, "Valcourt Used Unreleased RCMP Data to Claim Aboriginal Men Responsible for Majority of Murders of Aboriginal Women: Chiefs", *APTN National News* (25 March 2015) <<http://apn.ca/news/2015/03/25/chiefs-say-valcourt-used-unreleased-rcmp-data-claim-indigenous-men-responsible-majority-indigenous-women-murders>>; Alexandra Heck, "RCMP Blame Family Violence for Aboriginal Women Deaths", *NOW Toronto News* (22 June 2015) <<https://nowtoronto.com/news/rcmp-blame-family-violence-for-aboriginal-women-deaths/>>
17. See eg UN, Committee on the Elimination of Discrimination against Women (CEDAW), *Report of the Inquiry Concerning Canada of the CEDAW under Article 8 of the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women*, UN Doc C/OP.8/CAN/1, 30 March 2015 <http://ohinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/CAN/CEDAW_C_OP-8_CAN_1_7644_E.pdf> [CEDAW].
18. "Missing and Murdered Indigenous Women Remembered in Annual March", *CBC News* (4 October 2015) <<http://www.cbc.ca/news/canada/montreal/minis-manaw-missing-murdered-indigenous-women-canada-march-1.3256366>>

Liberal government was elected. Following through on his campaign promise to hold a national inquiry into the crisis of murdered and missing Indigenous women and girls, Liberal Prime Minister Justin Trudeau told the Assembly of First Nations Chiefs that it would be his first order of business.¹⁹

After so many years of advocating for a national inquiry, it was a surprise to many to hear critiques from several academics and a First Nations leader demanding that Indigenous men must be included.²⁰ Their argument is that because 71 percent of all murder victims are men they should be included. While this is true, and Indigenous men and boys suffer similar forms of racism and violence at the hands of the state, there has never been a commission or inquiry specific to violence against Indigenous women, while there have been many relating to state violence against Indigenous men.²¹ It is also important to note that violence against Indigenous women and girls is committed almost exclusively by men (Indigenous and non-Indigenous), which makes this a very gender-specific issue. This is about gendered, sexualized violence. Indigenous women and girls are victims because they are Indigenous and because they are female. Indigenous women stood alongside their men during the commissions investigating violence and racism against Indigenous men, and now Indigenous women and girls need their own focused inquiry. Most human rights advocates agreed.²²

19. Susana Mea, "Trudeau Lays Out Plan for New Relationship with Indigenous People", *CBC News* (8 December 2015) <<http://www.cbc.ca/news/politics/justin-trudeau-ah-indigenous-aboriginal-people-1.3354747>>
20. On the Coast, "Missing Women's Inquiry Should Include Aboriginal Men, Says Ernie Crey", *CBC News* (22 January 2016) <<http://www.cbc.ca/news/canada/british-columbia/missing-women-s-inquiry-should-include-aboriginal-men-says-ernie-crey-1.3416631>>
21. Pamela Palmater, "How Canada Should Investigate Violence against Indigenous Women", *teleSUR* (7 March 2016) <<http://www.telesur.net/english/opinion/How-Canada-Should-Investigate-Violence-Against-Indigenous-Women-20160307-0016.html>>
22. Katrijn Baum, "National Inquiry Should Not Study Violence against Aboriginal Men: Experts", *Globe and Mail* (1 February 2016) <<http://www.theglobeandmail.com/news-national/national-inquiry-should-not-study-violence-against-aboriginal-men-experts/article2498467>>; Feminist Alliance for International Action (FAIVA) and Native Women's Association of Canada (NWAC), "Recommendations from the Symposium on 'Planning for Change: Towards a National Inquiry and an Effective National Action Plan'" (2016) 28:2 Canadian Journal of Women and the Law 408 at 410 ["Summary Report of the Symposium"]; Lara Yeo, "Three Issues a National Inquiry into Missing and Murdered Indigenous Women Must Address", *Ujwa Fizer* (1 March 2016) <<http://ultravives.ca/2016/03/three-issues-a-national-inquiry-into-missing-and-murdered-indigenous-women-must-address/>>

Focusing the Inquiry

Despite the relatively few early critiques, Minister of the Status of Women Patricia Hajdu, Minister of INAC Carolyn Bennett, and Minister of Justice Jodi Wilson-Raybould jointly announced and embarked on a national consultation process to hear from advocates, experts, families, and communities about their concerns and priorities with respect to determining the nature and scope of the national inquiry.²³ The next step is to make sure that the national inquiry conducts proper research and investigation into all of the relevant issues, of which there will be many. A national inquiry must look not only at the individual instances of murdered and missing Indigenous women but also at the root causes like child welfare rates, chronic poverty and homelessness, incarceration rates, domestic abuse, the residential school legacy, inter-generational trauma, the impacts of ongoing colonialization and oppression, and systemic discrimination within Canada's laws and policies to name a few. The root causes are as important to understanding the crisis as are the individual statistics.

A symposium of Indigenous women experts, advocates, and allies, together with representations from various UN human rights bodies confirmed that the scope must be broad enough to consider all of these issues as well as focused enough to investigate problems that are relatively under-researched.²⁴ The report of the symposium, which is included as the final article in this special issue, highlights the importance of setting the analytical framework within the context of Indigenous laws and not just the current Canadian legal framework.²⁵ Equally important is the necessity of ensuring that the inquiry is conducted using a human rights approach that is not just about acknowledging the breaches but also about acting to remedy them.²⁶ The report emphasizes that Indigenous women should lead the inquiry and that it should have sufficient independence to conduct a full and impartial investigation of all of the issues.²⁷ In addition to the issues noted earlier, the experts also agreed that the inquiry must look at the state's involvement in racialized and sexualized violence against Indigenous women and girls, and it included the following recommendation:

23. Canada, Indigenous and Northern Affairs Canada, Government of Canada Launches Inquiry Into Missing and Murdered Indigenous Women and Girls (Ottawa: DIAND, 8 December 2015) <<http://news.gc.ca/web/article-en.do?nid=1023999>>; Liberal Party of Canada, "An Inquiry into Missing and Murdered Indigenous Women and Girls" (14 December 2015) <<https://www.liberal.ca/an-inquiry-into-missing-and-murdered-indigenous-women-girls>>.
24. "Summary Report of the Symposium", *supra* note 22 at 410.
25. *Ibid* at 411–12.
26. *Ibid* 412–13.
27. *Ibid* 413–16.

8.(c) Police and Justice System Response

The national inquiry must involve an in-depth review of policing institutions, including police forces and police oversight bodies, as well as of the judicial system, across federal, provincial, territorial, and First Nations jurisdictions.²⁸

While this may turn out to be an especially sensitive and even controversial issue, it is important for the safety and well-being of Indigenous women and girls that it be investigated, which is why it forms the focus of this article. For these reasons, this article shines a light into the darkness of police racism, abuse, and sexualized violence against Indigenous women and girls with a view to providing recommendations on how the national inquiry into murdered and missing Indigenous women must do the same.

The majority of incidents involving allegations of police sexualized violence against Indigenous women and girls (at least those that have been publicized) appear to have been addressed as employee discipline matters rather than being prosecuted as sexual assault crimes. We also have no formal statistics on how many women and girls generally, or Indigenous women and girls specifically, have been victims of police physical and/or sexual abuse or exploitation, how many have reported it, or the charge or conviction rate (impunity rate) among police forces for such crimes. The insular nature of police forces and the legislative frameworks that largely protect them from independent scrutiny make this a difficult task and will pose significant challenges for the national inquiry. The best that can be done within the limited space of this article is an initial analysis of media-reported incidents and an extrapolation of some of the best ways in which the national inquiry can investigate the problem of police racism, sexism, abuse, neglect, and sexualized violence as both a cause and barrier to addressing the crisis of murdered and missing Indigenous women and girls in Canada. It is important to remember that this work is done within the context of the extreme pain and devastation experienced by the family, friends, and communities of the victims. Each Indigenous woman or little girl was loved by someone—including Tina Fontaine, whose life could have been saved by all those whose job it was to protect her.

Tina Fontaine—Failed by Many

Tina Fontaine was a fifteen-year-old girl from Sagkeeng First Nation who was loved by many. Her family describes her as a loving girl with a big heart.²⁹ She lived with her great aunt and uncle, Thelma and Joseph Favel, for over a decade

28. *Ibid* at 418.
29. "The Case of Tina Michelle Fontaine", *CBC News* <<http://www.cbc.ca/missingand-murdered/mniw/profile/tina-michelle-fontaine>>.

as her father had been ill from cancer and then was beaten to death. Her aunt and uncle reported that Tina did well in school and loved to play with other children. The family reports that she did not start having any problems until she visited the city of Winnipeg to be with her birth mother. They could not get Tina back from the city and worried about her circumstances. She was in foster care under the protection of Manitoba's Child and Family Services (CFS) to protect her.³⁰ Her aunt and uncle had no idea that they would never see Tina alive again.

In the hours before her death, the Winnipeg Police found Tina in a vehicle with an intoxicated older man, ran her name through the system, but sent her out alone into the night at 3:00 am anyway. She was later found unconscious by paramedics who took her to the hospital for treatment and was then released into the care of CFS. CFS then put her in a hotel used to house foster children, from which she disappeared.³¹ Tina did not slip through the cracks. Tina was left unprotected by an entire system that is indifferent to the well-being of Indigenous women and girls. She was made vulnerable to well-known predators because those legally bound to protect her did not fulfil their responsibilities. No parent would ever consider leaving a young girl out on the streets alone at night, especially in such a dangerous city. Yet the province and their officials—who were acting as legal guardians for Tina—did just that.

The Winnipeg police officers who found Tina late that night are under an internal investigation, but, as is often the case, no charges are pending against the officers.³² That is not to say that those officers did not commit criminal acts, although neither the police nor the Crown counsel at the Manitoba Department of Justice felt that charges under the *Criminal Code* or *The Child and Family Services Act* were appropriate in this case.³³ Under the *Criminal Code*, parents and foster parents can be charged with failing to provide the necessities of life to a child under sixteen years old and for failing to protect the child in a way that endangers his or her health.³⁴ Tina was under sixteen years old and in the care of the province. The Winnipeg police were obligated to both prevent crime (take a minor child to safety) and enforce the laws of Manitoba, including child protection laws (return a child in

care to child and family services).³⁵ It is astounding that the police would release an under-age girl-child in care, alone into the night into Canada's most dangerous city (the highest murder rate in Canada)³⁶ and where the crisis of murdered and missing Indigenous women and girls is particularly acute (highest in Manitoba and Saskatchewan).³⁷

It would not be much of a stretch to argue that these officers were under a duty to provide the necessities of life to Tina and failed to do so. It is arguable that they were standing in the place of the province at the time they found Tina, and having failed to take reasonable steps to protect her, their actions or lack thereof contributed to her preventable death. Instead, the gross failure of these officers was treated as an issue of professional misconduct, not unlike a routine employment or human resource matter for which they may be disciplined. Both officers were originally placed on administrative leave pending an internal disciplinary investigation. Currently, one officer is suspended without pay pending the investigation, while the other is on active duty. Ironically, the officer who remains on active duty was subsequently charged with a criminal offence but not in Tina's case.³⁸ He was charged for stealing a pair of boots from his colleague. This is a damning example of the lack of value put on the life of an Indigenous girl-child versus a pair of police officer's boots. It is also representative of the culture of racism, abuse of power, and sexism within the police forces in Canada.

Inquiries and Reports on Police Racism and Violence towards Indigenous Peoples

One of the reasons why the phenomenon of murdered and missing Indigenous women and girls has been allowed to reach crisis levels in Canada is directly related to the culture of racism and misogyny in society that turns a blind eye to violence against Indigenous women and girls. The fact that racism against Indigenous peoples generally, and Indigenous women and girls specifically, has been normalized does not mean that society is not aware of the problem. There is no level of government today—federal, provincial, territorial, or municipal—that can deny that Canada has a serious racism problem, one that is killing Indigenous people.

30. "Tina Fontaine Died Because Police, CFS Failed Her, Family Says", *CBC News* (25 September 2014) <<http://www.cbc.ca/news/canada/manitoba/tina-fontaine-died-because-police-cfs-failed-her-family-says-1.2777606>>.

31. *Ibid.* See also "Timeline: Tina Fontaine's Final Hours", *CBC News* (25 September 2014) <<http://www.cbc.ca/news/multimedia/timeline-tina-fontaine-s-final-hours-1.2778323>>.

32. "Winnipeg Police Officer Suspended without Pay in Tina Fontaine Case", *Toronto Star* (24 March 2015) <<http://www.thestar.com/news/canada/2015/03/24/winnipeg-police-officer-suspended-without-pay-in-tina-fontaine-case.html>>.

33. *Ibid.* *Criminal Code*, RSC 1985, c C-46; *Child and Family Services Act*, SM 1985-86, c 8.

34. *Criminal Code*, *supra* note 33, s 215(1)(a).

35. *Police Services Act*, SM 2009, c 32, s 25(O): "[P]reventing crime and offences against the laws in force in the municipality."

36. Statistics Canada, *Homicide in Canada, 2011*, Catalogue No 11-001-X (Ottawa: Statistics Canada, 4 December 2012) at 1 <<http://www.statcan.gc.ca/daily-quotidien/121204/dq121204a-eng.pdf>>.

37. RCMP, *Overview*, *supra* note 3 at 9.

38. "Winnipeg Police Officer in Tina Fontaine Case Arrested after Colleagues' Stolen Belongings Found on Kijiji", *CBC News* (26 February 2016) <<http://www.cbc.ca/news/canada/manitoba/winnipeg-police-theft-charges-1.3465906>>.

1989 Royal Commission on the Donald Marshall Jr. Prosecution

Donald Marshall, Jr., was a Mi'kmaq man who spent over a decade in prison after being wrongfully targeted by police and convicted of murder because the entire system was infected with racism against Indigenous peoples. In 1989, the Royal Commission on the Donald Marshall Jr., Prosecution found that the criminal justice system failed Marshall "at virtually every turn" due "to the fact that Donald Marshall, Jr., is a Native."³⁹ The findings were made public, and nearly every criminology class in universities across the country has studied the findings of this commission at one point or another. It has been referred to every time one asks the question about over-representation of Indigenous peoples in jail. His story inspired the book *Justice Denied: The Law Versus Donald Marshall* as well as the film *Justice Denied*.⁴⁰ There is no doubt that Canadians were made aware of the problem of racism within the police and justice system.

1996 Royal Commission on Aboriginal Peoples

In 1996, the Royal Commission on Aboriginal Peoples heard testimony from Indigenous women about police racism, even though that commission did not investigate police abuses specifically:

Our women face racism and systemic stereotyping at every turn. For Aboriginal women, this racism and stereotyping is rampant right through the system, from the police to the courts, child welfare agencies to income security.⁴¹

1999 Aboriginal Justice Inquiry of Manitoba

In 1971, Helen Betty Osborne was a Cree woman from Norway House First Nation in northern Manitoba. According to her friends, she was well liked and had planned

39. Nova Scotia, Royal Commission on the Donald Marshall, Jr. Prosecution, *Digest of Findings and Recommendations* (Halifax: Province of Nova Scotia, December 1989) at 1 <https://www.novascotia.ca/just/marshall_inquiry/docs/Royal%20Commission%20on%20the%20Donald%20Marshall%20Jr.%20Prosecution_Findings.pdf>.
40. Michael Harris, *Justice Denied: The Law versus Donald Marshall* (Canada: Macmillan of Canada, 1986); *Justice Denied*, 1989, DVD (Montreal: National Film Board of Canada, 1989), YouTube <<https://www.youtube.com/watch?v=zindalHPQD->>.
41. Royal Commission on Aboriginal Peoples, *Report of the Royal Commission on Aboriginal Peoples*, vol. 4 (Ottawa: Communication Group, 1996) at 424 <https://space.library.queensu.ca/bitstream/1974/6874/2/RRCA_P4_combined.pdf>.

to go to college and become a teacher.⁴² She was forced to attend school off reserve in the town of The Pas because there was no secondary school in her First Nation. While walking down Third Street, she was kidnapped, sexually assaulted, and brutally murdered by four non-Indigenous men. It took sixteen years (1987) for only one of the four men involved to be charged and convicted. The other men were either not charged, not convicted, or received immunity.⁴³

Barely a year after the conviction in Osborne's case, an unarmed Indigenous man named J.J. Harper was gunned down by Winnipeg police. John Joseph Harper was a leader from Waagamack, an Ojibwe-speaking First Nation in Manitoba. He worked as the executive director of the Island Lake Tribal Council.⁴⁴ His death, together with the lone conviction in the Helen Betty Osborne case, led to calls for an inquiry to deal with the racism experienced by Indigenous peoples at the hands of the police—not only in terms of their failure to investigate crimes against Indigenous peoples but also in terms of police violence against Indigenous peoples.

An inquiry was eventually struck, and the subsequent report of the Aboriginal Justice Inquiry of Manitoba concluded in 1999 that "[t]he justice system has failed Manitoba's Aboriginal people on a massive scale."⁴⁵ It went on to express particular concern for the experiences of Indigenous women and children:

Aboriginal women and their children suffer tremendously as victims in contemporary Canadian society. They are the victims of racism, of sexism and of unconscionable levels of domestic violence. The justice system has done little to protect them from any of these assaults.⁴⁶

These findings were also made public and garnered a great deal of media attention, but no concrete action was taken at the national level. Immediately following the inquiry, the Manitoba Legislature set up a scholarship fund in honour of Helen Betty Osborne, and Manitoba Minister of Justice Gordon Mackintosh issued a public apology to the Osborne family for the failures in the justice system.⁴⁷ A television mini-series was made about Helen Betty's case in 1991 called "Conspiracy of Silence."⁴⁸ Similarly, in J.J. Harper's case, a book entitled *Cowboys and Indians*:

42. Helen Betty Osborne Memorial Foundation, "About Helen Betty: The Spirit of Inspiration" <<http://helenbetty.ca/home/about-helen-betty/>>.
43. Aboriginal Justice Implementation Commission, *Report of the Aboriginal Justice Inquiry of Manitoba* (Winnipeg: Province of Manitoba, 29 June 2001) ch 1 <<http://www.aipc.mb.ca/volumell/chapter1.html>>.
44. *Ibid.*
45. *Ibid.* at 1.
46. *Ibid.*, ch 13.
47. Province of Manitoba, "Helen Betty Osborne Scholarship Fund Established" (14 July 2000) <<http://news.gov.mb.ca/news/index.html?item=24626&posted=2000-07-14>>.
48. *Conspiracy of Silence*, 1991, DVD (Ottawa: CBC, 1992), YouTube <<https://www.youtube.com/watch?v=FjG5In9GOVc>>; <https://www.youtube.com/watch?v=77zZ5_YCo>.

The Killing of J.J. Harper was released in 1999, and a television movie with the same title was released in 2003.⁴⁹ Both cases and the inquiry received extensive publicity and attention but little concrete action.

2004 Saskatchewan Commission on First Nations and Métis Peoples and Justice Reform

Shortly thereafter in 2004, the Saskatchewan Commission on First Nations and Métis Peoples and Justice Reform issued its findings in a comprehensive investigation in relation to “all components of the criminal justice system including, but not limited to: policing, courts, prosecutions, alternative measures, access to legal counsel, corrections including community corrections, youth justice, community justice processes, and victims services.”⁵⁰ As the commission began its work, it became obvious that the conflict between Indigenous peoples and the justice system was the result of poor socio-economic conditions.⁵¹ The report also emphasized that “racism is a major obstacle to healthy relations with the First Nations and . . . police organizations.”⁵² This report was widely publicized, especially in Saskatchewan and appeared to be timed around the release of an “explosive” inquiry in 2004 relating to the police-involved death of Neil Stonechild.⁵³

Neil Stonechild, was a young Cree man who died of hypothermia after being apprehended, hand-cuffed, and driven to a remote location out of town by police officers. This practice is known as a *Starlight Tour*—where police pick up Indigenous men, drive them to the outskirts of town (sometimes without their coats and shoes) to freeze to death in cold weather. There is no doubt that racism is at the root of this lethal practice, which, by recent accounts, is a practice used on Indigenous women as well.⁵⁴

49. Gordon Sinclair, *Cowboys and Indians: The Shooting of J.J. Harper* (Toronto: McClelland & Stewart, 2000); *Cowboys and Indians: The J.J. Harper Story*, 2003, DVD (Ottawa: CBC, 2003), YouTube <<https://www.youtube.com/watch?v=3nFYqBvWnDo>>.
50. Saskatchewan, Commission on First Nations and Métis Peoples and Justice Reform, *Legacy of Hope: An Agenda for Change: Final Report from the Commission on First Nations and Métis Peoples and Justice Reform* (Regina: Ministry of Justice, 21 June 2004), vol. 1, Executive Summary <<http://www.justice.gov.sk.ca/justicereform/volume1.shtml>>.
51. *Ibid.*
52. *Ibid.* at 5–6.
53. Saskatchewan, Commission of Inquiry into Matters Relating to the Death of Neil Stonechild, *Report of the Commission of Inquiry into Matters Relating to the Death of Neil Stonechild* (Regina: Ministry of Justice, October 2004) <<http://www.justice.gov.sk.ca/stonechild/finalreport/Stonechild.pdf>> [Stonechild Inquiry].
54. Andrew Russell, “Allegations Police Abused First Nations Woman in Val d’Or: Part of a National Problem, Observers Say” *Global News* (28 October 2015) <<http://globalnews.ca/news/2304898/allegations-police-abused-first-nations-woman-in-val-dor-part-of-a-national-problem-observers-say/>>.

The Saskatchewan Commission’s report got a great deal of media attention as the core recommendations highlighted the need for police to get better anger management training and cultural awareness training as it related to Indigenous peoples.⁵⁵ The inquiry also received attention when an author tried to release a book exonerating the police on the twenty-fifth anniversary of Stonechild’s death.⁵⁶ The report was back in the media recently when Saskatchewan police tried to erase all online references to their practice of *Starlight Tours* from Wikipedia.⁵⁷ It is not like governments and Canadians alike do not know there is a problem of racism in the police and justice system—it is the denial or cover-up of the problem that allows it to continue.

2007 Ipperwash Inquiry

Again, only several years later, there was another inquiry for the police shooting of an unarmed Indigenous person in Ontario. This time it was the Ontario Provincial Police (OPP) who shot an unarmed land defender named Dudley George in 1995 over lands claimed by Kettle and Stony Point First Nation. The report of the Ipperwash Inquiry was released in 2007 and concluded that “cultural insensitivity and racism was not restricted to a few ‘bad apples’ within the OPP but was more widespread.”⁵⁸ This report was also widely publicized, and the case was documented in a book called *One Dead Indian: The Premier, the Police and the Ipperwash Crisis* in 2001.⁵⁹ The book was adapted into a television movie by the same name in 2006. Again, another inquiry that was followed by various forms of publication that ensured a wide audience beyond government or justice officials resulted in no change.

2013 Human Rights Watch Report

Human Rights Watch completed an investigation into stories of police abuse in northern British Columbia and detailed a shocking number of reports of physical

55. Stonechild Inquiry, *supra* note 53 at 213.
56. Jason Wannick, “Book Seeking to Clear Police in Neil Stonechild Case Was to Launch on 25th Anniversary of Teen’s Freezing Death”, *Saskatoon Star Phoenix* (23 November 2015) <<http://thestarphoenix.com/news/local-news/book-seeking-to-clear-police-in-neil-stonechild-case-was-to-launch-on-25th-anniversary-of-teens-freezing-death>>.
57. Meagan Campbell, “New Light on Saskatchewan’s ‘Starlight Tours’”, *Macleans* (8 April 2016) <<http://www.macleans.ca/news/canada/new-light-on-saskatoons-starlight-tours/>>.
58. Ontario, Ipperwash Inquiry, *Report of the Ipperwash Inquiry*, by Sidney Lindon (Toronto: Publications Ontario, 31 May 2007), vol. 2, at 272 <http://www.atomneygeneral.jus.gov.on.ca/inquiries/ipperwash/report/vol_2.pdf#E_Vol_2_Full.pdf>.
59. P. Edwards, *One Dead Indian: The Premier, the Police and the Ipperwash Crisis* (Toronto: McClelland & Stewart, 2003).

and sexual abuse committed by the police against Indigenous women and girls.⁶⁰ A common theme throughout the report was the fear of retaliation by the police if these children and women spoke out. The fear was so acute that the investigators likened it to the fear women have in post-conflict countries where state abuses are rampant: "The palpable fear of the police was accompanied with a notable matter of fact manner when mentioning mistreatment by police, reflecting a normalized expectation that if one was an Indigenous woman or girl police mistreatment is to be anticipated."⁶¹ The individuals that did participate in the investigation reported crimes of unprovoked police beatings, rapes, and even stalking against both adult Indigenous women and girls, all of whom were unarmed. Police have attacked unarmed girls with batons, attack dogs, and even tazers.⁶² One girl had her arm broken by the same police officer who had originally been called to protect her from an abusive older boyfriend.⁶³ Those that attempted to file complaints against the police have not received justice.⁶⁴ After many decades of this kind of behaviour, it is no wonder Indigenous women and girls are fearful of the police and hesitate to call them when they need protection from violent partners.

Statistics on Violence in Police Families

Studies on police violence in the United States have shown that rates of domestic violence are more than double in police families.⁶⁵ What is worse is that very few incidents of abuse are reported, and when they are reported, police are rarely arrested, prosecuted, or fined. Rather they are usually protected by their colleagues and superiors.⁶⁶ Female victims of police are particularly vulnerable as they know the police have guns, know where to find them using police databases, know the

60. Human Rights Watch, *Those Who Take Us Away: Abusive Policing and Failures in Protection of Indigenous Women and Girls in Northern British Columbia, Canada* (New York: Human Rights Watch, 2013) at 32 <https://www.hrw.org/sites/default/files/reports/canada0213webwcover_0.pdf>.
61. *Ibid* at 24, 34.
62. *Ibid* at 53–56.
63. *Ibid* at 51–53.
64. *Ibid* at 31–34.
65. See eg Peter Neidig, Harold Russell & Albert Seng, "Interspousal Aggression in Law Enforcement Families: A Preliminary Investigation" (1992) 15:1 Police Studies: The International Review of Police Development 30, cited in "Police Family Violence Fact Sheet", National Centre for Women and Policing <<http://womensandpolicing.com/violenceFS.asp>> ["Police Family Violence Fact Sheet"].
66. "Police Family Violence Fact Sheet", *supra* note 65; Victoria Hargan, *Police Personality and Domestic Violence: A Forensic Psychological Approach* (CreateSpace Independent Publishing Platform, 2012).

location of all shelters, and can cover up their own crimes.⁶⁷ While these studies related specifically to police in the United States, preliminary research seems to suggest that the problem of police violence within their own families is similar in Canada.⁶⁸ Clearly, if police officers are disproportionately likely to abuse their own families, their unchecked behaviour creates a significant risk for all women who report violence to them and with whom they come into contact. This is especially true for Indigenous women and girls given the added element of racism.

Governments have long known that there is a highly lethal racism problem in Canada, and the evidence suggests that Canada has failed to act. This failure has resulted in Indigenous women and girls bearing the brunt of racism as well as gendered exploitation and sexualized violence from police forces.⁶⁹ Indigenous women have literally become the targets of police sexualized violence and racism as the shooting target poster of an Aboriginal woman at the Saskatchewan Police College shooting range showed so clearly.⁷⁰

Denying the Problem: Normalization of Racism and Misogyny

The impact of not addressing racism within Canada's police forces and justice systems has been disastrous for Indigenous peoples. In addition to over-incarceration rates that have reached crisis levels, it also means reduced protection, increased violence, and even death by police forces.⁷¹ Unfortunately, most cases of police abuse seem to escape media coverage, with unions and managers making employee discipline matters confidential. Sometimes, the most blatant examples of police racism or abuse have been subjected to media blackouts for fear of reprisals by the community from which the victim originates.⁷² Rarely do we see police forces, their

67. *Ibid*.
68. Susanna Hope & Alex Roslin, "Police Wife: The Secret Epidemic of Police Domestic Violence", *Canadian Dimension Magazine* (31 October 2015) <<https://canadaindimension.com/articles/view/police-wife-the-secret-epidemic-of-police-domestic-violence>>.
69. CEDAW, *supra* note 17 at 23–24.
70. Canada, Standing Committee on the Status of Women, *Evidence, 40th Parl, 3rd Sess, No 51* (21 January 2001) at 1115 (Murel Vane) <<http://www.parl.gc.ca/HousePublications/Publication.aspx?DocId=4906717>>.
71. Canada, Office of the Correctional Investigator, "Background: Aboriginal Offenders: A Critical Situation" (Ottawa: Correctional Service of Canada, 16 September 2013) <<http://www.o-ci-bec.gc.ca/ent/pol/oth-aut/oth-am20121022info-eng.aspx>>: "While Aboriginal people make up about 4% of the Canadian population, as of February 2013, 23.2% of the federal inmate population is Aboriginal (First Nation, Métis, or Inuit)." Kirk Makin, "Kenora Police Framed Murder Charge", *Globe and Mail* (22 March 2004) <<http://www.theglobeandmail.com/news/national/kenora-police-framed-murder-charge/article1129516/>>. There was a publication ban on the court findings of police officers who framed an innocent man of murdering an Indigenous man to cover up the fact that it was the nephew of the investigating officer who committed the murder.

managers, or unions taking responsibility for their crimes even when they are charged, no matter how heinous the crimes.

Where media coverage is attempted, whether the officers are charged with gang rape, child pornography, or sexual assault, the common response from police chiefs, commissioners, and union presidents is that the officers are entitled to the presumption of innocence or that no comment can be made during an investigation.⁷³ Regardless of how widespread or serious the allegations, even mayors will side with the police rather than express sincere concern for the victims.⁷⁴

Where officials do comment in the media, they often downplay the actual offence and provide a counter-narrative that portrays them as hard-working men with lengthy service records and even as heroes. In one recent arrest in Toronto, the police officer accused of sexual assault was described as a “hero” in the report, which recounted how he had earlier saved someone from drowning. The report also focused on his lengthy twenty-three-year career; while little mention was made of the female victim.⁷⁵ In a case specific to police abuse against Indigenous women and girls, the police union in Val d’Or implied that these women were using the police as “scapegoats” for their difficult lives.⁷⁶

Just as police forces and many men in society have normalized the racist and misogynist views that Indigenous women and girls can be violated and exploited with little fear of prosecution, many Indigenous women and girls have normalized an expectation of racism and gendered violence from the police, without any hope of holding them accountable. The media has a large role to play in this as it has also normalized this gendered racism even in the way it covers the murders or disappearances of Indigenous women versus non-Indigenous women. It has been shown that a missing Indigenous woman receives far less attention than would a young, blonde Canadian woman who had gone missing.⁷⁷ One study concluded:

73. Wendy Gillis, “Four Toronto Police Officers Charged with Obstructing Justice, Perjury”, *Toronto Star* (29 January 2016) <<http://www.thestar.com/news/crime/2016/01/28/toronto-police-officers-charged-with-obstruction-of-justice-perjury.html>>.

74. “Four Toronto Police Officers Charged with Perjury, Obstructing Justice”, *CBC News* (28 January 2016) <<http://www.cbc.ca/news/canada/toronto/toronto-police-sanctions-1.342318>> (Mayor John Tory quoted as saying “he believes the case ‘will be dealt with appropriately’”).

75. Dan Taekema, “Toronto Police Officer Charged with Sexual Assault”, *Toronto Star* (2 March 2016) <<http://www.thestar.com/news/crime/2016/03/02/toronto-police-officer-charged-with-sexual-assault.html>>.

76. “Police Union Defends Val d’Or Officers, Warns Stories of Abuse Are Only Allegations”, *CBC News* (26 October 2015) <<http://www.cbc.ca/news/canada/montreal/union-defends-val-d-or-police-aboriginal-women-abuse-1.3289641>>.

77. Kristen Gilchrist, “Newsworthy? Victims? Exploring Differences in Canadian Local Press Coverage of Missing/Murdered Aboriginal and White Women” (2010) 10-4 *Feminist Media Studies* 373 at 385 <<https://ipismo.files.wordpress.com/2010/12/news-worthy-victims-gilchrist-2010-missing-murdered-aboriginal-women.pdf>>.

The Aboriginal women received three and a half times less coverage; their articles were shorter and less likely to appear on the front page. Depictions of the Aboriginal women were also more detached in tone and scant in detail in contrast to the more intimate portraits of the White women.⁷⁸

Women are presented in the media as good or bad and worthy of saving or not, based on deeply embedded racial constructs.⁷⁹ These constructs often result in victim-blaming discourse around Indigenous women and their “high-risk” lifestyles while ignoring the unequal socio-economic context from which they come.⁸⁰ This media coverage signals to the public that crimes against Indigenous women do not matter. Further, reduced media coverage of disappeared women actually hampers investigations that rely on tips from the public and, ultimately, delays or denies justice for Indigenous women.⁸¹

While government spin-doctors—also known as spokespersons—have tried to refocus the research and media headlines on domestic violence (blaming First Nations men)⁸² or the alleged high-risk lifestyles of the victims (blaming addictions or prostitution),⁸³ the root of the problem is far more complex. The factors that make Indigenous women and girls most vulnerable to being disappeared, murdered, or victims of violence are that they are (1) Indigenous and (2) female.⁸⁴ Simply being born puts them into this high-risk category because of the deep racism and sexism that exists in Canada and its laws, policies, and institutions. The blatant racism, exploitation, and sexualized violence committed against Indigenous women and girls at the hands of the police and the justice system is a symptom of normalized racism that has never been addressed. The failure to address it has compounded, and continues to compound, the crisis.

78. *Ibid* at 1.

79. *Ibid* at 3.

80. *Ibid* at 4.

81. *Ibid* at 3.

82. See note 15 in this article and accompanying text.

83. Terrence Nelson, “The Blame Game Can’t Strengthen First Nations”, *Winnipeg Free Press* (31 August 2015) <<http://www.winnipegfreepress.com/opinion/analysis/the-blame-game-cant-strengthen-first-nations-323399171.html>>. See also Organization of American States, Inter-American Commission on Human Rights, 14th Sess. *Missing and Murdered Aboriginal Women and Girls in British Columbia, Canada: Briefing Paper for the Thematic Hearing before the Inter-American Commission on Human Rights*, Doc OEA/Ser.L/V/III Doc. 30/14 (2012) at 4 <<http://www.oas.org/en/iachr/reports/pdfs/Indigenous-women-BC-Canada-en.pdf>>; N.W.A.C., *Sisters in Spirit Report*, *supra* note 8 at 96.

84. Native Women’s Association of Canada, *Social Determinants of Health and Canada’s Aboriginal Women* (Ottawa: N.W.A.C., 2007) at 5 <<http://www.nwac.ca/wp-content/uploads/2015/05/2007-Social-Determinants-of-Health-and-Canada%E2%80%99s-Aboriginal-Women-NWAC-Submission-to-WHO-Commission.pdf>>; Thomas Isaac & Mary Malounguey, “Dually Disadvantaged and Historically Forgotten?: Aboriginal Women and the Inherent Right to Self-Government” (1992) 21:3 *Manitoba Law Journal* 453 at 457.

Moreover, when police abuses do hit the headlines, the public often expresses shock or disbelief, and nowhere is this more evident than in the racist comments against Indigenous peoples made by anonymous online posters.⁸⁵ Despite all of the evidence, some will still deny the facts in front of them, preferring to see the problem as random acts of violence or the work of serial killers. Even after the Human Rights Watch report in 2013, we still could not get the government to admit there was a problem with murdered and missing Indigenous women, let alone a particular problem within Canada's many police forces.⁸⁶ Former Prime Minister Stephen Harper's response to the murder of Tina Fontaine was to deny that murdered and missing Indigenous women was a sociological phenomenon, and, instead, he saw her death as simply a regular "crime."⁸⁷ When pressed about the many calls for a national inquiry, Harper replied: "It's not high on our radar to be honest."⁸⁸ Even when faced with the Royal Canadian Mounted Police (RCMP) report on the numbers of murdered and missing Indigenous women and girls (1,181), which nearly doubled the earlier estimates made by the Native Women's Association of Canada (NWAAC) (600), the then Conservative federal government's response was more denial and victim blaming.⁸⁹ In fact, the former Minister of Aboriginal Affairs, Bernard Valcourt, blamed the crisis on First Nation men, alleging that "a lack of respect for women and girls on reserves" is the underlying cause.⁹⁰ Not unexpectedly, neither the RCMP report nor the federal government's responses acknowledged the police as part of the problem or put forward a plan to address it.

Notwithstanding the change in tone reflected in the decision of the new Liberal government to prioritize the national inquiry on missing and murdered Indigenous women and girls,⁹¹ and Minister of INAC Carolyn Bennett's insistence that the

inquiry must address the root causes of what makes Indigenous women vulnerable,⁹² there is still a strong tendency for officials to look for answers that are easier to accept than the uncomfortable truth. For example, Minister Bennett made headlines shortly after the federal election, calling for action to protect Indigenous women from serial killers.⁹³ She was quoted as saying that the issue of serial killers targeting Indigenous women and girls was "highly important," despite the fact that serial killers accounted for only 1 percent of the overall victims.⁹⁴ While serial killers are sensational, they are not the primary factor contributing to murdered and missing Indigenous women and girls in Canada. Trying to get attention focused on police violence against Indigenous women and girls will be difficult in this context since we do not see any kind of regular reporting on the numbers of sexual or physical abuse claims filed by Indigenous women and girls against police or updates on how criminal complaints have been addressed. The problem of racialized gendered police violence is literally out of sight and out of mind, whereas serial killers are writing books and making movies.⁹⁵

Police Racialized and Sexualized Violence

Despite the many commissions, inquiries, and investigations, there still seems to be a willful blindness to ongoing police violence, racism, and abuse of authority. While these first examples do not relate specifically to Indigenous women and girls, they do point to a very disturbing trend in policing that questions both the credibility of police officers and the unions that defend their increasingly racist and violent acts and abuses of authority.

Racialized Police Violence in Toronto

In early 2016, all of Toronto's attention was on the bizarre conviction of Toronto police officer James Forcillo, who was found guilty of attempted murder in relation

85. Jennifer McGuire, "Unravel Dialogue: Commenting and Stories about Indigenous People", Editorial, *CBC News* (30 November 2015) <<http://www.cbc.ca/newsblogs/community/editorsblog/2015/11/unravel-dialogue-commenting-and-stories-about-indigenous-people.html>>; Charlie Angus, "Taking on the Trolls: Why the Online Race-Hatred against First Nations?", *Huffington Post* (16 July 2013) <http://www.huffingtonpost.ca/charlie-angus/about-racial-online-comments-_b_3600686.html>.
86. Human Rights Watch, *supra* note 60 at 34.
87. Alex Boutillier, "Native Teen's Slaying a 'Crime' Not a 'Sociological Phenomenon'", Stephen Harper Says", *Toronto Star* (22 August 2014) <http://www.thestar.com/news/canada/2014/08/21/native_teens_slaying_a_crime_not_a_sociological_phenomenon_stephen_harper_says.html>.
88. "Full Text of Peter Mansbridge's Interview with Stephen Harper", *CBC News* (17 December 2014) <<http://www.cbc.ca/news/politics/full-text-of-peter-mansbridge-s-interview-with-stephen-harper-1.2876934>>.
89. RCMP, *Overview*, *supra* note 3; NWAAC, *Research Findings*, *supra* note 11.
90. Mark Kennedy, "Valcourt Urges First Nations, Provinces to Take Action on Murdered Aboriginal Women", *Ottawa Citizen* (12 December 2014) <<http://ottawacitizen.com/news/politics/bernard-valcourt-rejects-inquiry-on-murdered-aboriginal-women>>.
91. Mas, *supra* note 19.
92. Kristy Kirkup, "National Inquiry Must Go beyond Tally of MMIW: Bennett", *Maclean's* (16 February 2016) <<http://www.macleans.ca/politics/ottawa/national-inquiry-must-go-beyond-tally-of-mm1w-bennett/>>.
93. Kathryn Baum, "Action Needed to Protect Indigenous Women from Serial Killers", Minister Says", *Globe and Mail* (26 November 2015) <<http://www.theglobeandmail.com/news/politics/action-needed-to-protect-indigenous-women-from-serial-killers-minister-says/article27505103/>>.
94. *Ibid.*
95. "Robert Pickton, Notorious Killer, Pens Book for Sale on Amazon", *CBC News* (21 February 2016) <<http://www.cbc.ca/news/canada/british-columbia/pickton-book-amazon-outage-1.3457989>>.

to the shooting death of Sammy Yatim.⁹⁶ Yatim was an eighteen-year-old Armenian man from Syria, who, possessing only a small pocket knife, was mortally shot three times in the heart by Forcillo. The officer then shot him six more times, after which he was joined by another officer who then razed the deceased Yatim.⁹⁷ Only three days after the Forcillo verdict, four more Toronto police officers were arrested with seventeen charges related to planting evidence on a suspect and obstructing justice (lying), and they were all suspended with pay.⁹⁸ This scenario also received a great deal of media attention, but the three Toronto police officers charged in the gang sexual assault of a female member of the Toronto police force seemed to get very little attention in comparison.⁹⁹ The problem of police violence specifically against racialized people is so rampant in Toronto that the families of the victims have created an organization called Affected Families of Police Homicide, which helps advocate on behalf of the victims, many of whom are unarmed teenagers who have lost their lives at the hands of police.¹⁰⁰ Many of these victims come from Indigenous, Black, or other racialized backgrounds.¹⁰¹ However, it is important to note that while Toronto is a grim example of problems in policing, this is not a Toronto-only phenomenon, nor does it only involve police homicide against racialized men.

Police Sexual Violence: Examples from Ontario and Québec

Sexualized violence by police against women and girls in general is also increasingly coming to the surface. Last year, a York Region police officer who had

- 96 Wendy Gillis, "Mystery' Charge Only One That Sticks in Sammy Yatim Slaying," *Toronto Star* (25 January 2016) <<http://www.thestar.com/news/crime/2016/01/25/mystery-charge-only-one-that-sticks-in-sammy-yatim-slaying.html>>.
- 97 Alysha Hasham, "Forcillo Guilty of Attempted Murder in Shooting Death of Sammy Yatim," *Toronto Star* (26 January 2016) <<http://www.thestar.com/news/crime/2016/01/25/jury-returns-in-murder-trial-for-const-james-forcillo-charged-in-shooting-death-of-sammy-yatim.html>>.
- 98 Wendy Gillis, "Four Toronto Police Officers Charged with Obstructing Justice, Perjury," *Toronto Star* (29 January 2016) <<https://www.thestar.com/news/crime/2016/01/28/toronto-police-officers-charged-with-obstruction-of-justice-perjury.html>>.
- 99 Manisha Krishnan, Marco Choown & Wendy Gillis, "Three Toronto Police Officers Charged with Gang Sexual Assault," *Toronto Star* (19 February 2015) <<http://www.thestar.com/news/crime/2015/02/19/three-toronto-police-officers-charged-with-sexual-assault.html>>. The accused officers were all suspended with pay.
- 100 Adam Carter, "Victim's Rights Group Lobbying Province, STU For Change", *CBC News* (5 December 2013) <<http://www.cbc.ca/news/canada/hamilton/news/victim-s-rights-group-lobbying-province-sin-for-change-1.2451123>>.
- 101 Brendan Kennedy, "Police Knew of Mental Illness before Fatal Shooting, Family Says," *Toronto Star* (31 August 2010) <http://www.thestar.com/news/gta/2010/08/31/police_knew_of_mental_illness_before_fatal_shooting_family_says.html>.

served on the force for thirty-one years was charged with sexual assault of a minor.¹⁰² His alleged victim was a little girl who was under twelve years old. Then there are the many officers reportedly involved in the making or possession of child pornography including: Peel Region Police Officer Craig Walter, who was charged with child pornography-related offences; OPP officer Mark Maltais, who was charged with a child pornography offence (and suspended with pay); and Toronto Police officer Dariusz Kisielewski, who was charged with making and possessing child pornography.¹⁰³

Recently, eight Québec provincial police were suspended with pay due to numerous reports of abuse and physical and sexual assaults of Indigenous women.¹⁰⁴ At least one incident involved an officer driving a woman far from her house, breaking her cell phone, and throwing her shoes into the snow before driving away. Some of their stories mirrored the police abuse experienced by Indigenous men in Saskatchewan in Starlight Tours.¹⁰⁵ To know that Indigenous women are being subjected to the same type of Starlight Tours and, in addition, being subjected to sexualized violence shows that despite all of the commissions, inquiries, and reports to date, little has changed in the relationship between police and Indigenous peoples. To make matters worse, neither the police nor the federal, provincial, and territorial governments have stepped up to condemn either the large number of implicated officers or the targeting of Indigenous women. Instead, the police union in Val D'Or came out swinging against the suspension of the officers, implying that the officers were being used as "scapegoats" for the problems in First

102. "York Regional Police Officer Charged with Sexual Assault Involving a Minor", *CBC News* (11 November 2015) <<http://www.cbc.ca/news/canada/toronto/york-police-1.3314053>>.
103. James Moore, "Update: Former York Regional Police Sergeant Accused of Sexually Assaulting a Young Girl", *NewsTalk 1010* (11 November 2015) <<http://www.newstalk1010.com/news/2015/11/11/update-former-york-regional-police-sergeant-accused-of-sexually-assaulting-a-young-girl>>; "Peel Regional Police Officer Faces Child Pornography, Fraud Charges", *CBC News* (19 August 2015) <<http://www.cbc.ca/news/canada/toronto/peel-regional-police-officer-faces-child-pornography-fraud-charges-1.3197105>>; Leigh Dunick, "OPP Sergeant Facing Possession of Child Porn Charge", *73News/Watch* (28 January 2016) <<http://www.theweekend.com/News/360386/OPP-sergeant-facing-possession-of-child-porn-charge>>; Tim Alamanicak & Jane Gerster, "Toronto Police Officer Charged with Making Child Pornography," *Toronto Star* (10 September 2013) <<http://www.thestar.com/news/crime/2013/09/10/toronto-police-officer-charged-with-making-child-pornography.html>>.
104. Donald McKenzie, "8 Quebec Cops Suspended in Wake of Abuse and Sexual Assault Allegations", *Toronto Sun* (23 October 2015) <<http://www.torontosun.com/2015/10/23/8-quebec-cops-suspended-in-wake-of-abuse-and-sexual-assault-allegations>>.
105. Les Patreux, "Quebec Police Pulled from Investigation into Alleged Abuse by Its Officers", *Globe and Mail* (23 October 2015) <<http://www.theglobeandmail.com/news/national/eight-quebec-police-officers-suspended-in-wake-of-assault-allegations/article26949490/>>.

Nations.¹⁰⁶ It went on to claim that the stakeholders are “fueling the popular condemnation of Sûreté du Québec police officers.”¹⁰⁷ Even worse was the response of the other officers in Val d’Or, who, in solidarity with their suspended colleagues, staged a sort of protest and called in sick for the weekend. All of this had behaviour followed the director general of the Sûreté du Québec’s pronouncement that “there is no crisis in the town”—a statement eerily similar to that of former Prime Minister Harper and his denial of the crisis of murdered and missing Indigenous women.¹⁰⁸

Despite the degree of publicity these cases have received, there appears to be a high degree of impunity enjoyed by the police, and even when they are subject to discipline, many continue to be paid and have their legal bills covered. Currently, in Ontario alone, there are at least fifty police officers suspended with pay, at a cost of over \$4.5 million to Ontarians.¹⁰⁹ It should come as no surprise in this context that Canada has a crisis of murdered and missing Indigenous women and girls, when the police themselves have become the predators. There is almost no risk to an officer—the chances of getting caught are slim, financial repercussions are minimal, and the chance of conviction is extremely remote. Police corruption, while different from sexual crimes, is a behaviour that heightens the degree of impunity enjoyed by police. Such corruption enables police to cover up sex crimes in a way that ordinary citizens cannot. Police have a unique ability to manipulate evidence, solicit corroborating statements from their fellow officers, and intimidate victims with access to their personal information or threats of charges. In British Columbia, seventeen officers were recently charged with 148 counts of serious misconduct (including corruption and deceit).¹¹⁰ If police can do this, what message does this send society? Whether it is outright targeting of Indigenous women and girls for violence or the refusal to protect them by locating the missing individuals and investigating and charging the killers, police racism and violence is exacerbating the crisis.

The degree to which racism and sexualized violence has permeated police forces in Canada is alarming, but it is not as alarming as it would be if we knew the real numbers of all the women and girls who never came forward, all those who were turned away by authorities, and all those who filed complaints that were ignored. If

106. “Police Union Defends Val d’Or Officers, Warns Stories of Abuse Are Only Allegations”, *CBC News* (26 October 2015) <<http://www.cbc.ca/news/canada/montreal/union-defends-val-d-or-police-abortion-women-abuse-1.3289641>>.
107. *Ibid.*
108. “Val d’Or Police Allegations: First Nations Chiefs Outline Demands”, *CBC News* (27 October 2015) <<http://www.cbc.ca/news/canada/montreal/first-nations-chiefs-to-gather-in-val-d-or-to-discuss-sex-abuse-allegations-1.3289808>>.
109. Mike Crawley, “At Least 50 Police Officers Currently Suspended with Pay in Ontario”, *CBC News* (28 January 2016) <<http://www.cbc.ca/news/canada/toronto/ontario-police-suspended-with-pay-1.3424010>>.
110. “17 B.C. Police Officers under Investigation for ‘Serious’ Misconduct Allegations”, *CTV News* (18 February 2015) <<http://www.ctvnews.ca/canada/17-b-c-police-officers-under-investigation-for-serious-misconduct-allegations-1.2241987>>.

the Human Rights Watch report is any indication, we are only seeing a glimpse of a massive problem. What we do know is that women and girls generally see little justice when it comes to sexualized violence committed against them. Even just reporting a sexual assault to the police leaves the vast majority of female victims (78 percent) feeling either abandoned or devastated.¹¹¹ Over 71 percent have reported that working with the police was a negative experience, with others feeling like it would not do any good.¹¹² This may be part of the reason why few sexual assaults are ever reported to police.¹¹³ Of the estimated 460,000 sexual assaults in Canada, only 15,200 (3 percent) are reported to police, only 5,544 (1 percent) lead to charges, only 2,824 (0.6 percent) are prosecuted, and only 1,519 (0.3 percent) end in conviction.¹¹⁴

The problem of racial and sexual violence by police is not isolated in the jurisdictions from which I have drawn examples. The problem is evident in police forces across Canada; therefore, who do we call when the local municipal or provincial police are the perpetrators and refuse to stand alongside the Indigenous women and young girls who are the victims? Some have suggested bringing in the RCMP to investigate complaints and oversee discipline. Yet the evidence suggests that this is not a safe option, as the RCMP itself has also been infected with racism, misogyny, and violence—particularly towards Indigenous peoples—since it was created.

Racism and Sexual Violence in the RCMP

The RCMP has been on the frontlines of the settlement project in Canada, keeping the hands cleared of Indigenous peoples by keeping them on reserve¹¹⁵ or quelling

111. Anna Paperny, “Why Don’t Women Report Rape? Because Most Get No Justice When They Do”, *Global News* (23 February 2015) <<http://globalnews.ca/news/1845136/why-dont-women-report-rape-because-most-get-no-justice-when-they-do>>.
112. *Ibid.*
113. Statistics Canada, *Police-Reported Crime Statistics in Canada, 2014*, by Jillian Boyce, Catalogue No. 85-002-X (Ottawa: Statistics Canada, 22 July 2015) at 17 <<http://www.statcan.gc.ca/pub/85-002-x/2015001/article/14211-eng.pdf>>.
114. Craig Dession, “What Happens When Someone Is Sexually Assaulted? Statistics Canada Says Few Convictions”, *Toronto Star* (6 December 2014) <http://www.thestar.com/news/canada/2014/12/05/conviction_rate_for_sexual_assault_very_very_low_researcher.html>.
115. RCAP, *Report of the Royal Commission on Aboriginal Peoples* (Ottawa: Communications Group, 1996), vol. 1 at 169, 272–73 <https://gpspace.library.queensu.ca/bitstream/1974/6874/5/RRCAP1_combined.pdf>. See also *The Pass System*, 2015, DVD (Toronto: Tamarack Productions, 2015) (investigative historical documentary); Joanna Smith, “‘The Pass System’ Explores Dark Chapter in Canadian History”, *Toronto Star* (10 January 2016) <<http://www.thestar.com/news/canada/2016/01/10/the-pass-system-explores-dark-chapter-in-canadian-history.html>>.

any attempts by Indigenous peoples to assert their Aboriginal and treaty rights to hunt and fish or protect their lands.¹¹⁶ The RCMP also played a central role in capturing and returning Indigenous children to residential schools where they were tortured and sexually abused.¹¹⁷ Many Indigenous peoples still question the extent to which the RCMP knew about the abuse in residential schools but allowed it to continue.¹¹⁸ Some might argue that all of this is in the past, but recent assessments of the RCMP today, such as an article entitled "Royal Canadian Disgrace" in *Maclean's* magazine in 2011, are not much better.¹¹⁹ Even the RCMP's own internal investigation has discovered more than 300 incidents of corruption within its ranks in the last decade, casting a dark shadow over the integrity of its members.¹²⁰ Their conduct *vis-à-vis* Indigenous women and girls is further evidence of a serious problem in policing.

In 2011, Manitoba RCMP Constable Kevin Theriault arrested an Indigenous woman at a house party for "intoxication," locked her in a police cell, and showed up later in his street clothes and took her to his home with the intent of having a "personal relationship" with her.¹²¹ Fellow officers goaded him on, and even his

116. Pamela Palmater, *Indigenous Nationhood: Empowering Grassroots Citizens* (Winnipeg: Fernwood Publishing, 2015).

117. RCMP, *supra* note 115 at 478; Truth and Reconciliation Commission of Canada, *Honouring the Truth, Reconciling for the Future: Summary of the Final Report of the Truth and Reconciliation Commission of Canada*, Catalogue No. IR4-7/2015F-PDF (Ottawa: Communication Group, 2015) at 61 <http://nctr.ca/assets/reports/Final%20Reports/Executive_Summary_English_Web.pdf>.

118. Royal Canadian Mounted Police (RCMP), *The Role of the Royal Canadian Mounted Police during the Indian Residential School System*, by Marcel-Hugène Lebeuf, Catalogue No. PS64-71/2009E (Ottawa: RCMP, 2011) <http://epe.lac-bac.gc.ca/100/200/301/rcmp-gr-role_residential_school-e/PS64-71-2009-eng.pdf>. The RCMP say that role and knowledge was limited: "Based on data collected, the researcher suggests that the RCMP only played a secondary role in supporting the school system, and while doing this, never initiated any proactive action" (at 172). However, residential school survivors remember it differently. Shari Nairne, "Survivors Remember RCMP Involvement Differently" (2011) 29:9 *Windpeaker* 8 Aboriginal Multi-Media Society of Alberta <<http://www.annusa.com/publications/windpeaker/survivors-remember-rcmp-involvement-differently/>>.

119. Ken MacQueen, "The RCMP: A Royal Canadian Disgrace", *Maclean's* (18 November 2011) <<http://www.macleans.ca/news/canada/a-royal-canadian-disgrace/>>.

120. "Hundreds of Cases of Police Corruption, RCMP Study Says", *CBC News* (18 May 2014) <<http://www.cbc.ca/news/canada/manitoba/hundreds-of-cases-of-police-corruption-rcmp-study-says-1.2646928>>.

121. "Outrage over Mountie Who Took Intoxicated Native Woman to His Home", *Indian Country Today Media Network* (1 September 2015) <<http://indiancountrytodaymedianetwork.com/2015/01/09/outrage-over-mountie-who-took-intoxicated-native-woman-his-home-158629>>.

senior officer said: "You arrested her, you can do whatever the fuck you want to do."¹²² Only investigated three years later, the discipline deemed appropriate for this offence was the loss of seven days of pay.¹²³ In Nova Scotia, an RCMP officer was suspended for the sexual assault of co-workers.¹²⁴ In Alberta, a thirty-four-year veteran of the RCMP was charged in the sexual assault of a twelve-year-old girl.¹²⁵ In Ontario, two RCMP from the explosives training unit in Ottawa are being investigated (though not charged) for nudity, sexual touching, and harassment.¹²⁶ The four complainants allege that they tried to address these issues with RCMP investigators, but the investigators either did not want to talk about it or they tried to talk the complainants out of bringing complaints.¹²⁷ In British Columbia, the RCMP review board dismissed a complaint brought against an RCMP officer accused of having oral sex with a child because it was over a year since the officer was made aware of the allegations.¹²⁸ Although former provincial court judge David Ramsay was imprisoned for targeting and physically and sexually assaulting young Indigenous girls,¹²⁹ there are reports of as many as ten RCMP officers also implicated in the sexual abuse of Indigenous girls that were never addressed.¹³⁰

Meanwhile, in the Northwest Territories, one thirteen-year-old girl, who reported being sexually assaulted to the RCMP, was thrown in a jail cell for the night and not taken to the hospital for medical care, victim support, counselling, or the timely collection of evidence.¹³¹ Their failure to collect evidence in a timely way meant

122. Holly Moore, "Mountie Takes Woman Home from Jail to Pursue a Personal Relationship", *CBC News* (8 January 2015) <<http://www.cbc.ca/news/canada/manitoba/mountie-takes-woman-home-from-jail-to-pursue-a-personal-relationship-1.2893487>>.

123. *Ibid.*

124. "Nova Scotia RCMP Suspend Officer for Alleged Assault, Sexual Assault of Female Coworkers", *Herald Metro* (2 April 2015) <<http://www.metronews.ca/news/halifax/2015/04/02/nova-scotia-rcmp-suspend-officer-for-alleged-assault-sexual-assault-of-female-coworkers.html>>.

125. Pamela Roth, "High-Ranking Fort McMurray Mountie Charged with Cold-Case Sex Assault of Teen", *Edmonton Sun* (15 April 2014) <<http://www.edmontonjournal.com/2014/04/15/high-ranking-fort-mcmurray-mountie-charged-with-cold-case-sex-assault-of-teen>>.

126. Alison Crawford, "Allegations of Sexual Touching, Bullying Investigated at Police College Run by RCMP", *CBC News* (18 February 2016) <<http://www.cbc.ca/news/politics/rcmp-canadian-police-college-review-1.3453903>>.

127. *Ibid.*

128. Human Rights Watch, *supra* note 60 at 32.

129. "Ramsay Gets 7 Years for Sexual Assault", *CBC News* (1 June 2004) <<http://www.cbc.ca/news/canada/ramsay-gets-7-years-for-sexual-assault-1.479237>>.

130. Human Rights Watch, *supra* note 60 at 31.

131. Richard Gleason, "NWT Judge Questions RCMP's Treatment of 13-year-old Sexual Assault Victim", *CBC News* (29 March 2016) <<http://www.cbc.ca/news/canada/northbay-ri-ver-sexual-assault-victim-13-years-old-1.3510347>>.

that the RCMP felt they could not proceed with charges. Their actions did not result in any discipline, but, instead, they received “operational guidance.”¹³²

While the evidence clearly demonstrates a problem with gendered violence within the ranks of the RCMP, little has been done by the federal government, Justice Canada, the RCMP itself, or the Department of Public Safety to address the concerns of victims or prevent these offences from recurring. The report of the Missing Women Commission of Inquiry in British Columbia should have been a wake-up call for the RCMP.¹³³ Commissioner Wally Oppal found that both the RCMP initiation and conduct of investigations into the murdered and missing women in British Columbia were filled with “gross systemic inadequacies” and amounted to “a blatant failure.”¹³⁴ The reality is that cultural awareness training is not going to combat such an extensive problem. Unfortunately, the response of the RCMP Commissioner to the Human Rights Watch report was to tell his 29,000 RCMP members: “My message to you today is—don’t be worried about it. I’ve got your back.”¹³⁵ However, this strategy of closing ranks to defend the status quo (which for Indigenous peoples means failure to investigate or protect Indigenous women and girls or their over-incarceration, rape, and murder) is increasingly under fire.

The old excuses that these are bad apples or isolated incidents were permanently shattered by the class action suit filed against the RCMP by nearly 400 female officers and staff.¹³⁶ This is not just a court case about gender discrimination in hiring or promotional practices. It includes numerous claims of serious sexual and physical assaults, including rape, that have left some of the women with psychological injuries or unable to work.¹³⁷

132. Hilary Bird, “RCMP Botched NWT Sex Assault Investigation, Documents Say”, *CBC News* (29 March 2016) <<http://www.cbc.ca/news/canada/north/rcmp-botched-assault-investigation-documents-1.3509942>>.

133. British Columbia, Missing Women Commission of Inquiry, *Forsaken: The Report of the Missing Women Commission of Inquiry*, by Wally Oppal (Victoria: Distribution Centre-Victoria, 19 November 2012) <<http://www.missingwomeninquiry.ca/obtain-report/>>.

134. *Ibid.* at 26.

135. CEDAW, *supra* note 17 at para 151.

136. Andrea Woo, “Sexual Harassment Claims against RCMP Reach 336”, *Globe and Mail* (18 July 2014) <<http://www.theglobeandmail.com/news/british-columbia/sexual-harassment-claims-against-rcmp-reach-336/article19669218/>>. See also Natalie Clancy, “More Women Alleging Harassment Want to Join Lawsuit against RCMP”, *CBC News* (31 May 2015) <<http://www.cbc.ca/news/canada/british-columbia/more-women-alleging-harassment-want-to-join-lawsuit-against-rcmp-1.3089534>>.

137. *Ibid.*

Justice Denied: Indigenous Women’s and Girls’ Fear of Reporting

Experts tell us that the conviction rates for sexual assaults against women worldwide are very small.¹³⁸ Add to this the palpable fear of police held by many Indigenous women and girls, making it highly likely that the majority of assaults committed by police are not even reported, let alone seen through to conviction.¹³⁹ The lack of independence of police investigations also contributes to a lack of accountability on the part of the police and, ultimately, a lack of justice for Indigenous women and girls. This situation has not gone unnoticed.

The Committee on the Elimination of Discrimination against Women (CEDAW) specifically addressed this issue in their 2015 report on Canada.¹⁴⁰ They noted the Human Rights Watch report that detailed the abuse of Indigenous women and girls at the hands of the police, judges, and lawyers that has left behind a “legacy of fear and mistrust of law enforcement agencies and officials.”¹⁴¹ Those police forces that do have semi-independent oversight bodies do not always include a mandate to consider claims of sexual harassment or sexual offences committed by police officers.¹⁴² This leaves Indigenous women and girls with few pathways to justice. CEDAW expressed concern about the effectiveness and independence of the RCMP investigating itself:

The prevailing distrust among aboriginal women is compounded by reports that the oversight bodies that investigate and punish police misconduct, abuse of authority and any other act contrary to police ethics are sufficiently independent and effective... During the country visit, it emerged that aboriginal women experienced difficulties in accessing and understanding the different oversight mechanisms of different police forces.¹⁴³

The committee found that Canada had failed to ensure that complaint processes against police abuses are available and accessible to Indigenous women and girls. Without this guarantee, police cannot fully protect Indigenous women and girls.¹⁴⁴ These are critical issues to be addressed in the national inquiry.

Recommendations

The problem has never been that we do not know what the issues are—rather, it is that Canada (federal, provincial, and municipal governments and police forces) has

138. Holly Johnson, Natalia Ollus & Sami Nevala, *Violence against Women: An International Perspective* (New York: Springer, 2008) at 146.

139. Human Rights Watch, *supra* note 60 at 66.

140. CEDAW, *supra* note 17 at paras 151–58.

141. *Ibid.* at para 151.

142. *Ibid.* at para 154.

143. *Ibid.* at para 156–57.

144. *Ibid.* at para 158.

failed to take action to address them. Law enforcement agencies in Canada have remained insulated, such that the police have been able to commit violent acts against Indigenous women and girls with near total impunity. Therefore, any national inquiry into murdered and missing Indigenous women and girls must, at a minimum, include the following actions:

- It must include the full participation of national, provincial, territorial, and municipal governments, with unfettered access to all of the statistical and other information necessary to conduct a full inquiry into the issue of police racism, abuse, and sexualized violence against Indigenous women and girls.
- It must include an extensive investigation into police violence against Indigenous women and girls, noting all filed complaints, investigations, charges, and prosecutions.
- The RCMP, provincial and territorial police, as well as municipal police must be included in the inquiry, with special attention to known problem agencies, with unfettered access to all statistical and other data necessary to determine the extent of police racism, abuse, and sexualized violence against Indigenous women and girls and their failure to initiate and investigate complaints related to the murdered and missing.
- The research cannot be done by police agencies, unions, consultants, or discipline/oversight agencies since they are in large part the reason for such high levels of impunity.
- A complete review must be made of all police acts, laws, regulations, and policies related to prevention, investigation, and discipline for acts of racism and violence against women generally and Indigenous women and girls specifically.
- A complete review must be made of all oversight mechanisms and entities (police-based or independent) for systemic problems related to the proper and complete investigations of police abuse of Indigenous women and girls, including failures to initiate and investigate complaints.
- A review must be made of Canada's domestic and international human rights obligations in regard to the protection of Indigenous women and girls from racism and violence committed by state actors, such as law enforcement, lawyers, and judges.
- Consideration must be given to the impact that police racism and violence has on the victims, their families, communities, and Nations and how to properly compensate them.
- Consideration must be given to the supports and protections, or lack thereof, for victims who wish to report police racism and violence, running from the original complaint and onwards through the complaint and investigation process.
- A specific review should be made of assaults, sexual assaults, and other misconduct by police against Indigenous women and girls at every stage of police custody—initially stopped/called, arrests or detentions, inside police

vehicles, and in jail cells—as well as any complaints not acted upon or where evidence was not collected or could not be collected due to delay.

- Special investigations should be made of the vulnerabilities associated with Indigenous children in care, runaways, and homeless Indigenous women and children to police racism and sexualized violence.

Evidence of the widespread nature of police violence against women in general is staggering. However, the mounting evidence of police racism and violence against Indigenous women and girls seems to indicate that they are targeted for their particular vulnerabilities. The implication of police forces all over Canada in the violence committed against Indigenous women and girls makes the crisis of murdered and missing Indigenous women and girls far more complex than many realize. Relying on Canada's police forces to investigate murdered and missing Indigenous women is like sending a rabbit to a wolf for protection from other wolves. We have a rampant and systemic problem within Canada's law enforcement that operates with drastically insufficient oversight and accountability. A national inquiry into murdered and missing Indigenous women and girls will be woefully incomplete if federal, provincial, and municipal police forces are not fully scrutinized. Any failure by the inquiry to investigate police racism, abuse and sexualized violence against Indigenous women and girls will do more harm than good.

Conclusion

Racialized violence against Indigenous peoples has proven to be disastrous to First Nations. Gendered violence is an added element experienced by Indigenous women and girls that is not only overlooked by police but also in fact committed by them. These omissions and commissions significantly affect, and, in some cases, reinforce, discriminatory societal views about the value of Indigenous lives. Just about anyone can dismiss the crimes of a serial killer or psychopath as being abnormal and outside the realm of what is socially and legally acceptable in any given society. But what if the rapists or killers are police? In many ways, the police represent those exceptional individuals chosen to keep the peace, prevent crimes, and protect victims. They are supposed to help enforce laws that allegedly represent society's values, including the significance of human life and our right to live in safety.

Yet many police forces in Canada have committed crimes against Indigenous women and girls with relative impunity. While, in recent days, they appear to be desperately seeking support from male-dominated First Nations organizations ahead of the national inquiry, these political tactics should not detract from the serious issue that needs to form part of this national inquiry.¹⁴⁵ Instead of calling

145. A. Prest, "Police Chiefs Urged to Open Hearts to Indigenous People: 'We Learn from the Past, We're Not Going to Live There'," *Winnipeg Free Press* (1 June 2016) <<http://www.winnipegfreepress.com/local/police-chiefs-urged-to-open-hearts-to-indigenous-people-381538731.html>>

out the police on their racialized and violent actions against Indigenous women and girls, Assembly of First Nations (AFN) National Chief Perry Bellegarde referred to the police as his “allies” and “colleagues” and counselled them to get their “statistics together” in order to prepare to defend themselves against the finger-pointing to come from the inquiry.¹⁴⁶ The police, for their part, continue to either directly or indirectly blame Indigenous women. The Canadian Association of Chiefs of Police likened Indigenous women to “planes” that need to be fixed or they will crash, while at the same time ignoring the role of racism in police forces and society that leads to murdered and missing Indigenous women and girls.¹⁴⁷ A lack of education does not rape little Indigenous girls—men and police do. There is a vast difference between the vulnerability of a victim and the targeted act of a perpetrator. Neither the AFN nor any police force have the power to, nor should they be attempting to, pre-empt the findings of the national inquiry nor the consequences of those findings.

This is all the more reason why this national inquiry must focus on police racialized and sexualized violence against Indigenous women and girls—one that ensures freedom from political influence by police or male-dominated First Nations organizations. Racist, sexist, and violent police behaviour towards Indigenous women and girls creates many ripple effects in society that make the phenomenon of murdered and missing Indigenous women and girls exponentially worse. When the police fail to properly investigate the murder of Indigenous women or fail to investigate missing Indigenous girls, through their example, they help create a society that devalues Indigenous women and send clear signals that others in society can abuse them with relative impunity. When the police themselves engage in the physical and sexual abuse and exploitation of Indigenous women and girls, then we are faced with a more significant and devastating impact on society. Not only do they indirectly encourage violence against Indigenous women and girls, but they also create situations where Indigenous women and girl victims are reluctant to call the police for help in situations of domestic violence. The fear of receiving the same treatment from police means that these women are left vulnerable in situations of domestic abuse with no one to call for help.

Predatory police forces have put themselves in a Catch-22 situation since vigorous and thorough investigations of sexual assaults, kidnappings, or murders of Indigenous women and girls may implicate them or their police colleagues. Thus, there is an obvious hesitation to probe fully. A properly structured investigation into police

forces in Canada must examine police racism, sexism, abuse, neglect, and sexualized violence as the root causes of, and the major barriers to, addressing the crisis of murdered and missing Indigenous women and girls in Canada. We have a chance to make this the last inquiry ever needed on racialized and sexualized violence of police against Indigenous women and girls. It is long past time to shine a light on all of the dark places within Canada’s police forces and ensure that the national inquiry exposes the problem so we can work together on the solutions. Nothing less will suffice if we are to move towards true reconciliation.

146. CBC News, “National Chief Perry Bellegarde to Police Forces: Don’t Wait for End of MMIW Inquiry” (1 June 2016), CBC News <<http://www.cbc.ca/news/canada/manitoba/bellegarde-police-chiefs-1.3610510?cmp=rs>>.

147. CBC News, “MMIW Cases Won’t Stop until Root Causes Addressed, Says Canadian Association of Chiefs of Police” (31 May 2016), CBC News <<http://www.cbc.ca/news/canada/manitoba/mmiw-saskatoon-police-indigenous-reconciliation-chiefs-of-police-1.3609056?platform=hoosuite>>.

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