

National Inquiry into
Missing and Murdered
Indigenous Women and Girls



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

National Inquiry into Missing & Murdered Indigenous Women & Girls

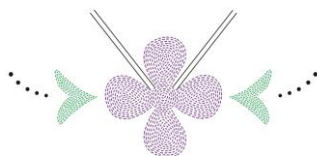
Truth-Gathering Process Part III

Expert & Knowledge-Keeper Panel:

“Indigenous Laws & Decolonizing Perspectives”

Canadian Human Rights Museum

Winnipeg, Manitoba



Part III Volume II

Wednesday August 23, 2017

**Day II: Indigenous Laws & Decolonizing Perspectives
Val Napoleon & Hadley Friedland**

Sandra Omik

Dawnis Kennedy Minnawaanagogiizhigook

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

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II

APPEARANCES / COMPARUTIONS

Aboriginal Legal Services	No Appearance
Amnesty International Canada	No Appearance
Assembly of First Nations (AFN)	Julie McGregor (Legal counsel)
Assembly of Manitoba Chiefs (AMC)	Joëlle Pastora Sala (Legal counsel)
Canadian Association of Chiefs of Police	No Appearance
Canadian Association of Police Governance and First Nations Police Governance Council	No Appearance
Canadian Feminist Alliance for International Action and Partners – Canada without Poverty and Dr. Pamela Palmater	No Appearance
First Nations Child and Family Caring Society of Canada	No Appearance
Government of Alberta	Doreen Mueller (Legal counsel)
Government of British Columbia	Jean Walters (Legal counsel)
Government of Canada	Anne Turley (Legal counsel) Amber Elliot (Legal counsel)
Government of Manitoba	Heather Leonoff (Legal counsel)
Government of New Brunswick	Heather Hobart (Legal counsel)
Government of Nova Scotia	Sean Foreman (Legal counsel)
Government of Nunavut	Alexandre Blondin (Legal counsel)
Government of Ontario	Kirsten Manley-Casimir (Legal counsel) Catherine Rhineland (Legal counsel)
Government of Saskatchewan	Colleen Matthews (Legal counsel)
Government of Yukon	Chantal Grenier (Legal counsel)
Human Rights Watch	No Appearance
Indigenous Circle Chapter of the Canadian Counselling and Psychotherapy Association	No Appearance

III

APPEARANCES / COMPARUTIONS

Inuit Tapiriitt Kanatami (ITK)	Elizabeth Zarpa (Legal counsel)
Liard Aboriginal Women's Society	No Appearance
Manitoba Keewatinowi Okimakanak (MKO)	Jessica Barlow (Legal counsel) Jared Wheeler (Legal counsel)
Missing and Murdered Women and Girls Coalition Manitoba	Angie Hutchinson (Representative)
Manitoba Moon Voices Inc.	No Appearance
Native Women's Association of Canada (NWAC)	Virginia Lomax (Legal counsel)
Nunatsiavut Government	No Appearance
Pauktuutit Inuit Women of Canada	Beth Symes (Legal counsel)
Quebec Native Women Association	No Appearance
Union of BC Indian Chiefs	No Appearance
Winnipeg Police Service	No Appearance
Women's Legal Education and Action Fund (LEAF)	Mary Eberts (Legal counsel)

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EXHIBIT LIST / LISTE DE PIÈCES

Exhibit No.	Description	Page
1	Curriculum Vitae of Dr. Val Napoleon, 11 numbered pages.	21
2	Curriculum Vitae of Dr. Hadley Friedland, 14 numbered pages.	21
3	Colour copy of Indigenous Law Research Unit document titled "Indigenous Legal Traditions Core Workshop Materials" by Drs. Napoleon and Friedland, 13 numbered pages including text and original artwork by Dr. Napoleon.	21
4	Article, "What is Indigenous Law? A Small Discussion" By Val Napoleon on University of Victoria Law letterhead on four unnumbered pages, and bearing Indigenous Law Research Unit logo.	22
5	Colour copy of "Accessing Justice and Reconciliation, Cree Legal Summary, Cree Legal Traditions Report (Community partner Aseniwuche Winewak Nation) comprising 45 numbered pages.	22
6	PowerPoint presentation of Drs. Friedland and Napoleon "Indigenous Law, National inquiry into MMIWG" dated August 22, 2017 comprising 30 colour slides on pages that were not numbered.	23
1	Resume of Dawnis Kennedy (Minnawaanagogiizhigook), 13 pages.	156

1 --- Upon commencing at 9:20 a.m.

2 **MS. CHRISTA BIG CANOE:** Good morning. Good
3 morning, everyone. Hello. We're going to get started.

4 To start the morning, we're going to
5 actually have Grandmother Belinda come up and do a prayer.
6 And I just have a couple of housekeeping items to let you
7 know about for the day.

8 So there is coffee and snacks being brought
9 and put out that will be for morning break. You'll be on
10 your own for lunch but there will be snacks and coffee and
11 tea this afternoon as well.

12 We will be starting in a good way with Elder
13 Belinda, Grandmother Belinda, and then we will be going
14 into the calling our witnesses from yesterday and with the
15 rest of the day's schedule.

16 So chi-miigwetch.

17 **ELDER BELINDA VANDENBROECK:** So I'll just
18 have to say it out loud?

19 **MS. CHRISTA BIG CANOE:** Well, I'll give you
20 a microphone.

21 **ELDER BELINDA VANDENBROECK:** Hello. Good
22 morning, everybody.

23 It's good to see you here. I'm glad you're
24 here and I wish we did have more of the family members
25 come. For me it has been a real learning curve here. I

1 learned a lot yesterday. Tuma Young is absolutely amazing,
2 isn't he? Like I just -- I really connected with his
3 presentation.

4 And you know just trying to understand
5 Indigenous law, Aboriginal law, how does it all work with
6 our system today, it's a very difficult situation because
7 we know that we are in a system that's already been
8 developed and has been used for how many hundreds of years
9 already. So it is a very difficult thing.

10 Yes, we know that families are very
11 concerned about the things that they think are not
12 happening, and my suggestion to that would be, please send
13 the information of whatever it is that you are concerned
14 about to them. That is the process of how we can do that.

15 And yes, a lot of people have different
16 opinions about this whole inquiry. My feeling is that the
17 highest purpose for what we are doing this for is the
18 families, and we must always remember that, and to honour
19 the families, to honour those who are still missing and
20 haven't come home.

21 I am going to ask you as well that when you
22 say your prayers anywhere for the murdered and missing,
23 including men, that we pray to the spirit of the water that
24 they were born with, the water in the bodies of the people
25 that are missing and have been murdered; very important,

1 very sacred.

2 So when you say your prayers, pray to the
3 water of that individual that's still missing. I think
4 that's the most honourable thing we can do at this moment
5 because we don't know where they are, and always praying
6 that we will find them.

7 So I will begin the prayers. I will say it
8 first in my language and then I will say it in English so
9 you can understand.

10 --- OPENING PRAYER/PRIÈRE D'OUVERTURE:

11 MS. CHRISTA BIG CANOE: I just have two more
12 housekeeping announcements and then I'll ask to open court,
13 if that's okay? Okay, thank you.

14 Chi-miigwetch, Grandmother Belinda.

15 There are two more housekeeping
16 announcements. One is that I kindly ask that you turn your
17 cell phone volume off. We do understand that this is live
18 streamed and people may be taking pictures, but just to
19 ensure that your cell phone is off.

20 And also, a reminder that the first five
21 rows are designated for families of survivors of violence
22 and their support systems and we appreciate you keeping
23 that space for them.

24 At this point, Chief Commissioner and
25 Commissioners, I ask that we reconvene and open, calling

1 Dr. Val Napoleon and Dr. Hadley Friedland to continue their
2 chief examination.

3 **CHIEF COMMISSIONER MARION BULLER:** Since
4 this is a second sitting, could the witnesses be
5 reaffirmed, please?

6 **MS. CHRISTA BIG CANOE:** Yes, certainly.

7 (A short pause/Courte pause)

8 **MS. CHRISTA BIG CANOE:** Also, if any -- I
9 see some of the health supports in the room. So throughout
10 the course of the three days because there are people and
11 public members coming in and out, we do want to let you
12 know that we have health supports available at this place
13 and also at the Oodena Fire.

14 So the sacred fire is burning throughout the
15 day and you're welcome to go there. There is a health
16 tent. We also have health staff in the room along with
17 grandmothers that are supporting, so elders that are
18 supporting and providing guidance for support.

19 Should anyone need it you can look for our
20 health supports. They will be wearing the name tags. If
21 you ask any staff member wearing the purple name tag, they
22 will point you to health supports or -- and you will notice
23 that grandmothers also have the purple lanyards on. So
24 please feel free to reach out or talk to them or if you
25 need assistance with anything don't hesitate.

1 THE REGISTRAR: Okay. Good morning, Drs.
2 Friedland and Napoleon. I will just reaffirm you quickly.
3 Welcome.

4 DR. VAL NAPOLEON: Resumed/Sous le même serment

5 DR. HADLEY FRIEDLAND: Resumed/Sous le même serment

6 THE REGISTRAR: Okay, thank you.

7 --- EXAMINATION-IN-CHIEF BY/INTERROGATOIRE PRINCIPAL PAR
8 MS. CHRISTA BIG CANOE (CONT'D/SUITE):

9 MS. CHRISTA BIG CANOE: Good morning. Dr.
10 Napoleon and Dr. Friedland, you had completed with a
11 presentation that had a PowerPoint and one of the last
12 slides is up on the screen behind you. I just have a
13 couple questions just to confirm some of the information in
14 it.

15 And I will start with, in your presentation
16 yesterday you had talked a little bit about some gender
17 issues and specifically -- sorry. Yes, sorry.

18 Specifically we had been talking about some
19 gender oppression issues and I wanted to ask about the
20 vulnerability of girls and women and where the
21 vulnerability exists.

22 (A short pause/Courte pause)

23 DR. VAL NAPOLEON: Thank you for your
24 questions. One of the things that we have written about is
25 that Indigenous women and girls are not inherently

1 vulnerable. The way that vulnerability is created is by
2 economic, political, legal and social decisions that go on
3 around women and girls.

4 And one of the stories that I often use to
5 demonstrate this is an old -- it's an ancient story from
6 the Wolf Clan in northwestern British Columbia where there
7 was a father who refused to let his daughter marry and no
8 one was good enough. Many, many came to seek her hand and
9 he would refuse them all. And then one day there was a
10 group of mentioned that arrived and one of them was a very
11 beautiful young prince.

12 And the people gambled. It was one of the
13 ways that people celebrated and spent time together. So
14 they gambled and gambled and they had a wonderful time and
15 visitors were fed.

16 Then in the night the young man went up to
17 the young girls -- her -- the young women's sleeping
18 platform and run away with him, and she did. They left.

19 And when they got outside he threw a cloak
20 over her head and then they travelled. He put her on his
21 back and they travelled over the mountains, many mountains
22 and valleys.

23 And they got to his village. She looked
24 around. She was very in love with her husband, very in
25 love.

1 But she looked around and she saw old and
2 young women and some of them had sores from the cold and
3 from the fires on their legs. And they were the slaves.
4 They were slave women. And one of the things about the
5 wolves was that they had a fear of human blood.

6 So one of the slave women talked to her,
7 talked to the young woman and said, "Don't you know that
8 all of us used to be his wives? He got he tired of us and
9 now we're slaves and the same thing is going to happen to
10 you as soon as he hears about another young woman".

11 And so they made plans to escape and they
12 only had one pair of snowshoes. They organized it around
13 her menstruation. She pretended to menstruate. And so
14 they were sent out up halfway up the mountain.

15 So they had one pair of snowshoes, and the
16 slave woman put the snowshoes on. And the young woman
17 stood on the snowshoes on the back, and they went like
18 that.

19 And they travelled and they travelled and
20 they travelled over mountains, over valleys. And then they
21 could hear a whistling and they knew that the wolves were
22 on their trail. And so because the young man and the
23 people there were wolf people they transformed between
24 being wolves and being people, being humans.

25 And so they heard the whistling and they

1 started to travel again and again as fast as they could go.
2 With the wolves closing in on them they came to a hemlock
3 tree, and the young woman -- the slave woman threw her up
4 into the tree but she was -- she was grabbed by the wolves
5 and torn apart and she was devoured.

6 And the young woman stayed in the tree. And
7 she wouldn't come down, no matter what. The young prince
8 would change her to human and back and they tried to dig up
9 the tree and all these things but she stayed up.

10 And finally, the father of the young man
11 said enough, leave her. And they left.

12 And after two days she finally came down
13 from that tree and she started to travel to try and find
14 her way home. She travelled until her moccasins wore worn
15 out and she had nothing and she was hungry and cold.

16 And Loon Woman found her and took her in and
17 healed her and made her strong again.

18 And the young woman wanted to go and find
19 her family. And Loon Woman took her and painted her face
20 so that there was a moon and there were stars on her face.
21 And she gave her the name of "Alek" (phonetic).

22 And so then she left to find her way home
23 and she did.

24 And when she got home she was celebrated.
25 And she carefully painted her face and she was taught by

1 Loon Woman and was presented in the feast hall which is the
2 public, political and legal form.

3 And all the children since her carry that
4 oral history today and that name, her name still is alive
5 and those crests are still a part of the people's history.

6 And so there is many ways to learn from
7 that, that story. One of the things, like some people will
8 say -- when we talk about it, we start asking community
9 members about it or other people and some people will say,
10 "Well, she should have just did what her father told her to
11 do and just, you know".

12 And then -- but if we take it further and we
13 start unpacking it, it was like why did she make that
14 decision to go with somebody she didn't even know? Like,
15 what were the conditions of that -- that were a part of her
16 life that -- where she felt that was the only thing she
17 could do, or was it the only thing she could do?

18 So you can start unpacking the story to see
19 it from her perspective or the slave woman's perspective
20 and you can bring these different perspectives to talk
21 about the violence, to talk about legal agency, to talk
22 about her as a decision maker in her life and what are
23 things in her life that can either prevent or support the
24 violence that would happen to her.

25 And so when you think about Loon Woman as a

1 helper, you think about the young woman who was -- became -
2 - was vulnerable in the initial part of the story, and you
3 think about the kinds of decisions and where there's help
4 and when -- when the ability to make important decisions,
5 you either don't have the resources or the support or the
6 experience to make the kinds of decisions that would enable
7 safely -- so in every situation we can only draw on the
8 experience we have and make the best decision that we can
9 at that moment in time.

10 And so the question is do we equip our young
11 women to make better decisions, not that the entirety of
12 violence is the responsibility of women to prevent but that
13 we have a deeper understanding of all of our -- of all of
14 who we are and our ability to care for one another and to
15 build safety around each of us, especially those who could
16 be vulnerable if they weren't provided with the support
17 that they needed.

18 **MS. CHRISTA BIG CANOE:** And so when we look
19 up at the slide and we talk about shifts, so my question is
20 kind about the shifts, the shifts that we need to make from
21 moving from those general questions about the traditional
22 gender roles to the how do you understand about gender and
23 sexuality shape our legal interpretations, I just want to
24 be clear that and contextualize what you believe in your
25 opinion you think some of those big shifts need to be

1 around gender, sexuality and sexual orientation.

2 DR. VAL NAPOLEON: I think that we need to
3 find ways to talk about hard questions in our lives and in
4 our communities. I think that many of the conversations
5 around women, women's roles are polarizing. I think that
6 there is also narratives of despair that can completely
7 trap us into that there is only one view of Indigenous
8 women and that's an important view but what happens, like
9 do we get trapped by those, the narratives of despair?

10 So the Indigenous women and girls who have
11 gone missing and who experience violence in our lives, do
12 we understand them as legal agents making the best possible
13 decisions at points in their lives that they were able to
14 make or do we just understand them as not having the
15 capacity or something which caused that?

16 So it's understanding the fullness of who
17 Indigenous women are and our abilities, along with a
18 broader understanding of the world that we are a part of to
19 change the narrative, to see the possibilities. And so I
20 have done work in talks in shelters in talking about, you
21 know, the different ways that women can resist. Again, not
22 that it's -- that the fault of violence is women but that
23 everybody resists, even if it's in the way we think. And
24 so we can think about all the different ways that women are
25 resisting violence now and we support those ways that they

1 are doing it.

2 So it's not looking at the present or the
3 past with idealized eyes. My colleague, John Borrows, said
4 if you idealize Indigenous law or you idealize the past
5 then you don't have any resources to deal with the very
6 real problems today. And the only way that we're going to
7 -- the only way that we're going to be able to take on the
8 reality that is our lives and is our communities is by
9 being critical, by being rigorous, by being thorough, by
10 understanding as best we can and also seeing that sometimes
11 what gets in the way of us working with Indigenous law or
12 any law is that which we think we know about Indigenous law
13 or any law. And so it's about those assumptions and
14 setting those aside.

15 So this chart is about challenging our own
16 assumptions at every step of the way, at every level of the
17 work in the community or in your law office or in front of
18 the law class. You have to keep challenging the
19 assumptions.

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

21 So please, either one of you or both of you
22 feel free to answer this question. You know discussions
23 about oppression, oppression of Indigenous women and girls
24 and two spirit or transgender individuals, these are
25 arguments that don't arise in a vacuum.

1 So the question that I would like you both
2 to address is when we look at that oppression and what we
3 are seeing, those assumptions that Dr. Napoleon is talking
4 about, what are some of the ways that we can either take a
5 deliberative approach or what are some of the tools and
6 resources that we can look to, to help us build some of
7 that shift?

8 **DR. HADLEY FRIEDLAND:** I think there's a lot
9 to that. I think fundamentally that starting point that
10 Indigenous women and girls are legal agents are making
11 decisions and we need to look at the circumstances and what
12 choices are actually available.

13 Drawing on the story of the Wolf Clan a
14 little bit let's take teenagers. I mean teenagers are
15 going to make mistakes. Everybody in this room has made
16 decisions to go to a party to do something to -- you know
17 something silly, normal teen age. Some teenagers die.
18 Some teenagers are raped. Some teenagers never come back
19 from that, and some do.

20 And I think we need to look seriously when
21 we look at how did the young woman come home and what did
22 she have? She had the support of a slave woman. Loon
23 Woman healed her and restored her honour and brought her
24 home with support and dignity, right?

25 So how do we put that in place for our young

1 women today where -- when people make mistakes, when people
2 find themselves in circumstances that are suddenly beyond
3 their control we need to have supports in place where they
4 can come with honour and dignity?

5 **MS. CHRISTA BIG CANOE:** And just if I may,
6 in addition to those sort of -- the steps that we need to
7 take to create the shifts, from a larger community or
8 society perspective what are some resources like anyone
9 here today could start to look at to start having those
10 conversations within their communities and even within your
11 own resources?

12 What are some suggestions, some practical
13 suggestions about if you want to have conversations about
14 this as a community organization? What are some of the
15 tools people can access, and if you can help me with that
16 that would be helpful.

17 **DR. VAL NAPOLEON:** There is -- I think that
18 one of the best things is to create safe spaces for
19 conversation in which people can have respectful debate and
20 to not view debate or argumentation as a negative but,
21 rather, something that allows us to learn and to think
22 deeply and to be challenged. I think that being able to
23 create those safe spaces for those conversations are really
24 important and we need to look at like what happens if you
25 solidify particular roles based on gender whether it's

1 through clothing or through roles in society are then
2 unchanging.

3 One of the things that -- in India there has
4 been some work which look at forms of nationalism where
5 it's actually the forms of nationalism which allow
6 tremendous violence against women because when women fail
7 to live up to that role or live up to whatever is held up
8 as being the proper role for them, then it's okay to be
9 violent. And so there is -- it's taking everyday kinds of
10 things and talking about them.

11 But the other thing with -- there is also
12 amazing work on the setting up of justice shelters so that
13 there's -- so the justice shelters, if we think about them,
14 they are set up in places of war where the state system has
15 been torn down, and the other ways that would normally
16 provide safety for people are not available. So it's
17 setting up spaces in communities or in areas where there's
18 -- the different kinds of dangers are, one, they are
19 recognized and that, two, that there is -- we think about
20 what are the best kinds of supports for those people in
21 justice shelters.

22 So there's -- there are people -- there are
23 people doing this in different ways across the way. At
24 Aseniwuche Winewak Hadley was one of the people that set up
25 just a safe house for kids to go to, but there is practical

1 things that we can do.

2 Patricia Montour used to say that being
3 self-governing means not minding your own business. It
4 means that when your brother's kids are in danger you go
5 and get those kids. So it's on different levels. It's
6 individual and it's family and it's collectives and it's
7 community. But it's beyond community because sometimes our
8 communities are not safe places and all my relations is a
9 very oppressive concept in those situations. So we have to
10 be real about the kinds of dangers that are around women
11 and children that we have collectively created.

12 **DR. HADLEY FRIEDLAND:** I wanted to add for
13 concrete resources from the Indigenous Law Research Unit,
14 the gender toolkit is available online and is free and
15 anyone can access. And it's a toolkit with exercises
16 encouraging the type of conversations Dr. Napoleon is
17 saying is important. And there is also the graphic novel
18 "Mikomosis" and a teaching guide for that that is
19 accessible for youth, for community members and university
20 students just to start those conversations.

21 **MS. CHRISTA BIG CANOE:** You can -- actually
22 anticipated my next question was which was a shift, and
23 it's an important conversation. I'm sure some of my
24 friends will have some questions for you in cross-
25 examination around the gender shifts as well.

1 But I just want to shift to what about
2 education resources and storytelling from different ages?
3 So I mean we know that the University of Victoria, based on
4 your evidence yesterday, has the Indigenous Law Research
5 Unit and that we are seeing more and more of these. You
6 addressed different projects within your slide
7 presentation, but what about resources that are meant for
8 all ages or that collect youth at an age to understand
9 Indigenous law and practice? How important are those?
10 Would you like to share some comments about them?

11 **DR. VAL NAPOLEON:** One of the ways all of us
12 each children, like in every society we teach children
13 through stories and they learn law through stories. So
14 there is of course Indigenous stories, but there's also --
15 there's also -- there is non-Indigenous stories where you
16 can see similar kinds of things being taught to children
17 about authority about responsibilities, about decision
18 making and so on.

19 So I think that the more kinds of materials
20 are really important but even more important is like where
21 there are perhaps parents who aren't able to do that with
22 their own children that there be a larger network around
23 people to support the children in those families, so that
24 to breakdown the kinds of isolation that's very real around
25 a lot of children.

1 There are -- there are numbers of Indigenous
2 authors, Tomson Highway and others who are writing amazing
3 resources for children. So I think -- I think that there
4 is lots of work going on in education and I think that
5 supporting more of that to embrace Indigenous
6 intellectualism, public intellectualism, starting from when
7 babies are born. I think that that has to be all the way
8 up.

9 I think that if we look at the Indigenous
10 pedagogies of previous generations they were training the
11 mind as well as the body and the spirit and the emotional
12 parts of ourselves. And today we don't spend enough time
13 on our intellects and we need to rebuild public
14 intellectualism, Indigenous public intellectualism along
15 with the other strengths that make a strong people.

16 **DR. HADLEY FRIEDLAND:** I would say my
17 opinion, and I think this is a little more personal, is
18 just I think about my daughter and my niece in that
19 picture, and I think about what it has done for them to
20 meet Val, to be mentored and see a strong brilliant
21 Indigenous woman who is a law professor in their life and
22 what that has meant for them as young teens and young women
23 growing up and believing that -- Tuma Young told the story
24 yesterday of being in grade eight and not being able to see
25 hope.

1 And I think it's really important that we
2 are all mindful of what we are making visible and what we
3 are erasing. I, as a mother and an aunty, I can't pretend
4 I don't teach safety in a world where people looking at my
5 daughter may decide to prey on her because of the way she
6 looks, but I also want her to see possibilities far beyond
7 that and to be -- to make sure that she sees that being
8 celebrated and made visible and amplified from every
9 direction, from Indigenous and non-Indigenous people. I
10 think that's crucial.

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

12 I only have a couple more questions and it's
13 actually just to -- sort of a housekeeping issue, and I
14 will then be asking the Commissioners to make a number of
15 exhibits as evidence that's been tendered to be made
16 exhibits.

17 So provided to counsel and in -- your
18 material includes: "What is Indigenous Law? A Small
19 Discussion" by Val Napoleon. Val, you actually wrote this.

20 **DR. VAL NAPOLEON:** I did.

21 **MS. CHRISTA BIG CANOE:** And it's contained -
22 - you can actually find this in the gender toolkit that's
23 publicly available right on the website, the University of
24 Victoria website. And I just wanted to confirm that this
25 is your opinion in this. You have offered it as your

1 opinion?

2 DR. VAL NAPOLEON: Yes.

3 MS. CHRISTA BIG CANOE: Yes.

4 And there was one other article. It's the
5 Cree legal summary and can -- Dr. Friedland, can you just
6 tell me a little bit about it quick?

7 DR. HADLEY FRIEDLAND: Oh, that's one of the
8 final reports from the Accessing Justice and Reconciliation
9 project that was completed in 2014 in partnership with the
10 Truth and Reconciliation Commission, and that's available
11 on the Indigenous Bar Association's website.

12 MS. CHRISTA BIG CANOE: And do you adopt the
13 work that's done as your opinion or that it forms part of
14 your opinion as well?

15 DR. HADLEY FRIEDLAND: Yes, I do.

16 MS. CHRISTA BIG CANOE: And so,
17 Commissioners, I actually have a small list of exhibits
18 that we have talked about, material.

19 Once this is made an exhibit it does become
20 part of the public record and accessible and it also allows
21 my friends to ask questions in relation to it. So I kindly
22 ask that we -- that I tender the curriculum vitae or resume
23 of Val Napoleon as Exhibit 1.

24 CHIEF COMMISSIONER MARION BULLER: All
25 right. Did you add that (inaudible)?

1 MS. CHRISTA BIG CANOE: Jen (phonetic) is
2 going through the tabs as they go in.

3 CHIEF COMMISSIONER MARION BULLER: Okay.

4
5 MS. CHRISTA BIG CANOE: Would you like me to
6 reference the tabs?

7 CHIEF COMMISSIONER MARION BULLER: No.

8 MS. CHRISTA BIG CANOE: Okay, as Exhibit 1.

9 CHIEF COMMISSIONER MARION BULLER: Okay.

10 Exhibit 1 is Dr. Napoleon's CV.

11 --- EXHIBIT NO./PIÈCE NO. 1:

12 Curriculum Vitae of Dr. Val Napoleon,
13 11 numbered pages. (EH010101)

14 MS. CHRISTA BIG CANOE: I tender Dr. Hadley
15 Friedland's CV as Exhibit 2.

16 CHIEF COMMISSIONER MARION BULLER: Dr.
17 Friedland's CV as Exhibit 2, please.

18 --- EXHIBIT NO./PIÈCE No. 2:

19 Curriculum Vitae of Dr. Hadley
20 Friedland, 14 numbered pages. (EH010102)

21 MS. CHRISTA BIG CANOE: The Indigenous Legal
22 Traditions Core Workshop Materials.

23 CHIEF COMMISSIONER MARION BULLER: Okay.

24 The workshop materials are Exhibit 3.

25 --- EXHIBIT NO./PIÈCE NO. 3:

1 Colour copy of Indigenous Law Research
2 Unit document titled "Indigenous Legal
3 Traditions Core Workshop Materials" by
4 Drs. Napoleon and Friedland, 13
5 numbered pages including text and
6 original artwork by Dr.
7 Napoleon. (EH010103)

8 **MS. CHRISTA BIG CANOE:** Thank you. The
9 "What is Indigenous Law?"

10 **CHIEF COMMISSIONER MARION BULLER:** "What is
11 Indigenous Law?" is Exhibit 4.

12 --- **EXHIBIT NO./PIÈCE NO. 4:**

13 Article, "What is Indigenous Law? A
14 Small Discussion" By Val Napoleon on
15 University of Victoria Law letterhead
16 on four unnumbered pages, and bearing
17 Indigenous Law Research Unit
18 logo. (EH010104)

19 **MS. CHRISTA BIG CANOE:** Thank you. And the
20 "Accessing Justice and Reconciliation" is Exhibit ---

21 **CHIEF COMMISSIONER MARION BULLER:** That will
22 be "5".

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

24 **CHIEF COMMISSIONER MARION BULLER:** Sorry.
25 "Accessing Justice" is Exhibit 5, please.

1 --- EXHIBIT NO./PIÈCE NO. 5:

2 Colour copy of "Accessing Justice and
3 Reconciliation, Cree Legal Summary,
4 Cree Legal Traditions Report (Community
5 partner Aseniwuche Winewak Nation)
6 comprising 45 numbered pages.
7 (EH010105)

8 **MS. CHRISTA BIG CANOE:** And the final
9 exhibit or the final document I am asking or tendering
10 would be the slide presentation that was available and this
11 will be on the exhibit list and -- for today for these
12 witnesses.

13 **CHIEF COMMISSIONER MARION BULLER:** Okay. Is
14 it properly called the PowerPoint or the ---

15 **MS. CHRISTA BIG CANOE:** Sorry, the
16 PowerPoint presentation of Dr. Napoleon and Dr. Friedland.

17 **CHIEF COMMISSIONER MARION BULLER:** Okay.
18 PowerPoint presentation is Exhibit 6, please.

19 --- EXHIBIT NO./PIÈCE NO. 6:

20 PowerPoint presentation of Drs.
21 Friedland and Napoleon "Indigenous Law,
22 National inquiry into MMIWG" dated
23 August 22, 2017 comprising 30 colour
24 slides on pages that were not numbered.
25 (EH010106)

1 **MS. CHRISTA BIG CANOE:** With that I conclude
2 the examination in-chief. My friends may have questions
3 for you, but I am going to kindly ask that we have just a
4 short five-minute break so that we have an opportunity to
5 touch base with counsel.

6 **CHIEF COMMISSIONER MARION BULLER:** Sure,
7 five minutes (off mic).

8 Thank you. Five minutes, please.

9 --- Upon recessing at 9:57 a.m./

10 L'audience est suspendue à 9h57

11 --- Upon resuming at 10:11 a.m.

12 L'audience est reprise à 10h11

13 **MS. CHRISTA BIG CANOE:** Okay. We are going
14 to get started again. At this time the parties with
15 standing have an opportunity to cross-examine Dr. Napoleon
16 and Dr. Friedland. The first party that will be cross-
17 examining is the Assembly of Manitoba Chiefs.

18 --- **CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR MS.**

19 **JOËLLE PASTORA SALA:**

20 **MS. JOËLLE PASTORA SALA:** Good morning,
21 elders, grandmothers, survivors, family members and good
22 morning, Commissioners. Bonjour.

23 My name is Joëlle Pastora Sala. I am
24 counsel to the Assembly of Manitoba Chiefs.

25 Good morning, Drs. Napoleon and Friedland.

1 Thank you for your presentation yesterday and this morning.
2 I have just been advised that my questions have been a
3 little bit more limited than I had anticipated so for my
4 questionings I will try to address who I am asking the
5 question to. However, if the other one -- if I am asking
6 Dr. Napoleon and, Dr. Friedland, you would like to answer,
7 feel free.

8 So Dr. Napoleon, keeping in mind your
9 caution about not being able to explain Indigenous law in a
10 few sentences or in a two-hour presentation, would it be
11 accurate to say that one of the main purposes of your
12 presentation yesterday and today was to discuss some basic
13 concepts of Indigenous law?

14 **DR. VAL NAPOLEON:** The purpose of the
15 presentation was to demonstrate that Indigenous law hasn't
16 gone anywhere in Canada. And it exists in the ways that
17 people are trying to work in their communities, but that
18 it's been undermined and that the work before us all is to
19 rebuild it and that there are structured critical ways that
20 we can do that and that we have to put in the time and the
21 mental work as well as emotional and spiritual work to do
22 that, so that we don't idealize Indigenous law and so that
23 it is capable of dealing with the realities that our
24 communities are living with. Some of those communities are
25 very dangerous places for women and girls.

1 **MS. JOËLLE PASTORA SALA:** In your materials
2 and in your presentation yesterday, you cite the work Dr.
3 John Borrows which lists five main categories of sources of
4 Indigenous laws. Correct?

5 **DR. VAL NAPOLEON:** Yes.

6 **MS. JOËLLE PASTORA SALA:** And the first
7 source of five that are listed by Dr. John Borrows is
8 sacred law?

9 **DR. VAL NAPOLEON:** Yes.

10 **MS. JOËLLE PASTORA SALA:** And it would be
11 accurate to say that Dr. Borrows is not the only Indigenous
12 academic who has written about the importance of sacred law
13 in Indigenous laws. Correct?

14 **DR. VAL NAPOLEON:** Yeah, offhand, I know
15 that there are authors who have referred to Indigenous law
16 and the sacred. I'm not able to put any other authors to
17 mind right now.

18 **MS. JOËLLE PASTORA SALA:** Right. So ---

19 **DR. VAL NAPOLEON:** I do want to clarify that
20 our work with the sources of law is to extend the
21 conversation about them. And so it's not saying that the
22 laws themselves are sacred but that it's founded on an
23 understanding of the sacred. The difficulty that can be
24 created by calling laws sacred which they are a human
25 creation even though they may -- our interpretations of

1 them are human, I should say, is that when those laws are
2 problematic, humans have to be able to collectively and
3 legitimately change them.

4 **MS. JOËLLE PASTORA SALA:** And something of
5 other scholars who have written about the importance of
6 sacredness in Indigenous laws would include Anishinabe
7 scholars like Aimée Craft, Aaron Mills or Heidi Stark, for
8 example? Are you familiar with these?

9 **DR. VAL NAPOLEON:** I am familiar with
10 Heidi's work, Heidi Stark, Dr. Stark, yes.

11 **MS. JOËLLE PASTORA SALA:** Would it be
12 accurate to say that in your written materials and in your
13 presentation you refer to Indigenous laws as an
14 intellectual process and earlier today you referred to not
15 being able to spend enough time on our intellect; would
16 that be accurate?

17 **DR. VAL NAPOLEON:** We approach the work of
18 Indigenous law using the medicine circle which suggests
19 that there has to be equal time between the mental which is
20 the intellectual, the physical, the emotional and the
21 spiritual and the work that we do, because we're not
22 equipped or qualified to speak about medicine or
23 spirituality. What we focus on is law. That's our focus
24 and that's how we work.

25 **MS. JOËLLE PASTORA SALA:** And Indigenous law

1 as an intellectual process?

2 **DR. VAL NAPOLEON:** Yes.

3 **MS. JOËLLE PASTORA SALA:** And one of the
4 methods you propose for thinking about and engaging with
5 Indigenous laws in your materials and presentation is a
6 case brief approach. Correct?

7 **DR. VAL NAPOLEON:** That's correct.

8 **MS. JOËLLE PASTORA SALA:** And keeping in
9 mind your caution about -- Dr. Friedland, about ensuring
10 that methods that are used to engage with Indigenous laws
11 are transparent, could you and/or Dr. Napoleon identify
12 some of the limitations with working with the case brief
13 approach?

14 **DR. HADLEY FRIEDLAND:** Well, any one method
15 is not going to be fully effective to encompass all of any
16 legal tradition, Indigenous or not. So the case brief
17 method gives us a way to be transparent and focused and
18 start from that intellectual place to move to other parts
19 of the medicine wheel.

20 On the slide before that in our PowerPoint
21 presentation we talked about other methods for engaging and
22 talked about how when people start with one method and
23 particularly with the Indigenous Law Research Unit,
24 starting with the case briefing and analysis, they found
25 themselves able to -- and this, I also found myself able,

1 to engage through other methods in a better way, in a way
2 where I more fully understood what was going on whether
3 that was out on the land learning from elders, whether that
4 was in ceremony, whether that was learning in ways that
5 were not case briefing, the connections were much stronger
6 because we were using all parts of the medicine wheel very,
7 very explicitly.

8 **MS. JOËLLE PASTORA SALA:** So are there any
9 limitations to the case brief approach?

10 **DR. HADLEY FRIEDLAND:** There's limitations
11 to the case brief approach as there is to any method. It's
12 going to address one area. It's very good at getting to
13 the reasoning behind ---

14 **MS. JOËLLE PASTORA SALA:** Okay.

15 **DR. HADLEY FRIEDLAND:** --- behind the
16 stories, and that's something, as I said at the beginning
17 of yesterday, when we have a cultural genocide erasing
18 people's thinking is a part of that, so it brings out the
19 thinking. But it's a start. More is always needed
20 wherever you start, right?

21 **MS. JOËLLE PASTORA SALA:** Thank you.

22 Shifting away from this focus on Indigenous
23 law as an intellectual process, are each of you able to
24 explain your understanding of the relationship between
25 Indigenous legal traditions and ceremony and spirits?

1 **DR. HADLEY FRIEDLAND:** Can you clarify the
2 purpose of that question? I am just not sure what you mean
3 by that. So we definitely talked about that that's an
4 aspect of Indigenous legal traditions but are you ---

5 **MS. JOËLLE PASTORA SALA:** I'm just hoping
6 you can expand on your understanding of just the
7 relationship between what you call Indigenous law and you
8 explain -- or Indigenous legal traditions and ceremony and
9 spirits, just your understanding of that relationship.

10 **DR. VAL NAPOLEON:** So, thank you.

11 Indigenous peoples are whole peoples. We're
12 whole as individuals as well as collectivity's and in the
13 work that I've done with Gitksan law and the development of
14 Gitksan legal theory as well as work that we have done
15 elsewhere, law is a part of a whole. We can understand it
16 as a distinct mode of governance along with all of the
17 other ways that we manage ourselves, including our
18 spiritual lives.

19 So our understanding of life and death and
20 our cosmology, our oncology, are all implicit in the way
21 that we interpret law. So what we are advocating is that
22 when we think about Indigenous law we do so in its
23 entirety. We have some tools.

24 But at the end of the day what we want to
25 advocate is that law is -- it is a complete system and it's

1 an -- absolutely central to people managing themselves as
2 self-governing, self-determining peoples, and that we have
3 to do that groundwork.

4 So that there is no way that any of that can
5 be separated from the spirit but -- so it's a matter of the
6 starting place. What we do is we work with people in the
7 starting place and then it's up to communities to do -- to
8 add their expertise according to their cosmology. So we
9 don't -- we're not expertise in that -- or experts, rather,
10 in those areas of law.

11 **MS. JOËLLE PASTORA SALA:** So at the
12 recommendation of counsel, I provided an article of the
13 Globe and Mail. Do you have a copy of that article in
14 front of you?

15 **DR. VAL NAPOLEON:** Yes.

16 **MS. JOËLLE PASTORA SALA:** Commissioners, do
17 you have a copy of the article?

18 If you could go to the third page of the
19 article, please, and just the last paragraph, and I will
20 read it to you. It's an article that interviews former
21 NWAC presidents and that last paragraph says:

22 "Ms. Jacobs said that that the inquiry
23 must also show respect for the spirits
24 of the women who have been killed.

25 "What does that mean to have ceremony

1 for the dead? What does that mean when
2 we're talking about them? And when
3 should we be talking about them? And
4 how should we be talking about them?"
5 Ms. Jacobs said."

6 Do each of you see that?

7 **DR. HADLEY FRIEDLAND:** Yes.

8 **DR. VAL NAPOLEON:** Yes.

9 **MS. JOËLLE PASTORA SALA:** What is your
10 understanding of how the relationship between ceremony and
11 spirit and Indigenous law relates to the work of the
12 National inquiry into Missing and Murdered Indigenous Women
13 and Girls?

14 **DR. HADLEY FRIEDLAND:** So I want to start by
15 saying I think these questions by Bev Jacobs are very
16 important ones.

17 One of the things when you're sworn in as an
18 expert, you have to be very careful to not go beyond your
19 expertise. And I think it's very important that we are
20 humble and that we say I can speak for myself and say these
21 are important questions and I hope they are being answered.

22 And I don't have the expertise to form an
23 opinion on these, other than acknowledge they are important
24 questions and we need to honour these spirits.

25 **DR. VAL NAPOLEON:** Another -- I want to say

1 I have a lot of respect for Bev and I always look forward
2 to working with her when I can. And one way to perhaps
3 conceptualize these questions as well as the concerns that
4 are expressed here is, first of all, there is so much pain
5 with these issues. There is just so much pain not just for
6 the past but fear about the future, and those are very,
7 very real. And so trying to do this work is in light of
8 all of that.

9 One of the things that I have learned from
10 the Gitksan and working with the Gitksan is that we might
11 think about it as a spectrum. First of all, no system of
12 law is ever separate from the political, economic and
13 social forces around it, including Indigenous law. So
14 whatever is going on for us and the dynamics that surround
15 our communities, Indigenous law is a part of that which is
16 why we have to be so critical of it because it can turn
17 into fundamentalism and it can turn into oppression, okay.

18 So if we think about Indigenous law as a way
19 that we manage ourselves through time, we think about the
20 feast of the Gitksan. The work, the legal work is done
21 before the feast and it's announced and witnessed at the
22 feast. Some of the work that then will also go on, like is
23 the spiritual work and there are different places in that
24 process for that to go on, you know before or after the
25 feast.

1 And so we look at the whole system. There's
2 legal work. There's the public work. There's the
3 spiritual work. And you have to look at the whole
4 spectrum, not just part of it, and we have to do all the
5 work.

6 **MS. JOËLLE PASTORA SALA:** Just thinking back
7 to what the both of you were qualified in, and just keeping
8 in mind Dr. Friedland's comment about not wanting to speak
9 above or out of your expertise, my understanding, Dr.
10 Friedland, was that you are qualified in methods,
11 Indigenous law and public education and that, Dr. Napoleon,
12 you are qualified in Indigenous law and legal theory.

13 And my question was around those methods and
14 how can the Commissioners think about Indigenous laws and
15 ceremony and spirit and apply that specifically to the
16 national inquiry.

17 **DR. HADLEY FRIEDLAND:** Okay.

18 **MS. JOËLLE PASTORA SALA:** And this is my
19 last question, just for...

20 **DR. HADLEY FRIEDLAND:** Okay. And I thank
21 you for clarifying that and I think definitely we spoke to
22 that yesterday. And I will repeat that definitely spirit
23 and ceremony is one method for engaging with Indigenous
24 laws and it's an important part of us as whole people and
25 whole communities.

1 And that is a method that I can identify and
2 speak to on abstract terms, but I do believe that I would
3 need to be given greater permission to share more from my
4 understanding.

5 So thank you.

6 **MS. JOËLLE PASTORA SALA:** Dr. Napoleon, do
7 you want to say anything before?

8 **DR. VAL NAPOLEON:** We recently spoke at the
9 Canadian Federation of Law Societies of Canada and one of
10 the questions the federation was asking myself as well as
11 Koren Lightning-Earle and Dean EagleWoman and other women
12 was what does a lawyer need to know today in Canada about
13 Indigenous law in order to be competent? And that's such
14 an important question, what should lawyers know about
15 Indigenous law?

16 And so you know, the starting place of
17 working with any Indigenous issues is to figure out which
18 legal order is in play to figure out what work has been
19 done and how it can be drawn on for whatever you're working
20 with, whether it's governance or family or, you know, any
21 area of law. But the assumption, the starting place is
22 that Indigenous law exists and that it has to be rebuilt,
23 and to look at then how -- how does the work that one has
24 taken up enable that or is on the outside of that?

25 So it's a way of thinking and a way of

1 incorporating. That's part of what we are proposing.

2 **MS. JOËLLE PASTORA SALA:** Okay. Thank you,
3 Dr. Napoleon and Dr. Friedland, and thank you,
4 Commissioners, for the time.

5 (A short pause/Courte pause)

6 **MS. CHRISTA BIG CANOE:** Mr. Wheeler?

7 **MR. JARED WHEELER:** Yes.

8 **MS. CHRISTA BIG CANOE:** On behalf of the
9 Manitoba Keewatinowi -- please say it for me -- Okimakanak?

10 --- **CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR MR.**

11 **JARED WHEELER:**

12 **MR. JARED WHEELER:** Correct. My name is
13 Jared Wheeler and with my colleague, Jessica Barlow, in the
14 audience, we are here on behalf of the Manitoba Keewatinowi
15 Okimakanak ---

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

17 **MR. JARED WHEELER:** --- or MKO.

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

19 **MR. JARED WHEELER:** MKO represents 30
20 Northern First Nations in Manitoba.

21 I would first like to acknowledge that we
22 are on Treaty 1 territory in the homeland of the Metis
23 Nation.

24 I would also like to acknowledge the elders
25 and the grandmothers in the room, any chiefs or other

1 leaders who may be with us today; families and survivors,
2 the Commissioners, and those that have travelled to be
3 here.

4 I would like to thank those elders that have
5 shared their gifts with us both yesterday and today, as
6 well as the Little Boy Water Drum for leading us in the
7 pipe and water ceremonies yesterday.

8 Also, I would like to thank the Keepers of
9 the Sacred Fire and the Commission staff that have been
10 assisting.

11 So I have some questions for Drs. Napoleon
12 and Friedland. First, Dr. Napoleon, at Tab 2F of the
13 written materials it's marked as Exhibit 4, you write about
14 an asymmetry or imbalance of power between Indigenous legal
15 orders and Canadian Western laws and institutions.
16 Correct?

17 **DR. VAL NAPOLEON:** M'hm, yes.

18 **MR. JARED WHEELER:** Dr. Napoleon, would you
19 say in your opinion that the asymmetry between these legal
20 orders can perpetuate harms in Indigenous communities?

21 **DR. VAL NAPOLEON:** I think that contemporary
22 processes, be they political, legal or economic, can
23 continue to undermine Indigenous legal orders or they can
24 seek to strengthen Indigenous legal orders. And part of
25 the work is to figure out what those particular power

1 relationships are and to attend to them.

2 **MR. JARED WHEELER:** Okay. Would you say in
3 your opinion, are Canadian laws and institutions alone able
4 to remedy the many issues associated with missing and
5 murdered Indigenous women and girls?

6 **DR. VAL NAPOLEON:** One of the things that I
7 said yesterday was that the violence against Indigenous
8 women and girls is one of the results from a failure on the
9 part of Canadian law as well as Indigenous law.

10 Where there are gaps and violence is a
11 consequence of that kind of lawlessness and part of the
12 work is to rebuild Indigenous -- Indigenous law. Canadian
13 law has been -- is a part of colonization and understanding
14 how that is still at play today is one of the tasks of --
15 that Indigenous communities are engaged in and need to
16 continue to be critical of.

17 **MR. JARED WHEELER:** Dr. Friedland, you said
18 yesterday that Indigenous laws offer a particular response
19 to universal issues. Correct?

20 **DR. HADLEY FRIEDLAND:** Correct, yes.

21 **MR. JARED WHEELER:** Dr. Friedland, then,
22 would you say that Indigenous legal traditions themselves
23 may hold more practical and promising answers for restoring
24 and maintaining safety, peace and order in Indigenous
25 communities?

1 DR. HADLEY FRIEDLAND: Correct.

2 MR. JARED WHEELER: And Dr. Friedland, in
3 your written materials, specifically at Tab 2G, Exhibit --
4 I believe it was marked as Exhibit 5, the Cree legal
5 summary work, and yesterday you shared in your presentation
6 that some of the overall community response principles in
7 Cree legal orders that you have studied, are in place to
8 ensure group safety, prevention of harm and protection of
9 the vulnerable. Correct?

10 DR. HADLEY FRIEDLAND: Correct.

11 MR. JARED WHEELER: And you have told us
12 that Indigenous legal orders hold mechanisms for addressing
13 harms against vulnerable people such as women and children;
14 right?

15 DR. HADLEY FRIEDLAND: Correct.

16 MR. JARED WHEELER: And today, Dr. Napoleon,
17 you said that the entirety of violence is not only for
18 women to prevent?

19 DR. VAL NAPOLEON: That's right.

20 MR. JARED WHEELER: Right. So would you say
21 that Indigenous legal orders focus on a person suffering
22 from harm, including family members, as well as on a person
23 perpetuating harms?

24 DR. VAL NAPOLEON: I'm sorry, could you
25 repeat?

1 **MR. JARED WHEELER:** So my question is
2 whether the focus in some Indigenous legal traditions is
3 not strictly on -- is not victim-centred but holistic-
4 centred. It focuses on both a person that has suffered
5 from harm as well as a person perpetuating harms?

6 **DR. VAL NAPOLEON:** The legal orders are
7 structured so that there is authorities distributed
8 throughout.

9 So, like, I'll speak to the one I am most
10 familiar with which is the Gitksan and the violence,
11 lateral or physical violence within Gitksan society you
12 would see the lineages, the house groups and the clans as
13 being the major legal actors that are responsible for both
14 the victims and the offenders. And they are matrilineal in
15 that they break up male power blocks in the overall
16 functioning of that society. So the authorities are
17 distributed and the responsibilities are understood as
18 being collective as well as individual.

19 So I think what's useful is to look at what
20 are the aspirations of law, like law never achieves all of
21 its aspirations. Canadian law doesn't and the problems and
22 difficulty Canada is having in fulfilling its legal
23 responsibilities in the Caring Society case, for instance.
24 So there's always areas of -- where one needs to improve.

25 So if we look at what is it that law is

1 aspiring to, that's where we see similarities in different
2 legal orders. We see people and the decisions they have
3 made through time for that safety, community safety, is
4 paramount. We see inclusion is paramount. We see fairness
5 as paramount.

6 So there is what -- the aspirations of law
7 is a way to inform what the processes themselves should be
8 and how that system ought to operate in order to achieve
9 those aspirations.

10 **MR. JARED WHEELER:** And so one of those
11 aspirations then, perhaps this is for Dr. Friedland, given
12 the work with the Cree legal orders, one of those
13 aspirations is to hold perpetrators accountable for their
14 actions. Correct?

15 **DR. HADLEY FRIEDLAND:** That's correct.

16 **MR. JARED WHEELER:** Okay. And within
17 Indigenous legal orders, for example, the Cree legal orders
18 that you have studied, community healing of a perpetrator
19 of harm is one method of actually reducing future harm?

20 **DR. HADLEY FRIEDLAND:** That's correct.

21 **MR. JARED WHEELER:** Would you say that a
22 community response to healing can increase a perpetrator's
23 connection to the community?

24 **DR. HADLEY FRIEDLAND:** I think the important
25 part with that is at times it can and sometimes that's what

1 needs to happen but when speaking to elders to explain that
2 principle of healing. One thing that's important is it's
3 one of several responses. So it's not always possible.
4 And that's something the elders really stressed when they
5 spoke to me.

6 Healing is ideal and it's a place to start
7 but it isn't always possible, and it's hard work. And
8 sometimes people aren't ready to heal and there still needs
9 to be community safety. That's why it's one of several
10 principles. You can imagine in Canadian law there's
11 different sentencing principles, and imagine if suddenly
12 every judge was told, you can only use rehabilitation.
13 What would -- what would things look like?

14 So we need to recognize the complexity of
15 healing and the complexity that healing is one of several
16 principles that can be used together. Another principle
17 might need to be implemented first, and so on. So just
18 to...

19 **MR. JARED WHEELER:** And just to clarify,
20 that would be -- that would include healing for a
21 perpetrator for families, for the community themselves or a
22 person who suffered from harm.

23 **DR. HADLEY FRIEDLAND:** Yes.

24 **MR. JARED WHEELER:** And dealing with all
25 those things in a holistic manner?

1 **DR. HADLEY FRIEDLAND:** Yes, and I think -- I
2 think the story of Lune Woman again is one I draw on, but
3 there are stories like that that I think many Cree people
4 could share as well where it's important for everybody to
5 have the resources to heal and be restored to dignity and
6 health as an honour.

7 **DR. VAL NAPOLEON:** I think part of what your
8 question raises is that we're talking about the scale of
9 legal order, not the scale of communities. So there are
10 procedural -- again within the Gitksan, if there is a legal
11 question that comes up or a conflict that comes up and they
12 don't have anybody who can view that neutrally then you go
13 to a different village, so that the systems of
14 accountability in order to ensure protection and safety in
15 every situation are fair.

16 So there are many of the oral histories
17 which contain those kinds of procedural processes like the
18 ways that people can be accountable and ensure safety, as
19 well as there is investigative processes. Every society
20 that we looked at in order that there is -- that the
21 fullness of the issues be understood prior to any decisions
22 being made. So it's beyond the community level at the
23 scale of the legal order that we have to work.

24 **MR. JARED WHEELER:** I think I'll leave that
25 as my questions. Thank you very much, and thank you,

1 Commission, for the time.

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

3 Ms. Hutchinson?

4 --- **CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR MS.**

5 **ANGIE HUTCHINSON:**

6 **MS. ANGIE HUTCHINSON:** (Speaking in Native
7 Language). Good morning. My name is Angie Hutchinson and
8 I am here as a representative for the MMIWG coalition
9 within Manitoba.

10 My first question is I just wanted to ask
11 some follow-up to the discussions around the Lune Woman
12 story. I don't disagree with you that supports for
13 individuals who have experienced violence are important but
14 within that discussion there was little mention of the
15 perpetrators of violence and essentially removing them from
16 the conversation.

17 So I am wondering if you can expand on this
18 story and expand on addressing perpetrators of violence and
19 essentially removing them from the conversation. So I am
20 wondering if you can expand on this story and expand on
21 addressing perpetrators of violence and those societal
22 norms around violence in the context of Indigenous laws and
23 applying Indigenous laws and principles.

24 **DR. HADLEY FRIEDLAND:** Thank you for
25 bringing that up and I think one of the things we said

1 yesterday is you couldn't learn Canadian law with a single
2 story and you couldn't learn Gitksan law or Cree law or
3 Anishinabe law from a single story. So I think that story
4 focuses on certain aspects.

5 And there's other stories that do focus on
6 how do you address somebody that's becoming dangerous who
7 is causing harm? So we used the example of Sioux women
8 yesterday with a woman who was becoming harmful and in that
9 story there was also a shaman who had caused incredible
10 harm. And in that story the shaman, they don't explain how
11 but he died within four days.

12 And when -- when you look at -- when you
13 look at stories in my research regarding Whitiko cases
14 where people become harmful and do dangerous things, where
15 healing is possible, people prefer healing. Sometimes
16 separation is necessary, sometimes supervision.

17 And there are cases where people had to be
18 incapacitated and in very old, old stories that might have
19 been capital punishment in both legal systems and in both
20 legal systems that's not an option anymore. But there is
21 also stories, for instance, of someone becoming dangerous
22 where there were RCMP outposts, and so people would bring
23 them to the RCMP outposts to keep other people safe.

24 There was not one story when I looked
25 through Whitiko cases starting from the very beginning

1 where any European recorded them. I was looking at
2 historic documents, so written materials. There was not
3 one where someone was allowed to endlessly prey on the
4 vulnerable. So there was always some way to protect the
5 vulnerable and that -- I think that is a foundational
6 principle that we have to keep in mind.

7 **MS. ANGIE HUTCHINSON:** So just so I am
8 clear, the statement that you are making is that
9 perpetrators of violence shouldn't be allowed to endlessly
10 prey on vulnerable individuals.

11 **DR. HADLEY FRIEDLAND:** That is correct.

12 **MS. ANGIE HUTCHINSON:** At the -- towards the
13 end of your presentation yesterday morning, there was a
14 statement around rebuilding our lawfulness from the ground
15 up to address violence against Indigenous women and girls.
16 Were you referring to our Indigenous lawfulness?

17 **DR. VAL NAPOLEON:** Yes.

18 **MS. ANGIE HUTCHINSON:** And within that
19 statement are you stating that it is Indigenous peoples'
20 responsibility to build that lawfulness?

21 **DR. VAL NAPOLEON:** I think that the reality
22 is that many Indigenous communities don't have the
23 resources. We receive requests all the time from
24 communities to work with them. Some communities will have
25 resources and others have no resources, and/or they can

1 only get, pardon me, resources to research the
2 environmental law but they can't get resources to deal with
3 family violence or child protection; right. So the kind of
4 funding that is available ends up determining the kinds of
5 legal -- Indigenous legal research that they are able to
6 do.

7 So what -- and the way that we have been
8 working with communities is to focus on the rebuilding of
9 Indigenous law, areas of law that -- so we have, you know,
10 I mentioned water. There is also lands and resources and
11 governance and so on.

12 So there is rebuilding area by area,
13 Indigenous law. And we have done so without comparing that
14 or looking for legitimacy from Canadian law because the
15 idea is to build enough Indigenous law so that the
16 relationship with Canadian law is one of symmetry as
17 opposed to assuming -- as opposed to Indigenous law not yet
18 being articulated in a way that people find it useable and
19 applicable.

20 So it -- so we have just been focusing on
21 that groundwork and then supporting people now at the stage
22 of figuring out how it relates to Canadian law and how
23 people are going to go forward with that kind of
24 implementation.

25 So it's -- yes, it's all of -- I think that

1 Indigenous law is all of our responsibilities because
2 Canada is multi-juridical and denying Indigenous law
3 whether it's through lack of support or ignoring it or
4 calling it cultural practices or all of the ways that
5 Indigenous law has been undermined and denigrated. Those -
6 - that's the work of all of us in order to do.

7 So every law student that goes through law
8 school should learn at least one Indigenous legal
9 tradition, one Indigenous area of law. You know whether
10 it's contracts or torts or criminal law or constitutional
11 law that should be a part of our legal education.

12 **MS. ANGIE HUTCHINSON:** So given that
13 response of not wanting to look for symmetries within the
14 Canadian law and Indigenous law, what lessons or
15 recommendations would you have then for the Canadian system
16 and Canadian law systems to accommodate or make space for
17 Indigenous law so that these systems can co-exist?

18 **DR. HADLEY FRIEDLAND:** I think there is lots
19 of work to be done. There is questions to be sorted out
20 about harmonization and jurisdiction, resources,
21 enforcement.

22 There is a lot of work to be done. But at
23 the core of that if we don't do the intellectual work
24 first, if people within the Canadian legal system can't
25 have some understanding that Indigenous legal traditions

1 are full, complete, active systems of law that require hard
2 work to engage with, that require method and time to
3 understand and resources to rebuild at this point, our
4 questions are going to fall flat on the other issues, the
5 institutional issues because they are going to continue to
6 be asked in the abstract.

7 So I think from the Canadian side we need to
8 get specific. We need to have serious time for that
9 rebuilding work, but also engagement and discussions so
10 there is enough understanding that when solutions are built
11 and agreements are signed and resources and enforcement are
12 put in place in a scale and with a consistency that will
13 allow principles to be effective, they are done in a way
14 that there is enough understanding for that to be effective
15 and competent.

16 **DR. VAL NAPOLEON:** Part of that hard
17 intellectual work is reconciling the changes that either
18 are -- the changes from historical legal institutions and
19 law and contemporary legal institutions and law for our
20 communities and collectivity's. There are contradictions
21 there that have been created because people have had to
22 make decisions, pragmatic decisions in order to be -- to
23 survive in Canada.

24 And so thinking through what those changes
25 are and what their consequences today are, like whether

1 it's -- like the different kinds of social norms that have
2 changed and so on, like all of those things have to -- we
3 have to deal with those. It's part of the homework.

4 **MS. ANGIE HUTCHINSON:** Thank you, just one
5 final question.

6 In the video when you showed us part of your
7 presentation, that introductory video, they mention the
8 principles of managing power dynamics and embedding human
9 dignity and agency within Indigenous law ---

10 **MS. CHRISTA BIG CANOE:** (Off microphone)
11 time and so that other parties can actually have their time
12 too. I'm sorry about the last question. (Inaudible) time,
13 so if we could allow other counsel to have time to ask
14 their questions as well, please?

15 **MS. ANGIE HUTCHINSON:** Okay. Thank you.

16 **MS. CHRISTA BIG CANOE:** And Ms. Leonoff?

17 Okay. Ms. Beth Symes?

18 --- **CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR MS. BETH**
19 **SYMES:**

20 **MS. BETH SYMES:** Commissioners, elders and,
21 in particular Elder Annie Buchan, friends, family, people
22 who are interested in these issues, Dr. Napoleon and Dr.
23 Friedland, I am Beth Symes. I am counsel to Pauktuutit,
24 the voice of Inuit women in Canada.

25 Pauktuutit has focused on violence against

1 Inuit women and girls. My client is in various parts of
2 Canada watching this on Livestream and one of our board
3 members will be in Iqaluit to be present and be witness as
4 Sandra Omik gives her testimony in about an hour.

5 I come as my day began with an email from my
6 client. Yesterday a 22-year old Inuit woman was killed in
7 Sunny Key, Nuwaq (phonetic) and a 26-year old man was
8 medevac'd to Winnipeg with self-inflicted wounds. This is
9 why we are here. This is a murdered woman, a murdered
10 Inuit woman.

11 And I learned so much from your stories.
12 And so I want to begin by giving you what I'll call the
13 head notes of the only two stories that have been collected
14 by the Arctic College in terms of family violence for Inuit
15 women

16 The first one, very short, is that a woman
17 got beaten, escaped up a cliff, took her long hair, twisted
18 it, rolled forward and the hair became the ivory tusk of a
19 narwhal and her bruises are the black and blue spots on a
20 narwhal.

21 The second story which is much longer and is
22 the one I want to ask you about, is a woman, an Inuit woman
23 beaten for many years, despaired, and she called for help.
24 And the moon came by dog team to fetch her and she was
25 taken off to safety.

1 Unfortunately, it doesn't have a happy
2 ending. She became incredibly homesick and she asked to
3 return to earth. Initially her husband was overjoyed with
4 her return but in less than a year the beating resumed.

5 And so these are the only two stories in the
6 interviews with elders that talk about beaten women, beaten
7 Inuit women and family abuse. And so we'll come to the
8 stories and my questions but I think it's helpful for
9 everyone if we set out the stories so as my questions can
10 hopefully be rooted.

11 And when you talk about Indigenous laws, of
12 course in Canada we have First Nations, we have Metis and
13 we have Inuit. And I know your backgrounds and the kinds
14 of law that you have talked about are essentially First
15 Nations laws; am I correct?

16 **DR. VAL NAPOLEON:** Yeah, we use the language
17 of Indigenous but, yes, you're correct.

18 **MS. BETH SYMES:** And you've told me that in
19 fact your project has begun to collect and it is now has a
20 number of Inuit stories but that you lack the resources or
21 you have not yet begun to analyze the Inuit laws from those
22 stories.

23 **DR. VAL NAPOLEON:** We have actually analyzed
24 hundreds of stories like right around the circumpolar but
25 we haven't yet been able to work with the community with

1 those stories.

2 **MS. BETH SYMES:** And you told us yesterday
3 that the laws vary from community to community. And so as
4 between First Nations communities and Inuit communities
5 where there is a difference of language, a difference of
6 land, a difference of climate, a difference of history
7 there might be, would you agree with me, significant
8 differences in Inuit laws as compared to First Nations
9 laws?

10 **DR. HADLEY FRIEDLAND:** I think there will be
11 and there is differences between First Nations. I think as
12 the Chief Commissioner said at the beginning of yesterday a
13 Pan Indigenous approach is not going to work. It erases
14 those details. So there is distinct legal responses in --
15 and because of course the Inuit presence is, as compared to
16 other Indigenous peoples, is small, we sort of need to be
17 here to be part and to say our placement.

18 Yesterday when you had us do the exercise
19 and you told the story of the Sioux woman, I understood
20 that your method was to teach us to look for legal
21 principles. And you had us explore and it was interesting
22 to hear the current -- the current legal principles as
23 opposed to from ancient times.

24 That's what you were trying to get us to do:
25 What are the principles, the applicable principles for

1 today?

2 **MS. BETH SYMES:** That's correct. And am I
3 correct that, like common-law, Indigenous laws can and must
4 change?

5 **DR. VAL NAPOLEON:** And if we look at the
6 oral histories we can see that. We can see the changes
7 through time. Some of the oral histories we are looking at
8 are 20,000 years old.

9 **MS. BETH SYMES:** And just to take a common-
10 law example, all of my friends here remember the Stella
11 Bliss case in which the court was just dead wrong, right?
12 And when the issue was revisited they said we have made a
13 mistake. We have looked at it, the legal principles, in
14 the wrong way. And can you tell us as to whether or not
15 over time certain legal principles in Indigenous laws are
16 re-examined and, as a result, changed?

17 **DR. HADLEY FRIEDLAND:** I would say that
18 definitely happens in every legal tradition because people
19 are legal agents in our thinking and are looking -- we look
20 to law to solve problems in front of us; right, in
21 principled ways, and I think it's really important to
22 recognize that all people due to thinking and process of
23 change, and what's important is to be looking at legitimate
24 processes for change, including voices, including critical
25 thinking and allowing space for that in every legal

1 tradition.

2 **MS. BETH SYMES:** Now, one of the things that
3 you said yesterday that I found very helpful is that
4 Indigenous laws must be lived out. They must be acceptable
5 to Indigenous people. And by that do you mean by women as
6 well as mentioned?

7 **DR. HADLEY FRIEDLAND:** Absolutely.

8 **MS. BETH SYMES:** You talked about equality
9 and human rights within Indigenous laws. Is that a
10 founding principle?

11 **DR. VAL NAPOLEON:** It's one of the founding
12 principles and we work in different ways depending on the
13 conditions in the community. So there is one region, for
14 instance, where women ask to do separate workshops with us
15 from men. So we had separate workshops. So we will --
16 like there are different realities that people have to live
17 with, women have to live with, and we account for that as
18 we're able in the work that we're doing.

19 So there's -- and we're also aware that we
20 pay attention to the power dynamics that are going on in
21 any gathering, and there is always examples of lateral
22 violence. This place is no different but you see that
23 locally. So it's a matter of where we can and we always
24 insist on all voices being heard but also acknowledging
25 that it's not safe in some places for all voices.

1 And I picked up two young women who were
2 hitchhiking once from Prince -- I was driving from Prince
3 George to Prince Rupert. It's about a 10-hour drive. And
4 I said, "This is the highway of tears. This is where all
5 these women have disappeared. They have been murdered".
6 And they said, "You know, it's safer on the highway than in
7 our community".

8 So you know -- we can't idealize our
9 communities. Some of them, our communities and our
10 families, some of them are unsafe for women and girls.

11 **MS. BETH SYMES:** And so taking those
12 principles there are four of them and the last one was
13 implementability, as Professor Young said, and you talked
14 about applicability. But in particular, acceptable to
15 Indigenous people, women as well as men and equality in
16 human rights, as you reflect on the only two stories that I
17 could find, and in particular the second one about the
18 moon, can you help Inuit women understand from stories of
19 despair how your principles apply?

20 **DR. HADLEY FRIEDLAND:** I want to be
21 respectful to Inuit women and the Inuit people and Inuit
22 law, so I don't want to hazard a guess based on what I have
23 heard. What I do want to say is that is the work possible
24 with those stories? Absolutely.

25 Would I love to sit down and do the work

1 slowly and thoughtfully? It would probably take me about
2 two or three hours a story. It might take me some time to
3 sleep overnight, to take some time to reflect on those
4 stories and do the analysis.

5 Would I love to sit in a circle or sit with
6 Indigenous women and discuss those stories and their
7 applicability today and the deep-rooted principles that are
8 within them? Absolutely. There is a lot to draw out of
9 there.

10 And what I draw out instantly when you told
11 me, though, is just the power -- and I am referring to the
12 paper written by Dr. Emily Sneider, my colleague Dr.
13 Napoleon and Dr. Borrows. What is that title?

14 **DR. VAL NAPOLEON:** Indigenous Law Resources
15 for Violence Against Women.

16 **DR. HADLEY FRIEDLAND:** Okay. And one of the
17 things they say in that paper is if we look to the past as
18 something idealized we're going to miss rich resources.
19 And those stories definitely show that Inuit people were
20 aware of this issue and had intellectual and other
21 resources to address this issue for a very, very long time
22 and that they exist and that it's possible and that they
23 are -- that needs to be honoured and revitalized and given
24 space in my opinion.

25 **MS. BETH SYMES:** Dr. Napoleon? Thank you.

1 **MS. CHRISTA BIG CANOE:** Ms. Lomax?

2 --- **CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR MS.**

3 **VIRGINIA LOMAX:**

4 **MS. VIRGINIA LOMAX:** Good morning. My name
5 is Virginia Lomax. I represent the Native Women's
6 Association of Canada.

7 Thank you for being here today, everybody.

8 I would like to ask in what way can the
9 Canadian legal system and its processes like this inquiry
10 adopt or use or be guided or led by the principles in which
11 you have expertise to uplift Indigenous women and girls and
12 their families?

13 **DR. HADLEY FRIEDLAND:** I think that's a
14 really good question and I think it requires again -- I
15 spoke a little earlier about that hard intellectual work
16 that needs to be done so we're not -- we're not making
17 those questions completely abstractedly but to say
18 concretely, definitely, and with the research that we've
19 done, there are processes. There are procedures within
20 Indigenous legal traditions and they're different, right?
21 There isn't a Pan Indigenous reality. They are different
22 from society to society.

23 And I think that work needs to be done. I
24 want to acknowledge that that work takes time. It takes
25 hard intellectual and other work and it takes then that

1 dialogue and discussion.

2 So I think it is definitely possible to have
3 more symmetrical relationships as Dr. Napoleon referred to
4 within Canadian legal processes, but that is going to take
5 time and commitment and it is going to be a slow process.
6 It is not going to -- it is not something that can happen
7 with a snap of our fingers.

8 **MS. VIRGINIA LOMAX:** And you have mentioned
9 that these processes take time and that they vary. And so
10 could you please comment on your analysis of building these
11 legal systems up and how this analysis can be provide --
12 how this analysis can be applied when there's a high level
13 of violence in the community?

14 **DR. VAL NAPOLEON:** So there are some
15 communities where I think the reality is that it's going to
16 be very unsafe for women to speak about violence. I think
17 that's a reality, and so in those situations. Then there
18 is other -- we have to imagine other ways that
19 participation in the work of Indigenous law can go on.

20 So I think that being creative about methods
21 of engagement at the local level is part of the homework
22 that has to be done. But I think like doing the work of
23 what were the historic ways of dealing with violence
24 against women, like doing that research is in a way that
25 includes everyone in the discussions and in the focus

1 groups and the interviews and the storytelling and in the
2 analysis at every -- at every stage, making sure that those
3 voices that are quieter at the back of the room are a part
4 and feel safe to be a part of those processes.

5 And then through that like finding --
6 discussing what are Cree definitions of rape or Gitksan
7 definitions of sexual assault, looking at different legal
8 responses to those issues to -- at those particular kinds
9 of harms and injuries and building from the ground up a
10 body of law that deals with violence against women in that
11 legal tradition, like what are the different -- who are the
12 authoritative decision makers?

13 How do you approach this legal issue? What
14 are the legal obligations? What are the procedural and
15 substantive rights and the guiding legal principles so that
16 you create the resources from the past, drawing from the
17 past, and so that you can actually deal with the legal
18 issue before you?

19 And then that's where you have to start
20 dealing with the relationship with Canada because the state
21 has monopolized the enforcement of law.

22 And so what we are able to do at the local
23 level is talk about healing and so -- and the more
24 dangerous kinds of offences then are taken up by the state.
25 Some communities are comfortable with that. It's seen as a

1 designation of -- as a way to deal with harms and dangers
2 in their communities. But there's just so much more to
3 learn and so much more to think about insofar as the
4 efficacy of an entire legal order and whether it's complete
5 or not and what happens when enforcement isn't a part of
6 that legal order.

7 So I'm not -- you know there's questions
8 there we don't know, but I think that the possibility of
9 rebuilding is there and we have seen we are engaged with
10 that and that we have resources from our past and from our
11 societies that can be brought to bear.

12 We were lawful people in the past according
13 to our laws and we are capable of being lawful again in our
14 futures.

15 **MS. VIRGINIA LOMAX:** Certainly. And so if
16 this process of building up and of healing is going to take
17 a lot of time, if that's an accurate statement; yes?

18 **DR. HADLEY FRIEDLAND:** I think that is an
19 accurate statement that ---

20 **MS. VIRGINIA LOMAX:** Then in the interim
21 what can be done to ensure the safety of women and girls
22 during that time?

23 **DR. HADLEY FRIEDLAND:** Yeah, and I think
24 that's a really important question.

25 And I think -- I wanted to acknowledge

1 saying what do we do when this urgency is happening? What
2 do when we know that things take time and how do we have
3 something in place as people are brutally assaulted, as
4 people are raped, as people are murdered, as we continue to
5 lose people we love?

6 One of the things that Dr. Napoleon referred
7 to is sometimes when people are speaking we need to look at
8 what people have done that works in the past. We also need
9 to look at what people are doing to keep themselves and
10 each other safe today. We need safe spaces for women and
11 girls to be able to talk about what is happening in places
12 where there aren't going to be reprisals.

13 And we need ways and that's where I think
14 allies are really important and outside/inside is
15 important. We do need those spaces where those issues can
16 be voiced in ways that it is more difficult to track back
17 to an individual when a community isn't safe, when a family
18 isn't safe.

19 And we need to listen to what women and
20 girls are doing today to keep themselves safe. What's
21 working and what can possibly be resourced? What can
22 possibly be given more legitimacy and more support?

23 Because I am often completely humbled by
24 absolute brilliance that I witness and listen to from women
25 in communities in terrible situations who live on the

1 precipice of death every day and what they are doing to
2 survive in those circumstances is brilliant. And we do
3 need to acknowledge that and we do need to find ways to
4 support that and find ways so not all of their brilliance
5 is going to basic survival where they can have some
6 support.

7 **MS. VIRGINIA LOMAX:** And so throughout these
8 processes of healing and of building up and also these --
9 the processes like the inquiry itself, according to the
10 Indigenous legal principles in which you have expertise,
11 how should the bereaved be treated throughout the process
12 and what can be done to support the bereaved and the
13 victims and the survivors of violence?

14 **DR. HADLEY FRIEDLAND:** I think we're back at
15 that principle of healing and -- but I think we're also
16 talking about that restoration, right, the restoration of
17 dignity and respect and a place of safety.

18 One of the difficulties of any inquiry of
19 this nature as Dr. Napoleon talked about, is the relentless
20 pain -- is unbelievable pain and grief and horror that
21 people face. And part of it's being gentle. I don't want
22 to say that's a Cree legal principle but I would say there
23 is definitely principles about generosity and hospitality
24 and kindness and what that can do at an individual level to
25 restore but also at a greater level.

1 So I think we can draw on those traditions
2 and we can also draw on just being mindful to the fact that
3 we're walking -- we're walking in a space of a lot of pain,
4 of a lot of heartache.

5 **MS. VIRGINIA LOMAX:** And so we talk a lot
6 about inclusion in these processes, but can you identify
7 anyone who may be excluded within the Indigenous legal
8 systems in which you have expertise?

9 **DR. VAL NAPOLEON:** One of the things that I
10 spoke to yesterday is that in order for women who -- and
11 girls who experience violence to believe that they matter
12 to a legal order is whether they think they matter is going
13 to be determined by how they have been treated by it,
14 whether it's by police or courts or social workers or
15 whatever, like how people have been treated is going to
16 determine whether they understand themselves as rights
17 bearers in that legal order, and that's true the world
18 over. No matter which legal order you look at or -- women
19 are beaten and experience violence all around this planet.
20 That's the reality.

21 And what I'm advocating is that we don't
22 have -- we don't just ask that question about Canadian law.
23 We ask that question about Indigenous law because our laws
24 can also be oppressive if they are taken as fundamentalist,
25 if they are just about maintaining the status quo in

1 oppressive political arrangements in any collectivity.

2 So the critical lens, I think, like those
3 concerns that you have, we have to apply that critical lens
4 all around us to make sure that we don't have blind spots
5 in our perspectives.

6 **MS. VIRGINIA LOMAX:** Yes, and I was -- maybe
7 I didn't make myself clear. I was asking specifically
8 about Indigenous legal systems and who they may exclude.

9 I am specifically worried of the most
10 marginalized in our society, two spirited people and trans-
11 people, sex workers and street-involved people,
12 incarcerated people and criminalized people and people in
13 precarious housing situations and parents and children
14 involved in the child welfare system. Can you identify any
15 gaps in the legal systems that you have brought forward
16 where these people may be excluded?

17 **DR. VAL NAPOLEON:** One thing I just actually
18 want to clarify is that I am not an expert in Cree laws. I
19 am a learner. I am saying I am an expert in method, but
20 just to be clear about that.

21 But I would say all of those people that you
22 named have vulnerabilities that have been created around
23 them and we see them within communities and we see them in
24 the cities. We do see those and I think naming those
25 people are very important. We need to be aware of that and

1 there is rebuilding work going on.

2 We said at the very beginning after 300 or
3 500 years of colonialism, you don't have perfectly intact
4 functioning, explicit Indigenous laws. There is holes and
5 there's gaps.

6 And in every -- in every legal system and
7 tradition we need to learn from mistakes. We need to find
8 ways to listen to people that are being excluded. It's
9 very important. If we just take the best bits -- I mean if
10 you just took the best bits of Canadian law we could walk
11 away tomorrow and say, oh, it's doing great, right, like --
12 and we know that's not true.

13 Yeah, so thank you for raising that.

14 **MS. VIRGINIA LOMAX:** Thank you. And in
15 order to best employ Indigenous legal systems in this
16 process in a process like the inquiry, can you make any
17 suggestions of future types of experts who should be
18 involved in this process and that should be included in the
19 inquiry? Are there expert voices who may be missing?

20 **DR. VAL NAPOLEON:** So I don't know if I know
21 who have been contacted, so I don't know if I have enough
22 facts.

23 **MS. CHRISTA BIG CANOE:** I think (off
24 microphone) ---

25 **MS. VIRGINIA LOMAX:** Okay, sorry.

1 **MS. CHRISTA BIG CANOE:** --- answer when
2 there is future hearings.

3 **MS. VIRGINIA LOMAX:** Sure, sure.

4 **MS. CHRISTA BIG CANOE:** And I will just note
5 that you are at time as well, please.

6 **MS. VIRGINIA LOMAX:** Okay. Thank you very
7 much for answering my questions.

8 **MS. CHRISTA BIG CANOE:** Thanks.

9 Commissioners, we will have to take a break.
10 That's not to say that we will not be addressing that there
11 is three parties left that have time to ask questions, and
12 I am just going to ensure though that we have two things, a
13 request that we have the space cleared so that we can
14 prepare for the next panel which is being videoconferenced
15 in, and that you please direct counsel to stay in the room
16 when it clears so that we can have a conversation around
17 ensuring that we can continue cross, please.

18 And so can we break for 15 full minutes,
19 please?

20 --- Upon recessing at 11:21 a.m.

21 --- Upon resuming at 11:43 a.m.

22 **MS. CHRISTA BIG CANOE:** Hello. Hi. We're
23 going to actually recommence now.

24 The next counsel up is counsel for Assembly
25 of First Nations. Let's proceed.

1 --- CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR MS.

2 **JULIE MCGREGOR:**

3 **MS. JULIE MCGREGOR:** Good morning. My name
4 is Julie McGregor. I am legal counsel for the Assembly of
5 First Nations.

6 Before I start my cross-examination I would
7 like to acknowledge the Treaty 1 territory which we are
8 here on today. I would also like to acknowledge the elders
9 in the room, the drum and the medicines and I, most
10 importantly, want to acknowledge the survivors and the
11 families of missing and murdered Indigenous women. They
12 are the reason we are here today.

13 I would like to start my cross-examination
14 of Dr. Napoleon and Dr. Friedland by making reference to
15 their summary of anticipated evidence and testimony. It's
16 found at Tab 2A, but I'm not sure ---

17 **MS. CHRISTA BIG CANOE:** I'm sorry. The
18 summary itself is not exhibited as evidence.

19 **MS. JULIE MCGREGOR:** Okay.

20 **MS. CHRISTA BIG CANOE:** And so any of the
21 exhibits or any of their testimony you are ---

22 **MS. JULIE MCGREGOR:** Okay.

23 **MS. CHRISTA BIG CANOE:** -- allowed to ask
24 questions on.

25 **MS. JULIE MCGREGOR:** Okay.

1 So Dr. Friedland and Dr. Napoleon, you
2 mentioned in your evidence that violence against Indigenous
3 women doesn't arise in a vacuum and that there is
4 oppression that is based on everyday practices of sexism
5 and vulnerability, and that Indigenous women aren't
6 inherently vulnerable.

7 And I guess my first question is I want to
8 talk -- I want to ask you about is the interplay between
9 Indigenous legal traditions and the Canadian legal system
10 because many our First Nations women who are victims of
11 violence and their family members when they are -- when
12 something happens they are exposed to the Canadian criminal
13 justice system which often devalues Indigenous laws,
14 Indigenous customs and beliefs and traditions. So I want
15 to ask, how do Indigenous women and their families resist
16 this oppression when faced with a system, a Canadian legal
17 system that creates this vulnerability around them?

18 **DR. HADLEY FRIEDLAND:** I think that's a
19 question that Indigenous women can answer on many levels.
20 I think that resistance is happening on lots of different
21 levels. And one of the things I had said earlier is, it's
22 really important to listen to that to see how we can
23 support and amplify how people are resisting that now. And
24 what's working and what needs support.

25 **DR. VAL NAPOLEON:** There's also, again,

1 creating spaces for conversations about exactly those kinds
2 of experiences when the police don't come or when you are
3 treated badly by people who are supposed to be protecting
4 you and helping you, and finding ways for those voices to
5 not be silenced locally or in other purview, so making room
6 for the voices and acknowledging the very real experiences
7 of continued oppression after violence is experienced.

8 **MS. JULIE MCGREGOR:** In your testimony this
9 morning, you described the narratives of despair and I was
10 wondering if you could provide a definition of narratives
11 of despair and also provide examples of narratives of
12 despair.

13 **DR. VAL NAPOLEON:** In part it's drawn from
14 the work of a brilliant young woman whose name has gone out
15 of my head and she wrote -- she did a talk about the danger
16 of a single story and she talked about her own life
17 experience as a young African-American woman. And she
18 talked about if people view her with a particular narrative
19 that they have in their head about who she is, what her
20 experiences are, what her education is and so on, if that
21 narrative is the only story that's told about her and her
22 family, then the rest of who she is and her possibilities in
23 the world are erased.

24 And so in looking at that it is tempting for
25 the media and for others to focus on Indigenous narratives

1 of despair when that is part of our experience, but we have
2 other narratives too because we're whole people. And we
3 have -- we have lots of women doing incredible work. We
4 met, you know, like two weeks ago the first Indigenous woman
5 who is a dentist in Canada. Like, so there is incredible
6 women out there whose stories also need to be a part of what
7 happens in Canada.

8 And we can erase all of those kinds of
9 possibilities for younger women if we only focus on the
10 narratives of despair. Those are important to tell. So I'm
11 not saying they are not important, but who we are as a whole
12 people as women in our entirety also need to be told.

13 **MS. JULIE MCGREGOR:** Would you say that the
14 media and, as you say, institutions who adopt these
15 narratives of despair, is that -- you know, do they enforce
16 or perpetuate the violence that Indigenous women face or
17 oppression that they face?

18 **MS. JULIE MCGREGOR:** What we do -- one of
19 the things that we do in communities when we first go in,
20 is we work with what's called a tele (phonetic) wheel. And
21 we set out that there are four, at least -- around the
22 world in people's resistances to oppression, there is at
23 least four ways of acting. One can act within the rules
24 because sometimes it's the only safe place, one can
25 challenge the rules or one can act outside the rules or one

1 can negotiate the rules.

2 So in Indigenous communities we are always -
3 - we are always in those different ways of resistances, and
4 the reason we do that at the community level is to point
5 out that there is no one way of working on any problem that
6 we need all of the different ways that people have and the
7 different skills that people have to work on the huge
8 issues of environmental degradation, of social justice, of
9 racism, of all of the different kinds of things that we
10 experience.

11 And so what we try and do is avoid the
12 creation or perpetuation of dichotomies which limit the
13 thinking locally as well as academically.

14 So that's a broad answer to your question.

15 **MS. JULIE MCGREGOR:** Would you say also that
16 having narratives that exemplify the resilience of
17 Indigenous women in this country and the successes of
18 Indigenous women would counteract the narratives of despair
19 that Canadian society has built up about Indigenous women?

20 **DR. HADLEY FRIEDLAND:** Yes, it's my opinion
21 that that is an important part of this. It's important for
22 again that whole picture and not just -- I think what we
23 have to be careful about is not just the most terrible
24 stories or the greatest successes but Indigenous women as
25 whole people who do amazing things, who do funny things,

1 who do strong things, who do silly things and really
2 pushing that making sure that we have that.

3 **MS. JULIE MCGREGOR:** I am going to move on
4 to another area which you spoke about. My client is the
5 Assembly of First Nations and they represent First Nations,
6 over 630 First Nations across this country as well as First
7 Nations citizens who live in both urban and First Nation
8 communities.

9 And I was interested in your -- you made
10 reference to justice shelters and safe spaces, and I think
11 you used -- Dr. Napoleon, you used an example from Dr.
12 Friedland of a safe space for children to be. How do you
13 think or what's your opinion on how that would work for
14 Indigenous women in not only First Nations communities but
15 also in urban areas?

16 **DR. HADLEY FRIEDLAND:** My colleague, Dr.
17 Napoleon, wrote in 2008 about an idea of Indigenous legal
18 lodges. Lodges -- so justice shelters come from
19 international work creating the idea that even as horrors
20 happen, even as everything falls down around you, people
21 are still dealing with it day to day like did someone steal
22 a loaf of bread? That's not -- but you know, a conflict
23 with a neighbour. And all of those levels from the very
24 mundane, day to day, and these huge betrayals of humanity
25 on a governance level need to be dealt with.

1 So I think -- I think the idea of that is
2 very possible. I think they could happen where there are
3 places where people are gathered and are looking for
4 solutions and drawing on the best from perhaps several
5 Indigenous legal traditions, perhaps Indigenous and non-
6 Indigenous legal traditions and resources to come up with
7 solutions together. And I think -- I think it's possible
8 in urban and rural settings and the idea would be that it
9 would be multidisciplinary and also multinational.

10 So you wouldn't necessarily only have one
11 Cree community. You might have five Cree communities or
12 you might have -- on the West Coast you might have Coast
13 Salish. And I don't want to say everybody wrong but you
14 might have four different nations that gather in one spot
15 and look at -- McGill law school does -- has systemic
16 learning with the civil law and the common law where you're
17 looking and drawing on both. And I think -- I think that's
18 possible and I think it's a very hopeful, practical way to
19 move forward here.

20 **MS. JULIE MCGREGOR:** So in your final slide
21 of your presentation, and in response to questions from my
22 colleague from the Assembly of Manitoba Chiefs, Dr.
23 Napoleon, you mentioned -- your final slide said there is
24 much work to do but there is much hope.

25 And in response to my colleague's question,

1 you said that there is a starting place and there has to be
2 a starting place for all of this. And I was wondering if
3 you can elaborate and, please, provide examples of what the
4 starting place is now and what practical steps do we need
5 to take right now to start the process of, you know,
6 revitalizing our Indigenous laws and traditions.

7 **DR. VAL NAPOLEON:** I think that there has to
8 be multiple starting places because the problem is -- the
9 problems are huge and complex. We do need the research
10 which is a part of the rebuilding of Indigenous legal
11 orders and legal processes and we have to deal with the
12 contradictions of the past and the present and we have to
13 deal with realities of local politics and dangerous
14 communities and so on.

15 So we have to -- there is a huge context
16 around the work of rebuilding -- researching and rebuilding
17 Indigenous law. But there is also the practical and the
18 everyday, the issues of safety, issues of poverty, issues
19 of governance that people need to find ways to talk about
20 or ask about or to in some way -- just even feeding their
21 kids, I mean there's always like in addition to all the
22 other work that goes on, there is the work of the everyday
23 and getting through that.

24 And so the work of Indigenous law, of
25 rebuilding Indigenous law there we have to deal with the

1 practical realities of the everyday and the safety and
2 those concerns while also engaging as many people as
3 possible in the -- in the actual rebuilding processes.

4 **MS. JULIE MCGREGOR:** I think my time is up.
5 Thank you very much, Dr. Friedland and Dr. Napoleon.

6 **UNIDENTIFIED SPEAKER:** Thank you.

7 **UNIDENTIFIED SPEAKER:** Thank you
8 (inaudible).

9 **MS. CHRISTA BIG CANOE:** Next, can we please
10 have, I guess, r. Kirsten Manley-Casimir, counsel for
11 Ontario?

12 **DR. MANLEY-CASIMIR:** On the advice of two
13 members of the Elders Council of the Indigenous Justice
14 Division, Elder Pauline Shirt and Elder Gilbert Smith, who
15 are both affected family members, Ontario would like to give
16 -- to put the families first and give our time to the
17 Manitoba Coalition to ask our questions.

18 --- (Applause)

19 --- **CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR MS. ANGIE**
20 **HUTCHINSON:**

21 **MS. ANGIE HUTCHINSON:** (Speaking in native
22 language) to my relatives for giving me this time to share
23 some of the families' questions here today.

24 So the question that I wanted to pose to
25 both Drs. Friedland and Napoleon is in the introductory

1 video you talked or it mentions the principles of managing
2 power dynamics and embedding human dignity and agency as
3 part of those Indigenous principles. You have also spoken a
4 lot about how individuals need to see themselves as rights-
5 bearers within the legal process.

6 We know that many of our survivors and
7 families who have lost loved ones feel disempowered and
8 disengaged within both the policing and justice systems. So
9 what recommendations for these systems or what lessons can
10 you offer for these systems to ensure that family members
11 feel that they are rights-bearers and that they have agency
12 within these systems? Part of this inquiry is to look at
13 how systems contribute to the level of violence that
14 Indigenous women and girls and two spirited individuals
15 face. So what recommendations for changes can you provide
16 to look at disrupting these systems and changing these
17 systems so that our families and that our loved ones and our
18 survivors feel that they are rights-bearers within the
19 systems?

20 **DR. VAL NAPOLEON:** So we know that in Canada
21 we have urban settings with many different peoples and we
22 have small communities across the north and through the rest
23 of Canada and a process for a small community on the north
24 coast of British Columbia might look a little different than
25 that in Vancouver. So understanding that diversity is a

1 first step in just thinking about what an approach might be.

2 I think that the other homework that has to
3 be done is to look at -- to talk to the people who are
4 actually the intended people to receive the services and
5 what are their actual experiences?

6 What are -- what are the expectations and
7 understanding of what they need and what should be available
8 to them and what is their actual experience and looking at
9 the difference between what service providers and so on
10 think they are doing and that which is actually impacting
11 and affecting the lives very directly of women and children.
12 So, and then building from that, but also like that work can
13 go on.

14 While at the same time, the work of
15 rebuilding Indigenous law can go on in terms of what are the
16 stories about orphans? What are the stories about families?
17 What are the stories about grandparents and so on? Where
18 are the stories where there has been violence? Where are
19 the stories where there has been misuse of power, of misuse
20 by leadership and so on?

21 And bring all of those into -- with the
22 families and with everyone who you can invite into those
23 processes so that you build a collective experience. But
24 it's grounded in the very real lives of the women and
25 children so you start there, as opposed to from the outside.

1 We're talking abstractedly about respect and
2 talking abstractedly about all kinds of things while at the
3 same time perpetuating lateral violence. So I am suggesting
4 a different starting place in how we work and how we
5 understand one another.

6 **MS. ANGIE HUTCHINSON:** So just so that I am
7 understanding -- excuse me -- you're saying that it's
8 important to hear from those individuals and their
9 interactions with the systems.

10 Would you suggest that it would be important
11 to ensure that families and survivors' voices are heard
12 within the institutional hearings of this process so that
13 those systems can start to hear some of those
14 recommendations from families and survivors themselves?

15 **DR. VAL NAPOLEON:** I'm talking -- I'm
16 imagining a process at a local level. So I am imagining
17 somebody like my mother talking about the violence in her
18 life or the violence of my relatives talking about the
19 violence in their lives. So that's what I'm thinking about
20 here.

21 What I'm not equipped to do is to talk
22 generally about inquiries. There are many kinds all around
23 the world and it's not my area.

24 But to do the work of Indigenous law in any
25 way that would matter you have to talk to the people who are

1 actually affected by the violence as well as by the hope
2 that social and legal order could offer if we all engaged in
3 it.

4 **MS. ANGIE HUTCHINSON:** So building on the --
5 if you're thinking about your mother and sharing her
6 experience of violence, who would she be sharing that
7 experience with to look at addressing some of these system
8 changes?

9 **DR. VAL NAPOLEON:** I wish she would have had
10 an opportunity to talk directly to the social services
11 providers in her life about their failure to understand and
12 respect her as a full human being who deserved dignity and
13 respect in all of her life despite the mistakes that she
14 made.

15 **MS. ANGIE HUTCHINSON:** So it's important for
16 systems to hear directly from families and survivors?

17 **DR. VAL NAPOLEON:** And I believe that
18 processes that are safe for women to -- and children to make
19 their voices heard, have to be created and we have to be
20 critical in how we create those spaces so that they are
21 actually safe.

22 **MS. ANGIE HUTCHINSON:** Thank you.

23 And again (speaking in native language) for
24 my relatives to share their time with me. Thank you.

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

1 you, counsel.

2 Government of Yukon, Chantal Genier?

3 --- CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR MS.

4 **CHANTAL GENIER:**

5 **MS. CHANTAL GENIER:** (Speaking in native
6 language).

7 Good morning. This is the way that a
8 Southern Tutchone person would introduce themselves, likely
9 hundreds of years ago.

10 My name is Chantal Genier. My Southern
11 Tutchone name is Shortsea (phonetic). I explained to you
12 where I was from being what is now known as Whitehorse,
13 Yukon. I told you my grandmother and my grandfather's name
14 as well as my father's name and my mother's name.

15 I'm with -- senior advisor for Yukon
16 Government. Thank you for this opportunity.

17 I heard you yesterday and today, and I
18 understand when you say there is no Pan Indigenous approach
19 to justice. After all, in Yukon alone there are 14
20 distinct First Nations, 11 of which are self-governing and
21 have the ability to draw down administration of justice
22 agreements.

23 My questions are quite practical in nature.
24 Sorry if there is any duplication.

25 I'm wondering if there are Indigenous

1 approaches to program evaluation or risk assessment tools
2 and if this is even relevant during this, during
3 consideration of Indigenous law.

4 **DR. HADLEY FRIEDLAND:** I think it's very
5 relevant because I'm guessing part of the question has to
6 do with the fact that sometimes this is where agreements
7 get stuck where it's all fine and good as long as it fits
8 within this risk assessment tool or this program assessment
9 and then it's very difficult.

10 I think that is what needs to be developed.
11 I think we need to be able to step back and have those
12 conversations where that research has been done and where
13 people are developing these tools based on that. That's
14 part of the implementation.

15 And I think of an example. I think of a
16 community who decided to develop a code of conduct based on
17 -- based on their research into their laws and this was
18 around resource management. And they said, okay, what now?
19 How do we want to implement it?

20 And they had -- they had a multi-prong
21 approach. They were doing education in schools. They were
22 doing adult education and talking and talking circles and
23 they were working and came up with this code of conduct or
24 code of ethics of how to address it internally.

25 So it's possible to do the research and

1 start building tools like that and I think -- I think it's
2 a positive, practical approach.

3 **DR. VAL NAPOLEON:** There are -- one of the
4 things that I used in developing Indigenous human rights in
5 looking at (speaking in native language) human rights,
6 (speaking in native language) human rights, Dene human
7 rights, like drawing from stories and legal processes, I
8 drew from the international human rights indicators. And
9 we can look at those kinds of things that -- and look at
10 how they can be governance tools locally so that there is
11 systems of accountability and safety that you actually
12 build into any of teachings kinds of things that are
13 developed.

14 And I also think that critical voices of
15 evaluation have to be a part of that too, those that are
16 receiving -- that are supposed to be receiving any services
17 because we've also seen where very good processes have been
18 adopted in jurisdictions but they don't end up actually
19 being very effective for lots of reasons because around the
20 delivery of services is often a lack of accountability.

21 And so those -- those are the realities
22 that, you know, have to be dealt with locally and
23 provincially.

24 **MS. CHANTAL GENIER:** Along the same lines
25 are, in your opinion, approaches from an Indigenous

1 perspective that could be considered on par with or similar
2 to oath taking or, again because there is no Pan Indigenous
3 approach is that not really...?

4 **DR. HADLEY FRIEDLAND:** I think where we want
5 to start with that is to ask, what is the purpose of oath
6 taking; what does that signal? Is this about legitimacy?
7 Is this about a seeking of truth?

8 The first step when we want to see if
9 something is analogous is to interrogate where it comes
10 from within the system it originated in. So that's where I
11 would start with oath taking, is looking at the history and
12 looking at some of the bumps and where it sits today and
13 what purpose it serves.

14 And then I think the research question would
15 be approaching specific Indigenous societies and saying,
16 here's -- what is there? What procedure, what protocol is
17 there to address this purpose and is this purpose valuable?
18 Is the something that would be legitimate within a
19 procedure that would show us we are making good decisions?

20 **MS. CHANTAL GENIER:** All right. Do you
21 think it is possible for Indigenous legal theories and
22 Western legal practices to work together? Could we create
23 a hybrid approach?

24 **DR. VAL NAPOLEON:** I think that that already
25 exists in many places where communities have taken on

1 different arrangements for justice projects or for housing
2 and so on. I think that there is a lot that we can learn
3 about legal pluralism between Indigenous societies, so I
4 think that that's a more interesting question than looking
5 at just the relationship between Indigenous legal orders
6 and Canadian law. We have to look at that too, but how do
7 we understand and work and make decisions and build
8 relationships across legal orders?

9 And so we had tools to do that historically.
10 We have contemporary processes like the transsystemic
11 teaching of common law and civil law at McGill and we have
12 -- so we can draw on that. And basically what that is, is
13 you look at what's the basic human problem that we're
14 trying to deal with and then what are the different
15 resources that the different laws have that could be
16 brought to bear on that that legal problem?

17 Then you start looking at doctrine. Then
18 you start looking at principles and so on to guide the
19 process.

20 And so, you know, these are things that
21 require us to do the homework, identify the questions and
22 think through them carefully so that we're not -- so that
23 we're not foreclosing Indigenous legal processes about
24 important questions, like not assuming that we know what
25 the answer of Indigenous law is which is what happens when

1 we just make declarations, but how is it applied to
2 particular problems in a way that's principled and reasoned
3 and would allow for an outcome to be legitimate and that
4 it's upheld?

5 **DR. HADLEY FRIEDLAND:** Can I just add a
6 really practical point? I think it's possible and I think
7 the reality is one thing we need to look at here is safety.
8 Again and again I hear, but also experienced, that if you
9 call the police there are times when you need force. You
10 need enforcement to be safe in the moment. And you need to
11 be able to pick up the phone and call somebody and have
12 somebody come.

13 The bottom line is we are going to need that
14 for a very long time and probably forever in some
15 instances. So I think definitely part of the hybridity is
16 figuring that out. Indigenous law is not only healing.
17 That's part of Indigenous legal traditions but there are
18 more principles, but we need to be able to look and say,
19 how do you build those agreements so when people call the
20 police it's seen as legitimate and they get the response
21 they need and deserve, and they are told that they matter
22 and their family members matter and their lives matter.

23 So I think, looking at building that in
24 where it's legitimate within the community, and where it's
25 making sense and the police and the other apparatuses that

1 have that ability for force and enforcement, are brought
2 together in a way that, at the end of the day people are
3 safe in the moment in a respectful, dignified way and where
4 there aren't necessarily sort of retaliation repercussions
5 that come -- that sometimes come today when people call.

6 **MS. CHANTAL GENIER:** Great. This is my last
7 question which you sort of partially even just answered
8 there.

9 I'm not sure if you're -- are you familiar
10 with the *Gladue* decision at all and the principles behind
11 that about courts being compelled to take into
12 consideration for anybody who is not familiar with the
13 *Gladue* decision and principles is it compels the courts to
14 take into consideration at the time of sentencing an
15 Aboriginal offender the historical factors that may have
16 played a part in bringing them before the courts and for
17 the courts to consider alternatives to incarceration,
18 keeping in mind the community as well and risk to
19 communities.

20 Can I just get sort of your general views as
21 to if you think that is a good example of a tool, just one
22 tool of many that can actually, if implemented in a better
23 fashion, is that a useful tool?

24 **DR. HADLEY FRIEDLAND:** In my opinion the
25 *Gladue* decision has two parts. The Supreme Court said we

1 need to take into consideration the historic and systemic
2 factors that led to the offence for the offender. And the
3 Supreme Court said we need to consider Indigenous ways and
4 they of course had values, traditions to respond and
5 practices to respond. And I would say that's law. We need
6 to consider the Indigenous laws around this issue.

7 I think *Gladue* fully realized -- taking into
8 account both essential parts could be a powerful opening
9 for that, I think we need to take care that if we only do
10 the one, although I've seen beautiful work, and I want to
11 acknowledge that people are working really hard and doing
12 really, really good work on that one part, we can risk
13 falling into that narrative of despair, and we can risk not
14 figuring out how we use the principle of *Gladue* with the
15 two parts in cases of tremendous violence or horror or
16 danger, right?

17 And I mean those are the cases where -- like
18 I can speak from being within the communities, those are
19 the cases that keep you up at night and hurt your heart and
20 destroy lives, right. And we need -- we need to be able to
21 have that full breadth of Indigenous laws being applied as
22 well as acknowledging the histories.

23 **MS. CHANTAL GENIER:** I think that's
24 everything. Thank you. Merci. (Speaking in native
25 language).

1 **MS. CHRISTA BIG CANOE:** Thank you. Thank
2 you, counsel.

3 So that actually concludes the cross-
4 examination by parties. Do the Commissioners have
5 questions?

6 (A Short Pause/Courte pause)

7 **--- QUESTIONS BY THE COMMISSIONERS/QUESTIONS PAR LES**
8 **COMMISSAIRES:**

9 **COMMISSIONER MICHÈLE AUDETTE:** Great. Thank
10 you very much.

11 I come from a territory where missionaries
12 imposed on us the fine language of French. Otherwise, we
13 speak Innu.

14 I'll take advantage of this. This is rare.
15 We have a simultaneous interpretation service to ask my
16 first questions and to respect from brothers and sisters in
17 the room I will ask my next question in English.

18 My first question, I would like to know, you
19 mentioned in your presentations that Indigenous laws were
20 underestimated -- undermined. Could you clarify? They
21 were undermined by whom and why? That's my first question.

22 **DR. VAL NAPOLEON:** So one of the -- there is
23 a graphic narrative that we did called "Mikomosis" which is
24 about Cree criminal law and we have a teaching guide to go
25 with it. And that's an example of where there had been a

1 legitimate Cree, collective Cree process that resulted in a
2 decision to kill a person who had become Wetiko and that
3 person was then taken to -- by the RCMP taken to trial and
4 then executed through the Canadian legal process.

5 So this is a story that there are many, many
6 times where legitimate decision makers in Canada were
7 executed or incarcerated by the Canadian state. And so
8 there is lots of cases.

9 And so what we did in the graphic narrative
10 was combine a number of those cases into one story so that
11 we could have people look at the role of the RCMP, the role
12 of the courts, the denial of any legitimacy on the part of
13 the Indigenous decision makers in that legal process. And
14 then, you know, we asked that what would have happened had
15 the Indigenous legitimacy of the Indigenous process that's
16 been recognized.

17 And we create resources to ask critical
18 questions like about the fact that the Wetiko was a woman.
19 Why wasn't her perspective told, and so on and so forth.
20 So in that one story we tell a little bit of Canadian
21 history's denial of Indigenous legal processes.

22 Other examples are the potlatch, some parts
23 of the sun dance where we saw legislation which banned
24 those processes. And if we look at the feast for the
25 Gitksan, it is a legal institution of a people where

1 decisions are witnessed and there was precedent created.
2 And those were a necessary part of a functioning, fully-
3 functioning legal order.

4 And those processes went underground. I
5 interviewed people where they remember, you know, doing
6 them in secret in people's kitchens and so on, so they
7 could maintain their responsibilities and fulfil their
8 legal obligations, but they had to do it in secret. And
9 then, you know, part of what happens is that there are
10 fewer opportunities for -- as children are taken away,
11 fewer opportunities to educate them.

12 And we can look at any corner of Canadian
13 history and see the denial. I was a couple of weeks ago,
14 asked to speak at a conference which -- by the Attorney-
15 General of B.C., and there was a police representative who
16 was leading the facilitation. And I talked about
17 Indigenous law and he wrote down cultural practices, and I
18 said no, I meant Indigenous law, and he wrote down cultural
19 practices. And, finally, I got the microphone away from
20 him and I went up and I wrote down Indigenous law and I
21 went and sat down. He went back up there to that and he
22 wrote in brackets beside Indigenous law (cultural
23 practices).

24 And so this is in a public forum like this
25 where my attempts to talk about Indigenous law as being

1 real in the world, were like because there was no space in
2 his brain and no suggestion that he might look at that lack
3 of space, was never taken up as part of what happened in
4 those.

5 So I'm not saying they're bad people. It's
6 not helpful to vilify. But that's a very small example of
7 the experiences of Indigenous people who are trying to be
8 lawful or who want to teach their children or who want to
9 work as advocates in the world. So there are many, many
10 times that this happens, all the time.

11 **COMMISSIONER MICHÈLE AUDETTE:** Merci
12 beaucoup. Do you want to add?

13 Thank you very much.

14 **DR. HADLEY FRIEDLAND:** I would just give an
15 example from the historic cases. So when Val is talking
16 about the Wetiko cases, just to see where the laws and the
17 courts do this, so the defences that people could bring is
18 that they were too uncivilized, too superstitious or too
19 childlike to form the necessary intent for the offence.

20 And what does that mean if you brought --
21 like, could you imagine if, in Canadian law, if a judge was
22 sitting there suddenly as a defendant, you know for
23 outsiders, a prison guard, a police officer and the only
24 defences that would work for them, like what would that do
25 to our entire system? Who would want to be a judge

1 anymore? Who would want to go to law school?

2 You know who would be willing to be a police
3 officer if when you did something lawfully in desperate
4 circumstances to save people's lives, you suddenly found
5 yourselves in this process where...

6 **COMMISSIONER MICHÈLE AUDETTE:** Merci
7 beaucoup. Thank you very much.

8 In English, like I said in French to respect
9 my brother and sister who didn't have the translation
10 device, I'll do my best, this one in English. We are under
11 a federal act, the federal act and not from the world of
12 the law world, our legal world. And I think that it's
13 important if you explain to us, short and sweet if it's
14 possible, of course, why we have to do this oath in this
15 process. And if you can say to me there is other ways that
16 it's more us to do that exercise of oath. If it exists,
17 please share to me.

18 Did you understand my English?

19 **DR. HADLEY FRIEDLAND:** So you're asking
20 about the oath at the beginning of this inquiry process?

21 **COMMISSIONER MICHÈLE AUDETTE:** Oui, oui,
22 oui.

23 **DR. HADLEY FRIEDLAND:** And so this is my
24 personal understanding, is that we are saying the oath at
25 the beginning to say that we are going to tell the truth

1 while we're here.

2 So I think in different situations there are
3 different -- as I said, different procedures and the
4 probably best way would be to ask like what would signal
5 that. It's important that people are telling the truth.
6 So how is that done in a good way where we're at? How does
7 that show it's legitimate?

8 I will give a very small example. And I
9 don't want to say I'm an expert, but I have definitely
10 heard that let's say giving -- when you give tobacco to
11 someone and they receive it, in certain legal traditions,
12 certainly that's my experience with Cree legal traditions
13 and in ceremonies that if you -- if you give somebody
14 tobacco and they accept it, my understanding, what I have
15 been taught, and I know very little, but would be that that
16 -- that they are also -- they are committing to
17 participating but they are committing to do so in telling
18 the truth.

19 So that's a small example in my only very
20 little understanding.

21 **COMMISSIONER MICHÈLE AUDETTE:** Merci
22 beaucoup. Thank you.

23 Thank you very ---

24 **COMMISSIONER QAJAQ ROBINSON:** Thank you.
25 Thank you for your testimony and thank you for the

1 questions from the parties.

2 I want to build a little bit on what
3 Commissioner Audette asked in her first question about the
4 marginalization or undermining of Indigenous laws and about
5 examples of this that you provided. The bulk of the
6 examples you provided were acts of the state that
7 undermined. Is this a fair characterization?

8 **DR. VAL NAPOLEON:** Yes.

9 **COMMISSIONER QAJAQ ROBINSON:** Okay. Now, is
10 it your view that this undermining has been intentional and
11 systematic?

12 **DR. VAL NAPOLEON:** Not always. I think that
13 we are capable of undermining things in total ignorance. I
14 think that when we don't know what we don't know, and we
15 don't ask what we don't know, and we don't -- we just make
16 assumptions, which is why we spend so much time on figuring
17 out how to challenge assumptions and why that is so
18 important.

19 You know we can perpetuate all manner of
20 impressions innocently by simply believing that we don't
21 have to answer to anybody that the way we are in the world
22 is absolutely right and that we have the power to just keep
23 on going the way we are going and everything else should
24 support us in that. If we maintain that stance in the
25 world we are going to oppress people all over the place.

1 And that's exactly why we have to question,
2 each of us, no matter who we are, whether it's judges,
3 police, social workers, whoever. Like, we are in positions
4 of power and we have an obligation to stop oppression
5 wherever it is. And it doesn't matter what our positions
6 are. We can either perpetuate the systems of oppression
7 because the world is full of relations of power, or we can
8 find ways to not perpetuate it.

9 **COMMISSIONER QAJAQ ROBINSON:** You also
10 indicated that there is some where it's been intentional.

11 **DR. VAL NAPOLEON:** Yeah.

12 **COMMISSIONER QAJAQ ROBINSON:** Could you
13 elaborate then? And I think -- where I am going with this
14 question, to be blunt with you, is in your testimony you
15 spoke about the cultural genocides that have been committed
16 in this country. And I wish to pose to you the question,
17 following the question about the systematic nature of the
18 undermining, is whether or not you -- either of you are of
19 the view that this undermining of Indigenous laws and not
20 giving space to Indigenous laws has been an act of cultural
21 genocide or is part of the cultural genocides ---

22 **DR. VAL NAPOLEON:** Yeah.

23 **COMMISSIONER QAJAQ ROBINSON:** --- that we
24 speak about and that we are speaking about in this country
25 and I think we have to.

1 So that's my question and the context around
2 it.

3 **DR. VAL NAPOLEON:** There is historic
4 evidence of -- so I gave the example of people being
5 charged after they implemented a reasoned deliberative
6 decision that was -- seemed completely lawful under Cree
7 law or Anishinabe law to address community safety with
8 someone with a Wetiko and this would be the 19th century or
9 early 20th century. There is historic evidence that there
10 is letters from different people within government
11 departments saying, put a stop to this because we need to
12 assert our sovereignty, we need to assert our law.

13 And I have looked at that because fairly
14 some people say, well, the European people wouldn't
15 understand this at all so, my goodness, like that's why
16 they reacted the way they did. And I said, no, there is
17 actually letters saying that part of this happens to
18 asserting sovereignty and it happened at a certain historic
19 point where when trade was very important and Euro-Canadian
20 settlers were reliant on Indigenous nations for defence,
21 for trade, et cetera, they did not interfere in these
22 Wetiko cases. They began to interfere and these court
23 cases appear after these letters are sent.

24 So I think that -- I do believe and it is my
25 opinion that the foundational undermining of Indigenous

1 legal traditions is connected to the undermining of
2 Indigenous peoples' humanity, and that is the bedrock of
3 any genocide.

4 **COMMISSIONER QAJAQ ROBINSON:** Thank you. I
5 posed a question to Professor -- to Tuma yesterday, and you
6 have touched on it a bit today.

7 Dr. Napoleon, you spoke about the state
8 monopoly on law, and this is an ongoing reality in Canada.
9 And I would like to hear from you how the state governments
10 in this confederation that governs over this land right
11 now, what the provinces and the territories and the federal
12 government can do to address this monopoly and to create
13 this space.

14 Tuma spoke yesterday about issues around the
15 Constitution. And I'm not sure if you heard his testimony
16 or his answer to that but -- so I pose the same questions
17 to you: How can the states; federal, provincial,
18 territorial address this monopoly and allow for that space?

19 **DR. VAL NAPOLEON:** I think that the way
20 forward is on a -- if we have to be -- make the question as
21 specific as possible to different areas of law, so family
22 law, constitutional law, land law and so on, so that in
23 each legal order there is a complete system of law that
24 covers all aspects of human lives.

25 And so what area of law within Indigenous

1 societies is it intended to, to look at the relationship
2 between -- with Canadian law? So you can -- and I think
3 that has to be done -- the homework to support Indigenous
4 communities to do the kind of rebuilding necessary so that
5 they are in a position to articulate laws so that a
6 transsystemic process or a legal pluralistic process can be
7 established with the state.

8 --- (Laughter)

9 **DR. VAL NAPOLEON:** And so that the hard work
10 has to go on in terms of -- like, beyond the generalities
11 is a first step.

12 But I think there are legal decisions
13 through which Indigenous peoples have advanced law in
14 different areas. There are agreements through which people
15 have attempted to establish legal and political
16 relationships with the state. There is all manner of legal
17 agreements having to do with specific services as well as
18 overarching structural and self-governing agreements.

19 There is different kinds of services that
20 people have had. Like, Indigenous peoples through time
21 have been very pragmatic about being in this world with
22 some dignity as peoples no matter what was happening. And
23 so they have found ways to advance what we care about, and
24 we have some problems in it all.

25 So it's not going to be -- there is no quick

1 fix and there's no one way to do it. It has to be --
2 encompass the actual complexities that are there.

3 And as far as legal processes we've done
4 work with, you know, looking at developing resources for
5 dispute resolution and the processes available to us do
6 include the courts. They include tribunals. They include
7 alternative decision-making processes. They include
8 justice projects of which there are many in Canada and they
9 include Indigenous law. So for actual decision-making
10 processes at the local level, there are also options.

11 So there's different levels of work,
12 different levels of imagination that we have to build here
13 together in which that work is going to be possible.

14 **DR. HADLEY FRIEDLAND:** Can I add just a
15 couple of concrete first steps and acknowledging I don't
16 know what the other provinces are doing, I wanted to draw
17 attention to -- we had a slide about Ontario justice. The
18 -- I'm going to say the -- I'm worried on the record to say
19 it correctly, the Department of -- the Indigenous Justice
20 Division.

21 And, to me, that would be an example of best
22 practices for starting and, again, acknowledging other
23 people may be doing as brilliant of work. That's the one I
24 have seen where you have a government department dedicated
25 to that two-pronged approach, reform of the justice system

1 and revitalization and being able to -- thank you.

2 And I think that's on tab -- oh, no, that's
3 a PowerPoint. Yeah, the Indigenous Justice Division,
4 Ministry of the Attorney General of Ontario and their
5 mission statement is to: Support reclamation of Indigenous
6 legal principles and systems and strengthen justice for
7 Indigenous people within Ontario.

8 So they have funding and support for
9 revitalizing Indigenous laws and they work on reform within
10 the current justice system. And they have the Elders
11 Council, the Indigenous Legal Principles project, the
12 Family Information Liaison Unit, so taking again that
13 approach; cultural competency training and, I'll pronounce
14 this wrong but (speaking in native language), an Anishinabe
15 word, and Indigenous Peoples Court. So not this either/or,
16 getting away from either/or, but really having that
17 comprehensive approach.

18 **COMMISSIONER QAJAQ ROBINSON:** I have one
19 final question. Tuma spoke of an idea where under the
20 Constitution and the division of powers, under section 35,
21 that there be constitutional reform where under section 35
22 there was recognized a third arm in the division of powers
23 that recognized and affirmed the legislative powers and the
24 jurisdictions of Indigenous peoples. What are your
25 thoughts on that?

1 **DR. VAL NAPOLEON:** That's one legal avenue
2 within Canadian law. I think that -- I think that we're
3 not -- it's not clear where and how the relationship
4 between Canadian law and Indigenous law is going to play
5 out.

6 So here is the thing. Imagine that all 60
7 or 50 legal orders were fully functioning in Canada in a
8 way that was legitimate and inclusive and that the laws
9 were -- people were able to challenge them when they were
10 unfair and people -- so the Anishinabe (speaking in native
11 language) all, all of the legal orders. Imagine the
12 conversations we would have with Canada with that as our
13 foundation, as opposed to us scrambling, one little
14 Indigenous research unit in all of Canada?

15 That's who we are. We have three people in
16 our research unit. Imagine what we could do if all of us
17 had those resources, if all of us were able to do this work
18 in a way that was sustained and stable? It would change
19 the conversations with Canada. It would change the legal
20 imagination that would be available to us. How it would
21 play out in the end? The answer is section 35, the
22 Constitution says, and so on. So we don't know yet, but
23 it's possible.

24 **DR. HADLEY FRIEDLAND:** Can I acknowledge
25 just for the record that the "Three Heads of Government"

1 was written by Bruce Reiter in 1992, the original article.
2 I just thought we should give him credit for that, for that
3 idea. I think that it's important.

4 And I would agree with Dr. Napoleon that
5 figuring out -- I think we also need to look at sometimes
6 people look at things being impossible but the law doesn't
7 necessarily prohibit as much as we seem to think it does.
8 I think if there is good will and there is people working
9 together and understanding the legitimacy and applicability
10 of Indigenous laws, there is actually quite a bit of room,
11 you know. And you see people making that space that we are
12 not necessarily quite as, I think, bound as people suggest.

13 **COMMISSIONER QAJAQ ROBINSON:** Those are my
14 questions.

15 **COMMISSIONER MICHÈLE AUDETTE:** Okay. I just
16 want to say officially, thank you very much. It was a
17 learning experience for me, and I was impressed also.

18 And I want to say thank you for the
19 representative of Ontario, if I'm right, who graciously,
20 how do we say that, share or gave her time to a family
21 member. So with my colleagues, we appreciate that very
22 much. Merci.

23 **MS. CHRISTA BIG CANOE:** So that actually --
24 that concludes the testimony of Dr. Val Napoleon and Dr.
25 Hadley Friedland. I also would like to thank them.

1 I ask that they be excused but then just
2 address the Commissioners for one moment about lunch break
3 and this afternoon's proceedings.

4 (Applause/Applaudissement)

5 **MS. CHRISTA BIG CANOE:** Given that the
6 schedule -- and we have demonstrated -- parties --
7 participants have demonstrated a lot of flexibility in
8 order to be able to hear the histories and the truth and we
9 are very appreciative of that, we were expecting a
10 videoconference to start at 11:30. We are a full hour
11 behind schedule.

12 So what we have done is the -- an Inuit
13 elder has requested that we start at 1:30 so that there was
14 an opportunity for them to eat lunch. And so I ask to have
15 a 45-minute lunch and to commence at 1:30 so that we also
16 have the opportunity to get through cross-examination this
17 afternoon and to then our third and final witness for the
18 day, Dawnis Kennedy.

19 So if we can break now for 45 minutes and
20 come back at 1:30, and I just want to also announce for
21 families or anyone in attendance, any of the slide
22 presentations that have now been made an exhibit are
23 available out in the hallway, the copy that you would have
24 seen in print. And once they are in exhibit we will
25 continue to do that throughout the course of the hearing.

1 Thank you.

2 --- Upon recessing at 12:45 p.m.

3 --- Upon resuming at 1:45 p.m.

4 **MS. MAUREEN GABRIEL:** There is health
5 supports in the room and outside that you can reach out to,
6 to request that time and space. I just want to say thank
7 you.

8 While everyone was on a break today I also
9 asked Elder Stan to cleanse the room.

10 Thank you very much.

11 (A short pause/Courte pause)

12 **UNIDENTIFIED SPEAKER:** I'd like to say
13 bonjour. (Speaking in native language).

14 Everybody, what I said was "hello my
15 relatives".

16 **UNIDENTIFIED SPEAKER:** Okay.

17 **UNIDENTIFIED SPEAKER:** Bonjour. (Speaking
18 in native language).

19 My name is (speaking in native language). I
20 am of the Red-Tail Hawk Clan from the Cree Nation.

21 And I have been here for -- in Ontario for
22 about close to 50 years and I have been given sema to come
23 and, you know, open this in a good way. But first of all,
24 I would like to say -- I would like to say miigwetch to the
25 creator for bringing us, all of us together in here,

1 especially the families and, you know, and friends and
2 everybody here, you know, who is connected with this
3 happening here.

4 So with the sema what I am going to do is I
5 am going to ask everybody, all the spirits to come in here
6 from all the four directions and be with us for the -- for
7 this, you know, for this day, and the eighth moon of
8 creation. I am also (speaking in native language).

9 And I will not hold water cup because we do
10 not -- because we are talking about the spirits of our
11 ancestors of all of us that have been missing -- you know,
12 missing and murdered women. So we do not, like our elders
13 said yesterday morning, we do not give them water because
14 they are already you know -- we are the ones who need that
15 water. We are the ones who need that sustenance. So
16 everywhere I go I try. That's what I try but at this
17 moment I won't be able to.

18 And I also want to say to my -- to my other
19 friend in here, our elder from Ontario, that he's holding
20 the most sacred, sacred being, you know that messenger,
21 (speaking in native language) and (speaking in native
22 language) is the one who is going to gather all our
23 prayers, who has gathered the prayers of all the families
24 who have -- you know, who have missed their loving -- their
25 loves and all those messages have -- you know it was

1 (speaking in native language) who brought them up into the
2 -- you know into the universe.

3 And so as a result of that I would like to
4 say you have done your work in a good way and it is up to
5 us as community members to support you in every way.
6 That's why I stand here as you know a great-grandmother, a
7 grandmother and a mother of five children. So I want to
8 say a short prayer. But I also want to sing a song because
9 I am of the -- you know, of the Eagle Clan. So I would
10 like to say (speaking in Native Language).

11 --- **Opening Prayer and Song/Prière d'ouverture et chanson**

12 **UNIDENTIFIED SPEAKER:** Thank you very much -
13 - prayer and songs with us. (Speaking in native language).

14 Can you hear me, Sandra? Yes, I can hear
15 you.

16 Can you see me? Yes, I can see you.

17 That's good. Thank you for participating.
18 Sorry for making you wait.

19 We are going to start. They are going to
20 light up a lamp, oil lamp. So we are going to wait. Then
21 we can start.

22 (A Short Pause/Courte pause)

23 **MS. LILLIAN LUNDRIGAN:** This will be done in
24 Inuktitut. Channel 2, English translation, I believe, and
25 I think that's Channel 1 to follow the discussion.

1 (A Short Pause/Courte pause)

2 **MS. BETH SYMES:** ...hear it in Inuktitut.
3 How is that going to be done on the web stream?

4 **MS. LILLIAN LUNDRIGAN:** We are speaking in
5 Inuktitut. So I am assuming the Inuktitut web stream live
6 is going to be in Inuktitut.

7 (A Short Pause/Courte pause)

8 **UNIDENTIFIED SPEAKER:** While we are trying
9 to figure this out, how are we going to relay this and how
10 they are going to understand this?

11 **MS. LILLIAN LUNDRIGAN:** ...our legal counsel
12 for the inquiry up in Iqaluit to administer the oath or
13 affirmation with Sandra and Kunuk in Inuktitut.

14 Joseph, you can start.

15 In your Bible? Are you going to read from
16 this, the Bible? Are you going to be -- the testimonial?

17 Yes.

18 Thank you. We can start.

19 **SANDRA OMIK: Sworn**

20 **INUIT ELDER KUNUK MUCKPALOOK: Sworn/A assermenté**

21 **--- EXAMINATION IN-CHIEF BY/INTERROGATOIRE PRINCIPAL PAR**

22 **MS. LILLIAN LUNDRIGAN:**

23 **MS. LILLIAN LUNDRIGAN:** And I -- first of
24 all, I would like to thank for having us here today. We
25 wanted to go clam digging but we're here. We're here.

1 If you can start, Kunuk, your name, where
2 you are from and where were you born, if you can tell, if
3 you can share that with us?

4 **ELDER KUNUK MUCKPALOOK:** Yes, I can tell
5 that, share. I can share from what I know personally about
6 -- in Arctic Bay. My name is Kunuk Muckpalook.

7 I didn't really grow up in Arctic Bay but
8 that's been mostly my residence there.

9 We were living out in a land where there is
10 no other families around or people around. That's how we
11 lived. And my father was perfectly healthy. That's how we
12 grew up, out on the land.

13 There were not a lot of people around except
14 for the dogs were the main focus.

15 **MS. LILLIAN LUNDRIGAN:** Thank you, Kunuk.
16 When you were born in Arctic Bay -- you are living in
17 Iqaluit now?

18 **ELDER KUNUK MUCKPALOOK:** Yes, I am. It's
19 not by my choice that I live in Iqaluit. So we moved here.
20 Some of my family moved to Ottawa so I ended up living in
21 Iqaluit. I haven't gone home yet.

22 **MS. LILLIAN LUNDRIGAN:** You are from Arctic
23 Bay?

24 **ELDER KUNUK MUCKPALOOK:** Yes, I am from
25 Arctic Bay. My little community is Arctic Bay and Toonaluq

1 (phonetic) is just around Arctic Bay area.

2 **MS. LILLIAN LUNDRIGAN:** Sandra sits with
3 you. Can you tell us a little bit about yourself and share
4 here? We are being recorded and they have to be recorded.

5 So just to say where you are from and where
6 you were born and where you grew up, if you can share that
7 with us?

8 **MS. SANDRA OMIK:** My name is Sandra Omik. I
9 grew up in Pond Inlet and our area. I stopped in Inuk
10 region. I was around -- Arctic Bay is not too far from
11 Pond Inlet so I have been working there for 10 years, but
12 prior to that I was in training, law training. I was also
13 working for Dene organizations prior to that, legal aid
14 also.

15 **MS. LILLIAN LUNDRIGAN:** I understand your
16 profession and that you did have training in law. So did
17 you graduate from the law?

18 **MS. SANDRA OMIK:** Yes, I did graduate from
19 the law.

20 **MS. LILLIAN LUNDRIGAN:** You are now working
21 for Inuuqatigiktiarniq?

22 **MS. SANDRA OMIK:** Yes. I have been working
23 there for 10 years as a lawyer.

24 **MS. LILLIAN LUNDRIGAN:** Can you share us --
25 to the Commissioners that you had law reform?

1 **MS. SANDRA OMIK:** Yes, there were four of us
2 that worked on law reform, one from (speaking in native
3 language) Anita Peterson (phonetic) from Cambridge Bay and
4 Joanna Kelly (phonetic) who was from Iqaluit. We visited
5 communities for two years talking law reform.

6 **MS. LILLIAN LUNDRIGAN:** What were you doing
7 visiting the various communities?

8 **MS. SANDRA OMIK:** We wanted to consult with
9 the Inuit communities on law reform, what laws in the
10 Canadian law today affect Inuit the most and what reforms
11 should take place to be more relevant to the Inuit. And we
12 like to focus more on culturally-relevant issues when it
13 came to law reform.

14 **MS. LILLIAN LUNDRIGAN:** Thank you. You did
15 a fabulous job. Do you wish to add any more to this?

16 **MS. SANDRA OMIK:** No. Kunuk -- Kunuk failed
17 to mention that she has been involved in the elders'
18 restorative justice for many years. Do you wish to add to
19 that, Kunuk?

20 **ELDER KUNUK MUCKPALOOK:** Yes, I can talk
21 about that. We got together regarding education in our
22 communities, elementary school education.

23 We at the time, elders committee, we looked
24 at cultural values, practices. And I was the youngest elder
25 at the time. They invited me to participate because I

1 needed someone to take over. I participated in the
2 restorative justice committee.

3 I worked with the elders. We worked with
4 youth who were in -- to teach them our traditional values,
5 life values, and we counselled them as well.

6 A lot of the work was very difficult at
7 times when it came to difficult situations, and it made us
8 ill at times working in isolation.

9 We tried to educate the young people about
10 traditional values, life philosophies and law, customary
11 laws.

12 Thank you.

13 **MS. LILLIAN LUNDRIGAN:** Thank you, Kunuk. I
14 understand completely what you're saying. I was at -- you
15 also worked with the restorative justice elders' group.
16 How is it applicable today? Did it have any benefits
17 today?

18 **ELDER KUNUK MUCKPALOOK:** It is very
19 different from the Canadian law, your Western law. We had
20 a different lifestyle.

21 We were a tight-knit family but now our
22 children are being more influenced by Western philosophies
23 and although they may be our child biologically, they are
24 more influenced by Western culture and values. Some refuse
25 to think of our values nowadays and to practice. Some do

1 take it seriously and work hard at it. I always make
2 myself to be -- to young people for advice.

3 **MS. LILLIAN LUNDRIGAN:** Sandy, I ask you.
4 Yesterday they said and they talked about Aboriginal people
5 that Aboriginal law is very difficult to define and you
6 cannot define it in one sentence. Is it like that with
7 Inuit law?

8 **MS. SANDRA OMIK:** Yes. Yes, because it's
9 not written, documented and it's not recognized in the
10 Constitution or the Canadian law.

11 Our laws, we studied laws and the legal
12 system in the Western culture. But we also compared in law
13 school the differences between Western and Inuit laws and
14 how much of the work and issues come into conflict at
15 times.

16 (Speaking in native language) region, our
17 land -- we have a huge landmass that's composed of four
18 regions. We have regional differences as well in our
19 customary laws and traditional laws. Because we hunt
20 differently our land and environment are different, child
21 rearing is different region to region, perhaps clan to
22 clan. But we know that certain laws are common in Inuit
23 culture.

24 How many laws do you know? I cannot say,
25 but I have observed. I have listened to oral histories,

1 life histories regarding the Pond Inlet area where I grew
2 up in. I can only relate to that area and that's my
3 homeland. But we know that the firstborn cannot be adopted
4 out to another family.

5 It is also different in Iqaluit and
6 Kimmirut, South Baffin and Cape Dorset. It varies. I
7 heard that from South Baffin region from Joanna Kelly.
8 They will encourage the firstborn to be adopted out,
9 usually to the grandparents. So it varies.

10 I understand when we took law history, laws
11 and policies -- practice -- culture practices and laws.

12 There are cultural practices and there are
13 laws and there are taboos which we do not practice anymore
14 because the missionaries arrived and discouraged the use of
15 the taboos which were part of our customs that we abided
16 by, the law -- the taboos. When you were pregnant there
17 were certain parts of an animal you could not eat. Those
18 were not laws but customary laws which we call taboos when
19 they related to a person.

20 **MS. LILLIAN LUNDRIGAN:** Can you talk about
21 taboos and laws and how they differ?

22 **ELDER KUNUK MUCKPALOOK:** Taboos, for
23 instance a little child, if a child growing up if they were
24 born with disabilities or with an illness, it was the
25 practice that a mother had to follow certain taboos such as

1 eating certain parts of the animal and then would have to -
2 - and they were kept in a separate shelter if a child was
3 born unwell.

4 If a child miscarried -- or in the case of a
5 miscarriage, I believe, taboos were followed. Actually the
6 mother would be confined to eating only certain parts.

7 And her spouse during that period was --
8 during his wife's pregnancy, he was not supposed to eat
9 certain parts of the animal. If he broke the taboo, the
10 taboos, even in secret, he would -- then something would
11 happen to the child or the wife because there were so many
12 taboos to be observed and even if kept in secret, taboos --
13 to be discovered.

14 People have to have -- it would affect the
15 whole community if a taboo was broken. A shaman -- a
16 shaman of the day during that time was called on to correct
17 the mishap. A law had been broken. A custom had been
18 broken. A shaman had to deal with it and deal with the
19 person who breached the taboo.

20 Regarding taboos ---

21 **MS. SANDRA OMIK:** I think I can clarify
22 this.

23 It's very cold up there. It's harsh and it
24 can be prolonged. It can be cold, very long winters, just
25 daily struggles and there always has to be daily

1 assistance. That's how we survived. They cannot do it
2 alone. They cannot survive on their own. It was just
3 impossible. It had to be a team. It was just too
4 difficult in the North.

5 The people, the community, there were
6 couples, children and grandparents, a sister, brother, an
7 elder, grandfather, grandmother; they would help each other
8 elaborately so that they survive. So it's the same thing.
9 Every day, daily they would help each other and it's part
10 of their social in the North to survive the day so they
11 work together. They live in harmony.

12 If something happens or if there is a
13 terrible thing happen or if there is a problem they would -
14 - they would get closer and resolve it and just to try to
15 survive, for survival if somebody is stingy or if somebody
16 is hungry.

17 And the same with their minds. With their
18 minds there is also peace and that was very collaborative.

19 **MS. LILLIAN LUNDRIGAN:** No, I can
20 understand. I would like to ask you now if there was one
21 person with regards to Inuit laws. You can acknowledge
22 that about traditional Inuit laws?

23 **MS. SANDRA OMIK:** Yes, we used the Canadian
24 laws. I cannot interpret that.

25 So for example, for the survival purpose and

1 endurance was their only centre of attention or hub.
2 That's how -- how they tried to practice it.

3 **MS. LILLIAN LUNDRIGAN:** Okay. Okay, thank
4 you. What you just said, from what you know and what you
5 have learned, is it all true?

6 **MS. SANDRA OMIK:** Yes. I cannot say what's
7 outside of my territory. I can only tell you what we,
8 Inuit, understand as -- the same thing. That is our
9 society from what we understand from what we do, so we work
10 on that.

11 **MS. LILLIAN LUNDRIGAN:** would like to
12 acknowledge that Kunuk Muckpalook and Sandra Omik are
13 providing knowledge and expertise about traditional Inuit
14 legal practices and methods related to their community and
15 region, Arctic Bay and Pond Inlet of the Baffin region
16 (speaking in native language) for the record.

17 **CHIEF COMMISSIONER MARION BULLER:** Thank
18 you. Welcome both of you to the national inquiry. Thank
19 you for joining us and, certainly, we acknowledge your
20 expertise and your experience in life in the North. Thank
21 you.

22 **MS. LILLIAN LUNDRIGAN:** Thank you very much
23 from the national inquiry that you came for your testimony
24 today. As legal representatives here we can understand
25 your situation and, in fact, you can tell us a story, a bit

1 about it. So thank you very much.

2 I am going to ask more questions with the
3 Inuit traditional laws and if you can give us a little --
4 if you can share those with us and even add more, I
5 appreciate that.

6 **MS. SANDRA OMIK:** Yes. For instance, we
7 always plan for the future because we work hard to survive.
8 Strategic planning was very important but there were
9 certain rules and expectations when it came to planning
10 because planning, good planning depended on our survival.

11 We cannot call it a law but it was a
12 practice to always be prepared. If the plan was not
13 followed, it could happen that we have famine. We could
14 freeze to death. We could not have seal to heat our lamp
15 oils and therefore freeze.

16 People should always plan to stay ahead to
17 stay alive from childhood to adolescence. They tried to
18 raise the children to always be prepared to be able to look
19 after themselves and others so that they will be capable
20 and able hunter-gatherers that provided for the community
21 from childhood, birth to childhood, adolescence, a young
22 adult, so there was always the coaching, life coaching.

23 From what I understand from my parents, my
24 grandfather and my grandmother and my brother and my great
25 -- my parents included -- I also had a great-grandmother.

1 I learned from my great-grandmother not just by oral
2 history but by demonstration and by being coached.

3 Observation is the best way to learn. If my
4 brother went hunting, for instance, if he caught a caribou,
5 once he had enough to feed he would go home. There was
6 conservation of wildlife, respect for wildlife and
7 environment. So it was very important that the
8 environment, the wildlife and the human life counted on
9 each other and we were one and we had to work and we
10 respect all.

11 I did not see anger. My grandparents
12 especially and my parents, I did not see them having fights
13 or yelling at us or reprimanding us in a loud voice. It
14 was by coaching, encouragement, by observation. They
15 worked hard. They were resilient. They never saw nor
16 abused their dogs who were their transportation and hunting
17 buddies.

18 **MS. LILLIAN LUNDRIGAN:** Kunuk, did you wish
19 to add to that? You are free to add to what you're saying.

20 **ELDER KUNUK MUCKPALOOK:** I would like to add
21 in the old days we lived -- if you had a son, while the
22 child is growing up, depending on the age development they
23 would teach them continuously for what the mind and the
24 money is able to take. They had to teach him principles
25 and values, conservation and respect for all living things.

1 Nowadays, we raise our children very
2 differently. We lose our temper disciplining them. We
3 have outside influences on all of that and the issue of
4 getting into trouble now because of the freedom as
5 individual human beings. Perhaps too much focus on that,
6 because possibly too they see a lot of anger in their home
7 lives and in their world and in the community.

8 Not everyone was perfect but in the old days
9 we had a saying that -- we had sayings that we had to live
10 by that were the beliefs. We had customs to live by. We
11 were asked to help our people. Those who were in need our
12 job was to help them.

13 Not everyone -- nobody was encouraged to be
14 left behind. All had to eat when there was food. We could
15 not deprive other people. There was no class system.

16 We were all equal. When it came to sharing
17 food and clothing, skins, we were equal. We had seal
18 skins, caribou skins and those -- our clothes to keep us
19 warm.

20 We -- nowadays there is many people who do
21 not learn those practices and now we have people who do not
22 help themselves that society has to help constantly because
23 they are not trying on their own. Some disobey our taboos
24 and customary laws or helping out in the family nowadays.
25 A man was to provide for the whole community. Not every

1 man does that now, nor are they trained to do.

2 We have to raise our men to become men again
3 with the principles that we were brought up with. From the
4 age of five he would start going on day trips, gradually
5 learning and once he started going out on day trips and
6 hunting, he is now getting used to being a hunter and
7 gatherer. He is now getting education by observation and
8 by being coached verbally.

9 Then they would -- they would discipline
10 that child. It was okay to spank a child on the bum to
11 discipline them because they had to be good people. They
12 spanked them to discipline them from the age of five. They
13 sit them down and then they explain afterwards at the age
14 of five, this is what happens -- if you misbehave this way
15 these are the consequences.

16 And it was -- nowadays it is corporal
17 punishment, I guess, a mother or the father, a nine or 10-
18 year old if they discipline a child or touch a child. The
19 elders would gather and discipline the adults because at
20 that age you do not discipline a nine or 10-year old.
21 There were rules when it came to child psychology and child
22 rearing that people had to observe. The elders were the
23 police at the time. We followed oral history, oral
24 instructions.

25 People are sometimes just difficult to

1 coach. Then they would let them be on their own because
2 they would be too difficult to teach. Then they would say
3 that he hasn't learned how to hunt. He is depending on
4 other people to provide food so they had to be charitable
5 to the person and his wife; had to be given sealskins to
6 sew. It was very difficult for those people who decided to
7 be independent. Rather than being independent they ended
8 up depending on the whole town for their survival.

9 If you cannot observe the traditional laws,
10 the customary laws then -- yes, I understand.

11 **MS. LILLIAN LUNDRIGAN:** Thank you very much.
12 Today we are changing. We heed very little to Inuit laws.
13 We are now governed by Canadian laws. How is it for Inuit
14 as a society?

15 **ELDER KUNUK MUCKPALOOK:** It makes me cry in
16 my heart. Our children talk about very foreign things,
17 very heartbreaking too. They talk back to their elders
18 which was a taboo, not showing respect. Once we tell them,
19 "You are supposed to listen to your elders" because Sandra
20 listened to her elders as she's sitting here and if she did
21 not, I don't think she would be sitting here. Same thing
22 with you, Lillian.

23 Thank you.

24 **MS. LILLIAN LUNDRIGAN:** I will just ask one
25 thing about gender, the role -- the gender roles of men and

1 women. They all have responsibilities for both and this is
2 being lost in our society, for any society. Can you give
3 us a little detail about it?

4 **MS. SANDRA OMIK:** First of all, I would like
5 to add back then Inuit when they were on the own for the
6 colonization for the grandparents and the elders, were the
7 main authorities in our community. In terms of hunting
8 were the men were the authority over the hunting and the
9 women were more -- have a role in the society like in a
10 community.

11 But they did help each other. That was the
12 only way to be is to help each other; collaboration. They
13 make decisions and the children and the grandchildren and
14 one of them, either boy or girl, they had to listen to
15 them. Those were the authorities. They were our elders.
16 They were scary and we had to follow what they say. That's
17 how we were. That's our tradition.

18 With regards to the spousal -- if I make it
19 more clear if I start talking about husband and wife. When
20 my parents talked about they were pre-arranged marriage.
21 My grandmother, she married an elder. And my other
22 grandmother also was arranged to marry an elder, just
23 looking at what they're going to be in the future, if
24 they're going to survive it. So they can survive it when
25 they get older so they can help each other collaboratively.

1 Both of them, the man and the woman, these
2 two, they weren't independent in making decisions. They
3 were done by the -- collaboratively. It's kind of delicate
4 when you think about it but they are doing this for the
5 sake of their future so they can survive in this and
6 because they love them.

7 So when my grandmother was a widow so she
8 had to marry an elder because -- so the elder can look
9 after her. Now, she was (inaudible) so after not wanting
10 to marry that man and she just became grateful afterwards.
11 So they would go out hunting to look for food and said to
12 an elder: You go and get some food. So just go to the
13 store, not asking anything. So he brought me food. I was
14 puzzled. "I'm so glad I married you", she said. At first
15 he was very unpleasant and scary but in the long run,
16 started being proud of him and looking after him, the fact
17 that he was looking after her so started to gain respect to
18 him.

19 That's just my story.

20 Same thing with the mind, emotions. They
21 did all kinds of things. They shouldn't be too angry and
22 not -- don't be jealous; don't rebel, a lot of problems.
23 They shouldn't be creating any problems, kind of, but they
24 shouldn't be overly -- shouldn't really be like really
25 angry about a certain thing.

1 So we have lost that value. We get angry
2 easily and we just want to attack other people, verbally or
3 otherwise. However we felt, we just always just act upon
4 it a lot easier than before.

5 So this touched -- the murder -- because it
6 was never that. We were never living in that. We were
7 living in harmony. So that kind of attitude and behaviour
8 will lead to murder. So it didn't happen very often, only
9 in very, very rare occasions.

10 You know that in Nunavut 10 die out of
11 1,000; so let's say 10 people die out of a 1,000 murders.
12 Now, it's one of the highest rates. It's so unfortunate
13 the way our society -- we have to get on that. We are
14 still fighting one another. We don't have any more
15 intention. So it's getting more difficult like just the
16 way Kunuk just explained.

17 It's very emotional especially when we're
18 all fighting one another. We're killing one another. It's
19 very heartbreaking.

20 **MS. LILLIAN LUNDRIGAN:** Thank you, Sandra.
21 You make a lot of sense.

22 Kunuk, would you like to add to what Sandra
23 just spoke about?

24 **ELDER KUNUK MUCKPALOOK:** Yes. From my
25 childhood or from childhood to marriage, we train -- people

1 were trained to think constructively, critically. They
2 said it was difficult to work with men, men's minds because
3 you have to make them observe, think, be critical and think
4 of the consequences and not to harm all living things.
5 They would tell them they were quick to anger, that being
6 angry had consequences that it could be harmful; that
7 certain taboos were not to be broken because it would --
8 harmony in the community or even being careless could harm
9 people and cause accidents. So they were coached always to
10 be of service to the community, to society because they --
11 we was taught to serve our community.

12 So we were very easily and quickly corrected
13 if we did not behave properly. Women were treated that
14 way. They would be taught verbally. They did not teach
15 them as much because when she gets married her husband will
16 grow with her and mature with her and become wise. It was
17 let up to the man to nurture the family starting with his
18 wife.

19 I was born in 1939. I was born. I have
20 never seen a woman wanting to get married, running around
21 looking for a husband. Metis women did not wish to get
22 married. They have relations like nowadays and no
23 commitments, no lifelong commitments. They did not get the
24 coaching that we did.

25 A son -- a father would tell -- a man would

1 go to the father and propose that he wanted to marry the
2 daughter. The parents would look at the man, his abilities
3 as a hunter and gatherer and his intellect. Then they
4 would give their blessing if they felt that the daughter
5 was going to be okay under the man's companionship.

6 We do not want to live like elders. They
7 wanted to live happy, free lives without too much hardship.
8 I am like that.

9 When I was 16, my parents agreed to a forced
10 marriage, a man that I had never seen before. So that was
11 traditional arrangement. Once my parents agreed, my father
12 especially, I had to get married to a man. He is my helper
13 today and my partner and my soulmate.

14 When people were getting together as a man
15 and wife or a couple, they were encouraged to support each
16 other, to help each other, to grow together to their
17 potential that in their own home they were told how to
18 share food, how to prepare skins and clothes and how not to
19 waste so that they will have a comfortable life not wanting
20 or needing.

21 I was told that a woman would be told if
22 your husband tells you honestly and tells you off about a
23 certain behaviour that you are protecting if your house is
24 too messy and you are getting too careless and if your
25 children's clothes are not -- are in need of repair, her

1 husband tells her, "Why don't you look after the children?
2 Why don't you look after the house?"

3 Once the woman is told to do her
4 responsibility if she was quick to anger and to talk back
5 then she was a dangerous woman. She would put herself in a
6 position by not obeying the natural law of a good life. If
7 your husband tells you verbally and disciplines you, take
8 heed. Otherwise, you'll be putting yourself in danger if
9 you talk back or go against him, because it is for your own
10 safety and your own protection and wellbeing.

11 If a woman was quick to anger and
12 argumentative then they make themselves wide open for abuse
13 Pauktuutit Inuit women should be listening to this. Today,
14 the Pauktuutit Inuit Women's Association should be
15 listening to this.

16 It was -- I would -- if my husband were to -
17 - told me more than once and I just sat back and I fought
18 for my rights and this constantly, my husband would become
19 very uncomfortable with me and unhappy with me. Then we
20 are about to have some problems which could be quite
21 destructive today.

22 Not too often would a man have to discipline
23 his wife but women can cause dissension in the home. If
24 your husband is going to -- goes to bed early, then
25 likewise your household should reflect your husband's

1 habits, if he has good habits; early to bed, off to work in
2 the morning hunting. It's not appreciated if the wife went
3 visiting all night while the family slept. You have to
4 model as a unit of a good life. So if that's the case then
5 she would put herself in front of them to be disciplined.

6 And comparing the mothers -- would be if
7 your daughter is not listening to us and no doing well, it
8 might be some very dangerous situation if she keeps it up.
9 So the mothers if something happens to their daughters, the
10 other elders and the grandparents and they would go up to
11 them and just discipline them and talk to them
12 collaboratively.

13 That's the way it was, if you can understand
14 my message. I have -- I can't talk very well. It's very
15 harsh so I have to try to talk really loud.

16 Back then everyday daily stuff was only
17 basically to survive so they have to work on the clothing
18 to suit the weather. Same with the man and the woman, have
19 their own responsibilities and work every day. If somebody
20 is just lazy they won't -- there is no -- and I just wanted
21 to clarify that a bit, so a man and a woman, they prepared
22 them to be adults since they were little kids and about
23 clothing and how to survive. I just wanted to add that.

24 **MS. LILLIAN LUNDRIGAN:** Thank you, Kunuk,
25 and Sandra. I understand what you are saying.

1 Another question for husband and wife, if
2 they were beating or hurting each other in their
3 relationship how was this dealt with?

4 **MS. SANDRA OMIK:** First of all, I want to
5 say what I said before. Our elders, my elders, my
6 grandparents and my father, I have never seen them fighting
7 or hurting each other and/or any of my family. My uncles
8 or aunts, I have never seen them abuse their husbands or
9 wives.

10 We were being asked to be proper every day
11 and with proper manners but other people had told me
12 stories when they first start -- a man and a woman when
13 they start their relationship. They were already informed
14 that, say, example, how you're going to give birth, because
15 they're just a small, little community. So they talk to
16 them every day of what kind of situation they are in.

17 For example, my grandmother was expecting --
18 help in delivery, midwifery. So she would give them
19 advice, for example, and when they are playing outside she
20 would tell them, "So if you are jealous about your husband
21 or wife it could lead to disaster". So if they start
22 making mistakes, social mistakes for husband and wife, they
23 would sit them down and discipline them right away. And
24 then they tell them right away any kind of situation they
25 put themselves into.

1 So they resolve the problem right away.
2 (Speaking in native language) told me if there was violence
3 they would split them if it's prolonging too long. If
4 somebody is too angry and just wants to attack, so a young
5 person is struggling too much, sometimes they would move
6 them to a difficult place.

7 In order to survive harmony it was a lot
8 more -- they had to survive. So if they cannot be a good
9 husband and wife and if it's going to continue, so they
10 would just split them. Looking at their future, it's not
11 going to be beneficial for the future if that keeps up.

12 **MS. LILLIAN LUNDRIGAN:** Thank you, Sandra.
13 The Inuit has laws. Were they able to follow laws, the
14 Inuit laws?

15 **MS. SANDRA OMIK:** No. Some were very lazy.
16 (Speaking in native language) said that they were very
17 lazy. It was never the same. Some were more lazy than
18 others and people who are fed. The majority of the Inuit
19 were following what their parents were telling or what the
20 (inaudible) were telling. It was just very few people that
21 they follow.

22 My grandmother used to tell us that her
23 father had murdered and when he -- she -- he murdered it
24 was obviously -- he would always go out on the land and
25 trying to stay away from the community or the plant.

1 **MS. LILLIAN LUNDRIGAN:** Traditional laws are
2 being lost. Can you give us an example what the
3 traditional laws are? You know, we have to follow them now
4 more than, but we are losing it. Now that we have Canadian
5 laws are we losing our traditional laws?

6 **MS. SANDRA OMIK:** Yes. Before they were
7 more family -- close-knit families and more attached to
8 their children. So let's say they worked together. They
9 kept them properly. If there's a mistake they would tell
10 them. If things need to be done or repaired they worked on
11 it. But schools today, every day (inaudible) schools so
12 that also kind of withdrew from the family dynamics. They
13 start finding more different interests. They start growing
14 differently so our traditional laws are very useful and are
15 gone.

16 So we have to use the laws. If there was --
17 if they break the law then they would have to deal with
18 that but in traditional law if they try to deal with that
19 before the problem occurs. So they always protected fixing
20 things before -- before something happens. But Canada's
21 law works afterwards like they arrest them and they try to
22 fix the person after they arrested him or her. So Canadian
23 law is more in that way.

24 I think it's jumbled up. But our
25 traditional laws were very useful and our elders, but they

1 are passing really fast. We are losing them fast. We just
2 lost 16 elders and we are going to continue to keep losing
3 our elders. This is very dangerous. The daily -- who is
4 going to look after all this calamity we come to everyday?

5 **MS. LILLIAN LUNDRIGAN:** Thank you. We are
6 going to sum up now. I just want to ask a few questions.
7 Oh, there are other people here who may want to ask you a
8 few questions.

9 Maybe if we can take a small break. Is that
10 okay, five minutes break? Is five minutes long enough or
11 is it too short?

12 It's fine; five-minute break.

13 --- Upon recessing at 2:58 p.m.

14 --- Upon resuming at 3:09 p.m.

15 **MS. LILLIAN LUNDRIGAN:** Are we ready? Is --
16 okay. Elizabeth, you're ready?

17 We are switching to consecutive translation
18 from simultaneous or recording purposes.

19 Is it on? Okay, Elizabeth, you can continue
20 with your questions.

21 She is going to translate into English.

22 --- **CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR MS.**

23 **ELIZABETH ZARPA:**

24 **MS. ELIZABETH ZARPA:** Okay. Hi. My name is
25 Elizabeth Zarpa. I am counsel with Inuit Tapiriitt

1 Kanatami (ITK) from Inuit.

2 I would like to thank the Indigenous people
3 of this territory, the Cree, the Oji-Cree and the
4 Anishinabe for letting us come here and to be here
5 throughout this very meaningful and also very important
6 expert hearing.

7 **MS. LILLIAN LUNDRIGAN:** Elizabeth, this
8 needs to be translated, so if you can ---

9 **MS. ELIZABETH ZARPA:** Slow down?

10 **MS. LILLIAN LUNDRIGAN:** --- pause and let
11 her translate and then continue.

12 **MS. SANDRA OMIK:** Hi, Elizabeth.

13 **MS. ELIZABETH ZARPA:** And thank you, Sandra
14 and Kunuk, for spending the time to be here as well. And
15 my questions today are for Sandra.

16 Okay. So Sandra, I -- so you mentioned that
17 you were from Pond Inlet, Nunavut

18 **MS. SANDRA OMIK:** Yes.

19 **MS. ELIZABETH ZARPA:** And you are a lawyer
20 who attended a Canadian law school. Was the law school in
21 Nunavut?

22 **MS. SANDRA OMIK:** In Iqaluit, yes.

23 **MS. ELIZABETH ZARPA:** Okay. And so Nunavut
24 is in (inaudible). Correct?

25 **MS. SANDRA OMIK:** Yes.

1 **MS. ELIZABETH ZARPA:** Okay. All right. And
2 today you are speaking to us about Inuit legal traditions
3 and decolonization.

4 **MS. SANDRA OMIK:** Yes.

5 **MS. ELIZABETH ZARPA:** Okay. So with the
6 idea of Inuit law and decolonization, what I am doing here
7 is I am doing it in leading questions, but just to kind of
8 get more specific, so Inuit existed pre-contact with
9 Europeans?

10 **MS. SANDRA OMIK:** Yes.

11 **MS. ELIZABETH ZARPA:** And it was for
12 hundreds of years or thousands of years or how long?

13 **MS. SANDRA OMIK:** I can only speak of my own
14 region where I grew up and where my family comes from and
15 this is Pond Inlet. I will refer to the start of the
16 colonization in my region when the whalers from Scotland
17 started coming into our waters and lands in the 1800s and
18 that was the beginning of colonization for us.

19 **MS. ELIZABETH ZARPA:** Okay. And before
20 colonization in the 1800s Inuit existed in the Pond Inlet
21 region for hundreds of years before their arrival?

22 **MS. SANDRA OMIK:** I can only reply to you by
23 history books that we have heard about the migration began
24 from Russia and Siberia into North America. I cannot say
25 what year that happened but history tells us that the great

1 migration began to take place many, many years ago into
2 North America where we live today.

3 **MS. ELIZABETH ZARPA:** And many, many years
4 ago Inuit throughout Nunavut had traditional or just Inuit
5 laws. During that time they governed themselves.

6 **MS. SANDRA OMIK:** Yes.

7 **MS. ELIZABETH ZARPA:** And those laws they
8 are interrelated to each other but they are different?
9 Some deal with family law; some deal with criminal law.

10 **MS. SANDRA OMIK:** The laws that I talk
11 about, traditional laws I talk about, were holistic
12 compared to the Canadian law that we speak today which is
13 fragmented into criminal law and whatever laws that you
14 find today. In the traditional laws that we practiced it
15 was the survival of the family and it was -- there were
16 problems occurring with human nature. It was a clan that
17 dealt with the corrections on a preventative level at the
18 time and it was entered into our lives and it was a
19 holistic law for the survival of the people because we had
20 to think strategically to survive. So there was always
21 planning to stay above and be healthy and well.

22 **MS. ELIZABETH ZARPA:** Okay. And can I
23 please ask why it's used almost in the past tense. Does it
24 still exist?

25 **MS. SANDRA OMIK:** Okay. If I tend to use

1 the past tense I am referring to how times have changed.
2 We are no longer a fulltime hunter-gatherer society where
3 we fought for survival and did a lot of strategic planning
4 to stay alive. Today our lifestyles are different and we
5 have a different lifestyle but in the family we still think
6 it, feel it, and many people still practice the traditional
7 law of the family and the community.

8 **MS. ELIZABETH ZARPA:** Okay. So the
9 traditional law of the family and the community are these
10 traditional ways -- I guess laws or orders, are they -- did
11 you learn them in law school?

12 **MS. SANDRA OMIK:** During my days at the law
13 school in Nunavut we had an elder coming two times a week
14 to talk about traditional law and customary law within the
15 law school system. But in my formative years as a child
16 and growing up to this day, my grandparents and my great-
17 grandparents after that, coached me and taught me
18 traditional law and the way to be an Inuk.

19 **MS. ELIZABETH ZARPA:** Okay. And you
20 mentioned earlier in your testimony, Sandra, about the
21 difficulty of the reality of inevitability of death and
22 elders passing away. And you mentioned sort of the
23 prevalence of looking at Inuit worldview of preparing for
24 the future.

25 So in your understanding of being taught by

1 your grandparents and your parents how to be an Inuk and
2 learning it in school and your law school teaching, what
3 would you suggest to keep that Inuit knowledge, I guess,
4 from elders who are passing away? What would you suggest
5 to keep that knowledge going?

6 **MS. SANDRA OMIK:** There are many things that
7 we can do and each -- we will have to start with us taking
8 the responsibility as parents to coach and teach our
9 children the laws that we -- the traditional laws and being
10 a good person and laws that are sacred to us. But nowadays
11 you'll notice that our children go to the school fulltime.
12 They may not be getting that instruction.

13 With more teachers that are Inuits
14 graduating and taking on the role of teaching the children
15 in the educational system, we have to encourage the
16 educational system to add cultural education and
17 traditional laws to be taught in the school system. I
18 worked as a -- in the court system for 10 years and in my
19 work I will talk to the offender and try to use the
20 teachings from my grandparents and parents on the Inuit way
21 of life and the advice they gave me, I tried to pass that
22 onto the offender. So we have to put it into the
23 institutions today to make it alive to keep it from
24 disappearing.

25 **MS. ELIZABETH ZARPA:** Okay. Thank you.

1 So when you say the institutions do you mean
2 the university in Nunavut or in the circumpolar north in
3 Canada?

4 **MS. SANDRA OMIK:** Not just in the
5 universities. It has to start at the elementary school
6 system, perhaps even at head start, pre-school. It should
7 not be confined to universities.

8 **MS. ELIZABETH ZARPA:** Okay. Is there a
9 university in Inuvialuit (phonetic)?

10 **MS. SANDRA OMIK:** No.

11 **MS. ELIZABETH ZARPA:** Okay. And so just to
12 kind of -- we spoke about the different regions in
13 Inuvialuit and the diversity from Inuvialuit, Nunavut,
14 Nunavik and Nunatsiavut, and you mentioned that you only
15 understand the laws from your region like Pond Inlet.

16 **MS. SANDRA OMIK:** Yes.

17 **MS. ELIZABETH ZARPA:** Okay. So my next
18 question is do you know if -- are there other Inuit experts
19 testifying today here at the expert hearing from Inuvialuit
20 and the other regions?

21 **MS. SANDRA OMIK:** No.

22 **MS. ELIZABETH ZARPA:** And if there isn't, do
23 you think we're missing something? Something is not spoken
24 about from the other regions if there is no other Inuit
25 experts from Inuvialuit here?

1 **MS. SANDRA OMIK:** Yes, that could be the
2 case but, in general I was talking about the survival of
3 the people and how the people were a collective rather than
4 individualistic. So we as a collective fought hard to
5 survive and I mentioned a lot of strategic planning to stay
6 ahead of their lives to survive to provide food. I believe
7 that's quite common right across the Arctic depending -- in
8 every region that we're talking about occupied by Inuit in
9 Canada today.

10 **MS. ELIZABETH ZARPA:** Okay. Thank you very
11 much, Sandra, and thank you, Kunuk.

12 Appreciate your time. (Speaking in native
13 language).

14 **MS. LILLIAN LUNDRIGAN:** Okay. They can
15 continue for another half an hour. Half an hour? Okay.

16 Carry on with your questions.

17 --- **CROSS-EXAMINATION BY/CONTRE-INTERROGATOIER PAR MS. BETH**
18 **SYMES:**

19 **MS. BETH SYMES:** Elder and Sandra Omik, my
20 name is Beth Symes and I am counsel to Pauktuutit. Thank
21 you very much for having the courage to talk about Inuit
22 law.

23 Sandra, you gave my colleague -- sorry, I
24 want to say one thing. I wish to acknowledge the courtesy
25 of my colleagues who have donated all of their time to me

1 on the strict instruction that I ask certain questions and
2 I have undertaken to ask the questions.

3 **MS. LILLIAN LUNDRIGAN:** Can you give some
4 time for the translator to translate what you are saying,
5 please? It's a difficult translator.

6 **INTERPRETER:** I am sorry. I was just
7 starting.

8 **MS. BETH SYMES:** I apologize. So I want to
9 acknowledge and thank my colleagues who have donated their
10 time so that I can ask you questions on the condition --
11 just let me say a phrase -- on the strict condition that I
12 would ask their questions on a yellow piece of paper.

13 Sandra, you talked about the period in which
14 the Scottish whalers began to come to Pond Inlet. So I
15 would like to go the other way which is you told us you
16 grew up in Pond Inlet. Did your grandparents grow up in
17 Pond Inlet or were they on the land?

18 **MS. SANDRA OMIK:** Yes, they were Iqlualiq
19 (phonetic). They grew up in now Yayaruk (phonetic) and
20 also around Mitmatrik (phonetic) area. They were living
21 like from one place to another like a nomad.

22 **MS. BETH SYMES:** Were your parents the first
23 in your family then of Pond Inlet?

24 **MS. SANDRA OMIK:** My father moved to Pond
25 Inlet when he was 14 years old, same with my mother when

1 she was 15 years old from Iqlualiq (phonetic). They moved
2 from Iqlualiq when -- oh, the teachers, sorry. They were
3 getting away from the teachers in Iqlualiq.

4 **MS. BETH SYMES:** Sandra, would your
5 grandparents then have lived their lives according to Inuit
6 law?

7 **MS. SANDRA OMIK:** Yes.

8 **MS. BETH SYMES:** I would like to ask you if
9 you could explain to this inquiry three terms. And I
10 apologize if I butcher the terms as I speak. Could you
11 explain the term tee-guy-ruu-saseet (phonetic), the term
12 pee-koo-yeet (phonetic) and the term malee-gut (phonetic)?

13 **MS. SANDRA OMIK:** More like it was a taboo
14 in terms of like when my mother was very happy -- doesn't
15 have to use that (inaudible) anymore. They were basically
16 used when, let's say, things you cannot use, things you
17 shouldn't be doing, like more a taboo, I think.

18 **MS. BETH SYMES:** Can I just ask you, the
19 tee-guy-ruu-saseet (phonetic) were those things that should
20 not be done?

21 **MS. SANDRA OMIK:** To give you a little bit
22 more explanation let's say when a woman is in labour they
23 have to stay in one place in an igloo and certain things,
24 certain diets they cannot eat.

25 **MS. BETH SYMES:** Talking about safety, would

1 the killing of another person be a tee-guy-ruu-saseet
2 (phonetic)?

3 **MS. SANDRA OMIK:** No, I don't think so.

4 **MS. BETH SYMES:** How would you describe to
5 forbid killing someone?

6 **MS. SANDRA OMIK:** They seem to apply more in
7 the laws.

8 **MS. BETH SYMES:** Could you tell us, Sandra,
9 in terms of Inuit law what does Inuit law, as you
10 understand it from Pond Inlet, say about physical violence
11 towards women and girls?

12 **MS. SANDRA OMIK:** I cannot really explain
13 how. I'm not really sure but basically if somebody
14 committed that murder or killing someone, the person would
15 be very guilty and to be part of the society. So it would
16 be very unacceptable for that individual or that Inuk.

17 **MS. BETH SYMES:** Could you tell us what
18 Inuit law says about sexual violence towards women and
19 girls?

20 **MS. SANDRA OMIK:** I cannot answer that
21 question, but let's say for my grandmother, they waited
22 until she was old enough until she was -- an arranged
23 marriage.

24 **MS. BETH SYMES:** Are you aware of stories,
25 Inuit stories of women that were beaten, beaten by their

1 spouse?

2 **MS. SANDRA OMIK:** Just hearing that it's
3 kind of disturbing. No, I have never heard that.

4 **MS. BETH SYMES:** And if traditional --
5 sorry, if Inuit laws were broken by someone were there
6 consequences?

7 **MS. SANDRA OMIK:** Yeah, from what I had read
8 and from what I was told, I had understand that the people
9 who did those kinds of things were left alone or they were
10 killed or they were banished from the community.

11 **MS. BETH SYMES:** In looking at the
12 consequences for, let's say, very serious actions, very
13 serious breaches, were the consequences dependent upon the
14 safety of the community from that person?

15 **MS. SANDRA OMIK:** Yes, their communities
16 were really completely different. Everything was pretty
17 much shaman -- spirits. If anything happens then they
18 banished.

19 Often was -- for the safety of the community
20 and when the shamans -- we had a different religion before.
21 The shamans were the spiritual keepers and we very much
22 believed in the third world, the spirit world, and we were
23 very much led by that but we also did the murder for the
24 safety of the community.

25 **MS. BETH SYMES:** And so today you've talked

1 about the high rate of murder/killing of and physical
2 violence for Inuit women and girls. Can you tell us in
3 your opinion what is being done to help the women who are
4 victims of crime and their families?

5 **MS. SANDRA OMIK:** To reiterate today, not
6 only is a woman getting murdered. Today it is both men and
7 women that are getting murdered. For instance if somebody
8 is murdered in Hall Beach (phonetic) and I live in Pond
9 Inlet, I have ties to the community. It hurts my spirit.
10 It hurts my heart and I cry. How we deal with that, we are
11 silent, but it still affects every one of us in the
12 community, no matter who gets murdered, man or woman.

13 **MS. BETH SYMES:** My question was what is
14 being done to help let's say women who are the subject of
15 family violence?

16 **MS. SANDRA OMIK:** From my understanding what
17 happens today is if a woman is abused there are women
18 shelters in Iqaluit and on in Baker Lake. And in my
19 community we don't have a formal shelter in Pond Inlet for
20 abused women or children, but it's a family where we can
21 identify safe homes for those who need to get away and
22 there are victims services in the justice system today than
23 reach out and help the abused woman or child, the family.

24 **MS. BETH SYMES:** If a woman is facing
25 violence how -- and not in Iqaluit or not in Baker Lake or

1 perhaps not in Pond Inlet, but let's say in a community
2 like Halls Beach, what alternatives does she have if she
3 fears for her life?

4 **MS. SANDRA OMIK:** I have seen -- I have seen
5 these women being sent to Iqaluit. That's basically all I
6 know.

7 **MS. BETH SYMES:** And if she has children
8 what happens with the children?

9 **MS. SANDRA OMIK:** They come with them.

10 **MS. BETH SYMES:** What kinds of support and
11 counselling are then available in Iqaluit if she's now away
12 from her home, her family; her friends?

13 **MS. SANDRA OMIK:** I cannot -- I can't answer
14 that. I don't know.

15 **MS. BETH SYMES:** It may have been a question
16 of translation but the elder said that in Inuit law it was
17 the obligation of the wife to obey the husband and if she
18 didn't do so, she was risking abuse or violence. My
19 question is for young women like you, how do you interpret
20 or try and live out your lives such that you have safety,
21 dignity and equality?

22 **MS. SANDRA OMIK:** I was going to add to that
23 it wasn't just for a woman. It was also for a man. So
24 they both get disciplined or scolded if they were not
25 following what they were supposed to do.

1 **MS. BETH SYMES:** Thank you. Those are my
2 questions.

3 **MS. LILLIAN LUNDRIGAN:** Thank you. Do you
4 have to -- now, looking at your time, do you still have
5 time to -- for more questions?

6 **MS. SANDRA OMIK:** Go ahead.

7 **MS. LILLIAN LUNDRIGAN:** Only one person
8 wants to ask questions.

9 I am going to translate it myself.

10 **--- QUESTIONS BY THE COMMISSIONERS/QUESTIONS PAR LES**
11 **COMMISSAIRES:**

12 **COMMISSIONER QAJAQ ROBINSON:** To quickly
13 translate, when the Nunavut territory was being created and
14 anticipated with the public government there was the hope
15 that Inuit laws would come out through that public
16 government. And my question to Kunuk and Sandra is has
17 that hope been realized or has it started to be realized?

18 **MS. SANDRA OMIK:** I am going to put on my
19 NTA hat. We have so many obligations with the Nunavut
20 Agreement that I can't say yes or no to that specific
21 question because we have difficult objectives like
22 increasing Inuit employment. In that aspect Inuit
23 employment is still at around 50 percent. But in terms of
24 Inuit having control and governance within their own
25 government, I don't think that has been utilized. We still

1 struggle with things like education, health, social
2 services and justice. And it's a constant struggle to try
3 to include Inuit perspectives within our government.

4 **COMMISSIONER QAJAQ ROBINSON:** Those are all
5 my questions. Thank you, Sandra.

6 **MS. LILLIAN LUNDRIGAN:** Thank you. And I
7 thank you, Joey (phonetic), our colleague who is not
8 visible on the screen, and I thank our translators -- on
9 behalf of all the Commissioners, of course.

10 That concludes our Inuit panel and Inuit
11 elder presentation.

12 --- (Applause)

13 **CHIEF COMMISSIONER MARION BULLER:** So that
14 we can accommodate our next witness, we'll take a 10-
15 minute break, please.

16 --- Upon recessing at 4:02 p.m.

17 La séance est suspendue à 4h02

18 --- Upon resuming at 4:24 p.m.

19 La séance est reprise à 4h24

20 **MS. CHRISTA BIG CANOE:** Hello. I am going
21 to ask everyone to get back to their seats so we can get
22 started with our next witness, Dawnis Kennedy.

23 Good afternoon, Chief Commissioners and
24 Commissioners. The next witness I would like to call is
25 Dawnis Kennedy. Instead of giving an affirmation, Dawnis

**KENNEDY (MINNAWAANAGOGIIZHIGOOK)
IN-CHIEF/INT. PRINCIPAL
(Christa Big Canoe)**

1 will be holding an eagle feather that will help her bring
2 forth her true words and will be making a commitment to the
3 national inquiry.

4 **DAWNIS KENNEDY (MINNAWAANAGOGIIZHIGOOK): Affirmed/A affirmé**

5 **MS. DAWNIS KENNEDY (MINNAWAANAGOGIIZHIGOOK):**

6 (Speaking native language).

7 I commit to sharing my experience honestly
8 in telling the truth of my story. Megwiitch.

9 **--- EXAMINATION-IN-CHIEF BY/INTERROGATOIRE PRINCIPAL PAR**

10 **MS. CHRISTA BIG CANOE:**

11 **MS. CHRISTA BIG CANOE:** Thank you for being
12 here this afternoon, Dawnis. I just want to ask you a
13 couple of questions about your experiences. Now, you had
14 provided us a copy of your resume.

15 **MS. DAWNIS KENNEDY (MINNAWAANAGOGIIZHIGOOK):**

16 M'hm.

17 **MS. CHRISTA BIG CANOE:** And I just want to
18 give you a copy of it so that you can follow with me.

19 Thank you.

20 And this is your resume. Can you just take
21 a quick look at it and we'll just describe it?

22 **MS. DAWNIS KENNEDY (MINNAWAANAGOGIIZHIGOOK):**

23 Yes.

24 **MS. CHRISTA BIG CANOE:** Yes. So this is at
25 Tab 6A -- sorry, 6 -- I apologize. It's because we changed

**KENNEDY (MINNAWAANAGOGIIZHIGOOK)
IN-CHIEF/INT. PRINCIPAL
(Christa Big Canoe)**

1 schedule. This is at Tab 4A.

2 And so Dawnis, when I look at your resume I
3 see you have had a lot of education. I see that you went
4 to university in Brandon. Can you tell me what you did in
5 Brandon?

6 **MS. DAWNIS KENNEDY (MINNAWAANAGOGIIZHIGOOK):**

7 Yes, I did my Bachelor of Arts degree.

8 **MS. CHRISTA BIG CANOE:** And then it seems
9 like you have spent a lot of time in law school. Do you
10 want to tell me about that?

11 **MS. DAWNIS KENNEDY (MINNAWAANAGOGIIZHIGOOK):**

12 Yes. I did my JD at University of Toronto.
13 I did a Masters of Law and Law in Society at the University
14 of Victoria, and I started my doctoral studies in law at
15 the University of Toronto and I am a doctoral candidate
16 that's currently lapsed, but I did my doctoral studies as a
17 student of University of Toronto as a Trudeau Scholar and
18 in a visiting scholar position at Shingwauk Kinoomaage
19 Gamig.

20 **MS. CHRISTA BIG CANOE:** Can you tell me a
21 little bit about what you were doing at Shingwauk?

22 **MS. DAWNIS KENNEDY (MINNAWAANAGOGIIZHIGOOK):**

23 At Shingwauk I was a visiting scholar and it
24 was a position that enabled me to work with their spiritual
25 advisor, Dean, and first faculty member Bawdwaywidan, also

**KENNEDY (MINNAWAANAGOGIIZHIGOOK)
IN-CHIEF/INT. PRINCIPAL
(Christa Big Canoe)**

1 known as Edward Benton-Banai and there I was mentored in
2 Anishinabe teaching pedagogy and together we co-developed
3 under his direction, courses in Anishinabe law in law and
4 governance and in treaties.

5 **MS. CHRISTA BIG CANOE:** And I notice on your
6 resume you also other honours and mentions that aren't
7 about going to school but that are about other ways to
8 learn knowledge. So I note that you -- you're a member of
9 the Three Fires and Midewiwin Lodge.

10 **MS. DAWNIS KENNEDY (MINNAWAANAGOGIIZHIGOOK):**
11 M'hm.

12 **MS. CHRISTA BIG CANOE:** And can you tell us
13 a little bit about that, please?

14 **MS. DAWNIS KENNEDY (MINNAWAANAGOGIIZHIGOOK):**
15 Yes. In the time that I did my Bachelor
16 degree, my Bachelor of Law degrees, my Masters of Law
17 degrees, and my Ph.D. degree, I also did a first degree
18 Midewiwin.

19 So I made a commitment to live the way of
20 the heart. And I made a commitment to learning about the
21 original teachings of the Anishinabe from the Three Fire
22 Midewiwin Lodge and to work with for my Midewiwin life to
23 ensure that I did my part that others could learn the same.
24 So I understand the first degree to be just that I'm just
25 at that door. You know, I just got in that door and I'm

**KENNEDY (MINNAWAANAGOGIIZHIGOOK)
IN-CHIEF/INT. PRINCIPAL
(Christa Big Canoe)**

1 like that little ermine and that little mink that goes
2 everywhere. That's the Midewiwin helpers that have worked
3 with me.

4 And so I look at all -- I have a lot of
5 teachers in that lodge. I have a lot of grandmothers in
6 that lodge. I have a lot of grandfathers, uncles, aunties,
7 people who have made this commitment before me. So for me,
8 I'm able to learn from them. I'm able to watch them. I'm
9 able to work from them and learn how to live life.

10 That's the way that I understand my first
11 degree, is that learning degree about myself, about who I
12 am as Anishinabe and how I came to be here through
13 (speaking in native language) that kind spirit.

14 My second degree is very new. I committed
15 to becoming second degree Midewiwin and received my second
16 degree Midewiwin within the last two years and that is a
17 commitment that I requested that so that I would be able to
18 learn how to work and carry this life and work for the
19 people as well. There are eight degrees of second degree
20 Midewiwin, and so there is a lot of leadership ahead. I am
21 at that second level and just beginning.

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

23 And you know, there has been some talk over
24 the last couple of days around this concept of expert and
25 there is something to be said about expertise like the

**KENNEDY (MINNAWAANAGOGIIZHIGOOK)
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(Christa Big Canoe)**

1 academic expertise you may have versus the knowledge you
2 are carrying through the second degree Midewiwin Lodge. If
3 I said to you as a second degree Midewiwin Lodge second
4 degree member, would you consider yourself an expert that
5 way?

6 **MS. DAWNIS KENNEDY (MINNAWAANAGOGIIZHIGOOK):**

7 No, I would not.

8 **MS. CHRISTA BIG CANOE:** Is there a reason
9 why?

10 **MS. DAWNIS KENNEDY (MINNAWAANAGOGIIZHIGOOK):**

11 My own understanding is that no one is
12 considered an expert in what was given to us by the spirit
13 because that's spiritual knowledge and in itself is a
14 spirit. But there are other ways. There are people who
15 are given leadership, people who have taken on
16 responsibilities, people who have been trained; people who
17 have acknowledged by the elders, by the spirit and by the
18 leadership of the lodge and by their teachers and to be
19 able to speak about that sacred knowledge.

20 And to me, I understand that's something
21 that we do together collectively and only in the context of
22 ceremony and only in the way that was given to us. So for
23 me I don't consider myself an expert of that knowledge.
24 I'm a learner and I have experience as a learner and I have
25 my -- the way that I value that experience in my life.

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1 That's what I am able to share.

2 To be able to learn about Midewiwin, people
3 would need to come to the lodge and they would need to sit
4 with the teachers who have been acknowledged and they would
5 need to work with the articles and the spirits that are
6 called there, and that's something that's beyond my
7 learning.

8 **MS. CHRISTA BIG CANOE:** Thank you. And so
9 when we're talking about the spirit-based knowledge and you
10 talked about the years of experience and training and the
11 different levels, do you know any even eighth degree
12 Midewiwin elder who would say that they were an expert?

13 **MS. DAWNIS KENNEDY (MINNAWAANAGOGIIZHIGOOK):**
14 My teacher, Bawdwaywidan, has always said we
15 are forever learners. I am a forever learner.

16 And that's what I have learned others say in
17 the lodge is that anybody who was to say that they know
18 everything about this life that's when we're called home.
19 We are given a life to live and we are given everything for
20 us to learn in this life and everybody is giving different
21 knowledge that's set out before them to learn in their life
22 and that's only complete when the spirit calls us home. So
23 I would never consider myself an expert even in my own
24 life. That's up to the spirit to determine when I'm done
25 my learning.

**KENNEDY (MINNAWAANAGOGIIZHIGOOK)
IN-CHIEF/INT. PRINCIPAL
(Christa Big Canoe)**

1 **MS. CHRISTA BIG CANOE:** Right. Thank you
2 for helping us understand that a little more. I think
3 that's important context.

4 I also just wanted to allow you the
5 opportunity. I understand that you have some grandmothers
6 in the room that are providing you guidance and support,
7 and I welcome you to acknowledge them if you would like to.

8 **MS. DAWNIS KENNEDY (MINNAWAANAGOGIIZHIGOOK):**

9 Oh, megwiitch. I do have -- actually, I
10 have a lot of family and I would like to use it. There is
11 a lot of people in the room that I could acknowledge and
12 sisters, cousins. I have cousins here.

13 But in particular I have (speaking in native
14 language) two grandmothers. They are leadership on the
15 Grandmothers Council of the Three Fires Midewiwin Lodge,
16 Nokomis Grandmother, Biidasige, Josephine
17 Mandamin, Grandma Morrisseau and Nimkikwe, Pauline Shirt.
18 And I have offered them tobacco because for me to be
19 speaking about some of the things that people might want to
20 hear from me I'm not a traditional teacher. I'm not an
21 elder. I'm not a fluent speaker. I'm not a grandmother.

22 But I am given a space to speak, and I will
23 speak what I can because I have this space, but I will ask
24 them to listen to me and to correct me if I need correction
25 because that is the governance of the grandmothers and that

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(Christa Big Canoe)**

1 is beyond Canadian law and that's what I need to be able to
2 speak to you and to share with you and to feel comfort that
3 I am sharing from my story and my truth and that I am not
4 overstepping our law.

5 Miigwetch.

6 **MS. CHRISTA BIG CANOE:** Chief Commissioner,
7 may I tender as an exhibit Dawnis' resume?

8 **CHIEF COMMISSIONER MARION BULLER:**

9 Certainly. That will be Exhibit 1, please.

10 --- **EXHIBIT NO./PIÈCE NO. 1:**

11 Resume of Dawnis Kennedy

12 (Minnawaanagogiizhigook), 13 pages.

13 **MS. CHRISTA BIG CANOE:** Dawnis?

14 **MS. DAWNIS KENNEDY (MINNAWAANAGOGIIZHIGOOK):**

15 M'hm.

16 **MS. CHRISTA BIG CANOE:** I am going to show
17 you something here.

18 **MS. DAWNIS KENNEDY (MINNAWAANAGOGIIZHIGOOK):**

19 Okay.

20 **MS. CHRISTA BIG CANOE:** So at Tab 4B, there
21 is a -- there is a biography or a poster of an award that
22 you have been a recent recipient of. Can you just tell me
23 a little bit about that award?

24 **MS. DAWNIS KENNEDY (MINNAWAANAGOGIIZHIGOOK):**

25 I was given the Oscar Lathlin Memorial Award

**KENNEDY (MINNAWAANAGOGIIZHIGOOK)
IN-CHIEF/INT. PRINCIPAL
(Christa Big Canoe)**

1 and this is -- I was recognized by (speaking in native
2 language) and it's actually an award that's very meaningful
3 to me because I wasn't in school at the time.

4 This is an award I got that I wasn't doing
5 school and I actually wasn't pursuing my career much. I
6 put my family first. I put my learning first. I put my
7 community first and that became fulltime for me. And they
8 recognized that work. I didn't apply for this award. They
9 called me and they said, you know, that I had been
10 selected, and I understand it to be acknowledging the work
11 of the grandmothers and grandfathers, and I'm not a
12 grandmother.

13 So I understand that I was selected for this
14 work by my great-aunt and aunt, but I understand that I was
15 selected for this work because I am following in the
16 footsteps of grandmothers and I have been a grandmother's
17 helper and that's the way that I choose to live my life.

18 Miigwetch.

19 **MS. CHRISTA BIG CANOE:** I have one more
20 question, and it actually is in that document, your spirit
21 name. Can you share your spirit name with us, please?

22 **MS. DAWNIS KENNEDY (MINNAWAANAGOGIIZHIGOOK):**

23 Yes, I started with my spirit name,
24 Minnawaanagogiizhigook. It means Happy Day Woman. I
25 really like to say this because there is

**KENNEDY (MINNAWAANAGOGIIZHIGOOK)
IN-CHIEF/INT. PRINCIPAL
(Christa Big Canoe)**

1 Minnawaanagogiizhigook. There is Minnowaanagogiizhigook
2 Kwas (phonetic) too, which is also Happy Day Woman. Minno
3 (phonetic) is like (speaking in native language) they say
4 when it's good. I'm not good.

5 (Laughter/Rires)

6 **MS. DAWNIS KENNEDY (MINNAWAANAGOGIIZHIGOOK):**

7 I don't have to live up to that. I really
8 like that. I'm not like a "Good Day Woman". I'm a "Happy
9 Day Woman" but I'm not a "Good Day Woman". I am (speaking
10 in native language). That's a good day woman -- that's a
11 happy day woman and a joyous day woman. So I am a woman of
12 the joyous woman and I don't try to be just good.

13 (Laughter/Rires)

14 **MS. CHRISTA BIG CANOE:** Thank you for
15 sharing that.

16 Chief Commissioner and Commissioners, based
17 on the testimony you have just heard and Dawnis' resume,
18 I'm asking that you qualify her in Anishinabe inendamowin
19 and as an expert qualified to teach Anishinabe law in
20 Western institutions through cultural-based methods.

21 **CHIEF COMMISSIONER MARION BULLER:** Yes,
22 certainly. Ms. Kennedy, we acknowledge your great
23 experience. Thank you.

24 **MS. DAWNIS KENNEDY (MINNAWAANAGOGIIZHIGOOK):**

25 Miigwetch.

**KENNEDY (MINNAWAANAGOGIIZHIGOOK)
IN-CHIEF/INT. PRINCIPAL
(Christa Big Canoe)**

1 **MS. CHRISTA BIG CANOE:** Dawnis?

2 **MS. DAWNIS KENNEDY (MINNAWAANAGOGIIZHIGOOK):**

3 Yes.

4 **MS. CHRISTA BIG CANOE:** Can you tell us a
5 little -- I mean you have already shared a lot.

6 **MS. DAWNIS KENNEDY (MINNAWAANAGOGIIZHIGOOK):**

7 Yes.

8 **MS. CHRISTA BIG CANOE:** But can you tell us
9 a little bit more about yourself, particularly about
10 growing up here in Manitoba and your life experiences in
11 Winnipeg and Brandon?

12 **MS. DAWNIS KENNEDY (MINNAWAANAGOGIIZHIGOOK):**

13 Yes. I said at the beginning (speaking in
14 native language) that this is my home. I'm from Roseau
15 River Anishinabe First Nation through my mother's lineage.
16 I'm also European through my father's lineage and his
17 family comes from Newfoundland. I'm not very knowledgeable
18 in my lineage that way.

19 But I grew up in Brandon, Manitoba. I was
20 an Anishinabeg but I wasn't an Indian. My mum lost her
21 status. But I was always connected and recognized at home
22 through our ways, through our clan ways, through my
23 citizenship in Anishinabe Nation. I had my name, my spirit
24 name.

25 Growing up I didn't know who I was. I went

**KENNEDY (MINNAWAANAGOGIIZHIGOOK)
IN-CHIEF/INT. PRINCIPAL
(Christa Big Canoe)**

1 to school in Western institutions and I was good at it.
2 You know, I was very good at it. I was like that nerdy
3 little kid, you know, the one that sits in the front and
4 always has her hand up? That was me. You know I spent all
5 my recesses in a library with stacks of books. I loved
6 books, you know. I enjoyed it. Yeah, I took joy in my
7 learning.

8 But my education didn't give me what I
9 needed to live life, to understand my life, to make sense
10 of what I saw in the world around me. I saw alcoholism. I
11 saw addiction. I was molested as a child. I experienced
12 rape. I witnessed rape. I witnessed violence. I
13 experienced violence. I was reckless with my life and I
14 was reckless with the lives of others.

15 I was abducted, fortunately for a very short
16 time, and I witnessed and experienced loss on both sides of
17 my family.

18 So my learning -- miigwetch. My learning
19 and what I have sought to learn in my life, why I have
20 spent so much time, you know, going to university and then
21 I was known in university for skipping so I could go to
22 sweat lodge and for reading law texts on breaks outside the
23 Midewiwin lodge and at the casino waiting for my ride doing
24 my papers in between.

25 (Laughter/Rires)

**KENNEDY (MINNAWAANAGOGIIZHIGOOK)
IN-CHIEF/INT. PRINCIPAL
(Christa Big Canoe)**

1 **MS. DAWNIS KENNEDY (MINNAWAANAGOGIIZHIGOOK) :**

2 And I have worked hard in between to find a
3 good way of life, to find the capacity to live life because
4 I think that's something we all need. That's what drives
5 me.

6 Those are the questions that I ask and
7 that's why I do what I do. Miigwetch.

8 **MS. CHRISTA BIG CANOE:** Miigwetch. Thank
9 you.

10 Is there any other family circumstance or
11 situation that you are willing to share that has helped
12 contextualize why you have decided to walk in two methods
13 of learning and two paths?

14 **MS. DAWNIS KENNEDY (MINNAWAANAGOGIIZHIGOOK) :**

15 Yes. I think when I look at education I
16 need to think about (speaking in native language). That's
17 the link. It's (speaking in native language) great-
18 grandparent, great-grandchild (speaking in native
19 language). It's a link. I didn't meet my great-
20 grandmother. She died at the tail end of an epidemic that
21 killed 90 percent of my community.

22 My grandmother said she wasn't raised by her
23 mother but her children were going to have a mother. She
24 went to residential school.

25 My mother didn't go to residential school

**KENNEDY (MINNAWAANAGOGIIZHIGOOK)
IN-CHIEF/INT. PRINCIPAL
(Christa Big Canoe)**

1 because she had tuberculosis which was epidemic and
2 residential schools were a vector for that disease in our
3 communities. And so she was taken at a very young age to
4 go into the sanatorium -- sanatorium and then went to
5 boarding school right after. She was at St. Mary's here
6 that was like a white boarding school. She was one of the
7 first Anishinabeg women to be in that place.

8 And so when I grew up in a public school
9 where there wasn't any information about who I was as an
10 Anishinabe and the reason that I made a commitment, you
11 know, to learning our own ways, I was a really good student
12 and I dropped out seven times in high school because it
13 wasn't what I wanted to learn.

14 And my mum said to my dad when she was
15 getting ready to leave this world, she said, "Kevin,
16 education is not the most important thing". She knew that
17 I needed something. I needed to learn something to help me
18 live my life, and it wasn't in school but it was valuable.
19 It was necessary. It was critical.

20 And I want to be able to teach in a way
21 that's different than the way I was taught in school. I
22 want to be able to give students what they need to make
23 sense of their experience, their life and their world, and
24 I want to recognize the time we are in. And to recognize
25 the time we are in is to recognize the Seven Fires

**KENNEDY (MINNAWAANAGOGIIZHIGOOK)
IN-CHIEF/INT. PRINCIPAL
(Christa Big Canoe)**

1 prophecy, to recognize what is ahead of us. And I want to
2 teach in that way.

3 I want to teach informed by what we came in
4 this world to learn. And I understand that as Anishinabe
5 people we came and there is certain things that are
6 necessary for us to know. We need to know and we have a
7 birthright. It's our lineage. It's our life. It's our
8 spirit that we have a right to know these things. We have
9 a need, a basic need to know who we are and to know the
10 gift that we bring the world.

11 And the way I understand what the Seven
12 Fires prophecy tells me, and there are plenty of you who
13 don't know that (speaking in native language).

14 (Laughter/Rires)

15 **MS. DAWNIS KENNEDY (MINNAWAANAGOGIIZHIGOOK) :**

16 If you don't know what I'm talking about,
17 one of my teachers, Bawdaywidan Banai Si (phonetic) for
18 the Red School House, he is who I learned how to do
19 culture-based education and he's been doing it for a very
20 long time. But for the students at the Red School House
21 and then later for the world, he published this, and there
22 is a chapter called "The Seven Fires Prophecy". This is
23 the Mishomis book, "The Voice of the Ojibway" by Edward
24 Benton-Banai.

25 What the Seven Fires Prophecy tells me that

**KENNEDY (MINNAWAANAGOGIIZHIGOOK)
IN-CHIEF/INT. PRINCIPAL
(Christa Big Canoe)**

1 regardless of whatever reason Europeans came here, the
2 people of the white sacred colour of creation, my ancestors
3 are the people of the black sacred colour of creation or
4 the people of the yellow sacred colour of creation. For
5 whatever intention they had in coming to this land, there
6 was a purpose that may have been unknown to them, a greater
7 purpose, a spiritual purpose to why the four sacred colours
8 of creation are here on this earth in this time, that there
9 is something that happened in the world that put the future
10 of life on our mother, the earth, at risk.

11 That's what I believe, and that the coming
12 of the light-skinned race to this land created a very
13 critical choice. And I believe it's a choice -- I'll read
14 you about the choice. Does everybody know about the Seven
15 Fires Prophecy? No. There was a show about it.

16 (Laughter/Rires)

17 **MS. DAWNIS KENNEDY (MINNAWAANAGOGIIZHIGOOK) :**

18 I recommend it.

19 I'll tell you about the choice in
20 Bawdwaywidan Banai's words that were passed down to him,
21 and I'll skip the fires.

22 It talks about -- the first, second and
23 third fires talks about the migration of our people because
24 that's how critical we took prophecy. Our entire nation
25 moved and that's generations. Generations upon generations

**KENNEDY (MINNAWAANAGOGIIZHIGOOK)
IN-CHIEF/INT. PRINCIPAL
(Christa Big Canoe)**

1 upon generations of choice and sacrifice because of how
2 serious they took this prophecy because we live by the
3 spirit and we listen to the spirit and we seek the spirit's
4 direction in how to live life. So that's about the
5 migration:

6 "The Fourth Fire was originally given to
7 the people by two prophets. They come
8 as one. They told of the coming of the
9 light skinned race.

10 One of the prophets said, 'You will know
11 the future of our people by the face of
12 the light skinned race wears. If they
13 come wearing the face of [speaking in
14 native language] brotherhood then there
15 will come a time of wonderful change for
16 generations to come. They will bring
17 new knowledge and articles that can be
18 joined with the knowledge of this
19 country. In this way, two nations will
20 join to [become] make a mighty nation.
21 This new nation will be joined by two
22 more so that four will for the mightiest
23 nation of all. You will know the face of
24 the brotherhood if the light skinned
25 race comes carrying no weapons, if they

**KENNEDY (MINNAWAANAGOGIIZHIGOOK)
IN-CHIEF/INT. PRINCIPAL
(Christa Big Canoe)**

1 come bearing only their knowledge and a
2 hand shake."

3 The other prophet said, 'Beware if the
4 light skinned race comes wearing the
5 face of [speaking in native language]
6 death. You must be careful because the
7 face of brotherhood and the face death
8 look very much alike. If they come
9 carrying a weapon ... beware. If they
10 come in suffering ... They could fool
11 you. Their hearts may be filled with
12 greed for the riches of this land. If
13 they are indeed your brothers, let them
14 prove it. Do not accept then in total
15 trust. You shall know that the face
16 they wear is one of death if the rivers
17 run with poison and fish become unfit
18 to eat. You shall know them by these
19 many things."

20 And I think it was shown the choice that was
21 made then, and I don't think it was the only choice that
22 was made. But I think we have lived with the fifth and
23 sixth fire. And it said of the sixth fire:

24 "At this time a new sickness will come
25 among the people. The balance of many

**KENNEDY (MINNAWAANAGOGIIZHIGOOK)
IN-CHIEF/INT. PRINCIPAL
(Christa Big Canoe)**

1 people will be disturbed. The cup of
2 life will almost [be spilled. The cup
3 of life will almost] become the cup of
4 grief."

5 And there is a lot to learn about these
6 prophecies, but then the seventh prophet it said:

7 "In the time of the Seventh Fire
8 [speaking in native language] New
9 People will emerge. They will retrace
10 their steps to find what was left by
11 the trail. Their steps will take them
12 to the Elders who they will ask to
13 guide them on their journey. But many
14 of the Elders will have fallen asleep.
15 They will awaken to this new time with
16 nothing to offer. Some of the Elders
17 will be silent because no one will ask
18 anything of them. The New People will
19 have to be careful in how they approach
20 the Elders. The task of the
21 New People will not be easy."

22 "If the New People will remain strong
23 in their quest the Water Drum of the
24 Midewiwin Lodge will again sound its
25 voice. There will be a rebirth of the

**KENNEDY (MINNAWAANAGOGIIZHIGOOK)
IN-CHIEF/INT. PRINCIPAL
(Christa Big Canoe)**

1 Anishinabe Nation and a rekindling of
2 old flames. The Sacred Fire will again
3 be lit.

4 "It is this time that the light skinned
5 race will be given a choice between two
6 roads. If they choose the right road,
7 then the Seventh Fire will light the
8 Eighth and final Fire, an eternal fire
9 of peace, love brotherhood and
10 sisterhood. If the light skinned race
11 makes the wrong choice of the roads,
12 then the destruction which they brought
13 with them in coming to this country
14 will come back at them and cause much
15 suffering and death to all the Earth's
16 people."

17 And it's for this reason that I make a
18 commitment to working with the grandmothers, working with
19 the grandfathers, approaching the elders and making time in
20 my life to learn from them in the best way that I'm able
21 to, to help them in their work to learn as much as I can
22 about our way of life because I believe that this time of
23 great grief in the minds of our people, I will not let it
24 be without purpose.

25 I will learn through the hardship that I

**KENNEDY (MINNAWAANAGOGIIZHIGOOK)
IN-CHIEF/INT. PRINCIPAL
(Christa Big Canoe)**

1 encounter in my life. I will look at it in its face. I
2 won't turn from the grief. I won't turn from the violence.
3 I won't turn from the loss. I will ask why, why (speaking
4 in native language) what is it that I am meant to learn
5 from this?

6 And I will do everything that I am able to
7 do to heal from this. I will ask for help. I will ask for
8 healing so that I can find the gift. I can find the love
9 in the lesson that I am being taught so that I can share
10 that. I can share more than my hurt, more than my loss and
11 more than my pain.

12 And I do this not only for me or for my
13 mother's relatives because I believe that it's not only
14 those who are considered most vulnerable in this society
15 that need our law.

16 It is those who consider themselves the most
17 powerful in modern society that also need our law, our
18 Onaakonigewin, our knowledge about life and how to live a
19 good life in harmony with each other and with all of our
20 relations, not just humanity, with all our relatives; the
21 plants, the animals, the stars, the birds, the fish, the
22 winds, the spirit; our mother, the earth; our grandmother,
23 the moon; our grandfather, the sun; all of our relatives in
24 the universe. That is what our law teaches us, how to live
25 life in relationship and how to ensure the continuation of

KENNEDY (MINNAWAANAGOGIIZHIGOOK)
IN-CHIEF/INT. PRINCIPAL
(Christa Big Canoe)

1 life into the future seven generations ahead.

2 For our Onaakonigewin, because I might not
3 have met my grandparent but one day I could meet my great-
4 grandchild and I want to create that link that she will
5 have life, he will have life and everything that's
6 necessary for life.

7 Money is not necessary for life. Degrees
8 are not necessary for life. Power is not necessary for
9 life. Water is necessary for life. Our relatives are
10 necessary for life. The spirit is necessary for life.
11 Love is necessary for life. Respect is necessary for life.
12 Honesty is necessary for life. Humility is necessary for
13 life.

14 Okay, guys, got to help me.

15 (Laughter/Rires)

16 **MS. DAWNIS KENNEDY (MINNAWAANAGOGIIZHIGOOK):**

17 I always forget which ones I actually said
18 first.

19 Courage is necessary for life. Wisdom is --
20 oh, we are not there yet. That's probably why. Wisdom is
21 necessary for life.

22 Is that seven? Who is counting?

23 If you want to know about the seven
24 grandmother teachings there is a chapter in this book, the
25 (speaking in native language) that will tell you.

**KENNEDY (MINNAWAANAGOGIIZHIGOOK)
IN-CHIEF/INT. PRINCIPAL
(Christa Big Canoe)**

1 (Applause/Aplaudissement)

2 **MS. DAWNIS KENNEDY (MINNAWAANAGOGIIZHIGOOK) :**

3 But I want to say -- and I know this is not
4 your question but can I?

5 **MS. CHRISTA BIG CANOE:** Yeah, please.

6 **MS. DAWNIS KENNEDY (MINNAWAANAGOGIIZHIGOOK) :**

7 Do you have any more questions? Sorry.

8 **MS. CHRISTA BIG CANOE:** No. No, thank you.

9 (Laughter/Rires)

10 **MS. DAWNIS KENNEDY (MINNAWAANAGOGIIZHIGOOK) :**

11 Yeah.

12 **MS. CHRISTA BIG CANOE:** I was just going to
13 ask you about the importance of language but you have
14 already covered that need, that term of culture.

15 **MS. DAWNIS KENNEDY (MINNAWAANAGOGIIZHIGOOK) :**

16 Yeah.

17 **MS. CHRISTA BIG CANOE:** But one way that I
18 have heard you say it in lectures and speeches is about our
19 perspectives and what's missing from Canadian ---

20 **MS. DAWNIS KENNEDY (MINNAWAANAGOGIIZHIGOOK) :**

21 Yeah.

22 **MS. CHRISTA BIG CANOE:** --- or from
23 mainstream.

24 **MS. DAWNIS KENNEDY (MINNAWAANAGOGIIZHIGOOK) :**

25 Yeah.

**KENNEDY (MINNAWAANAGOGIIZHIGOOK)
IN-CHIEF/INT. PRINCIPAL
(Christa Big Canoe)**

1 her story and I can't tell her story. And I hope to hear
2 her story one day.

3 But I can tell you that I miss her, and I
4 can tell you that her loss is our loss. And I can tell you
5 that the grief that I see in my family is unlike any other
6 that I have known. It is complex, and that it is easy to
7 lose faith in people. It is easy to lose faith in life
8 itself when you're feeling that kind of grief.

9 And that I have relatives who look to find
10 that faith and move forward and one day through alcohol and
11 being numb, some too through pow-wow and dancing, through
12 being there for their children, through turning to
13 ceremonies. They need to know what happened. We need to
14 know what happened and we need to have faith, to find some
15 faith in people again and in life again.

16 And that kind of faith for me comes from
17 knowing who I am as an Anishinabe; comes from living
18 Midewiwin, the Way of the Heart; the way that was given to
19 an Anishinabe by (speaking in native language) that kind,
20 loving spirit that created life and recreates life each and
21 every day. Through (speaking in native language) that is
22 the spirit of life and we need to find our way back to
23 that, those of us who are grieving and those of who don't
24 know that we're grieving because they have not known any
25 different.

**KENNEDY (MINNAWAANAGOGIIZHIGOOK)
IN-CHIEF/INT. PRINCIPAL
(Christa Big Canoe)**

1 And I believe that for whatever purpose any
2 person or human being has come to Turtle Island, there is a
3 spiritual purpose for them coming to Turtle Island and
4 that's to know (speaking in native language). We need to
5 know ourselves and who we are as an Anishinabe so that we
6 can show (speaking in native language) to all of our
7 relatives in creation and the other sacred colours of
8 humankind that life is about life. It is about life. And
9 honouring one life is about honouring all life. Protecting
10 one life is about protecting every life and all life.

11 And I believe that when our law is at the
12 centre of our life as an Anishinabe that our relatives will
13 be able to find their way back to a way of life that can
14 put them in harmony and make right their relationship with
15 our mother the earth because she is all of our mother. She
16 is the mother to all life, and we need to remember her.
17 She cannot become. We must protect her. We must protect
18 her from ourselves. We must protect all women and we must
19 protect the woman, our mother the earth.

20 And I believe that's the true value of our
21 law. It's not just for those who -- to protect those who
22 are at risk of this kind of level of violence that is just
23 horrific. It is to protect all of us from the violence we
24 have normalized each and every day, from the violence we
25 don't even see like when -- I don't know who it was but

**KENNEDY (MINNAWAANAGOGIIZHIGOOK)
IN-CHIEF/INT. PRINCIPAL
(Christa Big Canoe)**

1 somebody sent something up to Grandmother Moon. What was
2 it, like a bomb, to try to find water? I was out with my
3 pipe talking to our grandmother because I know that feeling
4 and saying I remember. I do remember. But those are the
5 kinds of things -- that's the kind of violence. We have to
6 look at all of the violence.

7 We have to look at all of life. We have to
8 protect life for everyone into the future.

9 And for me, I wouldn't say decolonize
10 because ceremonial people know you can't undo something
11 you've done. You can only address it, correct it, learn
12 from it and move forward in a better way.

13 And I think that everything that I have
14 experienced it was for a purpose, and if I can learn from
15 it, if I can find the gift -- if I can find a new way, a
16 better way -- if it can be bring me back to (speaking in
17 native language) to recognizing what I had forgotten was at
18 the centre of life, and I can find my way back there, then
19 I have done my work in this world.

20 And I want for all of us as humankind to
21 find what it is that we are meant to learn through the
22 horrific things we have done to each other and making them
23 right, and the horrific things we have done to our
24 relatives and making them right, and the horrific things we
25 have done to our mother the earth and to all of our

**KENNEDY (MINNAWAANAGOGIIZHIGOOK)
IN-CHIEF/INT. PRINCIPAL
(Christa Big Canoe)**

1 relatives and making those right. That's what I want. I
2 want to make things right. I don't want to undo anything.
3 I want to learn. I want to learn how to use my choices in
4 the best way possible.

5 And I want to say -- excuse me. Okay?

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

7 (Laughter/Rires)

8 **MS. DAWNIS KENNEDY (MINNAWAANAGOGIIZHIGOOK):**

9 In the human rights museum -- I don't
10 believe in human rights. I don't believe in human rights
11 because humans are only one part of life. I believe in
12 life for everyone, respect for everyone. That's what I
13 believe in, living a good way of life in harmony and
14 respectful relationship with all my relations. And I am
15 related to lots of people.

16 (Laughter/Rires)

17 **MS. DAWNIS KENNEDY (MINNAWAANAGOGIIZHIGOOK):**

18 I am related to everyone in this room. I am
19 related to everyone watching out there. I am related to
20 every tree. I am related to the stars. I am related to
21 every being in the entire universe because my creation
22 story tells me so. And you are all related to the entire
23 universe as well.

24 So that's a lot of relationships that we
25 have to work at maintaining and, you know, human rights

1 **MS. CHRISTA BIG CANOE:** Commissioners,
2 Commissioners, I ask that we have just a short break before
3 parties have an opportunity to ask questions and I would
4 ask that we have 10 minutes just to allow for washroom
5 breaks, but kindly ask that counsel just stay for the first
6 five minutes with me. Thank you.

7 So we are now in a break for 10 minutes.

8 --- Upon recessing at 5:19 p.m.

9 La séance est suspendue à 5h19

10 --- Upon resuming at 5:36 p.m.

11 La séance est reprise à 5h36

12 **MS. CHRISTA BIG CANOE:** Okay. So we are
13 going to get started.

14 Before we go into cross-examination, Chief
15 Commissioner and Commissioners, I am going to ask -- you
16 have marked Exhibit 1, Dawnis Kennedy's CV. I am going to
17 ask that we redact the address and number that is on that
18 before it's made public. And I thank counsel for bringing
19 that to our attention.

20 **REDACTION OF PERSONAL INFORMATION FROM EXHIBIT 1**

21 **MS. CHRISTA BIG CANOE:** And now I have
22 completed the examination in-chief, and our first party up
23 to ask questions is the Manitoba MMIWG Coalition. Ms.
24 Hutchinson?

25 --- **CROSS-EXAMINATION BY MS. ANGIE HUTCHINSON:**

**KENNEDY (MINNAWAANAGOGIIZHIGOOK)
CR-EX/CONTRE-INT.
(Angie Hutchinson)**

1 **MS. ANGIE HUTCHINSON:** (Speaking in Native
2 Language)

3 My name is Angie Hutchinson. I am the
4 representative for the MMIWG Coalition here in Manitoba.
5 First of all, I just want to say (speaking in native
6 language) now for sharing your stories, your experience and
7 your tears with us and thank you for your courage in doing
8 that today.

9 I was just hoping that you could expand a
10 bit more on some of the things that you talked about in
11 your story. So you mentioned that you had dropped out of
12 school seven times and that, if I'm understanding
13 correctly, it was because it wasn't what you wanted to
14 learn and you didn't feel that you were getting the
15 teachings that you needed as an Anishinabeg; is that
16 correct?

17 **MS. DAWNIS KENNEDY (MINNAWAANAGOGIIZHIGOOK):**

18 Yes, that's correct. I experienced racism
19 in school in my junior high. There was "squaw" and "wagon
20 burner" written on my locker again and again. You know,
21 people they went down a hallway and they were going "Ah-ah-
22 ah" to me.

23 And even my teachers. You know, I remember
24 my teacher. I was already skipping and stuff by then and
25 one of the substitute teachers came by and said, "Oh, good

KENNEDY (MINNAWAANAGOGIIZHIGOOK)
CR-EX/CONTRE-INT.
(Angie Hutchinson)

1 job". I had a 69 or something like that, percent.

2 And then my friend next to me who was a man
3 and non-native or a boy, a non-native, and he had like a 72
4 or something like that, just a few more than me and she
5 said, "You could do better". And I said, "Why am I doing a
6 good job and he could do better?" And she said, "Well,
7 it's good you can overcome your handicaps, you know, being
8 native and all". So that was, I think, one of my splits
9 where I stopped really attending and not really going to
10 class very much.

11 I wanted something that was intelligible.
12 So I needed to know who I was. I needed to know -- my
13 family really worked hard to be able to show me who I am as
14 an Anishinabeg as much as they could gather in their
15 lifetime. And they wanted me not to only have those sad
16 Indians you know right after that cold magnum in our
17 textbooks, those really sad Indians that they didn't really
18 talk about except for like they wore skins and like carried
19 -- I don't know dragged (inaudible). I don't know. That's
20 all I learned.

21 **MS. ANGIE HUTCHINSON:** M'hm.

22 **MS. DAWNIS KENNEDY (MINNAWAANAGOGIIZHIGOOK):**

23 But they wanted me to know who I was as an
24 Anishinabeg and that wasn't there.

25 But also, I think it's important. Our

1 stories, when you hear them there are so many different
2 kinds of stories. And there's kids stories in our
3 community that they are pretty graphic and they are pretty
4 violent. And they are necessary stories for children to
5 hear because some children encounter violence and they need
6 something to make sense of it, and that wasn't there in my
7 curriculum.

8 And I can tell you it wasn't just me because
9 my best friend, she wasn't native but she encountered that
10 kind of violence and she needed to know how to make sense
11 of it, just as much as I did.

12 And when I was in high school that's when I
13 kind of knew. I didn't want to learn what was here. I
14 wanted to be with my mum. I only had a few -- she died
15 when I was 17. I wanted to be home with her. I wanted to
16 be in the community. I wanted to be with my aunties. I
17 wanted to be with my grandparents.

18 And I think we need to think about that when
19 we take children away from those protective relationships
20 for eight hours a day and we put them into a sterile
21 environment with -- you know, in our community you need all
22 your relatives. And it's the grandparents that are the
23 first teachers, the grandmother, all the aunties and
24 uncles. And we have just one teacher and sometimes you
25 don't get along with everybody. You know, sometimes it's

1 not that one. So I think we really need to think about the
2 way we do education in a way that provides the necessities
3 of life for our children.

4 I fell out of love with school around high
5 school but I'm attempting to fall back in love. Miigwetch.

6 **MS. ANGIE HUTCHINSON:** Thank you.

7 Given your knowledge around bringing
8 cultural-based methods into kind of Western institutions,
9 would you have any recommendations on how to make those
10 changes within the school systems so Indigenous people
11 aren't experiencing those things that you experienced in
12 your childhood that we can start to make those changes
13 going forward?

14 **MS. DAWNIS KENNEDY (MINNAWAANAGOGIIZHIGOOK):**

15 Yes. I would take a look at the World
16 Indigenous Nations Higher Education Consortium. They are
17 the ones who recognized in conjunction with Shingwauk
18 Kinoomaage Gamig and my teacher Bawdwaywidan Banai Si
19 (phonetic) and the President of Shingwauk Kinoomaage Gamig,
20 Darrell Boissoneau (speaking in native language).

21 They recognized -- they gave us three birch
22 bark baskets to recognize our knowledge in culture-based
23 education and mine was the littlest one. I had this little
24 teeny one.

25 But you know they actually accredit

1 Indigenous educational institutions and they are able to
2 say what is of the people, not just about the people, that
3 this is the knowledge of the Anishinabe and that the
4 teachers who are teaching and the institutions that are
5 delivering this knowledge are doing it in the ways of the
6 people according to their own pedagogy, according to their
7 own protocol and according to their own law.

8 So I would recommend that anybody who
9 attempts to do Indigenous education seek accreditation,
10 seek training, seek support, because we are trying to do
11 something that hasn't really been done in this time. So I
12 believe in getting as much help as you can, and that's what
13 I would look at.

14 **MS. ANGIE HUTCHINSON:** Thank you.

15 Again, thank you for sharing, you know, your
16 courage to share your story and your experience and the
17 loss of your loved one, your Auntie Millie. When you were
18 speaking about that you touched a little bit on some of the
19 ways that people manage grief and you spoke a little bit
20 about ceremony. So I'm wondering from your experience and
21 your knowledge if you could kind of expand on how ceremony
22 can assist people with dealing with grief and moving along
23 their healing journey.

24 **MS. DAWNIS KENNEDY (MINNAWAANAGOGIIZHIGOOK):**

25 Yes. I think there are ceremonies -- they

1 are given to us by spirit to bring us back to life and to
2 bring us back to the centre of life, to bring us to good
3 life. And as human beings we ourselves can take ourselves
4 away from a good life through mistakes, through missteps,
5 through our humanity.

6 Humans are that duality. You know, we're
7 the ones that are forgetful. We are the ones that are the
8 youngest of creation.

9 And so as a people this is not the first
10 time that we almost lost all of who we are, this
11 colonization time. Our stories are -- oral history tell
12 us, you know, there was other times that we almost lost all
13 of who we were, some of it just all by ourselves. And the
14 spirit loves us so much that they will always find a way to
15 answer our request to find our way back to life.

16 And my community, I feel like our people are
17 so rich with ceremony. Part of that is because we needed
18 it. All of those ceremonies help to bring us back to the
19 centre of life, the sweat lodge, the pipe ceremony,
20 smudging; you know everything that we are given, all those
21 medicines.

22 And, in particular, in response to tobacco
23 offered by my cousin, the Grand Chief of the Three Fires of
24 Midewiwin Lodge, Eddie Benton-Banai, sought and received a
25 message for the family. And so that's the healing that one

1 of my cousins chose to seek.

2 I can't express how grateful I am for that.
3 I believe that we needed something that was beyond just
4 human beings' ability to answer and those of our elders who
5 are that gifted to be able to help us, we need that help.

6 And so the lodge and the teachers and the
7 spirit responded. So there are ceremonies that we have
8 that help. And where we're uncertain where there is not a
9 specific ceremony to specifically address it, I'm so
10 grateful that, you know, there are teachers. There are
11 ceremonial leaders who can receive the messages of the
12 spirit to meet the need of the people. If there is a need
13 there will be an answer. And that's something I don't
14 think anybody but the spirit and our ceremonies can give.

15 So that's how much I can share about that.

16 **MS. ANGIE HUTCHINSON:** Just one last
17 question, recognizing you know I can sense your sense of
18 gratitude around being given the opportunity to experience
19 that ceremony, would you have any recommendations to either
20 the inquiry or any of the parties here with standing
21 agencies to support survivors and families to access
22 ceremony and culture and recognizing how beneficial it was
23 to you and that it has the potential to be beneficial to
24 other families and survivors as well.

25 **MS. DAWNIS KENNEDY (MINNAWAANAGOGIIZHIGOOK):**

KENNEDY (MINNAWAANAGOGIIZHIGOOK)
CR-EX/CONTRE-INT.
(Angie Hutchinson)

1 Yes, I believe so. I would definitely
2 recommend that because a lot of the ceremonies people -- I
3 can tell you, like I pay to go to ceremonies. We call it
4 like our all-expensive Midewiwin vacation.

5 (Laughter/Rires)

6 **MS. DAWNIS KENNEDY (MINNAWAANAGOGIIZHIGOOK) :**

7 You know I cover my expenses. I travel,
8 even as a student. Like I jump in people's cars and try to
9 find my way to ceremonies. And on top of that we don't
10 eat. You know, all of us have to try to have fulltime or
11 part-time or sometime jobs to be able to support our work
12 in learning at ceremonies that is critical. It's critical
13 to the nation.

14 And traditionally we will take care of our
15 elders. They would not want for anything that they needed.
16 We would make sure and ensure that they had everything that
17 they needed to do their work. But our nations are not that
18 way right now.

19 So I think we need to think about how we
20 support that capacity for people to access it but also for
21 it to continue because a lot of the work that happens in --
22 a lot of the work that happens in healing and in
23 traditional knowledge and in education and, you know, in
24 all these areas of life that we have in health, they
25 actually depend upon the work of people who do it and who

KENNEDY (MINNAWAANAGOGIIZHIGOOK)
CR-EX/CONTRE-INT.
(Angie Hutchinson)

1 pay to do it, get paid to do the work, the people who will
2 do the work in answer to tobacco.

3 And sometimes there is an honorarium;
4 sometimes there's not. And even that honorarium, yeah,
5 it's great. It might pay for the gas. It might pay for
6 the meals. It might pay for a little bit, but it doesn't
7 pay for the wood. It doesn't pay for, you know, like all
8 the things that go with committing your life to continuing
9 ceremonies.

10 And I think we really need to think about --
11 it's how we get our people to where they want to go. Where
12 will they find that? They have to find a place they trust.
13 They have to find a place they feel safe, but wherever that
14 is, let's find a way to get them there and let's find a way
15 to make a contribution to the work that has been done, that
16 is being done and that will be done.

17 Miigwetch.

18 **MS. ANGIE HUTCHINSON:** Again, (speaking in
19 native language) for your courage to say your story today.
20 Thank you.

21 (Applause/Applaudissement)

22 **MS. CHRISTA BIG CANOE:** Thank you, Ms.
23 Hutchinson.

24 The counsel for AMC, please.

25 --- **CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR MS.**

1 **JOËLLE PASTORA SALA:**

2 **MS. JOËLLE PASTORA SALA:** Good afternoon,
3 Dawnis. My name is Joëlle Pastora Sala. I am legal
4 counsel to AMC. Miigwetch for sharing your experience and
5 also your understanding of Anishinabe Onaakonigewin.

6 Last night after the hearings I was looking
7 online at some comments that people were posting about the
8 hearings. And I guess you know what they say about doing
9 that. You should never do it. But it brought a question
10 for me that I would like to ask you. And one of the
11 comments that I saw was: How do these hearings that are
12 happening right now actually relate to missing and murdered
13 Indigenous women and girls, to survivors or their families
14 and their communities?

15 So with this in mind, my first question for
16 you is what can Anishinabe Onaakonigewin say about keeping
17 Indigenous women and girls safe?

18 **MS. DAWNIS KENNEDY (MINNAWAANAGOGIIZHIGOOK):**

19 I think one of the first things that I could
20 share is that women are life givers and from that flows so
21 much. It is women who carry life, women who give life.
22 Women are -- it is upon women that all life depends.

23 And for Anishinabe Onaakonigewin that
24 carries many different consequences. You know, because
25 women are the life givers in our nation it is the women who

1 carry the water. It's our grandmother, the moon, who
2 governs the water, but it's the women who carry the water
3 and who work with the water, who work for the water. And
4 so any decision that impacts the water or impacts life is a
5 decision that requires women. And that's a huge
6 consequence and that's a huge thing because that means that
7 any decision that we make that will affect life we must ask
8 women.

9 In our government structures that's why we
10 have gender-specific roles so there's representation built
11 in of women's voices. It's not left up to chance on who is
12 picked or voted in. There will always be a position for
13 women.

14 So I think that's one thing that if I were
15 to do -- I don't know. If I were to say which law could
16 you change I would say that. We can't make any decision
17 that affects life without women. And it would be
18 interesting to see what following that law would do to our
19 Election Act, our membership act, all of our acts.

20 You know, I think that that if women were
21 taking up their role, we wouldn't be worried about
22 protecting women. We'd just be watching the women do their
23 work protecting life.

24 (Applause/Applaudissement)

25 **MS. DAWNIS KENNEDY (MINNAWAANAGOGIIZHIGOOK):**

1 Miigwetch.

2 **MS. JOËLLE PASTORA SALA:** I am wondering if
3 you could tell me what your understanding is about what
4 Anishinabe Onaakonigewin says about our relationships with
5 and the importance of children.

6 **MS. DAWNIS KENNEDY (MINNAWAANAGOGIIZHIGOOK):**

7 Well, one thing I can tell you, this is my
8 thought. I have all these thoughts, right. I have been
9 learning Anishinabe Onaakonigewin listening, watching, you
10 know. But I don't really -- there isn't really anybody who
11 can just tell me like, oh, yeah, you know it.

12 So I have all these thoughts that I think --
13 that I'm watching and I'm listening and I'm hearing all
14 these stories and I am seeing the way things are done and
15 the way that we did things, the way that we do things, the
16 way that I want to do things in the future. I think about
17 all of that. So I have all of these like hypotheses that
18 have been testing pretty true to me, and I can share one
19 with you:

20 I believe that for Anishinabe Onaakonigewin,
21 we can't practice. No one person can practice law on
22 behalf of another. Our law we carry in our hearts and we
23 live into the world through the decisions that we make.
24 That's how we live our law. But our law is not human-made.
25 I'm glad it wasn't left up to us.

1 Our law is a law of life and how life flows,
2 and it's up to us as humankind to look at all of our
3 relations to figure out that law, to know that law, to
4 connect that law, to live that law. And so there's no 18-
5 year old, now, you can have a say.

6 A child practices law very, very well. And
7 so to me that would be for me about children. I would say
8 we need to recognize the gift of every stage of life in our
9 teachings. And that I actually learned from Grandmother
10 Pauline Shirt, who is there.

11 You know, every stage of life has a gift,
12 has a purpose; has a role. You know, little babies they
13 bring joy to the world. Little kids, they have curiosity.
14 They teach us about safety. You know, every single age
15 group has a gift.

16 And I would say let's order our society so
17 that we can better receive the gifts of every age group and
18 recognize. Because if we have -- if we recognize all of
19 those gifts and all of those responsibilities and all of
20 those roles in every age group, then every child will have
21 the kind of life that will allow them to share their gift
22 of joy and to keep that, because it's meant for the world.
23 It's their gift to give, and we have to structure our
24 society to enable them to give it.

25 Miigwetch.

1 **MS. JOËLLE PASTORA SALA:** Continuing on the
2 same line of questioning about what we can learn in these
3 hearings about how -- and how Anishinabe Onaakonigewin
4 relates to the work of the Commissioners, in speaking about
5 Anishinabe Onaakonigewin, academics including Professor
6 McCraft (phonetic) who I know you know, they differentiate
7 between procedural and substantive law. Is this something
8 you are familiar with?

9 **MS. DAWNIS KENNEDY (MINNAWAANAGOGIIZHIGOOK):**
10 A little bit.

11 **MS. JOËLLE PASTORA SALA:** Okay. I am just
12 going to focus just a little bit on the procedural element.
13 What is your understanding of how Anishinabe Onaakonigewin
14 can influence the Missing and Murdered Indigenous Women and
15 Girls National Inquiry moving forward?

16 So in other words, what is your vision or
17 your hypothesis of what the inquiry moving forward in a
18 good way and respecting Anishinabe Onaakonigewin would look
19 like?

20 **MS. DAWNIS KENNEDY (MINNAWAANAGOGIIZHIGOOK):**
21 This is my only kind of interaction with the
22 inquiry, so I'm not actually familiar with a lot of the
23 process. But I would say -- I guess I would say that I
24 really appreciated the way that we started, the fire
25 lighting, the pipe, the water. I really appreciate the

1 work and what's being done here. I don't know how to say
2 it "kulak" (phonetic), close -- close enough?

3 But you know I really appreciate that and I
4 appreciate that grandmothers and the grandfathers that are
5 here in this room, they have been here this whole time
6 doing their work.

7 I know that when Canadian law meets
8 Anishinabe Onaakonigewin things get kind of pixie. I guess
9 what I would say is just know that Anishinabe Onaakonigewin
10 law, Anishinabe Onaakonigewin is still here. I'm following
11 it. You know, I offered sema to these grandmothers. It's
12 still here and it's still operating. So even though
13 Canadian law is here, also Anishinabe Onaakonigewin is
14 here.

15 And finding a way forward in a good way, it
16 takes a lot of being able to be open to recognizing your
17 limitations, so for me knowing what I can talk about and
18 what I can't talk about, knowing what my experience has
19 given me and also the limits of it, and sharing both. It's
20 okay not to be everything to everybody because none of us
21 can be. There is a purpose for all of us being here and we
22 are all only ever one. But the more we can recognize our
23 limits, the more we get better at engaging our
24 relationships.

25 That's what I have to share.

1 **MS. JOËLLE PASTORA SALA:** I think I am
2 running out of time so I am just going to ask you one more
3 question.

4 You spoke near the beginning of your
5 presentation about the importance of not overstepping
6 Anishinabe Onaakonigewin. My last question for you today,
7 maybe a little bit more personal in nature so feel free to
8 tell me no, if you want.

9 I'm wondering whether you had any
10 hesitations in sharing your knowledge with us here today?

11 **MS. DAWNIS KENNEDY (MINNAWAANAGOGIIZHIGOOK):**

12 Yes. Yes, I did. I don't think anybody
13 would feel like -- I guess I feel like this: Why my story?
14 Why not another person's story? Why not one of my elders'
15 stories, one of my grandmother's stories? Why not one of
16 my cousin's stories? Why my story?

17 But the answer that I had was maybe people
18 aren't ready because for our grandmothers to really tell a
19 story, people have to be ready to listen and even ready to
20 learn how to approach, because I have done lots of
21 approaches that went bad.

22 (Laughter/Rires)

23 **MS. DAWNIS KENNEDY (MINNAWAANAGOGIIZHIGOOK):**

24 I learn that way. I learn that way through
25 my mistakes but, you know. So that's what I told myself is

KENNEDY (MINNAWAANAGOGIIZHIGOOK)
CR-EX/CONTRE-INT.
(Julie McGregor)

1 like if I'm honest, if I'm respectful, if I'm humble and if
2 I share maybe my story will be useful.

3 And I don't have an answer for why me, but I
4 am going to do the best that I can.

5 **MS. JOËLLE PASTORA SALA:** Miigwetch. Thank
6 you so much, Dawnis.

7 And thank you to the Commissioners again.

8 **MS. CHRISTA BIG CANOE:** Counsel for AFN?

9 Thank you, counsel.

10 **--- CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR MS.**

11 **JULIE MCGREGOR:**

12 **MS. JULIE MCGREGOR:** Dawnis, I want to start
13 by saying -- well, I want to acknowledge that what you
14 shared with us today comes from the spirit, and I don't
15 want to question you about that. In fact, I'm not
16 questioning you about that.

17 I just want to say thank you. Miigwetch for
18 sharing your laughter, your tears, your honesty, your truth
19 and your courage and, most of all, for showing us your
20 resilience.

21 So miigwetch, and that's all I have to say.

22 **MS. DAWNIS KENNEDY (MINNAWAANAGOGIIZHIGOOK):**

23 Chi-miigwetch.

24 (Applause/Applaudissement)

25 **MS. CHRISTA BIG CANOE:** Counsel for the

1 Native Women's Association of Canada?

2 --- CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR MS.

3 VIRGINIA LOMAX:

4 MS. VIRGINIA LOMAX: So I want to say this
5 with the highest respect for my friends who have asked very
6 important questions that are essential for our collective
7 learning, thank you.

8 Today you spoke to us about learning what we
9 were meant to learn. And on the one hand while I know that
10 I have so much to learn from asking you questions, I am
11 also aware that I am engaging in a colonial process in
12 cross-examining you.

13 I wanted to go on record to say, Happy Day
14 Woman -- even though I am crying -- I believe that you
15 already taught me what I was meant to learn today. And I
16 just wanted to sincerely thank you.

17 Miigwetch.

18 MS. DAWNIS KENNEDY (MINNAWAANAGOGIIZHIGOOK):

19 Miigwetch.

20 (Applause/Aplaudissement)

21 MS. CHRISTA BIG CANOE: That concludes
22 cross-examination unless I missed any parties that also
23 wanted to. I believe that is the list. And thank you,
24 counsel.

25 Commissioners, Chief Commissioner, do any of

KENNEDY (MINNAWAANAGOGIIZHIGOOK)
QUESTIONS
(Commssioners/Commissaire)

1 you have questions?

2 **--- QUESTIONS BY THE COMMISSIONERS/QUESTIONS PAR LES**
3 **COMMISSAIRES :**

4 **COMMISSIONER MICHÈLE AUDETTE:** More a
5 comment than a question.

6 It comes from my heart. I have to say that
7 (speaking in native language) you touched me very much and
8 I have learned a lot. And I know I'm still going to learn
9 even if our spirit is not in the same room, but many, many
10 bushes or prairies or mountains will separate us. But I
11 will be back in October with some of my colleagues here to
12 listen to the truth of the families and the survivors and I
13 hope our path will cross again. I really hope, and also
14 that we will spend time with your uncle and auntie. I hope
15 so. It's a commitment that I made with your Uncle Stan and
16 I would love to go to your lodge to be the learner. Our
17 lodge in my territory is not the same, so I really want to
18 go there and learn.

19 Thank you so much.

20 **MS. DAWNIS KENNEDY (MINNAWAANAGOGIIZHIGOOK) :**
21 Chi-miigwetch, and you're welcome.

22 **COMMISSIONER QAJAQ ROBINSON:** Thank you as
23 well. And I have questions.

24 **MS. DAWNIS KENNEDY (MINNAWAANAGOGIIZHIGOOK) :**
25 Yeah. I'm okay with questions.

KENNEDY (MINNAWAANAGOGIIZHIGOOK)
QUESTIONS
(Commssioners/Commissaire)

1 **COMMISSIONER QAJAQ ROBINSON:** One of the
2 things we have heard a lot about is the diversity of
3 Indigenous legal orders across this country. One of the
4 biggest challenges we have at this inquiry is that we're in
5 this legal framework, an inquiry under the *Inquiries Act*
6 which to do our mandate we have to be under to have the
7 power to compel records from the police, from Child and
8 Family Services, from different governments.

9 But we -- and we have been open about this,
10 want as much as possible to use but also to create the
11 space where Indigenous legal orders across this country
12 have that space to blossom in, like in this room. And
13 that's what we have tried. And we have made mistakes and
14 we keep learning. That's, I guess -- I think it's a
15 process of reconciliation that we are going to be doing and
16 it's an ongoing thing.

17 I would love to hear your thoughts on that,
18 that reconciliation and how we do that here in this room as
19 we go across this country in Cree territory, in Mi'kmaq
20 territory, in Inuit territory. The rooms have to look
21 different. The process has to be different here and then
22 at every level when it comes to talking about
23 reconciliation. And I'd really like to learn from you your
24 thoughts on that.

25 **MS. DAWNIS KENNEDY (MINNAWAANAGOGIIZHIGOOK):**

KENNEDY (MINNAWAANAGOGIIZHIGOOK)
QUESTIONS
(Commssioners/Commissaire)

1 I wrote an article.

2 (Laughter/Rires)

3 **MS. DAWNIS KENNEDY (MINNAWAANAGOGIIZHIGOOK) :**

4 The only one I published, just one. I think
5 I might get to publish one every 20 years.

6 I don't even know if it's reconciliation. I
7 can't even remember its title now but it was published by
8 UBC in Indigenous Legal Traditions and that was based on my
9 Masters' theses work.

10 From what I can remember about my Masters
11 what I said was Canadian law -- I looked at section 35 and
12 how the relationship between Canadian law and Indigenous
13 legal orders is affected by section 35. And I guess what I
14 said is this, is that you know it's important for Canadian
15 law to understand that it is in relationship to Anishinabe
16 law, Anishinabe Onaakonigewin. It exists in relationship
17 to, and the Canadian legal order exists in relationship to
18 Indigenous legal orders.

19 So laws like section 35 they are just one
20 little place that speaks to what that relationship is from
21 the perspective of Canadian law, and that can change, but
22 there is also a place within Anishinabe Onaakonigewin that
23 speaks to the relationship between Anishinabe Onaakonigewin
24 and Canadian law; right.

25 So you can think about the medicine wheel

KENNEDY (MINNAWAANAGOGIIZHIGOOK)
QUESTIONS
(Commssioners/Commissaire)

1 teachings. You can think about the Seven Fires Prophecy.
2 You can think about the treaties. Those are also -- that's
3 what I think about my colleague when he talks about two
4 eyes seeing, Tuma, you need to recognize you can't really
5 see very much with one eye. You see a whole lot and you
6 think you're seeing a lot but your depth perception is
7 really off.

8 You know, so that's the way I think about
9 it, is we need to think about all the laws because -- and
10 the way I kind of hook into that is you know one of my
11 professors, one of my teachers, John Borrows, he wrote
12 about the Two Row Wampum and how that relates to Anishinabe
13 and to the Canadian Constitution. It was based on what I
14 recognize to be like a fundamental precept of Indigenous
15 law and law, is that this was a way of respecting that all
16 peoples were given a way of life, all peoples were given a
17 language, all peoples were given a law, all peoples were
18 given songs. All peoples were given gifts to live into the
19 world, and that those are gifts from spirit and they are
20 necessary in the world and they are necessary in building
21 good relationships with each other.

22 So I think if it had not been for the *Indian*
23 Act that kind of tried to make that one row go into another
24 row and make it all one row, I think if it hadn't been for
25 that, and it hadn't been for colonization, you know -- and

KENNEDY (MINNAWAANAGOGIIZHIGOOK)
QUESTIONS
(Commssioners/Commissaire)

1 this is something that I learn from my students -- I don't
2 think it would be a two row. I think it would be a four
3 row and those kinds of things, because there would be a law
4 for every peoples in this land. If we can make space for
5 European law in Canada, we can make space for Sharia law in
6 Canada.

7 And our nations, we are very good at
8 negotiating between different legal orders. Even my
9 colleague here was like, how do I walk? You know she's
10 like, how do I walk? This is Ojibwa. I don't want to walk
11 the Haudenosaunee way.

12 We know that about each other because we
13 visit each other and it's hilarious when we have our own
14 protocol and then we run into another protocol. Oh, like
15 there's some really good stories about -- you know because
16 people know because there has been people visiting. So
17 they will kind of know how to get to you, right. And
18 everybody who is on the "in" will kind of see you coming,
19 but it's all great fun.

20 You know that's the part that I love, you
21 know how one legal order comes to another legal order and
22 then -- you know there is like complicated things about how
23 do we make that work out? But you know what? It's all
24 about respect learning that I have a way and you have a
25 way, and let's figure this out. I respect your way. If

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1 1A.

2 (Laughter/Rires)

3 **MS. DAWNIS KENNEDY (MINNAWAANAGOGIIZHIGOOK) :**

4 You know, my people are wily. I don't know
5 how they did it but we're still going, right. We've still
6 got these little things. And I don't know if there's still
7 some grandmas out there that are like sharing tricks or how
8 it is we are still here and we are still Indians, but there
9 are still Indians, you know.

10 But it's a totally different point of view
11 when you are looking at your clan relationship to your
12 nation, and it's tricky, right, because Ojibwas are
13 patrilineal and, you know, Haudenosaunees, they are
14 matrilineal. So what do you do with children? Because we
15 like to -- I mean we don't like only marrying at home. You
16 know that gets complicated.

17 (Laughter/Rires)

18 **MS. DAWNIS KENNEDY (MINNAWAANAGOGIIZHIGOOK) :**

19 People like to travel. My husband is
20 Chinese. I like to travel lots, you know.

21 (Laughter/Rires)

22 **MS. DAWNIS KENNEDY (MINNAWAANAGOGIIZHIGOOK) :**

23 So I think there is complicated things and
24 we got complicated even before there was Europeans here.
25 We got complicated amongst each other and we learned how to

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(Commssioners/Commissaire)

1 figure it, sometimes not well. But we can learn from that
2 too, right. And there were times that we did well with
3 each other, especially around children, right.

4 So for my friend who has a Haudenosaunee
5 mother and an Ojibwa father; golden. She just got lots.
6 The only problem is she can't really -- that like really
7 challenges how many people she can marry, kind of whittles
8 down the number.

9 (Laughter/Rires)

10 **MS. DAWNIS KENNEDY (MINNAWAANAGOGIIZHIGOOK) :**

11 But you know she's got both clans. She's
12 comfortable.

13 But what my friend who has a Haudenosaunee
14 father and an Ojibwa mother? If we're thinking *Indian Act*
15 what would happen? Wouldn't belong. A fundamental precept
16 of our law is that everyone has a place. We might not know
17 that but everyone belongs. Everyone is here for a purpose.
18 Everyone is here for a reason. Everyone matters as much as
19 the next, a fundamental law.

20 So a child has a right to belong. That is
21 the beginning of working it out. And you know what? They
22 worked it out from -- according to my teacher,
23 Bawdaywidan, you know, when I asked this question, they
24 worked it out differently. So there is different rules
25 from when you're in Longhouse (phonetic) territory than

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1 when you're in Midewiwin territory but everybody has a
2 place, you know. I love that kind of like complicated,
3 complex stuff.

4 And I have -- you know what we were told is
5 that the Ojibwa, we don't discriminate. Your father is
6 your father. That's why -- Marten Clan. See my -- I had
7 this plug-in. My clan, Grandmother Wabeno Cray Doreen Day
8 (phonetic), made this outfit for me with our Marten.

9 Because we believe -- we are Ojibwa-centric,
10 right. And I have no problem with that especially when I
11 am in Ojibwa territory even though it's shared territory.
12 But you know we believe everybody has a clan. You know,
13 that's how we survived the Great Flood which was the Great
14 Flood, and that if anybody survived they had to have help
15 from somebody other than humans. Somebody had to take care
16 of them.

17 You know so we believe everybody had a clan.
18 But my father's lineage, my ancestors, we might have forgot
19 somewhere or maybe I'm not connected. I have to go seek
20 that out: What is my clan according to that tradition?

21 In the meantime, they looked at all of the
22 attributes, the positive attributes of European society,
23 you know, that they are very strategic. You know that they
24 are very intellectual, you know very, very organized; very
25 determined. You know all those kinds of things, all those

KENNEDY (MINNAWAANAGOGIIZHIGOOK)
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(Commssioners/Commissaire)

1 good things.

2 And they said, well, who is like that? The
3 Marten, that's who stood up for them. That's who stood up
4 for them, so now I'm Marten Clan because my father counts
5 as much as my mother and my nation is going to honour that
6 relationship. So I'm proud of that.

7 So even things that don't seem like they
8 have a direct answer, there is an answer once you get to
9 the first principles of everyone belongs and everybody is
10 equal and everybody is respected. So that's the kind of
11 thing -- I don't know what your answers will be, and they
12 might be different all the time. And that's okay. It's
13 fun to learn along the way.

14 (Applause/Applaudissement)

15 **CHIEF COMMISSIONER MARION BULLER:** So I
16 could say thank you in about eight different languages but
17 it wouldn't be enough. Thank you.

18 **MS. DAWNIS KENNEDY (MINNAWAANAGOGIIZHIGOOK):**
19 Miigwetch.

20 **MS. CHRISTA BIG CANOE:** That concludes the
21 testimony of Dawnis Kennedy. Chi-miigwetch.

22 Just a couple of housekeeping notes that
23 tomorrow we do start at nine a.m. in this space, but the
24 setup will be slightly different that will allow for our
25 next expert to sit with the grandmothers, the parties with

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1 standing and the Commissioners in a circle to walk through
2 and exercise to demonstrate using stories, a lot of what we
3 have heard from other experts, using stories to identify
4 law. Others are welcome to observe. And we will start
5 that tomorrow morning at nine a.m.

6 Again, we will continue to -- anything
7 that's becoming part of the record, we'll continue to put
8 copies out and they will become eventually available on our
9 website.

10 And again chi-miigwetch, and everyone have a
11 lovely day.

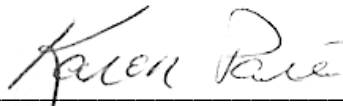
12 --- (Applause/Applaudissement)

13 --- Upon adjourning at 6:30 p.m.

14 La séance est ajournée à 6h320

15
16 **LEGAL DICTA-TYPIST'S CERTIFICATE**

17
18 I, Karen Paré, Court Transcriber, hereby certify that I
19 have transcribed the foregoing and it is a true and
20 accurate transcript of the digital audio provided in this
21 matter.

22
23 
24 _____
25 Karen Paré

September 6, 2017