National Inquiry into Missing and Murdered Indigenous Women and Girls
Truth-Gathering Process
Part 3 Expert & Knowledge-Keeper Panel
“Indigenous Laws & Decolonizing Perspectives”
Canadian Human Rights Museum
Winnipeg, Manitoba

PUBLIC

Part 3 Volume 1

Tuesday August 22, 2017

Day 1: Indigenous Laws & Decolonizing Perspectives

Drs. Val Napoleon & Hadley Friedland

Dr. Tuma Young

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Winnipeg, Manitoba

--- Upon commencing on Tuesday, August 22, 2017 at 8:58 a.m./L’audience débute le mardi, 22 août, 2017 à 8h58

--- OPENING CEREMONIES/CÉRÉMONIES D’OUVERTURE

ELDER BELINDA VANDENBROECK: All right. I think that’s pretty much who is coming in this morning to this event.

And I want to thank everybody that is here today. My name is Belinda Vandenbroeck. MacGillivray is my maiden name. My spirit name is (speaking in Native language). And that’s a name that I honour when I say my prayers.

And with that, I just want to -- I have to acknowledge that we are on treaty land. I never know how to say that, right, you guys, honestly, you know? We’re First Nations. This is our land. Hello. So I do always want to honour, though, when -- in my prayers even -- to honour the 500 Nations that we’re here before anybody came here. And those are the people we need to remember today as well. Because of them we are here and we want to acknowledge that and say (speaking in Native language),

that we are here because of you.

And I think just a reminder that the highest purpose for what we’re here for today is the families of the murdered and missing women. And we must always
remember their spirit, never to ever forget, always remember.

And with that, I am going to ask Thelma Morriseau to come and say the opening prayer, which will be followed by the honour song of the Northern Eagle Drum Group.

So Thelma?

ELDER THELMA MORRISSEAU: Bonjour.

(Greeting in Native language).

I know you have a schedule but your -- don’t get up yet. I want to say that we’re doing things the Indian way. So it may not be on your schedule exactly but it will all work out, trust me.

My name is Thelma. The name I was given is (speaking in Native language). I’m Bear Clan and I’m a Fourth Degree Midewiwin. I’m a grandmother and a great-grandmother: grandmother to four and great-grandmother to one.

We had a pipe ceremony this morning at The Forks. We had a Sacred Fire. Anishinaabe (inaudible) lit that fire. That is their work. And Anishinaabekwe, we lifted the water. We lifted the water to give thanks for life and never wanting to forget that, giving thanks for all the creation.

So I want to tell you a story and I want to
tell you a story because it’s about women.

My teacher’s name was No-Che-Kwe (phonetic ban. No-Che-Kwe (phonetic) passed on to the spirit world. She danced out the western doorway quite a few years ago.

I was a helper to her, myself and three other women.

And No-Che-Kwe (phonetic) was a beautiful teacher. She was very strict but she was a good teacher.

So I’m kind of old-fashioned so I follow her stuff, eh? Like, I have to. That’s kind of the way she taught me.

I want to tell you this dreams she had and I want to tell you it because it’s really important because it talks about women. But it’s a teaching that is for Indigenous women. But if you look at all women, this teaching is relevant to all women.

No-Che-Kwe (phonetic) said that she had this dream that she was walking on this land. It’s called (speaking in Native language). It’s Roseau Rapids actually. Where she’s from, my niece.

She was walking. And this land is ceremonial land. It’s sacred land. It’s where Midewiwin ceremonies are held a long time and even to this day.

And she said as she was walking on this land she could hear something in the distance. She walked towards that sound. And as she got closer and closer -- right at the rapids there’s a river. There are rapids and
they’re running and there’s an embankment. And as she started to walk north towards that place, she could see something coming up over the horizon -- I mean, over the embankment. And she could hear the water flowing.

And she began to walk and she could hear a sound coming. And as she walked closer, she could see this old grandma. It was an old grandma. This grandma did not look at her. This grandma had a shawl placed around her and she was bent over. And she was walking like she was shuffling. I’m going to show you. So she was walking like this. And her skirt was so long that it touched -- the bottom of her skirt touched the top of the grass. There’s a teaching in that for women. Her skirt was long enough; it touched the top of the grass that was growing. And it just flowed.

And they were coming to each other but this grandmother did not look at No-Che-Kwe (phonetic). But No-Che-Kwe (phonetic) heard a sound coming from her and it was a song. And I’m going to share that some with you.

And before I do that I want to tell you sometimes my voice doesn’t work. I had cancer in 2011 and I had chemo. So sometimes it doesn’t always work right. That’s why I have these -- my nieces behind me. They’re going to help me sing this song. And I want to sing it because it’s a really significant song. And I’ll tell you
what that song means after we have sung it. So when I say we’re Anishinaabe and we’re on Indian time, you’re just going to have to give me the time to do this because I think it’s extremely important given that we are talking about women and we are talking about Anishinaabekwe and we are talking about Indigenous women of all Nations. We’re talking about two-spirited people. And so this song is relevant. So just bear with me.

Oh, and you know what else she told me? I want to tell you. You know what she told me? She said, “My girl,” she said, “(Speaking in Native language), the spirit, always waits to hear our voices in ceremony.” If you have a song that is scared, a ceremonial song, sing it. Don’t worry how your voice sounds. To humans it may not sound good, but you know what? When it gets to that fourth level where (speaking in Native language) resides, you sound most beautiful. And so that’s why I’m going to sing it regardless of how I sound. Miigwetch.

--- OPENING PRAYER SONG/CHANSON DE PRIÈRE D’OUVERTURE

ELDER THELMA MORRISSEAU: So No-Che-Kwe(phonetic) -- that grandmother gave that song to No-Che-Kwe(phonetic) and she told her, “I want you to take this song and I want you to sing it throughout Turtle Island for Indigenous women, for ‘Indian’ women.” That word was still being used. I want you to sing it to them and I want you
to understand -- I want them to understand how beautiful they are, that Anishinaabekwe, Indigenous women, that Indian women are beautiful, that Indian women need to begin to hold their head up. They need to know that as they walk upon our Mother the Earth, Creation, that they are fashioned just like her, just like our mother gives life and so does woman.

So when you think about that, you need to think about all of our women who have been murdered, all of our women who have gone missing, how beautiful they were, and for those one who are still here, how beautiful they are.

We know that in this country, if we are born female and if we are Indigenous, we are all at risk. We are all at risk. And that’s not okay. That’s not okay.

And so that song -- I think about the families who are here and I honour all the families who are here, those ones who have lived the experience. They are the experts, in my humble opinion, because they are the ones who can tell the story.

And so that song -- I want you to take that song and, if you can remember it, to hum it, to think about it, think about your own beauty, think about your own strength. You are that beautiful person.

And so I say the same to the Commissioners.
With all due respect, I ask again that as you sit here in
the next few days in our territory, that you listen with an
open, good heart, not so much up here. I know you need
this. But know when to stop here and move to here. Unless
you can do that, this is not going to work.

And I must say that as Indigenous people we
are never, ever, in our lifetime, going to have another
chance to do this. This is our only chance so we better
get it right. We better get it right and we better have
solutions for our families. We have to.

And so with those words, I say (speaking in
Native language). Miigwetch.

**MS. CHRISTA BIG CANOE:** That’s for you and
Stan, also to thank you for the amazing opening ceremony
that you did for us this morning. Miigwetch.

**ELDER VANDENBROECK:** Thank you very much,
Thelma, for your beautiful words, and that song just wow.
It went right into my bones, I think. And I’m sure it did
to the family members as well.

We’re now going to get ready for the honour
song by the Northern Eagle Drum Group. North. Okay, I
read “Northern”. That’s what they had on here.

Anyway, thank you very much. So we can get
started, thank you.

--- **HONOUR SONG/CHANSON D’HONNEUR**
CHIEF FRANCINE MEECHES: (Speaking in Native language).

Friends, relatives. Thank you very much. It’s a great honour to be here on behalf of the Treaty One people to give you welcome remarks to our traditional territory, (speaking in Native language).

I want to thank the organizers, the people that have invited the North Eagle Drum. This drum first was blessed in 1976. It was named after my grandfather, Ben Meeches from Long Plain. And I think it’s our fifth generation singers on this drum, particular drum here.

But I wanted to acknowledge our singers here today: AFN Regional Chief, Kevin Hart; Sweetpea Star; Mike Meeches; Willy McKenny; and Fern Sutherland.

There are a number of singers that grew up on this drum and it has branched out to other drums. So I’m very thankful to be able to grow up on the powwow trail at a very young age to have my grandfathers and grandmothers all know -- understand the language and know the songs and just be able to share that music. And that gift is very, very treasured. Because both my grandfathers were singers, that has given me a very, very important lesson for me.

And I wanted to share a song with you also too that -- I also compose music. That song that we sang
was sung by our grandfathers. And so we sing a lot of the older songs as we travel throughout our territory. And visiting different Indigenous communities, we always stick to the older songs with this particular drum. So I’m going to share that with you.

And I just want to acknowledge friends and family. I know that it has been a difficult journey for our People throughout the years because of different things that have happened, different, you know, social policies of the government. Ever since the signing of the treaties we’ve been challenged and faced a lot of different struggles in our journey as Indigenous people. And we understand a lot of that trauma that has derived from that history. And our People have never really been full partners in the treaty process. And we’ve struggled for many years to move forward to gain every foothold every step that we move forward. And I know this is a very important step. I know it’s also struggling, but we have to have faith that we’ll work towards getting the work that needs to be done. And hopefully that will bring some closure to families.

I know in Long Plain we’ve a big supporter of some of the families in the area such as Bernice Catcheway and Wilfred on the loss of their daughter, the search for their daughter. But also Indigenous men also,
too. We have a young man that went missing November -- I think it was November 8th, 2014, Colt Deprat (phonetic), but from home. And so we’re still searching for him also too.

And I wanted to share a song with you and this is a song I composed. I know (inaudible) on the big drum but I brought and hand drum and I want to share that song also with you because I think it is important. And I want to thank Thelma Morriseau for sharing the teaching about songs and how that’s so important for our People. Because that gives us some comfort, gives us strength, and it’s important to carry that teaching onto our children and grandchildren and to share the beautiful teachings of our Anishinaabe people.

So I’ll share this song with you. And you’re more than welcome to record the song if you want. I composed this song a few years back and it’s a gift to our families.

--- DRUM SONG/CHANSON DE TAMBOUR

ELDER BELINDA VANDENBROECK: Thank you very much for that beautiful song, Dennis. And I think there’s tobacco being offered to you for your beautiful music. The drum is such a powerful instrument.

And just as we’re waiting -- you know, sometimes we get so caught up in the system of hierarchy,
you know? I just want to remind everyone that we’re all equal here, you know? Yeah. Me and you. We’re not any better; we’re not any less. Like, we’re pretty cool, right. We’re all cool, yeah. So I want to acknowledge that.

I just want to share one little story before we go on, how powerful the drum is.

A few years ago we were called Daughters of the Dream Drum Group and there was quite a few of us at that time: Jamie, May, Leslie Spilett (phonetic), Barbara Bruce, myself, Annahani (phonetic) -- oh, my gosh, I’m going to probably forget a few.

But anyways, so we were singing. We were invited to come to the United Church gathering that was at the Red River Ex that time. And when you’re going to the Red River Ex, there were -- on this side of the -- we were on that side. And if you now the Red River Ex grounds, the children’s grounds are, like, way, way, way at the back, way at the back.

Anyway, so we were singing and we would talk a little bit and sing some more. And as we were singing, this White lady was coming with a little Indian boy and that little boy was really pulling his mom’s hand really hard. Like, he was ahead of her.

Anyways, so they came and he went right to
the drum. And so we were still singing. So he was standing there just looking, just looking at the drum. We finished singing and he kept standing there looking at the drum. Then one of the ladies offered him the stick and he started to drum. And that lady said, “We were on the grounds over there by the children’s area and as soon as he heard the drum, he didn’t know where it was coming from but he knew he wanted to go there.” So they just followed the sound of the drum and they just came. That little -- I’m telling you; he was pulling his mom. And he was only that high.

And so I know how powerful the drum is for us as Indigenous people to this country, because that’s where we came from, the heartbeat of our Mother Earth.

So I think -- let me see. The next one I am calling up to speak -- I believe I’m supposed to call up Kevin.

**MS. CHRISTA BIG CANOE:** No, no. AMC Grand Chief.

**ELDER BELINDA VANDENBROECK:** AMC Grand Chief Arlen Dumas. The cool dude that’s jigging away up north at Lac Brochet. I saw you.

**GRAND CHIEF ARLEN DUMAS:** I retired as the champion jigger at the DOTC Games when I was five years old, jigging champion.
My name is Chief Arlen Dumas. I'm from Pukatawagan, Manitoba. I bring greetings from the Assembly of Manitoba Chiefs. I’m the Grand Chief of the Assembly. And I said that I would speak Cree a little longer because I was pretty sure that their translators couldn’t understand what I was saying.

I bring greetings as the Grand Chief representing 62 of the 63 First Nations in Manitoba. It is important to acknowledge the lands in what is now known as the Province of Manitoba, which are the ancestral and sovereign territories of the Anishinaabe, Cree, Dakota, Oji-Cree, and Dene Nations.

While I am deeply honoured to welcome you all to Treaty One territory here today, the seriousness and the importance of this gathering cannot be understated. First Nations in Manitoba know all too well the heartbreak that comes with the repeated and senseless violence against so many Indigenous women and girls from our families and communities. It is important that this hearing be held here today as the Province of Manitoba is home to some of the highest rates of murders and disappearances of Indigenous women and girls in the country.

While Indigenous people only represent 4
percent of the Canadian population, Indigenous women and girls represent 16 percent of all homicides. But in Manitoba, Indigenous women and girls represent an alarming 50 percent of all homicides.

It is for this reason that the Assembly of Manitoba Chiefs has worked alongside individuals, families, and communities impacted by this crisis. While the AMC has always supported nationwide calls for a national inquiry into murdered and missing Indigenous women and girls, I do not here today purport to speak on behalf of any of those individuals or families directly impacted by this crisis.

I am here in a supportive capacity to help ensure that the voices of impacted individuals, families, and First Nations in Manitoba are lifted up.

The AMC has a long history of working alongside First Nations families and communities to address this crisis, including our unrelenting push for justice after the murder of Helen Betty Osborne, a young Cree woman from northern Manitoba, who was my mother’s closest and dearest friend. We called on the province to properly investigate her case and when this didn’t happen, we pushed for the 1991 Manitoba Aboriginal Justice Inquiry. The Inquiry’s haunting conclusion still rings true today. And I quote:

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

Former Commissioner Alvin Hamilton and Murray Sinclair made numerous recommendations in the Aboriginal Justice Inquiry, including urgent calls to address racism in the justice system; remedy the overrepresentation of First Nations children in foster care and in the over-incarceration of our people in prisons; implement Aboriginal treaty and land title rights; remove gender discrimination from the Indian Act; and end violence against Indigenous women and girls.

Yet, 25 years later we have another commission of inquiry, also headed by former justice Murray Sinclair, the Truth and Reconciliation Report, which made the very same findings and calls to action, the result of decades of inaction by all levels of government on these and many other justice inquiries, commissions, and report recommendations, and multiple overlapping crises that make the crisis of murdered and missing Indigenous women and girls worse. We can’t let this happen again.
Knowing this, the AMC, in conjunction with the families, Indigenous women’s organizations, and human rights experts, called on both federal and provincial governments for a public inquiry in Manitoba for the last 20 years. Our mandate was the same then as it is now: to advocate alongside and to lift the voices of those most directly impacted, in other words, put the voices of Indigenous women, girls, and families first.

This led to our 2015 AMC report, “Families First: A Manitoba Indigenous Approach to Addressing the Issues of Missing and Murdered Indigenous Women and Girls”, that contains recommendations from families and survivors and includes a proposed approach to ensure families, survivors, nations, and communities are fully included in an Indigenous-led process.

First Nations families and survivors in Manitoba continue to inform AMC’s position and they in turn inform the AMC’s First Nations Women’s Council, who had been closely involved in providing oversight and guidance and direction on this very important issue.

I want to acknowledge my colleague, Jerry Daniels, from the Southern Chiefs’ Organization, and my colleague, Mr. Hart, from the Regional Chiefs Office, as we work very closely with our sister organization at MKO, where Grand Chief Sheila North Wilson stands as a strong
leader seeking urgent action to stem this crisis. She has provided a critical link between our work as advocacy organizations and the needs and wishes of impacted individual families and communities.

The AMC hopes what is shared here today will inform the commission to make changes to its own inquiry and processes to ensure that it is truly inclusive of Indigenous world views, laws, and legal traditions. This includes the important traditional roles of Indigenous women and leadership, governance, and law making in each of our nations.

Applying what is learned this week could help give real meaning and effect to the Commission’s stated intent that its work is connected to the land and rooted in the traditions that have kept Indigenous communities strong for thousands of years.

First Nations families in Manitoba have already identified the need to deal with Indigenous legal orders and decolonization in our Families First report. Our First Nations elders and knowledge-holders have also done extensive work in the area of Indigenous legal orders and decolonization with the development of “Kihche Othasowewin”, “The Great Binding Law”.

Given the extensive knowledge and experience
of First Nations in Manitoba in relation to Indigenous laws and legal orders, I would like to call on the Commissioners to consider a regional expert hearing on Indigenous legal orders in Manitoba that will contribute to the national inquiry.

This approach is also consistent with AMC’s position that the national inquiry is fully involved and engaged with the unique needs and expertise of First Nations in Manitoba, with the call for the Commissioners to create a regional sub-commission for First Nations in Manitoba.

In closing, I hope that we can all find a way to merge our laws, our legal traditions, and governing orders to come together as treaty partners and fulfill the original treaty vision of mutual respect, sharing, and protection. We all have a moral and legal obligation to honour those we have lost to this crisis by taking concrete steps to prevent it from happening in the future.

(Speaking in Native language). Thank you.

ELDER BELINDA VANDENBROECK: (Speaking in Native language), Arlen, for those beautiful words.

And again, to remember that all of us have a voice that we can say that is just as important as anyone else’s words. We have to remember we are equal in all of this. And I am really grateful for the TRC report because
there are so many things happening now that never would
have happened if that didn’t happen. It’s bringing people
together. Because if we don’t talk to one another, we’re
not going to get anywhere. If we don’t start talking to
society, mainstream society, we’re not going to get
anywhere. Where are we going to expect things to change if
we don’t talk, right? We have to get to know one another.
And I have faith that this inquiry will bring forth all the
things that are necessary for us, and mainstream society
especially, to know and understand where we’re coming from.

We didn’t want to be on reserves. We didn’t
want Welfare. Those were systems that were put upon us
that we didn’t want in the first place. And now we suffer
the consequences of all of that. Because who wants to be
relegated to a reserve? Nobody. So now we have to live
with that the best we know how.

But I know one thing. That is a grandmother
who loves her two grandchildren to the moon and back, even
the eclipse was there yesterday and kind of darkened it a
little bit. But I would do anything for them, anything.
And it means for me, for the children that are coming into
the world today, you’ve got to teach them who they are.
They must know who they are. They must know where they
come from and they must know the teachings to save them
from having to go out into the world where it is mean and
cruel.

Our women today are being picked up on the streets, raped, and dumped like they’re trash. This is happening in Winnipeg, Manitoba. In the last two months I don’t know how many of our women, at least six or seven that I know of.

So this is so important for all of us, that we be a part of this. And like Thelma said, I mean, this is it; I don’t think we’ll ever get another chance, at least not in my lifetime. And I’m 69.

Okay. So let me get this right. I am calling on Minister Anita Campbell of the Manitoba -- no, no, no. Here we go. Okay, Regional Chief -- jeeze, those are hard words to say. I don’t even know where the word “chief” came from, to tell you the truth. Here, Kevin.

CHIEF KEVIN HART: (Speaking in Native language). Thank you, Belinda.

And I know everybody in the room. I have a big fancy title called the Regional Chief of the Assembly of First Nations from Manitoba, but more people in this room know me affectionately as Kevin. So Belinda and other people, and last night at the coalition, they were calling me Kevin. So I tell people that I’m not big on titles. I said, even back home, I said, everybody just calls me “Kev” or whatever. So thank you everybody this morning.
I hold the very important portfolio of missing and murdered Indigenous women and girls at the Assembly of First Nations. Of course you know there’s a responsibility to our 634 First Nations across this country when it comes to this national tragedy.

And just to go back to give you guys a little bit of history, in December I was recently given this portfolio. So obviously there has been a lot of catching for me to do on this portfolio since that time.

But for myself, myself I’ve been directly impacted. Our families -- there were three homicides of two men and one women in our family so, you know, that’s where I come from. And my wife’s community is Sagkeeng and, as you know, I live in Sagkeeng right now. You know, there are 14 families that are affected there right now by this national tragedy. And the most recent murder that occurred -- you know, probably from outside, from here to the bike rack where we’re looking, is probably where, you know, the late Serena McKay was murdered brutally just outside my father-in-law’s place. So you know, that’s how far away it was and how it hits home to a lot of it.

Because for myself I have two young adult girls who are 21 and 22. It could have been them. I have an eight-year-old girl. She’s my life. And I thought about it. Like, if I ever lost a child again that -- you
know, how could you bear that? Because for us as parents, you know, I know that main of losing a child as well. So you know, that’s the approach that I came from with, you know, the respect to these families that need help, need resources and capacity. And more importantly, they need a voice and advocacy for them.

So when I was given the portfolio in December -- I grew up on the Opaskwayak Cree Nation so you all know that the story with Helen Berry Osborne was profound. It was known for us growing up there, going to school. You know, we were involved with the racism, the fighting, the violence, you know, the abuse and everything that occurred during that time that’s, you know, still existent to this day.

I was given the portfolio and I thought to myself, “Wow.” I said, “This is a huge responsibility given that the Manitoba region is one of the most affected regions in this country and that there are so many families out there that have been affected by this national tragedy. I said to myself, “What do I need to do? I need to do something.” And you know, like, Elder Thelma this morning -- and I want to thank you for the pipe ceremony and the prayers that you offered up for us this morning because, you know, for myself, as a lodge holder, a pipe carrier, and a sundancer, you know, I hold those profound to my
heart as well, those teachings that have come since time immemorial.

When I was given the portfolio, I went for a ride out to the pumphouse at Clearwater Lake -- because I grew up in The Pas and OCN. And I went and made offerings right away and put my tobacco down. And I prayed to the spirit of Helen Betty and for the families. And I asked her, I said, “You know, I know so much about you and yet, I don’t know you.” You know, that’s how I felt. Because all of us have been touched and know the story of Helen Betty Osborne and what occurred there.

And so I went and made my offerings obviously to ask for guidance, you know, and strength and this. Because this is a huge, huge responsibility, to have this portfolio for 634 First Nations and all the families that are affected across, you know, the settler state of Canada.

And with that, I also hold some very important portfolios that you could see there are linkages directly involved when it comes to our missing and murdered Indigenous women and girls -- like housing, water infrastructure. You know, why do our young and men and women leave the communities? Well, for one, in the instance of Helen Betty Osborne, she had to leave her community of Norway House because they had no proper
infrastructure in place and there was no schools that went
to high school there at the time.

And that’s still common to this day here in
the Manitoba region that we have, you know, many of our
First Nations that don’t even have schools. Hence, thus,
the women and the men have to leave their community to go
to urban centres such as The Pas, Winnipeg, and such. And
I know that for myself being from Nelson House and Hilda,
you’re from -- we had to come to Winnipeg or Brandon,
right, to come to school when we were young. And I know
that a lot of people -- you know, that was all too common
for us.

And when we come to these centres, such as
Winnipeg -- you know, we talk about, “Well, there’s lack of
housing.” You know, “There’s a lack of food security.
There’s no food at home.” So for myself, when I was 14 and
a half years old, I moved away from OCN because it was one
less mouth to feed at home. And I came here to Winnipeg
and I grew up homeless on the streets here in Winnipeg for
the first little while when I was 15. Because you know,
that’s just the realities that are facing our people. You
know, why do our people leave home? Well, for one, you
know, you see your other younger brothers and sisters
without food and then if you leave home, you know, that
that gives them that much more resources for your family.
And that’s what I had to do in my case. And I know that’s all too common a story that you hear out there with our families, especially our men and our women out there, you know?

And then for the Commissioners that are here, you know, for Manitoba we currently have over 13,000 kids in care. And you know, 10,000 of those kids are First Nations children. Sixty-five (65) percent of those children lives in homes where English is not even the first language.

Now, I ask everybody if you look at the five articles of genocide under the UN Declaration, it all fits into what’s happening with the CFS system here in the province. Genocide continues to this day, on our men, on our women, and especially our children.

And I went as far as to say to everybody that all the linkages -- when we talk about food security and not proper food in the houses; children being apprehended because of poverty in the home; I know there are direct linkages to health. You know, you have 20 people in the home and one person gets sick, everybody gets sick, right? And the wear and tear on housing -- if you have 20 people for a home that’s built for 25 years -- it’s no wonder that that home only lasts about 5 to 10 years when you have about 20 people in there because just of the
overcrowding and such. And then we talk about all the
social linkages and conditions that happen when we talk
about domestic violence and abuse and everything. If you
have 20 people in the same room, in the same -- all the
time, 24/7, of course there are going to be emotions that
occur; of course there’s going to be people that, you know,
have a bad day and such like that. You know, those things
are reality in our communities. And a lot of times our
children, our women are the direct resulting victims of the
outlash of what happens there.

I’m fighting and advocating adamantly for
you as the families. And you know, I just want to let you
know that, you know, for myself, I have the portfolio for
634 Nations and to date we have zero when it comes to
resources for capacity to support any of those families
from the 634 First Nations. That’s a fact. We’re working
diligently, though, out there to make sure that we get that
support in place. But to date, right now, here in Manitoba
and across all the other regions in Canada, there has been
little to no capacity or resources in place right now to
help these families affected by this national tragedy.

And for me that’s wrong. These families
should be properly supported. We should have health
supports here in place. We should have all the family
members here, not just individuals and such. You know,
this room -- we should have a bigger room here with all the families that should be here, their children and their extended family. Because we all know when it comes to First Nations people, somebody gets sick in the hospital you’re not just going to have one or two people there; you’re going to have about 20 people there, you know, looking out for their loved ones and such. And that’s something that’s common to us.

And when we’re talking about law today and natural law and everything, there’s natural law and seven teachings and principles that have been guiding us since time immemorial that we still have to remember that are guided by. And for myself, you know, natural law is something that simply cannot be changed. It was given to us by the Creator. And you know, with that those sacred teachings are very fundamental in guiding us in all the aspects of what we do in our work.

And I ask the Creator to guide you as the Commissioners as well and I welcome you here to Treaty One territory. You heard our chiefs and that speak this morning, as well as the Grand Chief. As well as our guests and our visitors that came from outside the region, I want to welcome you here to (speaking in Native language), to Treaty One territory. And I’d like to let you know that we are presently here with some of the families that have been
affected by this national tragedy here in Manitoba, and
that they’re going to be watching very closely what’s
happening here.

And for myself, I come from a very strong
region of chiefs and families and such that are very, very
vocal and will speak out very much so if they feel that
wrong is being done. So I ask that all of us be respectful
over the next couple of days. If you need to approach me,
I’m a very approachable person. Come and talk to me and
such. It’s good to see some very familiar faces in the
crowd today, some faces I haven’t seen for a while.

And again, I welcome our guests that are
here this week as well, as well as the staff and everybody.
I thank you. From the bottom of my heart, I lift you all
up and I honour you this morning for being here. (Speaking
in Native language).

ELDER BELINDA VANDENBROECK: Moving right
along. We’re a little bit behind but that’s how life goes
sometimes.

Anyway, the next speaker I want to call on
is -- jeeze, you know, when you don’t have your reading
glasses with you -- Minister Anita Campbell, the beautiful,
for the Manitoba Métis Federation.

MINISTER ANITA CAMPBELL: Good morning. I’m
not sure if I’m supposed to face that way or that way. I
think my preference is to face this way, if that’s okay. I
don’t mean any disrespect but I’ll try to move side to
side.

As I was coming here this morning, I was
trying to -- you always try to think of what you’re going
to say and in anything is going to be memorable in the
sense of what you’re going to say to people.

I don’t consider myself a very learned or
intelligent person, that things are going to -- I don’t
have quotes and everything else that people will say and
whatnot.

I’m very humbled to be here this morning.
This is not what I was expecting at all. I’ve been asked
to bring greetings on behalf of President David Chartrand.
And I wasn’t expecting this. By the title of the event, I
had visions of a lot of lawyers and a lot of suits in the
room. And that’s what I thought I was going to see this
morning.

As I’m getting older, I need to wear glasses
and I have a script. And I’m probably going to sway from
the script because that’s what I tend to do sometimes.

So good morning. On behalf of President
David Chartrand, thank you for the invitation to bring
greetings and welcome to the Métis Nation homeland.

President Chartrand is unable to be here.
He sends his sincere regrets as he was called into Ottawa this morning.

I want to first thank and give honour to the elder for the prayer. It is our custom as Métis people to pay respects to our elders for the knowledge, the wisdom, and the guidance they pass onto us.

I would also like to take this opportunity to acknowledge and welcome the families who have lost and who are still praying for the safe return of their loved ones. My thoughts and prayers are with you always.

Given the number of the missing and murdered Indigenous women and girls in Manitoba, I, as spokeswoman for Infinity Women Secretariat, and on behalf of the Manitoba Métis Federation Government, welcome and look forward to working and collaborating on any effective steps proposed by both provincial, federal governments.

As Indigenous governments, we must continue to press upon, engage, and ensure the commitments made by both levels of governments are truly followed through.

We are challenged with limited resources and limited opportunities. But we must never lose sight of our missing and murdered Indigenous women and girls, our families and our communities, our knowledge of fairness and equity, and our understanding of right and wrong.

I encourage each of you to share your vision
and ideas and to provide the guidance necessary to move forward that will be beneficial to all our women, girls, and families in our communities. May your next three days be fruitful and may you all have a safe journey home.

So one of the things that I wanted to share with you is I come from a Métis community of Duck Bay. It’s a small Métis community. But I grew up in the north end of Winnipeg. Half of my life was in the north end of Winnipeg. And half of my other life was in northern Manitoba. I say I really grew up in the north. I love the north. I wish I could go back to the north. But situations in my life have changed.

And so when I was growing up and as I hear the stories -- and I’ve been fortunate to be able to attend two of the events that were held in Winnipeg. And I am not directly affected by a family member that’s lost or a family member that has been missing or murdered. I am not directly affected by it. But yet, I am indirectly affected because some of the people -- and I’m sorry; this is hard for me. I can’t imagine what you’re going through and how many times that you have to talk about it. How many times do you have to keep saying the same stories over and over again before somebody listens to what you want to say? At some point, the talk has to stop and the action has to start. At some point. Because you can’t continue. And I
say I’m not directly affected but look at me. I can’t even imagine -- and what Kevin said. How do you imagine even losing a child, let alone losing a family member? I don’t know how you would be able to function and then trying to find those answers.

As Métis women -- you know, I sat there and sometimes I feel like I’m the only Métis person in the room because I’m wearing a sash. But if I didn’t wear the sash, you wouldn’t know I was Métis because I look Aboriginal and I’m always looked Aboriginal. I could never hide it. As a little girl growing up in the north end, I went and slept at a friend’s. And I was walking home early in the morning. And every time I think of a missing family member or this is in the news, I always think of what the possibilities were that could have happened to me. Because I got followed and I ran to my house. And that individual, that man, sat in the car waiting for me to see if I can get into the house. And had I not been able to get into the house, had the door not been open, I don’t know what would have happened. And that’s just one small incident. And I keep wondering at what point do we start putting and making some of the changes.

Because you all have the answers. There’s nobody that doesn’t have the answers on what they want and what they need. The families know what they want. The
families know what they need. But until such time as we
start taking action and start doing something and changing
those policies and changing the systems and changing the
way that things are, then it’s going to be the same. And
you have to ask yourself -- because I ask myself all the
time that I see this or I hear of it -- at what point is
enough enough? What’s that number where we actually start
doing something and stop talking about it? Because I’m
pretty sure the ones that are directly affected are
carrying a lot more weight that are indirectly affected by
it.

As Métis women, we are limited in our
resources to try to help. But I guarantee you that there
are things that we are trying to do. And we are open to
being supportive. We are open to being part of -- had I
known what this was about today -- I wish I would have
known because then I could have brought more women. I
could have brought them just to even hear the panels that
are going to speak today, the people that are going to
speak, so that they could at least take those back home to
their own communities. But like I said, when I came I
thought it was going to be a room of lawyers or room of
suits that were going to be here and that’s who we were
going to talk to. And I didn’t understand why.

But until you start being involved and being
part of the issue, and you keep talking about it -- there’s
at some point where you have to start putting a plan into
action.

And so I’m really humbled that you invited --
and I was able to come here. And I was coming here I was
thinking -- I’m not sure how many of you have heard
President Chartrand speak. He’s very passionate and he’s
very eloquent about his speaking. They said to speak for
three minutes and I couldn’t imagine President Chartrand
speaking for three minutes. He’s a very passionate
speaker. And so I was trying to make sure that I had my
speech down to three minutes and even that was a little bit
hard.

But I want to thank you again and please
know that we are open nationally -- our Women of Métis
Nation, (speaking in Native language) -- we are open to
being part of this. We want to be part of this. We have
asked for standing, too, for the Commissions to present our
positions. Because we have no idea how many of our women,
our Métis. We know how we want to help; we know how we
want to support. But we don’t know how many of the women
are Métis.

And so know that we are open, that we are
welcoming, and that anything that we could do to help, that
we are always here. And I want to thank you so much for
today, and I hope that I’ve brought greetings on behalf of the Manitoba Métis Federation Government. And I wish you well in your discussions and I look forward to hearing some actions and some positive steps that are going to be moving us forward. So thank you very much for that.

**ELDER BELINDA VANDENBROECK:** Thank you very much, Anita. Powerful words. And yes, Dave is a powerful speaker. He’s very loud.

And we’re getting onto -- hang on, where’s my paper? Where did it go?

**MS. CHRISTA BIG CANOE:** Does she have it?

**ELDER BELINDA VANDENBROECK:** I don’t know. Maybe she took it. I’ll tell you what. If you’re expecting anything normal from me, just quash that idea. I’m not normal. No, I am, really, seriously.

Anyway -- oh, I’ll just tell you a little story. You know how I talk about, always, always talks about how important it is to know who you are -- where am I? Okay. Anyway, when I was born, I was born an Indian, right? I had a treaty number and everything. In 1969 I married my husband. I wasn’t an Indian anymore. The government said I wasn’t and I’m thinking, “Oh, yeah?” Anyway, just kidding. I didn’t. But in 1985 they changed their minds and I’m Indian again. Oh, my God. It’s a good thing I know who I am. So that’s why our children need to
know who they are.

Okay. I am now to call up Jason Parenteau from the Sacred Fire Leader. Here he comes. And then we’ll take a quick break after that and then we’ll go into the ceremony with Fred and the elder.

So three minutes.

MR. JASON PARENTEAU: Oh, yeah. I know.

Bonjour. (Speaking in Native language).

Three minutes? Well, there are fires over there and you know where to go. Just kidding. But in this way then, just briefly about the fire and our responsibility as men -- and I want to say this to the grandmothers as men -- and that is our responsibility to ensure that that fire is there and we think about that for our families as well. Because sometimes as humans, as relatives, you know, we love each other but sometimes we make each other upset. And these are really upsetting things that we’re going to talk about over the next few days, for the Commission as well. And all this work, as Anishinaabe people we don’t do this kind of work without the spirit first.

So this morning we were there and we had our fire ready. And so for those of us -- that you’ll be presented with this (inaudible), this tobacco. You can take that out there after because our grandfather burns at the centre and he’s there to help us. So for the next
duration of the days and you need to go over there, then
you can go over there and be free there and spend time with
your medicine and tobacco. Because the other young men
from this community here in Winnipeg, the unofficial res --
they’re waiting for the chiefs to make it official -- just
kidding. But in this way, then, when you think about that,
our young men too that are out there and are happy to do
the work, you know, because this is our women. Our role as
men to help our women, support them, to support life.

So this morning, then, we were able to do
that and happy to have our grandmothers that I haven’t seen
in a while and to do that and thinking about all of our
women. And I hope you have the opportunity to do that and
go visit and I’m thankful for all the people that did make
it out this morning because that’s a really big part of the
day. You know, as Anishinaabe people, we’re up and ready,
and as men, we’re supposed to be up and ready before the
sun is there, to take care of our families.

And sometimes we need to get back to that
because things in life are too convenient people. And you
want heat and you just turn on the heat somehow with a
switch. Well, nowadays there’s an app and you can app it
on and stuff. You know, this sort of work that we’re doing
with people and families is -- there’s no easy solution.

So in this way, our prayers and our words
this morning are some steps. You know, these are some steps we hope and encourage are moving forward. But it’s going to be some time until things really, really happen. And we pray for the ones that are struggling to this day and the fire is there.

So keep them in your prayers today and when you visit them. Because some of them may not be able to make it for whatever reason or they’re still not able even to get out of bed or leave their home when they’re suffering in that regard. So to help the heaviness and the work that we do and the heaviness that we feel in this way, it’s always comforting. As our uncle has always said, it’s comforting to go to the fire. And thinking about one of our elder men that always talked about doing this kind of work, he’d always say, “(Speaking in Native language),” like, “Let’s work together.” We have to work together to do this. And when we work together we can accomplish a lot of things.

In this way, then, around the fire we go there and this morning and this morning we see people -- everyone working together. So in that spirit, then, this morning we felt -- we’d hoped that we can all carry that and not forget that as we begin to do the work here in each of our own ways. So in that good way we think about that. And it’s a tough road that we all might have to do, but we
can all contribute our own part in our own ways and in our own communities that we represent.

So in a good way I want to speak for that. And the fire, it’s open. You’re free to go over there. It will be there all day today, tomorrow, and until closing. And again, if you’re visiting, we hope that -- we offer our prayers you’ll have a safe trip home, and your family as well, when you return as well.

So in that much I want to say that much for the fire and it was an honour to support our women that asked to do this. And there was no hesitation on my part to do this to help them in that way. So think about that in a good way, and our grandmothers, you know, and our women, especially our young women. We hope that they can make it to be a grandmother because us men we need our grandmothers. We need more of them, you know? Not to go to bingo or anything. And it’s a very special relationship, a grandmother, for us as men. And those of us that are married, we know who the boss is of we want to stay married.

So in a good way, for all our relatives, we appreciate your presence and work and hopefully you have some good thoughts and some courage, you know, to keep going, some good life today. And hold onto those things and don’t forget to offer your tobacco in the fire. And
maybe in your communities the men will make the fire for you, you know, with you. You know, together you can stand there in that good way.

So in a good way I just want to say that much for the Sacred Fire and say “miigwetch” to everyone here. And we’ll be there again tomorrow morning, bright and early. And you’re welcome and I will still be standing there. But not during the day; I do something else. But we have our other men helpers working together to support you and the work that they do over there. And there was no hesitation when we asked different fire keepers from the community. So say “miigwetch” and we’re at 2:59 so we’re good.

ELDER BELINDA VANDENBROECK: Thank you very much.

Okay, folks, we are going to have a -- we’ll come back at -- about 10 minutes?

MS. CHRISTA BIG CANOE: Fifteen (15)?

ELDER BELINDA VANDENBROECK: Fifteen (15) minutes. We’ll come back at 10:30ish. Like, that’s just before 10:30. Okay, bathroom break. Fresh air break, too.

--- Upon recessing at 10:15 a.m./  
L’audience est suspendue à 10h15

--- Upon resuming at 10:44 p.m./  
L’audience est reprise à 10h44
ELDER BELINDA VANDENBROECK: Hello? Hello?

We’re back. They’re back. If I could ask the people in the hallway, we will be commencing. We will start. Okay, thank you very much.

One thing that I learned in my times of doing this, and one great lesson I learned from husband, he said that when you’re talking, just remember that the people’s brain can only take as much as the rear-end can take. When that gets tired, you’ll be like, “Oh, gosh,” discombobulated. And we don’t to be discombobulated. We want to be here.

So with that, I am going to proceed with our agenda. We’re a little bit behind but that’s okay: we’re following life right now.

So I’m going to call on the president of the Inuit Association of Manitoba, President Fred Ford.

MR. FRED FORD: Thank you very much.

Fred Ford, is my name. I’m happy to be here today. (Speaking in Native language).

And let me first thank the organizers to have the foresight to invite Inuit in Manitoba, our organization, which is a newly formed organization relative to those other organizations here in the province.

I’d like to acknowledge first that we are on treaty land and the homeland of the Manitoba Métis and to
thank for those presentations that came before.

And I would like to say to the Commissioners, to the chiefs, the leaders, to all of the dignitaries in the room, to the elders, the singers, those that have offered drum songs, to the witnesses, and especially to the families of those missing and murdered Indigenous women, (speaking in Native language). Welcome. And may the Creator guide you in the work that you start here today.

The Manitoba Inuit Association was created out of a need. In 2008, a group of Inuit got together and felt that there was a need to create a community for Inuit who were here in the province and living away from home. This is a dynamic within our Inuit community that’s happening from coast to coast to coast, Inuit from all area of Nunangat, our northern homelands. It is estimated that as many 20 percent, and shortly as many as 25 percent, of Inuit will be living away from home.

Until we have, you know, greater economic opportunities in the north, until we have universities and other post-secondary education institutions that will offer other than nominal vocational courses, Inuit will continue to come south for educational opportunities, looking for economic opportunities. We will continue to come south to have our babies here until we develop more birthing centres.
Presently, over the course of any given year, we have 15,000 or 20,000 healthcare contacts with the regional health authority here in Manitoba. Our women are away from home for a month at a time, away from their husbands and families, other siblings to stay in a boarding house here on Burnell Avenue. There are 120 beds there that are full every night, overflow. Inuit are not just here to have babies but for other medical appointments or for treatments. When the boarding house is full, they’re moved into hotels around the city.

Just in Nunavut alone, not counting those other northern territories, in 2,000,000 square miles in Nunavut there is not one single dialysis machine. And with our lifestyles having changed radically since colonization and forest relocations, our diets have changed. This has had a great impact on the health and well-being in our northern communities. As I had mentioned, we were created out of a need to create a community for Inuit here.

We have a growing community of students that arrive every year filled with hope to follow their dreams at, you know, Red River College or at University of Winnipeg, University of Manitoba. And we know that we need to be there to support those students and help them achieve those dreams while they’re away from home. We know that
those students that are supported are the ones that are
going to be most likely to succeed and we will do what we
can to bring our Inuit communities together.

There is a large and growing community of
Inuit who are transient throughout all of the provinces and
urban areas, even in the north, Inuit looking for other
opportunities. And it’s not far from those hopes and
aspirations or moving here to take a new job if something
doesn’t work out, that it’s a sudden hardship to find that
you’re not that far from being on the street and not being
able to afford a ticket home or having no support systems
here in the community to help you.

There are a dearth of services. In the
north it’s not that difficult to find those services for
Inuit healthcare services, special services that you might
require, student services. But here in the south, there
are no Inuit-specific services. And this is something that
we’re hopeful of changing.

In the few years that we’ve been together,
since 2008, we’ve moved from being, you know, a small
group, administrative, you know, board of directors, to a
point now since that time where we have an executive
director. We’re moving this year, hopefully, to attain our
charitable status that will allow us to work outside of the
very narrow parameters that we’re allowed to work with in
the province, you know, given the monies that are available for Inuit living away from home. It’s difficult to get attention, you know, from governments in the north and have them take responsibility more for Inuit in the south. That’s just the dynamic that we live in in this province, you know, with all due respect to First Nations and the great need in those communities and also among Manitoba Métis.

But you cannot underestimate, you know, how valuable it is to be able to pick up and phone and talk to somebody on the other end of a line when you’re on distress and to be able to talk in your own language about somebody who understands your circumstances, about where you come from, how far you are away from home, and what are the circumstances that lead to the problems that you might be having.

This is a dynamic, as I mentioned, which is true for all across Canada, from the western Arctic and the Inuvialuit settlement. Inuit are migrating. They end up often on the west coast or at Edmonton, you know, outside of Yellowknife. Inuit from the Kivalliq Region of Nunavut tend to come this way because we’re familiar with Manitoba because we receive our health services here. Inuit from the western parts of Nunavut, you know, who receive health services in Yellowknife, will make their way to Edmonton.
looking for -- or in the western provinces, looking for economic opportunities. There are growing communities of Inuit all across the country. Those Inuit from Nunavik who receive medical services in Ottawa and other places in Ontario or in Montreal, you know, tend to find their ways into those communities and on the east coast, you know, from Nunatsiavut. Inuit communities are, you know, moving to St. John’s, Newfoundland and other urban areas looking for economic opportunities.

But we have a growing community all across the country. As I’d mentioned, as many as many as 25 percent that are living away from home. We have a responsibility to those Inuit to ensure that, you know, they’re not falling through the cracks. And that sadly is the situation. And we as an Inuit association realize the importance of community. We realize how important for us it is to be, you know, visible within our community and to be proactive, and to be a touchstone so Inuit can reach out, you know, to other Inuit for help should that time arise.

And here, even within this province, we have Inuit who are well-represented from Baffin Island. There are Inuit in this province from Labrador on the east coast and Inuit here from the far western Arctic as well.

And this is a dynamic, as I say, that’s
happening in Inuit communities all across the north. And until, as I’d mentioned, we build universities or other post-secondary alternatives in the north, that this is a trend that will continue.

And as an Inuit advocacy group, we continue to lobby for funds to provide those soft services for Inuit here.

But until we build hospitals in the north and treatment centres or more birthing centres in the north, this pattern will continue. And we’re concerned that we don’t want to get lost in the shuffled, you know, here, and thinking that there are services here that cater for -- that serve the needs of Indigenous people. We need to have services here that serve the needs of Inuit within that community of Indigenous people. There is not a pan-Aboriginal strategy that’s going to work for everybody. We need to treat, you know, Inuit, though we’re few in numbers, with the same dignity and respect that we treat, you know, all other Indigenous Peoples. You know, no matter how they get here or what their circumstances might be able, we need to be able to listen to them and respond to their needs.

I thank you very much for the opportunity to be here today and tell you a little bit about who we are and what it is that we do. And I hope that you see too
that we’re all here for the same reason, to support our communities and to make a better life, and to try and find a way -- and somebody who had framed it this morning saying we have, you know, one opportunity to look at this and to make some -- you know, to make a difference. And I want you to know we’re here fully and wholeheartedly to support you in those endeavours as you go forward with the work of the Commission.

So on behalf of Inuit -- not just Inuit here in Manitoba but Inuit everywhere, Inuit from coast to coast in the north, you know, all of those northern communities, Inuit in our northern homelands, Inuit scattered across our southern lands where we’ve been -- thank you again for the opportunity to be here.

And I would like now at this time to introduce an elder from our community and to light here a qulliq for us today. And I’ll leave it to the elder Annie Bouquette to describe to you what it is that she’s doing and the significance of it in lighting the qulliq.

So I’d ask Annie Bouquette if she’d come here please and also Barbara Sevigny, an Inuk from Iqaluit who is going to assist Annie this morning.

And I’ve been asked to invite other Inuit or other women here who would like to come up here and join -- stand behind Annie and others as the lamp is lit in here
this morning. Thank you.

ELDER ANNIE BOUQUETTE: (Speaking in Native language). My name is Annie Bouquette. I live here in Winnipeg. I’m from Pangnirtung, Nunavut, Baffin Island and we’ve been living here quite a while now. And I’m happy to be here. It was short notice but -- anyway, these people, Inuit people, are going to be around me and support me. I would like Barbara to interpret for me. Thank you.

ELDER ANNIE BOUQUETTE (through interpreter): First, I would like to share that this qulliq -- I remember my mother using the qulliq. It reminds her of her mother.

At the age of four she was just a small child and she had left her community. When she had tuberculosis she had left her parents. While I was away for medical, I ended up being brought to a residential school in Moose Factory. At the age of five she went to residential school.

I vaguely remember my mother using the qulliq and I had lost some stories as to how and what the meaning was behind the qulliq. For her the qulliq has a really big meaning as to who she is, with her identity. As well, it kept her warm, the family warm, the igloo warm. And most of all memories of her mother.

When I was in residential school, my parents did not know where I was. They couldn’t find me for a very
long time. That’s something that she will never forget.

Many times she has lost herself, her identity over the years, but now grateful that she has survived it all.

She shared that the qulliq is a very important tool for us. It’s not a toy. It’s a survivor tool. It’s what kept the families alive, kept clothing on them, kept the families warm. The seal skin -- she has brought one here that the qulliq is sitting on. Without those it would have been very difficult to survive.

Annie she has lost a lot of friends, family members, women freezing outside, freezing to death, wandering about in their communities. The qulliq was the only tool that had helped the women survive by keeping them warm. So it’s definitely a survival tool.

This is something that’s always within her and she’s very grateful to be able to share today. Because it’s very dear to her in the memory of loved ones and friends.

She travels a lot and teaching how to make kamiks, traditional sealskin kamiks. And this is something that she had lost and she had to work very hard to gain that knowledge back and to be able to make traditional kamiks. She teaches women how to make traditional kamiks while she’s travelling.
The youth -- she’s thinking about the youth as well and the seniors, the elders. There are not too many left that was able to pass on the knowledge. There are not too many elders left that can share that knowledge over to the youth. That’s something that she keeps in mind.

She’s going to share a little bit about the qulliq -- she’s going to share a little bit about what we call the amautik before she lights the qulliq.

She shared that it may look like she’s very warm with the amautik on, but going from outside to inside, you don’t really heat up because when you’re indoors it’s cooler indoors than outdoors. So she doesn’t get too hot.

She’d like to show the beadwork that she has on the amautik. Her friend had made the beadwork and she has passed away. She shared that the beadwork -- there was some exchange, some trade happening, and that’s how the Inuit came about with the beads. And then the Inuit took that on and got creative with how to use the beds in exchange for some other traditional items from whalers, Scottish whalers. I’m Scottish.

Thank you for having her to share about the beautiful beadwork on the amautik and now she’s going to turn over to the qulliq.

**MS. BARBARA SEVIGNY:** I wanted to share a
little bit about the qulliq (sic) too. There’s a pouch in
the back that we put the babies in, right from newborn, and
people wonder, “Well, are they not going to suffocate?”
But the infants are actually turned facing the other way so
they’re not directly facing the back.

So it’s very warm and you’re able to carry
on with tasks. We women are quite multi-taskers to begin
with, but it gives us extra free hands when you’re
maintaining the qulliq or doing chores outdoors. And it
keeps the mother warm and the baby warm. And as they get a
little bit older, they’re able to -- you know, it’s like
snuggly but in the back. But it’s very warm and
comfortable for the kids. Because they also feel the
heartbeat from the back too, so it’s very soothing for the
babies. And we often rock or bounce to soothe the babies.
I know as a kid I was made to go out to the neighbour’s and
put on an amautik and go carry babies around. But that was
to prevent us from getting into mischief, you know?
Learning some life skills or how to do things, parenting
skills.

If you could maybe turn. This part too is --
the amautik, it’s the beauty of the woman. It represents
the women. It’s part of showing the beauty of the woman.
And what’s also neat too is that when you sit on the snow
it protects you from getting cold. But it’s more of a
fashion for the women, the amautik.

**ELDER ANNIE BOUQUETTE:** This is a sealskin
that we use for clothing and the men hunt for them. And
also, this little pouch belonged to my late mother. I
decided to make it a few years back to do something with
it. And now I use it for wicks, qulliq wicks. And we pick
these wicks from the land. And one of these -- somebody
gave me this for a gift earlier. I don’t know who it is.
Thank you. Okay, thank you so much. (Speaking in Native
language). And this is our takoteh (phonetic) to light the
flame on the qulliq.

This qulliq is made out of soapstone that
men carve or make qulliq. And we usually use -- or in our
traditional way, we use seal fat. But right now I’m using
store-bought oil.

--- **LIGHTING OF THE QULLIQ/ÉCLAIRAGE DU QULLIQ**

**ELDER LOUISE HAULLI:** I use Arctic cotton
and I think she used something else. Same thing? Okay.
There’s Arctic cotton, also what we call moss. Okay. We
have different dialects because we are from different
regions. So her style is not the same as my style. I’m
from the Baffin region. Also, she’s from south Baffin,
right? I’m from north Baffin. So there’s a difference.
Also, our dialects are different.

And also, about qulliq, my aunt was telling
me when I went to see her, “How do you fix qulliq?” And she put it on the table and it has a little reservoir, but it seems very small. And I ask her, “How do you fix this?” She said, “Put it on the table.” And I did. And she poured some water on it, on the reservoir, and it wasn’t level. So she told me, “This is the way, how you fix it.”

Also, she was telling me about when a man was making the qulliq, he would ask his wife, “How do you fix this?” And the woman give instruction about qulliq. And that’s how a man fix it, by using a woman’s instruction. And also, when a man needs clothing, a woman asks some instruction about caribou clothing. So they are very flexible when it comes to qulliq and clothing. That’s what I wanted to share.

**ELDER ANNIE BOUQUETTE:** The wind is coming from -- yeah. I remember my mother used to sew looking at this qulliq, working on it, lighting it. My mother used to sew clothing in front of it. That’s all we had. There were no other lights.

I used to fall asleep when she was still sewing in front of the qulliq.

**COMMISSIONER QAJAQ ROBINSON:** Just to provide a little context, the qulliq will remain lit. As part of the ceremony we’ve developed at the national inquiry, recognizing that a pan-Indigenous approach does
not work and that we need to respect and honour the many teachings and ceremonies, particularly that of the importance of the fire for First Nations, Métis, and the fire for Inuit through the qulliq, we have the Sacred Fire burning outside while we hold our hearings. And inside it burns through the qulliq. So I just wanted to give a little bit of context.

We’ll be standing up, those that know how to tend to this. And if you know how to tend to it and you see it flickering, it needs a little bit of help, I welcome you to assist in tending the fire inside. So (speaking in Native language).

ELDER ANNIE BOUQUETTE: I just want to say thank you very much for all of you and thank you to the wonderful Inuit people to see which -- I don’t get a chance to see too many Inuit people in the city here. But it’s so wonderful. Thank you to all of you.

ELDER BELINDA VANDENBROECK: Thank you very much for that beautiful ceremony.

I’m so glad that we’re able to share our cultures the way that we do. Because we’re not all the same, right? I mean, we have to remember that we all had different ceremonies. When you think that there was 500 Nations in this country of North America, that’s 500 different languages. Isn’t that awesome? Yeah. And
ceremonies.

Anyways, I’m calling up Jade to -- I don’t know if this thing is going to fall down.

**MS. JADE HARPER:** Okay, miigwetch, aanii.

(Speaking in Native language).

I’m Jade Harper and my spirit name is Water Willow Woman. I’m from Peguis First Nation. I’m from the Eagle Clan and I live here in Winnipeg.

And I just want to come and speak to you very quickly. I’m a part of the health team with the national inquiry and I wanted to be here. I want to honour those lives of those women who are missing and those who have been murdered. And I want to honour all the families that are here today.

And I wanted to let you know and I wanted to quickly introduce you to our health team, our community relations team, and our grandmothers who are going to be here for the next three days helping us keep this space, along with the space at the Sacred Fire. And that Sacred Fire will be there for three days, that Jason spoke about earlier.

So I’m just going to ask our team to stand up, our health team and our community relations team. And just wave to everyone in the room and -- and there’s Jodie. She’s one of our health managers, off to the side there.
Yeah. And we also have Barb, who’s a health manager. And we have a few others that I don’t see in the room right now. And then we have community relations. We have Maureen Gabriel, who is also here, and Alana. And so we’ll be floating around for the next three days.

And I just want to ask our grandmothers and the elders in the room to stand up as we’ve asked many elders and grandmothers and knowledge-carriers to come and share this space with us. And we have Carol Moore, Velma Orvis, Grandma Shingoose, and Belinda Vandenbroeck. Sorry, yeah, and Bernie. Sorry, (inaudible). Yeah. And we have Bernie and Diane and Blue in the front there -- sorry, Louise. Sorry, Louise.

I also just want to honour the fact that Thelma Morriseau and Stan LaPierre were doing our ceremonies this morning, and also other knowledge-carriers that are going to be here. And I also want to recognize Sandra Delaronde who is also here and going to be a part of our witnesses. Also participating as elder: Patricia Caribou, Virginia Sanderson, Sherry Copenace, Katherine Whitecloud, Audrey Bone, Diane Linklater, and then of course Jason Parenteau, who was here earlier. And the Bear Clan will be at the Sacred Fire for the next three days as well, keeping that fire and being there for us. And then we also have Pauline Shirt and Gilbert Smith, who will be
joining us.

So that is our team and I just wanted -- oh, sorry, Pauline Shirt and Gilbert Smith are attending on behalf of the Province of Ontario.

So that is some of our team that is here, but definitely our team that will be holding space. And we look forward to spending the next three days listening and supporting and encouraging. Miigwetch.

**MS. CHRISTA BIG CANOE:** I would just like to take the opportunity to say a (inaudible) miigwetch to Belinda, Elder Belinda, who has been our emcee for the morning, and, on behalf of the national inquiry, to provide you a gift and thank you for sharing and helping us welcome others into this space.

And at this point I would actually turn attention to our Chief Commissioner, who will be making her opening remarks. And then we will have a short break just to set up to go into the hearing, the public hearings.

So welcome, Chief Commissioner.

--- **OPENING STATEMENT BY/DÉCLARATION D’OUVERTURE PAR CHIEF COMMISSIONER MARION BULLER:**

**CHIEF COMMISSIONER MARION BULLER:** Thank you. I’m on the tall side, so could you raise the microphone for me, please? Yeah, that’s better. Thank you. Good. Thank you.
Miigwetch. Merci. Thank you.

It’s at moments like this that I’m overcome by the gifts that the Creator has given all of us.

I want to start by acknowledging the spirits of the missing and murdered Indigenous woman and girls, the trans- and two-spirited who have left us. Thank you.

I also want to acknowledge the families and survivors who are here today. Thank you.

Okay, Creator, give me poise, give me humour, please, and give me strength. And give me humour. Thank you.

We started this morning in a good way: we started in ceremony. We started with the Sacred Fire keepers, elders, and grandmothers. We started with people, members of the Three Fire Midewiwin Lodge. We started in a good way; we started in a proper way. And we have continued today in lighting the qulliq. Sorry, I keep misspelling that.

I want to also acknowledge that we’re on Treaty One land, land of the Anishinaabe People. I want to thank the chiefs and grand chiefs for their welcome this morning and thank you to Minister Campbell as well for welcoming us.

Of course we’re on the Métis Nation homeland and that’s of great significance to me. My grandma was a
Métis woman.

Thank you also to the drummers and singers and to our leader in ceremony today.

We are here on Treaty One land, land of the Anishinaabe People, because we know that too many Indigenous women and girls, trans- and two-spirited people have gone missing or were murdered. They continue to go missing and continue to be murdered because they’re Indigenous, because of the beautiful colour of their skin.

We know that there are many families here who mourn their lost loved ones, and many survivors who still live with grief and trauma. We will be hearing from them directly on October 16th and the days that follow. We will be here then to hear from the families and survivors because they are our true experts.

We are here at the Canadian Museum for Human Rights because this is one of the many places in Canada that needs to hear what will be said in the next three days about Indigenous laws, the importance, and the sheer beauty of Indigenous laws, and the need for decolonization.

The continued colonization of Indigenous people in Canada means that the rights of Indigenous people continue to be violated every day. The stories we will hear today and other days, the voices we have already heard, and the voices we will continue to hear, will shine...
lights of truth and healing where darkness of racism, hatred, and fear continue to exist.

I’m going to ask you all to witness a very important part of our process today. As part of our approach of decolonization, we, as Commissioners, have adopted the request of a family member from Whitehorse when we heard from him, Shawn LaDue. He asked us, as Commissioners, to take oaths that we start our work in a good way every day. So I’m going to ask you to witness our ceremony.

MR. SHAWN LaDUE: Good morning, everybody. Thank you for the welcome.

Commissioners, do you solemnly affirm that you will listen to the truths and the stories told today with an opened mind, an opened heart and free from prejudice?

Affirmez-vous solennellement d’écouter les vérités et témoignages partagé aujourd’hui avec ouverture d’esprit, avec un cœur ouvert et libre de préjugés?

COMMISSIONERS, AFFIRMED/A AFFIRMÉS(ES)

MR. SHAWN LaDUE: Thank you

CHIEF COMMISSIONER MARION BULLER: Thank you for witnessing that. It’s very important to us.

MS. CHRISTA BIG CANOE: At this time, we’re going to take a very short break simply so we can set up
for the experts panel. And so I’m going to encourage and
ask for only five minutes, if you could, and then we’ll be
ready to start with our first expert witnesses. Thank you.

--- Upon recessing at 11:39 a.m./

L’audience est suspendue à 11h39

--- Upon resuming at 12:02 p.m./

L’audience est reprise à 12h02

MS. CHRISTA BIG CANOE: And just before we
get started into the hearing, I have just a couple of
housekeeping announcements. It’s understood that people
may be taking pictures, and that’s fine. But we kindly ask
that you turn off a ringer on your phone if you have it on
or that you step out to have a conversation if you need to.
Thank you kindly.

--- IN CHIEF ON QUALIFICATIONS BY MS./INTERROGATOIRE

PRINSIPAL SUR QUALIFICATIONS PAR Ms. CHRISTA BIG CANOE:

MS. CHRISTA BIG CANOE: Chief Commissioner,
Commissioners, with your permission I’d like to call the
first witnesses, the first expert witnesses in today’s
hearing.

I would like to introduce Dr. Val Napoleon
and Dr. Hadley Friedland. And I’m going to start with Dr.
Val Napoleon.

Dr. Napoleon, can you please spell your
name, your last name, for us, please?
DR. VAL NAPOLEON: Napoleon, N-A-P-O-L-E-O-N.

MS. CHRISTA BIG CANOE: Thank you. Can you describe the type of work you do?

DR. VAL NAPOLEON: So we work in partnership with Indigenous communities across Canada. And the work that we do is research on questions that are important to that community. And we develop legal resources for the community, drawing from oral histories and from their own histories. And we create resources that they can use as well as we can use at the law school for the Indigenous law degree program. And I also teach Canadian law as well as Indigenous law.

MS. CHRISTA BIG CANOE: Can you tell us where you work and what your title is?

DR. VAL NAPOLEON: So I work in the law school at the University of Victoria, and my title is Law Foundation Chair of Aboriginal Justice and Governance. But I’m also the Director of the Indigenous Law Research Unit.

MS. CHRISTA BIG CANOE: Thank you.

And so, generally speaking, what are your duties and functions at the university?

DR. VAL NAPOLEON: So I divide my time between working with the research unit, travelling to communities, working with communities on lands and
resources or water or governance or gender, different kinds of projects that are important to them. And then I teach and then I have other administrative responsibilities within the university. So it’s dividing the time between those demands.

**MS. CHRISTA BIG CANOE:** And you had said that you work with different communities. What communities have you worked with or for?

**DR. VAL NAPOLEON:** Over the years, since 2012, we’ve worked with the Mi’kmaq Legal Services Society, with Tsilhqot’in National Government, with the Aseniwuche Winewak, with the Northern Secwepemc and the Southern Secwepemc. We’ve worked with Coast Salish communities and with Tsimshian communities, with Anishinaabe communities. And each of those different groups has, you know, a number of communities. So for instance, with the Tsilhqot’in, there are five different communities that we worked with in that region of the province.

**MS. CHRISTA BIG CANOE:** And I’m going to just show you -- this is your resumé. And can you confirm it’s your resumé?

**DR. VAL NAPOLEON:** This is definitely my resumé. I apologize for its tiny print.

**MS. CHRISTA BIG CANOE:** Thank you. And the resumé, it’s fair to say, lays out a large -- it’s a number
of pages long, talking about your academic and your scholarship and research experience. Is that fair to say?

**DR. VAL NAPOLEON:** Yeah. Part of the work is to create resources that are useless for local communities in the way of videos and public education materials, as well as academic materials, which are used by universities and by other institutions.

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

So in addition to your academic degrees that you have -- and I understand you’re a doctor. So what does that mean?

**DR. VAL NAPOLEON:** It means that after I went to law school and started to practice law I turned around and went back to graduate school. Because what I wanted to do was work with not just the practice of law but the ideas of law and the history of law. And I wanted to get the work within the university to be part of communities, to actually go beyond what I saw as the perimeters of Canadian law to articulating law that mattered to us prior to law schools being built.

**MS. CHRISTA BIG CANOE:** So what other considerations outside of academic degrees -- so you’re a doctorate -- are important in understanding and having knowledge about Indigenous laws and decolonizing perspectives?
DR. VAL NAPOLEON: So prior to going to law school, I spent about 25 years working as a community activist and advocate. And I worked across northern BC and the Yukon and in different fields of economic development and social justice.

And the other thing that was important was seeing the violence in the generations of my family, as well as seeing the beauty and the strength and knowing that we had to find a way to draw on the beauty and the strength. Otherwise, we were going to be consumed by the violence.

MS. CHRISTA BIG CANOE: Chief Commissioners, Commissioners, based on Dr. Napoleon’s description, and as will be evidenced in her resumé when I tender it as an exhibit, I am tendering Dr. Napoleon as a qualified expert witness in Indigenous law and legal theory.

--- RULING ON QUALIFICATIONS BY/DÉCISIONS SUR QUALIFICATIONS PAR CHIEF COMMISSIONER MARION BULLER:

CHIEF COMMISSIONER MARION BULLER: Dr. Napoleon, welcome. We’re very happy that you’re able to join us today and we certainly recognize your areas of study and experience. Thank you.

MS. CHRISTA BIG CANOE: I would ask that Dr. Napoleon now be affirmed as a witness, if the head registrar could please administer that affirmation.

INTERNATIONAL REPORTING INC.
DR. VAL NAPOLEON, AFFIRMÉ/A AFFIRMÉE
--- IN CHIEF ON QUALIFICATIONS BY MS./INTERROGATORE
PRINCIPALE SUR QUALIFICATIONS PAR MS. CHRISTA BIG CANOE:

MS. CHRISTA BIG CANOE: Dr. Hadley Friedland, hi. Can you please spell your last name for us?

DR. HADLEY FRIEDLAND: Friedland, F-R-I-E-D-L-A-N-D.

MS. CHRISTA BIG CANOE: Can you describe the work you do?

DR. HADLEY FRIEDLAND: So from 2012 to 2016, I was the research director in the Indigenous law research unit that Dr. Napoleon referred to. I’m now an assistant professor at the University of Alberta and continue to work with communities, working on revitalizing Indigenous legal traditions.

MS. CHRISTA BIG CANOE: And so we heard Dr. Napoleon talk about a number of projects. Have you also worked on some of those projects?

DR. HADLEY FRIEDLAND: Yes. In my capacity as research director I worked and coordinated most of those projects.

MS. CHRISTA BIG CANOE: So you’ve also worked with communities or in communities?

DR. HADLEY FRIEDLAND: Yes. I’ve worked with many communities.
MS. CHRISTA BIG CANOE: And I’m just going
to show you your resumé quick as well. And if you can just
confirm that it’s your resumé?

DR. HADLEY FRIEDLAND: This is my resumé.

MS. CHRISTA BIG CANOE: Thank you. And
again, I notice there are a number of pages. In fact,
there are 14 pages. So it’s fair to say that you have a
lot of education and that you have worked on a number of
projects. Is that true?

DR. HADLEY FRIEDLAND: Yes, that’s true.

MS. CHRISTA BIG CANOE: And so in addition
to your academic degrees -- I’m going to ask you the same
question that I asked Dr. Napoleon -- what other
considerations outside of you academic or education are
important to understanding and having knowledge about
Indigenous law and decolonizing perspectives?

DR. HADLEY FRIEDLAND: I bring some lived
experience and some experiences and relationships. So
when I was 15 I was taken in by a Cree family in the
community of the Aseniwuche Winewak, and I have children
who are members of the Aseniwuche Winewak and a partner.
I’m a mother, an auntie, a great-auntie. And I lived part-
time in the community and part-time in Edmonton for work.
And prior to law school, I worked as a youth worker for
almost a decade with Indigenous and non-Indigenous families
and youth in the inner city of Edmonton.

**MS. CHRISTA BIG CANOE:** Chief Commissioners and Commissioners, based on what we’ve heard Dr. Friedland explain about her background and what’s contained in her resumé, I’m asking that she be qualified as an expert witness in methods, engagement with Indigenous law, and public education.

--- RULING ON QUALIFICATIONS BY CHIEF COMMISSIONER MARION BULLER:

**CHIEF COMMISSIONER MARION BULLER:** Yes.

Yes, certainly. Welcome, Dr. Friedland. And we recognize your areas of study and your experience. Thank you.

**MS. CHRISTA BIG CANOE:** If I could ask the head registrar to affirm in Dr. Friedland, please?

**DR. HADLEY FRIEDLAND, AFFIRMED/A AFFIRMÉE**

--- EXAMINATION IN CHIEF BY/INTERROGATOIRE PRINCIPAL PAR

**CHRISTA BIG CANOE:**

**MS. CHRISTA BIG CANOE:** I have just a couple questions. The first question I want to ask you is about what you’ll be talking about today, talking about Indigenous law and Indigenous legal orders and methods and education? Why are these important topics to talk about in the context of missing and murdered Indigenous women and girls?

**DR. VAL NAPOLEON:** The issue of missing and

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murdered Indigenous women and girls is not only a legal issue within Canadian law. It’s an issue within our different Indigenous legal orders. And the work of Indigenous law includes that of rebuilding citizenries and rebuilding our lawfulness. And so the kinds of things that we need to think about at the local level as well as at regional and national levels is what are our definitions of rape, of sexual assault, of the other ways that we oppress and create conditions of vulnerabilities in our communities as well as beyond. And so it’s taking up that work of rebuilding our unlawfulness and the strength of our citizenries, rebuilding that.

So Indigenous law is a necessary part of being lawful together according to the terms of our own legal orders and those aspirations of safety and inclusion and fairness, that both our legal systems are attempting to work toward.

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

In your work you’ve developed a number of Indigenous legal education resources and materials, including videos. Can you tell me a little bit about those?

**DR. VAL NAPOLEON:** We’ve developed 14 videos. Four of them are really short. And this is part of trying to create Indigenous legal resources that aren’t
written in Canadian legaleze, but are written from the experiences and the wisdom of Indigenous legal orders. And so what we did was to find ways to generate conversations and questions and just provoke us to take some time and talk to each other about things that are important.

The videos, I’m really proud to say, are used in pretty well every university. They’ve been used in classes across the spectrum. And we’ve had something like 18,000 or 19,000 hits with those videos because people are rebuilding their lives at the local level and it’s a resource which is accessible, along with our other resources, the gender toolkit and things like that. So they’re out there and it’s a part of ensuring that the research that we do in partnership with communities is given back and shared so that we can continue that rebuilding of Indigenous law and citizenries.

MS. CHRISTA BIG CANOE: Thank you.

I understand that there’s a video that you would like us to watch?

DR. VAL NAPOLEON: It’s a very short one. I think about six or so minutes. Yeah. It’s just an introduction.

MS. CHRISTA BIG CANOE: If that’s possible to have up on the screen, please?
MS. CHRISTA BIG CANOE: Thank you.
Was there anything that you wanted to add or say about the video before we move on to the presentation?

DR. VAL NAPOLEON: It’s available on the website. There are longer videos with all of those wonderful people that you saw. And the other videos, short videos, that we have are about -- one is about gender and one is about tough questions within Indigenous law, because there are many issues to work out because it is a thinking process.

MS. CHRISTA BIG CANOE: And when you said the website, can you tell us which website or what resource you’re talking about and how people would be able to access it?

DR. VAL NAPOLEON: Yes. At the Faculty of Law, if you go to www.uvic/ILRU. Yeah.

MS. CHRISTA BIG CANOE: So it’s the University of Victoria website?

DR. VAL NAPOLEON: Yeah, the Indigenous Law Research Unit.

MS. CHRISTA BIG CANOE: Indigenous Law Research Unit?

DR. VAL NAPOLEON: Yeah.

MS. CHRISTA BIG CANOE: And that’s publicly available?
DR. VAL NAPOLEON: Yeah.

MS. CHRISTA BIG CANOE: So anyone accessing the internet could actually see some of these resources and learn more about the work that you’re doing on the video projects.

Was there any other resources or materials that you wanted to talk about as well prior to the presentation?

DR. VAL NAPOLEON: No, I think we’re good.

MS. CHRISTA BIG CANOE: Okay. So what we see on the screen right now is a presentation, a PowerPoint presentation. Did both of you create and make this PowerPoint presentation?

DR. VAL NAPOLEON: Yes.

DR. HADLEY FRIEDLAND: Yes.

MS. CHRISTA BIG CANOE: And would you like to begin doing a presentation as laid out in your PowerPoint ---

DR. VAL NAPOLEON: Yes.

MS. CHRISTA BIG CANOE: --- for the Commissioners and for the public watching? Thank you.

--- PRESENTATION BY/PRÉSENTATION PAR DR. NAPOLEON AND DR. HADLEY FRIEDLAND:

DR. VAL NAPOLEON: I want to begin by expressing my gratefulness to these Indigenous lands,
Anishinaabe lands, that now have other Indigenous Peoples on them. And I also want to express my gratefulness for the prayers and the work that has been undertaken to get us to this point.

So we’re at a new time in Canada. We have the legacy and the power of the Truth and Reconciliation Commission and the recommendations. And this Inquiry and all of the work that brought us here, it’s built on some of the worst experiences that Indigenous women and girls have had. But it’s also borne of the hope and the strength.

And it’s the result of a public -- a collaborative, imaginary in which this Inquiry would do its work. And for that I’m grateful.

So what we’ll be talking about through this PowerPoint is we’re going to be looking at the role and the potential of Indigenous law. And we’re going to be asking questions like “What does Indigenous law look like?”; “What does Indigenous lawfulness mean?”; and “Where and how can we begin learning and teaching Indigenous law in addition to the many ways that communities and those Indigenous law experts in our communities are already doing it?”

So from our perspective and the work that we’ve done over the years with well over 40 communities, we’ve trained well over 300 community members in this methodology as part of the work. We can see that
Indigenous law is possible in the world. It’s practicable in the world. And it’s capable of doing the kind of rebuilding that’s necessary to deal with the failure of law, those spaces where our Indigenous laws were undermined and where there are gaps and where we have to do the rebuilding of Indigenous law. But not just the gaps created by what has happened with Indigenous law, but the lawlessness as well of Canadian law, where it has failed in our communities and where it has failed to deal with the kinds of violences that Indigenous women and girls have experienced.

So it’s looking at rebuilding that lawfulness, thinking about those aspirations, as well as how to solve real problems. How do we deal with those conditions of violence in the past as well as the conditions that we have to deal with today?

So we’re drawing on that partnership. We’re moving to research; we’re moving to the restatement of Indigenous lives; and moving into implementation, depending on the communities that we’re working with. Because the reality is, for law to be alive in the world as something that’s a part of everybody’s life is that we have to not just know what it is. We have to know what to do when that law is broken. And those are some of the challenges. We have to collectively know what the law is; we have to know
when it changes and why; and we have to know how to apply it when there’s a human problem that has to be dealt with.

And so that’s what we’re going to cover in these points that you see up on the PowerPoint.

**DR. HADLEY FRIEDLAND:** I just want to acknowledge being here on this territory and to commit to walking gently while I’m here and doing no harm, and also my gratitude for being here, for all the elders that have worked very hard to teach and to talk, and to all the youth and families and women. And I do my best to listen and honour what they have taught me too.

As we talk about what’s happening here, one of the things I wanted to start with is saying -- and listening this morning to everybody’s words as well -- is that part of a cultural genocide is dismissing and erasing a People’s beauty. And part of a cultural genocide is dismissing and erasing people’s capacity and thought and brilliance.

So truth is important. And some of the truth is about bringing light to harms and how those harms happen, to pain, and to horror. But some of the truth that has been buried is about the strengths, the wisdom, the intelligence, the arguments, the thinking, the generations of people walking in a way through the world.

So Judith Herman is a psychiatrist who talks
about seeing her work was supporting -- it began supporting veterans, bringing to light their struggles with post-traumatic stress disorder. And she said:

“My work is supporting them, restoring dignity to their distress.”

And I thought, part of our work is supporting Indigenous communities and individuals, restoring dignity to decision-making. Because when you talk and share and think and you’re dismissed person after person, generation after generation, you begin to doubt each other and you begin to doubt yourself.

And it’s important, I think, to say that people are making reasoned, principled decisions every day, sometimes in terrible conditions, sometimes in life-and-death situations.

Indigenous women and girls, families, are not intellectual blank slates. We know this. It’s not somebody standing there with nothing going on that horrors happen to.

But reasoned decisions, principled decisions that are being made every day are not public. They’re not always recognized, resourced, and enforced like state laws are -- or state legal decisions are.

Sometimes people face hostility, indifference, ridicule, or even punishment. And
historically, we know that people faced jail or even death by the Canadian state. And this leaves many people in a situation where they face tragic choices, where rather than being able to make a reasoned decision based on principles passed down, they’re having to decide which dangerous or unreasonable option should they choose. This correlates with fatigue, paralysis, and despair, and for perpetrators it creates ideal conditions of silence and impunity.

So I do like naming people, but David Finkelhor is a theorist who talks about child victimization. And he argues that in both the United States and Canada, where norms around child abuse were increased, enforcement -- people speaking out publicly and sharing their experiences and peoples saying it was wrong -- it has led to reduced rates of perpetration. And we have to consider the opposite is true, that where people’s ways of thinking, reasoning, authority, and enforcement have been systemically dismantled and dismissed, and even criminalized, that this is going to increase the risk of violence and vulnerability.

So laws are tools to help us think through human and social issues, effectively, humanely, justly sometimes at our worst moments, sometimes at the most terrible situations.

What makes sense to a reasonable Cree
person, Anishnawbek, or Inuk person? What’s culturally congruent? What societal aspirations are being reached towards? And what makes sense in the reality of each community? What about social context? What about the difference between communities that are isolated and communities that are urban? How do we address that? What about population size? What makes sense if you’re a population of 200 people versus a population of 50,000 people? These are things Indigenous people have thought through for generations.

So for example, laws that are developed based on a society of relationships might just be more effective in a small community of dense, overlapping relationships than laws that are developed based on a society of strangers where the lawmakers are assuming everybody’s strangers. So rebuilding Indigenous laws is about rebuilding and strengthening conditions of peace, safety, dignity, and justice. And that’s we’re going to turn to, is the building blocks of the work, from our perspective.

**DR. VAL NAPOLEON:** So we’re going to talk about some of the challenges in the work, some of the intellectual kinds of shifts we have to make in order to see Indigenous law in the world.

We’re going to talk about the sources of
Indigenous law, because we weren’t centralized hierarchical societies with dedicated bureaucracies of professionals responsible for law. So we had different sources of law.

We are also going to talk about the resources that are available to us and to you.

We’re going to talk about one method that we’re employing as well as other methods, just briefly, that are out there.

And we’re going to talk about implementation. So that’s what we’re going to cover in the time that we have with you.

So some of the challenges. These are things that you’re probably already familiar with in the work that you’re doing, the first being accessibility. Matthew Fletcher, who’s a tribal court judge in the United States, says that Indigenous law has to be accessible; it has to be understandable; and it has to be applicable. It can’t just exist in people’s talk. It has to be a part of how we manage our behaviour with one another.

So it means that knowledge has to be available to us. And when we look at oral histories or we look at stories, the different kinds of oral histories that people had, those formed a public memory. They formed legal precedent from which we can draw on to solve present day problems. And we’re going to talk about how we do
that.

The accessibility to some extent is also formed by our experience with law. There’s an amazing scholar -- her name is a Sally Engle Merry -- and what she says -- she has worked with violence against women all over the world. And one of the things that she says is that if women don’t understand that they are rights-bearers, if they haven’t had experiences with the legal system which is positive, you know, if their experiences with the police or the courts or with anything else is negative, they’re not going to understand themselves as rights-bearers, and they’re not going to avail themselves to that legal order.

And so you think about that and then I think we have to take it further and we to ask the same question of Indigenous laws. We have to make sure that our laws are accessible in this so that all of our members -- women, children, people from different sexual orientations and trans and so on -- that all of us can see ourselves as mattering within that legal order.

So one of the things that I mentioned in the short video that you saw was seeing each other as legal agents, seeing ourselves as legal agents, and seeing how the relationships that we have with one another hold those responsibilities and obligations.

The second challenge is intelligibility.
John Burrows has written about this in one of his books. And this is important because our People didn’t just behave. We were intellectual Peoples. We had intellectual resources to draw on, as well as spiritual and emotional and physical ways of being in the world. And so we have to make sure that we’re able to teach and create ways of learning and opportunities for people so that the Indigenous laws are intelligible. So the ways of thinking and solving problems, they have to be available to everyone and we have to make them available.

And legitimacy. If the decisions haven’t been reached in a way that we understand as being legitimate, we’re not going to uphold those decisions. Fundamentally, law has to be legitimate and the legal processes have to be legitimate.

And so one of the questions that we ask is how people understand it and what are the legitimizing processes that are already in place or that need to be developed.

Equality and human rights. There were a number of people this morning that talked about the importance of equality. People did that in different ways. We’ve taken it to look at human rights within Indigenous laws to ask questions about what are human rights within Indigenous legal orders. And we have materials and
different kinds of things that are available. But human
rights within our societies is a governance issue. It’s
something that we need to think about. And we need to
think about it particularly as it applies to women and
girls, which is a hard way of thinking about violence
against women, even within state law and within
international law. We have to do the same kind of hard
work within Indigenous law.

There are a number of distorting, very
powerful stereotypes that are out there. Every time we
talk to a group of lawyers or judges or community peoples
or sometimes students and so on, there are different kinds
of very powerful stereotypes that come up. And they can be
positive or negative, but they’ll short-circuit the
thinking that we have to do.

There’s applicability. The law has to deal
with the ways that we live our lives and how we treat one
another and how we manage ourselves collectively. It has
to matter and it has to be useful in doing the work of law.
And sometimes that’s really, really hard work.

And you know, we’ll get into this, but it’s
also thinking about what are the institutions, Indigenous
institutions of law? Because law doesn’t interpret itself
and it doesn’t operate by itself. It operates through the
institutions that we build, whether it’s a family or a clan
or other kinds of ways that we work together.

DR. HADLEY FRIEDLAND: So one of the important parts about starting with those challenges is just acknowledging that there are challenges. And in Canada, sometimes those challenges are used to say, “We can’t implement Indigenous law. We can’t recognize Indigenous law because of all these challenges.” In the United States in tribal courts where Matt Fletcher is working and studying, he talks about the fact that there are tribal courts; there is jurisdiction. And there are issues around jurisdiction, but he says:

“We face these same issues.”

So it’s a different approach, saying, “We have the jurisdiction; we have the tribal courts; but how do we face these challenges so we’re actually implementing our own laws rather than bringing in state law there.”

So some of that’s about the work and the shifts. And over time we’ve worked with almost 300 community people. We’ve also worked with lawyers, with judges, with Department of Justice folk. And certain common beliefs often come up about Indigenous laws. And they come from this history; they comes from 300, 400 years of a history where Indigenous laws were talked about a certain way.

The first one that’s problematic is saying,
“Indigenous people were lawless. There was no law here when European people came here.” We know that’s not true. We don’t have a time machine, but it’s ridiculous. It’s illogical, right? We know that a huge amount is based on that, on that assumption.

And we need to turn that and take apart the logic of that and look at what that does both for people that are outside communities and inside communities, to have heard that so often, to be told that “What is law? Law is going to judges; it’s going to be police officers looking like this; and law is not necessarily sitting and talking with a group of elders; law is not necessarily the solution the community comes up with to deal with a sex offender.” So we need to look at that issue and how strong that still is.

Another common belief is that, “Okay, then, we’ll just call it ‘customary law’.” So often when people talk about Indigenous laws they’ll talk about customary law. And this is a more subtle form of the same thing. So there’s law and then there’s custom. And people sort of put it on a different playing field, right? And as Val was saying, the idea that Indigenous Peoples just do, just do things a certain way as opposed to think things through, make decisions, pull from principles, pull from the heart, pull from the spirit to deal with a problem in front of
you, right? It’s very different. So that’s a belief where people can feel stuck seeing it as different.

And I think on the other side of the pendulum swing is sometimes, then, it seems like the only way to respond to that denigration, 300 years of dismissal and denigration, is saying, “Well, Indigenous laws are perfect. Everything was perfect before European people came here” or, “All Indigenous laws are scared.” And we know there are scared laws and we know that there are sources of sacred. And we’re going to talk about that a little bit later.

But we want to be cautious and careful because what ends up happening is you start having Indigenous laws set up in a way that no other legal order ever has to face, which is if it’s not perfect, it’s doesn’t exist. Can you imagine that? Like, think about front page news, I don’t know, the last time the courts did something that made everyone be stunned in horror. And it was like, “Oh, here’s proof that there’s no such thing as Canadian law,” right? There’s no other legal orders that face that. So we want to be really cautious. That’s another side of the same coin, where things are either perfect or they don’t exist. And we want to say, “No. They’re messy and there are good parts and bad parts and wonderful parts and we figure it out,” right?
So those are just common beliefs that come up as we work through all groups, like within Indigenous communities and with lawyers and judges. We see that through all different types of groups.

DR. VAL NAPOLEON: So some useful beliefs about Indigenous law.

It's tools for social ordering; it's problem-solving; and it's the way that we resolve conflicts and we manage conflicts. And when our legal orders failed or we didn't properly adhere to our own legal orders, we can look at our oral histories and see what happened in our societies during those times.

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

So those are some useful ways of thinking about law.

Another useful way of thinking about it is that law always operates against a backdrop of disagreement because we're human beings and when we live together there's disagreement. And law is a way of reaching points
of agreement against that backdrop of disagreement.

We know from our experiences, all of us know this, that our laws didn’t go anywhere, but they’ve also been undermined and there are gaps. And they’re not always visible; they’re not always evenly functioning across communities or different societies. And we know that they’re capable of being revitalized. We know that even after tremendous loss and damage, that communities can rebuild. And we’ve seen this. And it requires just as much work to work with Indigenous law, to work with Indigenous legal resources and precedent and decision-making as it does with any other system of law. It’s not a quick fix. It’s something that we undertake together. It requires serious and sustained engagement with Indigenous law to recover it and to learn it and to practice it.

**DR. HADLEY FRIEDLAND:** I just wanted to tell a little story, which is just we were working with a community -- and there’s no need to name this community because this is an experience that happens. But the young man that was working through their laws -- they wanted to revitalize and write out laws within their community -- was working on it and working on it. And finally he said, “I’m out of time. I don’t have any more time.” And I said, “I’ll take it and work on it a little bit.” And I took everything that he had gathered together and wrote up a
report to give back to the community, which is what we do. And I sent it to him and said, “Can you have a look and see if this has captured what you found in the stories and the elders.”

And he read it and he came to see me and he just started weeping and he said, “I didn’t see the law. As I was doing this I felt hopeless. I thought we don’t have -- it’s broken beyond repair in our community.” And with the working together in the partnerships and the link, a little bit of outside eyes in that case, he was able to see it in a different way.

And that’s a hopeful thing to keep in mind because sometimes we do hear that from people, saying, “It’s too damaged. It’s too destroyed.” But we’ve seen that working together we can make it more visible, right?

DR. VAL NAPOLEON: The next one’s yours.

DR. HADLEY FRIEDLAND: Okay.

So when we’re talking about shifts in beliefs, the other thing that comes up often is talking about shifts in our assumptions and questions that we’re asking Indigenous laws and that we’re approaching this with.

So the first shift is shifting assumptions to move past stereotypes. So often both community members and other people are relying on published works from
outsiders. They’re looking at things from anthropologists or historians who are non-Indigenous. And often there are stereotypes within these materials. So how do you deal with that? How do you navigate that and draw what is useful from that?

So this is from John burrows, like, looking at how he deals with that. And the first is saying, “No matter what the author is saying, we know Indigenous Peoples were and are reasoning people with reasonable social and legal orders.” If an author from yesterday or today or 100 years ago didn’t see that, we need to read their work carefully and listen to them carefully starting from this logical assumption.

The other thing is starting with the present tense rather than talking about Indigenous law as something from the past: Indigenous laws “are” helpful, “are” useful, not “were”.

And the other one is thinking in particular terms. So all law are particular responses to universal human issues. All people, all societies through all time and across the Earth deal with violence and vulnerability. It’s part of our human condition. We’ll never avoid that. And each Indigenous society, as other societies, have particular responses to those universal human issues, so recognizing the universality of issues and then the
particular responses that work within a community, within a society.

DR. VAL NAPOLEON: One of the ways that it’s helpful to get past the assumptions is with different audiences we will suggest that they think about the questions they have of Indigenous law and then to ask themselves would they ask those same questions of Canadian law or American law or South African law. So like, it’s a way of getting at some of the assumptions that people may not be aware that they’re holding and that they’re perpetuating.

And the present tense, it’s one of the reasons that I avoid the use of the word “traditional”. If it’s Cree in the past it’s still Cree today. If it’s Gitxsan in the past, it’s Gitxsan today. And the problem with the language of “traditional” is that sometimes it’s used to relegate things in the past as if it doesn’t exist anymore today. And so it’s just paying attention to what are the consequences of the language that we use.

And with the third point, it’s also the reason that I try and avoid the word “culture”. And I use instead the word “society” because our societies were not homogenous. If you look at our oral histories, we took in other people; we took in other language groups. And when we say “culture”, it’s hard to know what people are
including in it. When I think about culture, I’m thinking about legal orders; I’m thinking about political orders and economic orders. And if that’s what we mean and what we should mean when we think about culture, then just use “society” because that way we can be sure that we’re being understood in the fullness of the terms and not being limited.

DR. HADLEY FRIEDLAND: I just wanted to say for the Commissioners this is on Tab 2C at page 2 if you want to follow this. And the next slide will be page 3, same tab.

DR. VAL NAPOLEON: Okay, do you want to take this?

DR. HADLEY FRIEDLAND: Okay.

So the other shifts that we talk about is moving from general to specific. So on the side of the slide that says “From”, we’re not saying there’s anything wrong with what’s on the “From” side. We understand that those are the spaces that are allowed and given any space for movement within state justice systems. What we’re suggesting is if we’re wanting to move to revitalizing Indigenous legal orders outside of those small spaces that the state justice system is allowing time for, we want to switch to get more specific to the two sides. So moving from saying, “What is Aboriginal justice?” -- and I heard
that this morning, this pan-Indigenous -- we know there is no such thing as an Aboriginal justice; there are 500 societies -- to talking about, “What are legal concepts and categories within this legal tradition?” As Val said, sometimes we do an exercise with students and say, “Can you tell us what Canadian justice is in a page?” Because that’s what people sometimes expect from Indigenous justice systems. We need to ask similar questions.

Moving from talking about what are cultural values to saying, “What are legal principles?” Rather than just saying, “What are culturally appropriate or traditional dispute-resolution forums,” asking, “What are the legitimate procedures for collective decision-making?” If we think about what happened here today this morning, one way of looking at it is you could say, “Oh, this was very culturally appropriate.” Or you could say, “There were things that happened this morning that people see as signalling there’s something legitimate going on here. There are procedures.” And those may mean different things and we need to interrogate them. But we want to be aware of that.

So the overall shift is moving from saying, “What are the rules; what are the answers” to, “What are the legal principles and legal processes for reasoning through issues?”
When I first started law school, before I had taken anything I really, honestly thought I was going to get a rule book. I had been a youth worker for many years and I came later in life to law school, and they were showing us how to do different things and I kept being like, “This is nice. Like, I get this is like a little exercise, but where is the book of rules?” And it took me most of my first year in law school to realize we weren’t getting any book of rules. “And what’s the answer? Can we have a little bit -- this is not --” but just asking people, “What’s the answer when you ask a lawyer any question about anything?” It depends. That’s the answer you get. And people get aggravated at lawyers, but lawyers know there are very rarely straightforward rules or answers, right? It does depend because what lawyers are trained in are the principles and processes to think through the issue. And that’s where we need to get to when we’re talking about Indigenous laws.

**DR. VAL NAPOLEON:** So chapter two of “Canada’s Indigenous Constitution” written by John Burrows is about sources of law. And he says there are at least five sources of law. And if we were doing this in a full workshop here, what we would have is descriptions of each of the sources and examples, and then we would have a number of questions that you would consider. So we won’t
be able to go into quite so much detail, but there are materials provided in the packages at Tab 2C, page 4 and 5.

So sacred -- we know that, as Hadley has referred to and others have as well, there are laws we understand as sacred. One of the questions we would ask about that is just to think about how we manage the sacred in the everyday so that we can see that how we negotiate in the world and the different ways that we hold those understandings and that way of being.

Natural law is also a source of law and John Burrows gives examples of his mother watching butterflies and milkweed. And she would observe that there would be fewer butterflies if the milkweed -- if the land wasn’t being taken care of. So she was drawing lessons about that.

And different Gitxsan and Wet’suwet’en witnesses in the title court action of Delgamuukw talked about a giant grizzly bear that came down the mountain, causing a landslide. And when you look at the oral histories and what people were doing, they were theorizing. They were creating meaning. They were recording significant events that would matter to future generations.

And so those are all using nature, learning from nature. And one of the questions we would ask is, “Why is it important to think about that which is ugly in nature as
well as that which is beautiful?” So we have to think about the whole range of what goes on in the natural world around us.

There’s positive law and this is the way that most state law is understood. We see law as coming from an authority that is a legitimate authority. And one of the things that we would ask is, “What’s the difference,” or, “Can you think of when you adhered to a law either out of fear or out of understanding that law as being legitimately authoritative over your life?”

And in our societies we also had positive law. We had different ways of understanding authority and when that authority was legitimate.

There are examples of customary law within the common law system in Canada. One of the examples that Hadley liked to give is if you write a contract -- I’m not sure if this is true but she says it is -- if you write a contract on the side of a cow, it’s a legitimate contract.

DR. HADLEY FRIEDLAND: I think that’s true.

DR. VAL NAPOLEON: That’s her argument.

DR. HADLEY FRIEDLAND: Lawyers in the room?

DR. VAL NAPOLEON: But there’s also deliberative law, when we collectively draw on our legal resources and precedent and history and understandings of problems. And we do a lot of this in community work where
we’ll have people drawing on the precedent in their histories.

One of my favourite examples is in a small community in northern BC where a young woman -- sorry -- we were reviewing an oral history. We were looking at an oral history and it involved a kidnapping of a Haida chief. And that chief was in custody when he died. And when he died, the Gitxsan people made sure that he was honoured properly as a chief should be honoured and he was buried with all of the protocols that were necessary for his rank.

And there was a young woman. She was maybe about, you know, 20 or so and she was in this large group of people, like a room a little smaller than this one. And she was saying, “Wait a minute. I don’t get it. So he was kidnapped and then he died and they buried him as a chief. I don’t get it. Why is this an important story?” And what happened was that all of the different people in the room started to talk about the different legal principles, started to talk about authority, started to talk about decision-making, started to talk about economic relations with the Haida. So there were all of these different things involving internal legal relations and political relations and economic relations, as well as international relations with other Indigenous Peoples. And what that was, was she was given an opportunity to learn through
questioning and people responded to that. And what they were doing was, in those interactions with one another, creating legal knowledge, building on resources from the past but making sure that happened in the present day so that it was capable of dealing with present day kinds of problems.

DR. HADLEY FRIEDLAND: So I wanted to clarify my contract on a cow statement for customary law. My point is that it’s customary to have contracts on paper, and that there’s probably nothing that would make the contract unenforceable if it was written on the side of a cow, but it’s not custom. So there’s things that we consider legitimate, right, that seem to make sense and signal that things make sense.

I just needed to clarify that because it’s a public record.

DR. VAL NAPOLEON: So we have a two-minute video.

DR. HADLEY FRIEDLAND: Yeah. Can I quickly ---

DR. VAL NAPOLEON: Yeah, go ahead.

DR. HADLEY FRIEDLAND: Okay. And so when we look at these five sources, the other thing John Borrows does say is, he said,

“It’s like all other legal systems.
There’s usually more than one source of law at play.”

So one way to look at these is how people draw authority, and he’s saying there’s usually more than one. When you look at almost any decision, you would see — maybe you would see sacred and natural. Maybe you would see customary and positive together. And we would see that if we broke down Canadian state legal decisions as well.

But he also says,

“Approximate or nearest source of all law is deliberative.”

In the end, there are people that interpret that are looking at what’s happening and making a decision. So that’s an important piece too.

DR. VAL NAPOLEON: Okay.

MS. CHRISTA BIG CANOE: Did you want the video before the lunch break or after, and is that a good (inaudible)?

DR. VAL NAPOLEON: Why don’t we do it after?

MS. CHRISTA BIG CANOE: Okay. Instead of actually having the video prior to the lunch break, I’m going to suggest to the Chief Commissioner and Commissioners that we take a one-hour lunch break, and when we come back in one hour that we start the video and that Dr. Friedland and Dr. Napoleon can contextualize the video.
DR. HADLEY FRIEDLAND: Okay.

MS. CHRISTA BIG CANOE: Thank you.

DR. HADLEY FRIEDLAND: Is it one hour?

MS. CHRISTA BIG CANOE: So at 2:10.

DR. HADLEY FRIEDLAND: At 2:10?

MS. CHRISTA BIG CANOE: Resume at 2:10.

Thank you.

--- Upon recessing at 1:10 p.m./
L’audience est suspendue à 13h10

--- Upon resuming at 2:27 p.m./
L’audience est reprise à 14h27

MS. CHRISTA BIG CANOE: Good afternoon.

Good afternoon, Chief Commissioner, Commissioners.

Before we actually -- but while it’s still on the record, please -- before continue the evidence of Dr. Napoleon and Dr. Friedland, I would like to announce some schedule changes. And that’s just to accommodate opportunities for cross-examination.

So we are going to continue for the next hour with the two witnesses before us, and then we are going to have Tuma Young, who is another witness, do his examination-in-chief and cross-examination, and that will conclude today at 5:00.

And tomorrow morning, we will actually ask to recall both Dr. Napoleon and Dr. Friedland so that the
parties withstanding can do their cross-examination and we can provide a reply.

Then we will have the Panel as anticipated at 11:30 with Sandra Omik and Kanuk Muk Palu (phonetic).

And at 3:30 p.m. we will have Dawnis Kennedy, who was originally scheduled for 9:00 a.m. in the morning.

And so I just wanted the record to show the change in schedule just so that we can accommodate the opportunities to have full testimony and cross-examinations as originally planned.

CHIEF COMMISSIONER MARION BULLER: Those changes are agreeable. Thank you.

MS. CHRISTA BIG CANOE: One more time, sorry.

UNIDENTIFIED SPEAKER: Could you repeat it for the record?

CHIEF COMMISSIONER MARION BULLER: Those changes are agreeable. Thank you.

MS. CHRISTA BIG CANOE: Thank you.

And at this point, I would ask that we have the PowerPoint presentation put back up -- oh, the video, sorry, the video. My apologies. And I will ask --- can you please pause? Can you please pause? Sorry, can you please pause and put it back to the beginning?

UNIDENTIFIED SPEAKER: Yes, sorry.
MS. CHRISTA BIG CANOE: And sorry, I would ask that one of the two please provide us a description or information about the video we’re about to watch.

DR. HADLEY FRIEDLAND: Thank you.

So if you recall, right before lunch we talked about sources of law and we talked about five sources of law. We talked about sacred, natural, customary, positivistic, and deliberative. And we talked about that often there is more than one source of law.

So one of the ways we engage with Indigenous law -- and I think both of us were taught how to engage with Cree law by Cree elders in Northern Alberta and BC -- was to think it through. So very often, when I would be interviewing, I would be talking and then the elder would turn around on me and say, “Okay, what about this situation? You apply it.”

So we thought we would bring some of that into our presentation. And we’re going to ask you to watch this short video and think through those sources of laws. What sources of law can you identify in this video?

Now, this is a video that’s public. It’s on YouTube. People have chosen to do that, so we’re not taking something that is -- that shouldn’t be shared.

And this is a video deliberately based in the Navaho nation that you might have heard. And one of
the reasons for that is, we’re assuming -- and we could be wrong -- that nobody here knows Navaho law. And we’re not asking you to be experts on Navaho law, but to approach this, thinking about what thinking about sources of law can help for that initial engagement with a legal order I’m going to assume none of us know anything about.

So we’ll watch it. It’s about two minutes. And as you’re watching it, think of that question: what sources of law do you see being drawn on in this video?

--- VIDEO PRESENTATION/PRÉSENTATION VIDÉO

DR. HADLEY FRIEDLAND: We can put back up the PowerPoint to that sources of law.

So issues we’re familiar with. But sources of law, not being experts on Navaho law but thinking about those sources, can people identify what sources of law were being drawn on?

UNIDENTIFIED SPEAKER: Natural law.

DR. HADLEY FRIEDLAND: Natural laws, yeah.

We heard that. The storms were being -- yeah.

Any other sources of laws that people saw in that video?

UNIDENTIFIED SPEAKER: Customary.

DR. HADLEY FRIEDLAND: Customary? Okay.

It’s -- this is the way it’s always been done. Yeah.

UNIDENTIFIED SPEAKER: Deliberative.
DR. HADLEY FRIEDLAND: Deliberative, yeah.

They're discussing they're getting ready for the election.

Any other sources of law?

UNIDENTIFIED SPEAKER: Positive law.

DR. HADLEY FRIEDLAND: Positive.

UNIDENTIFIED SPEAKER: (Inaudible) important whether or not (inaudible).

DR. HADLEY FRIEDLAND: Yeah, absolutely.

MS. CHRISTA BIG CANOE: Sorry, can we just repeat that so it’s on the record?

DR. VAL NAPOLEON: Okay, repeat it.

UNIDENTIFIED SPEAKER: Positive law, in that they were questioning the legitimacy of an authority.

DR. VAL NAPOLEON: Yeah, just you repeat it, Hadley.

DR. HADLEY FRIEDLAND: I needed to ---

MS. CHRISTA BIG CANOE: Just repeat it, yeah.

DR. HADLEY FRIEDLAND: I need to repeat it?

Oh, sorry. So positive law that they're questioning the authority of the way things are done?

DR. VAL NAPOLEON: Yeah.

DR. HADLEY FRIEDLAND: And this isn't -- I mean, we're not experts on Navaho law and we're doing this respectfully, right? We're identifying the sources of law
that we see.

So we see that actually, in that video, almost all the sources of law are being drawn on, right? And so we get to that step where we can say, “We don’t know anything about --” now, someone might come up to me afterwards and say, “Actually, I know a lot about Navaho law,” and it’ll be great to talk to, but just for starters, we can say we can indeed and start to understand a little bit by identifying sources of law that are being drawn on for authority.

So here is the second question that we ask you and that we ask when we’re doing this in community or when we’re doing this for professional development.

What other interpretations? Let’s take natural law or sacred law, and the elder’s statement about the weather indicating something. What other interpretations can you think of, just yourself, of what that weather could mean? Because law does not interpret itself; we interpret it.

UNIDENTIFIED SPEAKER: It indicates that it’s time for (inaudible).

DR. HADLEY FRIEDLAND: So the storms -- so the storm, sacred and natural sources could be indicating that it’s time for a change. That could be an interpretation of that weather.
Other ideas?

**MS. CHRISTA BIG CANOE:** And if might, just for the record, if we could have the expert who’s actually testifying repeat the -- what she’s hearing, that that would be helpful because it’s also the opinion of the expert that’s the evidence and not people’s responses. And so if you could reiterate what you're deriving from their responses, that would be helpful.

**DR. HADLEY FRIEDLAND:** I can do that, acknowledging I’m not an expert on this law, and I’m not -- these are not authoritative interpretations.

**MS. CHRISTA BIG CANOE:** Absolutely.

**DR. HADLEY FRIEDLAND:** Okay. So the weather is speaking in this. What other interpretations? We have a couple?

**UNIDENTIFIED SPEAKER:** Another way of looking at the rain is that the rain is there to wash out and cleanse the bad things that have been happening in the community.

**DR. HADLEY FRIEDLAND:** The storms and the rain could be there to wash out and cleanse what’s happening in the community. Yeah, that’s a plausible interpretation, right?

**UNIDENTIFIED SPEAKER:** Could be entirely unrelated to the election and maybe Mother Nature is
saying, “You need to take better care of me.”

**DR. HADLEY FRIEDLAND:** It could be completely unrelated to the election. It could be Mother Nature is saying, “Take better care of me.” In some communities, people have said it could be climate change, it could be like, El Nino. It could be things that are going on that way. That’s right.

Well, it’s not about it being right. It’s that it’s a reasonable interpretation, right?

So -- and the other thing that we saw was the epidemic of violence against women and murder being the third leading cause of death. That’s also a plausible interpretation.

**DR. VAL NAPOLEON:** And the uranium mining.

**DR. HADLEY FRIEDLAND:** And the uranium mining. So these are all -- when we talk about this video in community with -- in professional or community settings, these are all reasonable, plausible interpretations people can come up with.

So the first question is, what is the source of law? What’s the authority people are drawing on? But again, law does not interpret itself, and we have to keep in mind that people thinking and deliberating is how the hard work of law is done, all law. And so we always need to be thinking of that second step.
And sometimes when we talk in communities,
we’ll say, “So what happens if you walk into a community as
an outsider and the elder says what he says and you smile
and nod and it’s left at that?”

What about Belinda Lovejoyce (phonetic)?
What’s happening with them? And we need to be conscious
that we need to hear lots of voices and we need to be
having conversations about interpretation when we’re
engaging with Indigenous laws, just like we engage with all
laws.

And we can do it respectfully. If we walked
in and said, “Oh --” and we’ve heard this too -- if someone
walked in and said, “Oh, the weather, (inaudible),” you
know? They don’t understand that source of law at all and
just dismiss it, we’re not going to have a conversation,
right? But we can acknowledge that respectfully and then
we still need to do that work.

**DR. VAL NAPOLEON:** And one of the troubles,
of course, is where you leave statements and there’s no
space for the deliberation and the conversation is that
then they become unquestioned truths. And they can become
oppressive, like, to the women in the shelter. And so part
of the work is making the legal reasoning and the thinking
absolutely transparent.

And the other thing is saying where you
learn something from because what’s important is that other
people -- if I say, “Well, I learned that from the Wolf
Crest (phonetic) story from over on the Nass Valley, other
people need to go to that Wolf Crest Story and say,
“Actually, I have a different interpretation than you. My
experience with that is a little different.”

And so then we can have a conversation about
the different interpretations rather than me simply making
a declaration, because law, fundamentally, is
collaborative. It’s what human beings do together. It’s
not what one person -- whether -- says it is. It’s out, it
comes from a process that’s legitimate to the people that
are participating.

And it’s time for another lawyer joke. So
you know the old saying, if you get two senior lawyers in a
room, how many opinions do you have? Five. At least
three, but close to five.

And we need to start thinking that way in
terms of Indigenous law as well. When you have experienced
practitioners, it’s a -- it makes a lot of sense if you
have more than one interpretation of.

Yeah. Okay, so we made a shift earlier
about the ways of thinking about Indigenous law. And this
is another shift. And what we’ve found was that the way
that we thought about gender and sexuality with Indigenous
law had to change in order that we -- when we worked with it, we didn’t just perpetuate unquestioningly systems or practices which in and of themselves could be understood as gendered or oppressive.

And so again, it’s moving from general questions to asking specific questions. And so instead of saying, “What are the traditional gender roles?” as if they always have to be that way and always were unchanging in the past, we look at how do our understandings about gender and sexuality today shape the way that we work with law and shape our legal interpretations?

And instead of focusing on what are the cultural values -- and again, it’s not that these are unimportant, but if you want to get at the deeper understandings of law and have deeper conversations, it’s -- we have to go beyond that. And so instead of looking at cultural values about gender or sexuality or sexual orientation, we can look at legal principles and we can look at how they could include fairness or safety or inclusion. So how do the legal principles guide our decisions and the work that we do?

Similarly, instead of asking, what are the culturally appropriate definitions, we can, instead of looking at what’s culturally appropriate to treat Indigenous women and girls, we look at, what are the
assumptions that are being made about Indigenous women and

How do -- if we gender the legal subjects into
different categories, how does that categorization change
or influence how all of us, as legal agents, engage with
law?

And so it’s a way of getting at the
assumptions that underlie how we think about gender and
sexual orientation and sexuality.

There is an overall shift, which is, instead
of asking, what are the laws about gender and about
sexuality and orientation -- which again, suggests that
because the law existed at a certain point in history,
they’ve always been that way and they’ve never changed;
it’s a static way of understanding law, which is always
changing -- we ask, what are -- how are the Indigenous laws
gendered?

And so for example, if we ask -- if we look
at who are people in a community affected by housing, and
we look at women who are single mothers with children, they
are going to be affected differently by the housing laws
than their male counterparts are.

So it’s just thinking about how are people
going to experience the laws and being cognizant of
different kinds of dynamics in our communities? Because
just as Canadian law is a part of all of the political
dynamics in Canada, Indigenous law is a part of our political dynamics, locally and regionally, provincially, and nationally.

So instead of looking at recreating a gender balance by only looking at the practices of the immediate past and looking at restoration, we look at, how can deliberative approaches be used to promote ways that aren't oppressive, ways that are inclusive, and ways that are anti-Colonial?

So it’s a shift, in terms of how we look at the stories, how we listen, and how we -- the expectations that we have about Indigenous law.

And I was reminded to mention that the ravens that are a part of this slide show are painted -- that I painted them, that they're Indigenous trickster grandmothers, and we -- I understand the tricksters as being the first law teachers. And so these are old women here, who are performing the work of law, because that’s what they do.

DR. HADLEY FRIEDLAND: And that one on the bottom always me think of Val, Dr. Napoleon.

So we’re going to turn a bit now and talk of -- go back to when we talked about those challenges and talk about the challenge of accessibility right now. And one of the issues that comes up when people say, “Okay,
we’re -- we want to implement our own Indigenous legal traditions. We’re going to make this happen in our community.”

Or from the government, someone says, “Okay, we’re ready. Let’s do this. Just show us a textbook. Get the legal database out so we can understand the law.”

And that doesn’t exist right now. That’s not possible. It’s not so easy. If you want to learn about the law of contracts in state law, you could go to a library and there would be walls and walls of books about contracts. Or you could look at a legal database. But Indigenous laws, that’s not the case.

So one of the things that we want to talk about that’s distinct from sources -- so sources is the authority where law flows from -- are resources. Where do people turn and -- to learn Indigenous laws? And we have a list here, and also on Tab 2C, page 6, there’s another list. And we’re not going to go through them except to say that there are many -- as we started going through and saying, “Okay, what are Indigenous legal scholars drawing on? What do people in community draw on?” -- that there are many that are available.

DR. VAL NAPOLEON: I changed it.

DR. HADLEY FRIEDLAND: Oh, you changed it?

Oh, look at that.
And so the issue with some of these are, at this point in time, at this point in history, after 300 years of colonization and violence, we have an issue where there are some resources to learn Indigenous laws that require a really deep inherent knowledge and almost full cultural immersion. These are resources like ceremony, like language, that people begin learning as young children and they're a lifetime. And these are really important resources. And we know that at this point in history, they're the least available and least accessible.

So I’m very, very fortunate and full of gratitude to have had 25 years learning from elders, but I don't think for a minute that should mean -- I know how rare that is and I’m aware of so many Indigenous people that do not have that, for reasons that are far beyond anyone’s control, right?

And so we need to acknowledge that, that it’s perceived as the most ideal and legitimate, and it’s really worthwhile. And lots of people are doing work to rebuild and broaden those experiences, but it is the least available and accessible.

And the next are resources that require some community connection or access. And this is usually considered the next best ideal or legitimate. And again, this is limited availability and accessibility. And there
are challenges with this. So listening to oral histories, following around elder and helping them, that’s a beautiful way to learn Indigenous laws, but that’s not always possible.

And we’ve worked with many Indigenous students that will sit and tell us, “I want to learn about my Indigenous laws,” but for many reasons again, beyond their control, they don’t have access to a community, or the community is really struggling with lots of issues.

And the third are resources that are publicly available, and these are perceived as the least ideal and legitimate, for good reason, but are the most available and accessible. So we don’t have law text but we sometimes have textbooks from legal anthropologists or historians, outsiders that have written, and we talked about that a little earlier, navigating through those materials. Sometimes we have collections of stories that are called “folk tales”, right, or myths, but we can draw on them.

So the issues that we face today that we have to look seriously at if we want to be accessing, understanding, and applying Indigenous laws is this question of, how do we work with this? How do we work with this quandary that -- of availability and legitimacy?

DR. VAL NAPOLEON: So we have a number of
different methods of engagement, and what we’re going to be
drilling down and spending time with you on is one method
of working with oral histories or stories.

And so the different kinds of methods, you
know, we have Dawnis Kennedy here, for instance, who’s
worked with art, as well as other people. John Borrows is
teaching four land-based Indigenous law courses in -- this
September in Ontario. There’s looking at law in ceremonies
that people have done. There’s also learning law through
language, and Matthew Fletcher is doing that, as well as
Christine Zuni Cruz in the U.S. There’s looking at stories
as cases.

So there’s different processes that people
have developed in order to learn and share, learn and teach
the different ways of working with law.

So we look at stories as jurisprudence, and
understand that, like, in any community there will be many
versions of a story, and so that we have to draw on all of
those different versions.

And one of my favourite quotes is this one
here, which is:

“If people nourish a story properly, it
tells them useful things about life.”

And so the question you ask the story is
what you’re going to learn about for the -- you know, in
your research.

And it’s similar to Canadian law. You don’t -- you can ask, you know, the Canadian cases, which are stories; they're just a different way of telling a story. You can ask at different areas of law. Delgamuukw, for instance, a title court action, has 30 or more different areas of law within the one case.

So you can use the same stories for family law, for governance, for lands. It depends. It depends on the stories. But Indigenous law has the full breadth and scope of any legal order, so it covers all aspects of human life and management.

DR. HADLEY FRIEDLAND: So we want to talk -- we talked about that lots of people are engaging using different methods. And I think our argument is saying, methods for engaging with Indigenous laws need to be transparent and they need to be rigorous, whatever they are.

We have -- we say, “Cite your work, show your sources. If it’s a dream, if it’s an elder, if it’s a textbook, we want to know.” But they’re all legitimate resources.

We want to talk -- we’re going to go through an example of one method, which is the method we have been using at the Indigenous Law Research Unit. And it’s
adapting law school methods and simply saying -- John Borrows has this quote here saying,

"There’s no escaping the need for organization in presenting thought and representing action within Indigenous and linguistic worlds."

So saying whatever method and whatever resources people are using, we -- if we’re going to apply law, if it’s going to be something that communities and societies are going to have their citizens be agents of and be applying to things today -- we need some sort of integration. And I think it’s important -- it is important to have transparent and rigorous methods.

And when we bring in law school method, it’s about supplementing and supporting; it’s not about supplanting traditional methods. And in fact, when we worked on the AJR project, which was a national project with seven communities across Canada, all of our students started with a law school method. They worked hard before they went into the community. And once they were in the community, they started learning other -- through other methods. And in fact, they found that it enhanced their learning, that they were coming in with a little bit of knowledge, sort of like law students go into their articling year. They had a little bit and they were able
to have the experiences, and things made more sense.

And in practice, we’re going to -- we want to walk you through an example. And we want to stress that in practice, it is perceived as respectful and hopeful. When we work with communities, the biggest feedback we get is, “be more, do it longer, we want more of this. This is what we need to stand up our laws.” On the west coast, that’s -- they say “to stand up our laws.”

And it leads to substantive results. We have reports that are 30 pages, 70 pages, that people are implementing into their governance processes.

**DR. VAL NAPOLEON:** Yeah. So it’s getting past the “what ifs” or “law by declaration” and looking at law substantively in practice.

So the method that we’re using, which was largely developed by Hadley, involves working with a community to identify the research question. So we work with water law, we work right across the spectrum. That’s the first phase.

The second phase is bringing that research question to the available stories or the descriptive accounts. We have interviews, focus groups, different kinds of gatherings of people where there’s a legal analysis that is going on. and then for each law report, whether it’s lands or whatever; like, Hadley mentioned 70
pages. One of -- several reports are closer to 300 pages, which -- because they include a case book. They include the stories that were analyzed. And so we synthesize all the analysis from the stories into a framework, and that framework then is what people can use. That law report, people can use to apply to the questions that they're struggling with, that they're working with, whether it's governance or so.

And then the intent is not that the law books stand as law books forever, but that people decide new decisions and then add to the documents and build the legal resources that they have through actual practice.

**DR. HADLEY FRIEDLAND:** So we want to just walk you through, quickly, a small example of this. So we have a case brief up here and we want -- we do this with communities, we do this with lawyers, we do this with judges. And I’ll just be honest and say the people who are best at this are people from communities. It’s always true. They always out-analyze the law students and the lawyers.

So -- and if you look on -- okay, Tab 2D, we have the story of Sioux Woman. And I thought I would read out the story of Sioux Woman because this is something -- this is a very small taste of how we would start looking at this.
And it’s actually not unusual. Sometimes we’ll tell our students, “If you go into a community -- if you’re a lawyer and you get a call, ‘Okay, we want to start our justice system’ and you go in and sit down to talk to elders, it wouldn't be unusual that an elder might, in response to your question, tell a story like this.

But what often happens when, let’s say, a lawyer comes in to do that, they hear the story and they're like, “Okay,” and they don’t know where to go next. So we’re sort of moving past that. So I’ll read it?

DR. VAL NAPOLEON: M’hm.

DR. HADLEY FRIEDLAND: So I’ll read this little story. This is -- it’s a short little story from a published collection, and it’s called “Sioux Woman”.

“An old Cree man who was a powerful Shaman heard Sioux Woman laughing one day.

“He got mad because he thought she was making fun of him. He cursed her, and although she did not hear him, she became ‘sick and crazy’ before Christmas, and began to turn into a wetiko. Her children grew scared of her.

“When Sioux Woman’s mother saw she was
beginning to become a *wetiko*, she attempted to cure her daughter. While she worked to heal her, 'all the children were taken away, and some of the grown people went away too. Only a few stayed there to watch her.' When her daughter is cured 'her grandchildren all came home, and they lived happily after that'. The Shaman died within four days of the Sioux Woman being cured, and everyone was relieved."

So there are some people who would have been deeply immersed who could say, "Yeah, I get -- that makes total sense. Let's move from that story or here's another story."

But part of this method is to slow things down and think things through. So if we went through this story using a case brief analysis -- and in law, sometimes issue spotting is big, but just for the interest of time, I’ll give an issue and then we’ll work it through -- so if we say the issue is how is it best to respond to someone becoming dangerous to those who are vulnerable around her? If that’s the issue, the main human problem, again, universal human problems, particular responses?
Someone want to give it a try? What facts indicate that ---

**DR. VAL NAPOLEON:** Why don’t you go through the facts and then ask them about the decision?

**DR. HADLEY FRIEDLAND:** Okay, so -- well, let’s say if we went through the facts -- and remember, we’re going to put aside the Shaman right now because we’re going to focus on this issue -- and we might say, “Okay, so what facts matter? There was a Shaman that cursed Sioux Woman. Sioux Woman was beginning to act differently; the wording in the story was “sick and crazy”. We might decide, because we choose, that we don’t want to use those -- that language, but we can assume that she’s disturbed. Her mother is becoming worried. People are noticing that, that she might be dangerous to her children.”

So taking those facts, what is decided? Like, how is that resolved within this story?

Her mother attempts to cure her.

Sorry, were you going to say something too.

**UNIDENTIFIED SPEAKER:** (Inaudible) be involved in her family.

**DR. HADLEY FRIEDLAND:** Yeah, the family is involved. The mother attempts to cure her. What else happens?

**UNIDENTIFIED SPEAKER:** The children are
taken away, but don’t know who takes them away, whether that’s part of the family’s caring or whether it’s some other authority.

**DR. HADLEY FRIEDLAND:** That’s right. So the children are taken away, and we don’t know by who or where or for how long, but we know that they are taken away while she’s being cured, yeah.

**UNIDENTIFIED SPEAKER:** Need to use the mic for the translation for people who are listening in French.

**DR. HADLEY FRIEDLAND:** Oh, we need to use the mic. People need to use the mic ---

**UNIDENTIFIED SPEAKER:** Translation, yeah.

**DR. HADLEY FRIEDLAND:** --- for translation; that makes sense, okay.

So again, this is the smallest taste, right, like, just a little taste, but already we can start to see principled responses happening here. The family is involved. Her mother is helping her heal. The children are removed. We -- and we start to have questions for how long, by who.

One -- another question sometimes people have is, What happens if the mom didn’t know how to heal her? What would happen?

So you would start to develop other research questions because this is just one story and you would
never say you could understand Canadian law if you just read one case, right? So we can't understand Cree law through one story, but we start to see a little bit more.

And the next area is really important, which is, what is the reason behind this decision or resolution? Is there an explanation in the story, or could it be unsaid? So this story was important enough to be passed down and an elder chose to ask somebody to record it. So they saw this as very important.

So again, using a humble heart and being okay with being wrong, what could possibly be a reason for those responses?

**CHIEF COMMISSIONER MARION BULLER:** I think one of the important -- okay, the important message was the need to get involved, but to get back together.

**DR. HADLEY FRIEDLAND:** So people needed to be involved, and can you unpack that a bit more? How did they get involved?

**CHIEF COMMISSIONER MARION BULLER:** The different roles.

**DR. HADLEY FRIEDLAND:** How did they get involved?

**CHIEF COMMISSIONER MARION BULLER:** The different roles.

**DR. HADLEY FRIEDLAND:** Okay.
CHIEF COMMISSIONER MARION BULLER: Some people had to be there. Some people had to go away ---

DR. HADLEY FRIEDLAND: Yeah.

CHIEF COMMISSIONER MARION BULLER: --- because that was what was needed for the resolution for the healing.

DR. HADLEY FRIEDLAND: Okay.

CHIEF COMMISSIONER MARION BULLER: But that end goal being to get back together.

DR. HADLEY FRIEDLAND: M'hm. So in order for Sioux Woman to come back together with her children, what needed to happen? What did that involvement need to entail, because were they willing to have her come back together in the state she was in?

COMMISSIONER QAJAQ ROBINSON: There was a need for change.

DR. HADLEY FRIEDLAND: Yeah, and safety, right?

COMMISSIONER QAJAQ ROBINSON: M'hm.

DR. HADLEY FRIEDLAND: There was a need to make sure the vulnerable were safe.

COMMISSIONER QAJAQ ROBINSON: Yeah.

DR. HADLEY FRIEDLAND: Yeah. Okay.

CHIEF COMMISSIONER MARION BULLER: I think that one of the reasons for what happened was that the
mother believed that the Sioux Woman could be cured of her affection, and it was that hope or that confidence that caused her to start her process.

DR. HADLEY FRIEDLAND: M'hm. So really important, right? So a plausible reason could be that the mother believed that Sioux Woman could be cured, and believed in her own capacity to help with that healing, yeah.

So we could -- and we have -- spent half a day on this story. It’s a rich story. I’ve done this story in a Cree community. People, within five minutes, identified six issues, explained things I had no idea about. So people with expertise can take a story like this and talk to us for three days about it.

If we’re just learning, if we’re just starting to engage, this is one structured way to really respectfully and productively engage, to start pulling out and understanding things that can be applied today.

I wanted to just briefly talk about bracketing. One of the things that we do is say, “What do you need to bracket in this case? What may you -- maybe there are some things you don’t understand in this story. Maybe there’s things you don’t agree with.” But you can still go ahead and figure the rest out, and what you can end up with is some great research questions.
For instance, the question that I said was asked us, “Well, what happens if the mom didn’t know how to heal her?”, that could become a bracketed question. And as you go through more stories and are talking to elders and are reading interview transcripts, you might say, “Wow.”

Actually, I -- in fact, I did this research, so I’ll just admit it -- as you start to go through it you would say, “Wow. Okay, if a family member can't help, the family member looks to adjoining communities and will bring somebody to someone with medicine or with the power to help them heal. Here’s three stories that show that’s what happens and here’s how an elder explains that happens.”

So you start to figure that out.

You might have a bracket where you say, “Well, I don't know what a Shaman is.” Indigenous or non-Indigenous, it’s possible, right, that that just doesn’t make sense.

And you can bracket that and say, “Well, I don't know what that is and I don't know if I believe in cursing, but what I do know is that it caused her to become dangerous.”

So I can still move ahead with that issue and in a bracket say, respectfully, I would need to know more about that. It doesn’t need to be a full stop if you don’t understand some of these concepts.
People may not know what a wetiko is, but we were still able to do the analysis of that story. And there might be many people in here that doesn’t know what that term refers to. And again, that could be a bracket where you would say that.

So that’s the first step. And when we do this with students, we have them -- they’ve looked at anywhere from 20 to 70 cases or stories and had to do this, because we’re asking them to put in the hard work. We’re asking them to engage.

And communities have done this too. Some of the best work we’ve had has actually been communities deciding to do this in a really structured way, to develop something.

And what comes out of that is once that's been looked at, community researchers or student researchers or law school researchers, in partnership, bring all the stories together. So if you are doing legal research in Canadian state law, you wouldn't walk up and say, “Oh, the Charter, Section 15, equality,” and sit back down. You would look at all the case law. You would gather it together and you would synthesize it, you would bring it together in a framework to understand that area before you're going to apply it.

So that’s the next step. And if you look on
Tab 2G, you have an example of a report, which the AJR Cree Legal Principle Summary. So you have an example of, I think that’s about a 40-page report, maybe a little longer. So again, it’s just the beginning of a case, but you see where it’s all put together following through this framework, where you're identifying specific responses, but you're also recognizing that these aren't tiny little one-offs, but you're looking at a complete system, right, that has that breadth and has that flexibility. There’s enough flexibility and adaptability in there that you could argue, that reasonable people could disagree, like all law.

So what we’re going to ask, we’re going to sort of speed things, because we’re just giving you the tiniest taste of this. But if you look on Tab E -- and we have it up on the screen because we wanted everyone to be able to think this through with us, this is a very, very short one-page summary of three different works engaging with Cree legal traditions that do probably -- I mean, there’s probably about 400, 500 pages altogether, and we’ve narrowed it down to one page.

So again, we’re not saying, “Oh, this is how simple Cree law is.” It’s extremely complex and 500 pages is nothing. It’s, again, a learner, a drop in the bucket. But just to go back to that story of Sioux Woman -- and if we’re looking at these principles, one of
the things that, as we work through this, sort of that
step-by-step building block, story by story, report by
report, we start to be able to identify response
principles, and we start to see meta principles. We start
to see those overarching principles, like *Wahkohtowin*, the
importance of relationality and interdependence. You start
to see that woven through story after story, principle
after principle, where it makes sense.

So you have examples like this. But again,
for -- because our time is short, I just want to look at
these -- at the eight below and say, “Okay, so these are
specific response principles. And it’s not just response
principles. We have process, right? There’s procedure,
there’s rights, there’s obligations.

But just talking about responses, if we
think of that issue, how to respond to someone who is
becoming dangerous to those that are vulnerable, in that
little story that’s about two paragraphs, did you see the
principle of healing? Yeah. What about separation or
avoidance; did you see that? Yeah. Supervision? Yeah,
they kept an eye on her until, right? Natural and
spiritual consequences. So sometimes no human does
anything, but someone that has done something wrong seems
to -- we saw that in the Shaman, right? Not Sioux Woman
but the Shaman dies within four days and no one knows why.
Acknowledging responsibility; did we see that in this story? Yeah? So we can see that. The integration, the importance of reintegrating people once they're safe. Yeah. Incapacitation; so in very old stories when people just could not be kept safe for others, there are stories of people being incapacitated, sometimes temporarily and sometimes more permanently. That would never happen today, but sometimes -- think about jail. Sometimes jail is -- people are kept away for a little while, right? And retribution would also be very rare, and it’s not something we saw in this story.

But so just working this through the tiniest taste, I hope you can see where you can have a story that seems like a little simple small, small little story, but it’s actually quite rich and complex, and there’s actually a lot of principled decision making happening there.

And so sometimes we -- the same thing happens today. So sometimes, when you hear a story like that, sometimes you're in a community -- maybe the Shaman’s a meth dealer today, right? Maybe he’s encouraging someone to prostitute their children to pay for a habit that he started. There’s lots of examples where we know people curse other people in many ways and have the power to create people becoming dangerous and to create very dangerous circumstances for the vulnerable.
Could we apply these principles to that issue? Arguably, we can, and we can do it in effective way. And people are, once you start looking -- one of the things that I found is once I started identifying these principles, I started seeing it more. I started realizing wow, okay. Somebody explained what they did and I didn’t understand because people don’t write out judgements like Canadian court judges do, right? People aren’t saying, “Here, let me explain my reasoning for what I did.”

But I started to see it once I started to do this work. I could say, “Wow, I get that they were doing some separation and supervision here and that was a principled response and it worked.” It worked in that context, or if it didn’t work, why? What needs to be put into place?

**DR. VAL NAPOLEON:** Okay, we have to speed it up.

**DR. HADLEY FRIEDLAND:** Yeah, okay. I’m done now.

**DR. VAL NAPOLEON:** Okay. So there’s a number of examples about implementation. Just a note on what Hadley has just covered; there was a full set of legal responses. Sometimes when Indigenous law -- criminal -- Indigenous criminal law is talked about, it’s as if the only part of -- the only thing we had was healing.
But the reality is, depending on safety and other considerations, there was full response. And one of the questions for all of us is, what is the -- what are the consequences of having incomplete understandings of our legal orders, insofar as the different kinds of -- the range of responses and the work of law in its fullness?

So the project, the Aseniwuche Winewak project, continued and it’s continued into governance and it’s continued into a justice project. There’s the implementation for the Secwepemc work. They’ve -- moving it into child welfare, into resource management and into governance.

And just a point on that: whenever we talk to any communities, whether it’s about lands or resources or anything else like that, once we start the work, there’s always women who come and say, “There’s violence in our communities. There’s things we have to deal with. Here’s some realities about our experiences behind all of the things that are going on.”

So it’s always a bigger picture and it’s always way more complicated than one would first think. So people are moving ahead as best they can and doing a lot of work.

This is a gathering. This is people from Gitga’at, Haida, Heiltsuk, Tsawout, Secwepemc, and
Xai’xais, and so on. So there’s all of these people in BC, meeting, and they’re creating plans and reports and it’s -- there’s a hunger and a thirst for all of this kind of work.

This is some work that’s going on here -- or pardon me, in Ontario by some of the people who are here with the Indigenous Justice Division with the Attorney General of Ontario. And you can see that people from a lot of different perspectives are coming together and trying to figure out a principled way of working -- recognizing working with Indigenous law so that it’s more than just tokenism or lip service.

There’s the court, the Akwesasne Mohawk court, which was organized for very pragmatic reasons of dealing with the mix of jurisdictions that -- which caused more conditions of violence for Mohawk women. So it was a way to address the divisions caused by jurisdictions which increased the danger for those women.

This here -- I’ll go through it really quickly -- this is -- you know, historically, we had law and we had legal institutions through which the law operated. We had legal authorities through our clans, through our lineages, through our families, and so on. And today, we also have law and we have institutions. And there’s sometimes clashes between the two or one gets talked about and the other gets erased.
This is a quote by Xhliimlaxha. She’s a high chief, Gitksan high chief. Her name in English is Martha Brown. And she says,

“‘Why not ask if you can use it?’ I said to them. They said that their grandmother used it.

“‘Yes,’ I said. ‘Lots of people have used it, but we own it. If you just ask me, you can use it. I will even tell you where you can set your net.’

“By marrying into our house, they had the rights to use it in the past, but those marriage ties died out long ago, and they were told, right in the feast, that they could not use it any more.”

So this is another one of those paragraphs that’s just packed with legal information from the Gitksan legal order. And so we can spend a long time looking at what we can learn from Xhliimlaxha in this little interchange.

The thing to keep in mind is that the continual breaking of the laws by younger people who don’t know or by industry or by government just continues to undermine the integrity of the Gitksan legal order and any other legal order. So it’s about looking at can we today,
in today’s world, help to rebuild, or do we create
institutions that will continue to undermine the different
ways that people manage themselves. So it’s bringing the
best from the past.

There are a number of slides here that we’re
going to -- are going to wrap up on from our part. And
this is looking at the historical legal institutions in
law. It’s looking at specific events in colonial history,
and then looking at present-day legal institutions and law.

And so it’s looking at horizontal
authorities, shifting to top-down authorities. It’s
looking at how leaders behave. It’s looking at how there’s
a different jurisprudence and so on that operate through
the historic legal institutions, and today we have new
legal institutions, and over time, the changes that have
taken place.

But here’s one of the big things about this.
If you look at the relationships that matter historically
in a decentralized legal order, the relationships that
matter are those with one another. They’re internal,
whereas now that we’re fragmented into small,
geographically-pinned communities, bands, the larger legal
order is fractured and the relationships that matter, for
the most part, are those that are vertical with the
Canadian state.
So we can look at the extent to which a legal order extends. So I’m not talking about bands. So I’m talking about the Gitksan legal order, for instance, or the Tsimshian legal order, within which there are, you know, a number of bands.

So we had publicly (inaudible) institutions. Those are capable of being rebuilt and there are some changes today to those institutions, sources of law. And if you think about Xhliimlaxha and her legal perspective, you can see all the different ways that her understanding and the decisions she is making are made. You can see what informs it. You can also see what’s informing the young people.

Xhliimlaxha is not no longer with us, and so you can see the different kinds of changes and the different understandings that go on in time. And it’s not a matter of those young people are wrong. It’s a matter of what else do we have to learn and how else do we have to teach?

Hadley?

DR. HADLEY FRIEDLAND: So I think we just wanted to end on the note, this is one of our favourite things we got to do, which was on the last TRC national event in 2014 with the Aseniwuche Winewak Youth Council, where we were asked to come and work with them for the
Youth Council and other members of the community to do a presentation about Cree laws related to reconciliation. And we had -- we ended up having 25 people come, and it was quite an amazing event. But this was a really beautiful part of that where all the young women in this photograph made shawls or had their parents help them with shawls until wee hours of the morning even if they can't sew. That’s my daughter with the heart on the far right, the tallest. That’s my daughter, and these are ---

DR. VAL NAPOLEON: Oops, sorry, sorry..

DR. HADLEY FRIEDLAND: That the -- no -- and I mean, these are my nieces and nephews. But it was a really beautiful representation of the principle of safety, of showing how important it was for them to feel safe and valued within their own community and the role that other people had in that community to make that happen. So I thought that was a good note to end on.

DR. VAL NAPOLEON: Yeah. And the stories of colonialism about Indigenous law, one is that our Indigenous legal orders were somehow fragile. And the second colonial story is that our legal orders were incommensurable and not understandable by those outside our own societies. And we were international people historically, we were educated historically, and we still are today.
There’s -- the kinds of legal questions that are before this Commission and what people here are concerned about, violence against women, this kind of research can be done with that. The way to end that violence in our communities is by rebuilding our lawfulness from the ground up.

So we’ve walked through this one method, a very small exercise, and we’re done.

MS. CHRISTA BIG CANOE: Thank you. Thank you, Dr. Napoleon and Dr. Friedland.

In the interests of time, I’m going to ask that we excuse these witnesses. I do have about five remaining questions, just to clarify some points in relation to it, but if we were beginning at 9:00 a.m. tomorrow, it will still allow for enough time for the cross-examination. So and the five questions are those that we had provided to parties withstanding we anticipated asking, particularly around tender issues and vulnerability of women. But in the interests of time, and having our next witness be able to testify, I ask that we excuse these witnesses until 9:00 a.m. tomorrow morning. Thank you.

I also ask that we have a -- just a short break so that we can have the next witness brought to the front and organize the space.

UNIDENTIFIED SPEAKER: Okay.
MS. CHRISTA BIG CANOE: Thank you.

--- Upon recessing at 3:39 p.m./

L’audience est suspendue à 15h39

--- Upon resuming at 4:04 p.m./

L’audience est reprise à 16h04

MS. SUSAN VELLA: Good afternoon. We’re very pleased to introduce to you Professor Tuma Young as our next witness.

Professor Young will affirm with the feather please.

TUMA YOUNG, AFFIRMED/A AFFIRMÉ

--- IN CHIEF ON QUALIFICATIONS BY/INTERROGATOIRE PRINCIPAL SUR QUALIFICATIONS PAR MS. SUSAN VELLA:

MS. SUSAN VELLA: Thank you.

Professor Young, I’d like you to start by telling us a little bit about yourself. What community are you from?

DR. TUMA YOUNG: I just want to make sure this mic is on.

MS. SUSAN VELLA: It is.

DR. TUMA YOUNG: Okay. My community is -- I grew up in Malagawatch First Nation, but it’s a very small community in the middle of Cape Breton. Nobody really knows where it is. There’s about six or seven families that live on it. So I tell people my band is Eskasoni
First Nation, which is the largest Mi’kmaq community east of Montreal.

**MS. SUSAN VELLA:** And who are your grandparents?

**DR. TUMA YOUNG:** Oh, my grandparents was William Young and (Inaudible) Phillips (inaudible), and Elizabeth Bernard (phonetic) and Maleech Tony -- Maleech Johnson (phonetic), and Sylliboy was her maiden name.

And my parents are William Fred Young and Veronica Flo Young. I was born into the Squirrel Clan for the Rabbit Clan, you know? And in a way, that -- a little bit about myself is that I grew on a trapline in Malagawatch. My mother hunted, fished, and trapped, and everything like that. My father was a stay-at-home type of thing.

And but they realized that I could not hunt or fish, so I had to go to school, and I ended up being a lawyer.

**MS. SUSAN VELLA:** Oh dear. And who is your partner?

**DR. TUMA YOUNG:** Oh, my partner is Nicolaas Honnegg (phonetic).

**MS. SUSAN VELLA:** Oh.

**DR. TUMA YOUNG:** Yeah, and we both live in Sydney, Nova Scotia.
MS. SUSAN VELLA: Thank you.

You have produced for us your curriculum vitae at Tab 3A, and does it accurately set out your education, research, teaching experience, legal experience, presentations, publications, and professional affiliations?

DR. TUMA YOUNG: Yes, it does.

MS. SUSAN VELLA: Then I’d like to respectfully request that it be marked for the record, please.

CHIEF COMMISSIONER MARION BULLER: We’ll mark all ---

MS. SUSAN VELLA: Sorry.

CHIEF COMMISSIONER MARION BULLER: We’ll mark all of the CVs at the end of the proceedings today.

MS. SUSAN VELLA: Thank you. I understand that you received your Master’s in Laws in Indigenous Peoples Law and Policy from the James E. Rogers College of Law at the University of Arizona in 2002?

DR. TUMA YOUNG: Yes, I did.

MS. SUSAN VELLA: And you are presently enrolled in the JSD program at the same university, and your thesis is “L’nuwey Tplutaqan: Using Traditional L’nun Legal Thought in Creating Contemporary Indigenous Governance Institutions”?

DR. TUMA YOUNG: Yes. It’s L’nuwey
Ms. Susan Vella: Ah, thank you.

Dr. Tuma Young: Yeah.

Ms. Susan Vella: You’ve received research grants for several projects, including building a social policy framework for the health and wellbeing of Mi’kmaq communities in Nova Scotia and a two-eyed seeing approach for the Canadian Institute for Health Research?

Dr. Tuma Young: Yes.

Ms. Susan Vella: And also two-spirits identity and cultural ceremonies from the Social Sciences and Human Humanities Research Council?

Dr. Tuma Young: Yes, I have.

Ms. Susan Vella: You are currently an Assistant Professor in the Communities and Connections Department at Cape Breton University?

Dr. Tuma Young: Yes.

Ms. Susan Vella: And prior to that you were Assistant President Professor in Indigenous Studies at Cape Breton University from 2012 to 2016?

Dr. Tuma Young: Yes.

Ms. Susan Vella: You were called to the bar of Nova Scotia in 2001?

Dr. Tuma Young: Yes.

Ms. Susan Vella: And you have several
publications to your credit, including “L’nuwi’tasimk: A Foundational Worldview for a L’nunwey Justice System”, in the Indigenous Law Journal?

DR. TUMA YOUNG: Yes.

MS. SUSAN VELLA: And you are the first Mi’kmaq-speaking lawyer in Nova Scotia?

DR. TUMA YOUNG: Yes, I am.

MS. SUSAN VELLA: We propose that Professor Young’s teachings is -- are recognized and that he be acknowledged as an expert in the Mi’kmaq legal principles and systems known as L’nunwey Tplutaqan and its development to contemporary Indigenous institutions.

--- RULING ON QUALIFICATIONS BY CHIEF COMMISSIONER MARION BULLER:

CHIEF COMMISSIONER MARION BULLER: Yes, certainly. Thank you.

I extend a very warm welcome to you, Professor Young. Thank you for coming and we certainly recognize your areas of study and expertise today -- not the hunting part, though.

DR. TUMA YOUNG: There -- as an aside, there is one more area that wasn’t mentioned. I’m also an ethnobotanist. I gather traditional medicines for elders. And we just received a grant of -- from CIHR to develop a tropical ointment to be used in eczema and psoriasis, so
using birchbark oil.

MS. SUSAN VELLA: M'hm.

UNIDENTIFIED SPEAKER: And again, I didn’t hear that word you said.

DR. TUMA YOUNG: Oh, yes. I was just adding to what was in my research project. It’s -- I received a grant from CIHR community -- Canadian Institute of Health Research -- to do research on developing a tropical ointment for eczema and psoriasis. And my background (inaudible) to be is in ethnobotany, a study of Mi’kmaq medicines, tradition.

MS. SUSAN VELLA: Thank you.

DR. TUMA YOUNG: Yeah.

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

MS. SUSAN VELLA:

MS. SUSAN VELLA: Thank you. Do you have an opinion on whether or not the application of the Mi’kmaq legal principles and model of justice would likely reduce the vulnerability of Mi’kmaq women and girls, trans, and two-spirited people to experiencing violence?

DR. TUMA YOUNG: Yes, I believe that my opinion, as presented here, will do that.

MS. SUSAN VELLA: And do you have an opinion as to whether or not the application of the Mi’kmaq legal process would likely return Mi’kmaq women, girls, two-
spirited, and trans people to a healthier, safer, and
sacred place in society?

**DR. TUMA YOUNG:** Yes.

**MS. SUSAN VELLA:** Thank you. I understand
you also wrote a paper entitled, “L’nuwi’tasimk: A
Fundamental Worldview From a L’nuwey Justice System”, that
was published in Volume 13, issue 1, of the Indigenous Law
Journal in 2016; is that correct?

**DR. TUMA YOUNG:** Yes, that was (Speaking in
Native language).

**MS. SUSAN VELLA:** And this is a peer review
journal?

**DR. TUMA YOUNG:** Yes, it was. Yes, it is, I
should say.

**MS. SUSAN VELLA:** Does the paper reflect the
testimony you propose to give, including your opinions and
the basis of your opinions today?

**DR. TUMA YOUNG:** Yes, I will try to
summarize the paper as best as I could.

**MS. SUSAN VELLA:** We’d like to have the
paper then acknowledged as an authority and accepted as the
next exhibit.

**CHIEF COMMISSIONER MARION BULLER:**
Certainly.

**MS. SUSAN VELLA:** We’ll do that later?
CHIEF COMMISSIONER MARION BULLER: That will be marked at the end of the proceedings today, thank you.

MS. SUSAN VELLA: Thank you.

Now, before you explain your analysis and opinions, there are few concepts underpinning your testimony that I would ask you to explain. And the first concept is “Two-eyed seeing”. What is it and how is it relevant to your analysis?

DR. TUMA YOUNG: Two-eyed seeing is a -- actually, it’s the English analogy of the word that we use (Speaking in Native language). And it was developed out of two elders out of Cape Breton University, Murdena Marshall and Albert Marshall, her husband, and working in the science and trying to encourage more Mi’kmaq students to go into sciences.

And basically what we’re (inaudible) saying in that sense is that an issue has to be looked at from two different perspectives: the Western perspective and the Indigenous perspective so that this provides the whole picture for whoever is trying to understand the particular issue.

So in this case, what I’m proposing is that the Commission, when we were looking at this issue of violence against women and trans folks and two-spirited folks, and young girls in our communities, we look at it...
from a two-eyed scene approach, from the dominant Canadian legal system and from the -- our own Indigenous legal system; so in particular, the Mi’kmaq system, you know. That's what we refer to (Speaking in Native language) so that will hopefully give a complete picture to the Commission as to what the whole issue is.

**MS. SUSAN VELLA:** And would you also explain the concept of ecology as used in the context of an Indigenous world view?

**DR. TUMA YOUNG:** In my paper, there’s references to our ecological spaces are sacred. And just to pick up my colleague, Val, who presented here, and they talked about the sources of Indigenous laws. I wrote it in some of the sacred sources and John Borrows operates on that too.

I say that in the Mi’kmaq world view, there are different ecological spaces that exist. Some have said there were six, others have there were eight. And some have been referred to as six worlds or lodges. I refer to them as wigwams. We don’t have tipis in Mi’kmaq. We have wigwams, you know? And so I refer to them as wigwams, and where different life forces exist.

And one of the (Speaking in Native language), the Mi’kmaq laws or legal principles, really, is that you're taught how to manoeuvre between these worlds.
For example, the -- you know, the world beneath the sky, world above the sky, the world on the earth, the world in the sky, the spirit world; in each of these worlds have the different life forces and how we, as humans, interact in with all of these worlds contains the rules for living, and how to be respectful to each life force as it forms. And these are the sacred ecological spaces.

And in this paper, I propose that that’s what was considered, and it is very considered still in the past, and it’s still very evident. But today, there’s contemporary ecological spaces which we all move in. For example, I’m moving to -- like, I have my camp in Malagawatch but I move in another ecological life space that’s in university. And another one is the legal society, the bar counsel, you know, and being a lawyer. Those are different spaces and there’s different rules within these ones. And as I move in each one, I have to know what the lessons are in how to behave appropriately in each one of them.

MS. SUSAN VELLA: M’hm. And would you also explain the theory of flux in Mi’kmaq legal principles?

DR. TUMA YOUNG: Oh, yes. The theory of flux is that we constantly believe like, all things in our -- the natural world, in our nature, they’re always constantly running down as the cycle continues through
like, the whole world; like, from summer goes into fall, 
fall goes into winter, winter goes into spring. And 
everything kind of needs a bit of renewals, always. And at 
each stage are renewal ceremonies that have to be done. 
And this is the theory of flux. Everything is kind of 
running down, and that relationships also have to be 
renewed from time to time; relationships between 
individuals, relationships family members; relationships 
among all the different life forces in the ecologies. 

And so there are ceremonies that do these 
things. And so you’re constantly -- some of them are very 
quick, very fast; like, for example -- I’ll give you a good 
example: when I ran into -- this morning when I walked in 
and I ran into Val and I haven't seen Val in a long time, 
since we were both in Guatemala doing work there. And 
within two seconds, we were just kind of back to what we 
were, I mean, even though we hadn't seen each other for a 
while.

Others take a longer time. We’re 
approaching a new ceremonial cycle that we’re going to be 
going into with the fall equinox. There’s different 
ceremonies.

So all things need constant renewal. And 
even our treaties are based on those, the Covenant Chain of 
Treaties, the treaty relationship needs to be renewed on
October 1st every year. And so that’s to keep the relationship a very good relationship. And that’s the theory of flux, that everything’s kind of running down and will need constant renewal.

**MS. SUSAN VELLA:** Thank you. And I understand that you’ve prepared a PowerPoint presentation to aid in your testimony today?

**DR. TUMA YOUNG:** Yes, I have.

**MS. SUSAN VELLA:** And before you start -- well, with the benefit of the concepts that you’ve now explained to us, and before we start, could you please give us a brief overview of what you intend to address through the PowerPoint?

**DR. TUMA YOUNG:** Well, I hope to basically summarize a little bit about what the concepts contain in the paper and also present the model that’s contained in the (inaudible) and expand upon that using a traditional justice -- what would be an Indigenous or Mi’kmaq justice system that can be restored in our -- in Mi’kmaq territory. That’s what I hope to do in this presentation here.

**MS. SUSAN VELLA:** And I see with the -- in the cover slide on the PowerPoint there’s an image. Can you explain what that image represents?

**DR. TUMA YOUNG:** Okay. That image is the eight-pointed star and the eight-pointed star, where I come
from, we come from the land of the Wabanaki (Speaking in Native language), and that means “the land of the sun”, the rising sun and where the sun rises. And this is our -- and we don’t necessarily use the medicine wheel concept or the four directions, you know? We use the eight-pointed star. And these are quite common among the Wabanaki people: we, the Mi’kmaq, Maliseet, Penobscot, Passamaquoddy; all up and down the east coast.

And this is a -- what we call a (Speaking in Native language), a petroglyph that’s engraved on a rock in Bedford. And this is about the eight-pointed star, and there’s a spirit person that’s on the outside of it, and it’s moving along the star. And these are representative of the ecological spaces and that the spirit person has to find their way in how to interact with the eight-pointed star (inaudible).

MS. SUSAN VELLA: Thank you. And with that, I would invite you to use the clicker and please, carry on with your presentation.

DR. TUMA YOUNG: Okay.

MS. SUSAN VELLA: Thank you. I’ll sit over here.

--- PRESENTATION BY/PRÉSENTATION PAR DR. TUMA YOUNG:

DR. TUMA YOUNG: Okay. To the Commissioners, I thank you here and I have to acknowledge

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that I’m on my -- what I call my cousin’s land, the -- to
Cree and also to the Metis here, you know? And given that
fact that we also belong to the Algonquin linguistic
family, some of the words in Cree are kind of familiar, but
some of the words are, you know, are like similar in
nature.

Okay, what we have here is L’nuwitā’simk.
It’s what I say, it’s a foundational worldview for a
L’nuwey justice system. And after much thought and much
thinking about this for about 10 years, I came to this
paper and how we can do this. L’nuwitā’simk means --
literally translated it means, “to think like an L’nu.”
(Inaudible) for ourselves. Our name for ourselves is L’nu.
We’re not Mi’kmaq people. That’s the name that the
(inaudible). But we call ourselves L’nu, which are people
of the same tongue.

(Inaudible) -- it keeps -- yeah, it just
cuts out right here unless I go like this, right? That’s
(inaudible) let me try and bring this up a little bit.
How’s that? No? How’s that? No?

MS. SUSAN VELLA: No, (inaudible) be not
covered by ---

DR. TUMA YOUNG: How’s that? I can just
hold it like this then. How’s that? Okay? No, you know
what? I’m just -- I’m a little bit like Oprah. I can do
MS. SUSAN VELLA: Okay.

DR. TUMA YOUNG: Okay. I got a PowerPoint, I got the microphone, I’m good to go to the Commissioners.

Okay, well, first of all -- okay. The first question people always ask me is (Speaking in Native language), what is L’nuwita’simk? Now, I explained a little bit of the terminology for Mi’kmaq. We’re L’nu, people of the same tongue. Our neighbours across the St. Lawrence River, who used to be known as Montagnais-Naskapi now they’re known as Innu, you know, Innu, right? And actually, our language is very similar, you know?

And then their neighbours a little bit north to them are the Cree, the James Bay Cree. James Bay Cree don’t call themselves Cree. They call themselves Eeyed. And then of course, we have their neighbours up the north of them, which are the Inuit. Oh, this one? (Inaudible).

Yeah, okay? Okay then.

So anyways, we have the whole thing is (inaudible). So we have in our area L’nu, Innu, Eeyed, and Inuit, you know? So people of the same tongue in the way our languages are versed, where you can understand your neighbour to the north and to the south. So we understand the Innu and Wolastoqiyik which are the Maliseet. The Maliseet or Wolastoqiyik understand us, and they understand
(inaudible), you know, and so for all the way down to Florida.

It’s really, L’nuwita’simk, it’s a particular way of seeing the world, you know? It’s how we view the world. It sometimes -- I tell people, it’s not correct and it’s not wrong, either. It’s just is, you know? How we see the world is fundamentally different, you know, from how others see the world. And sometimes you have to take an eagle-eye view. You see -- you fly so high up and that you have to see everything. But occasionally the (Speaking in Native language) has to fly down close to see particular details. And so that’s what the L’nuwita’simk is; our way of seeing the world, the ecological spaces around us.

There are a unique set of rules, regulations, observations, and protocols associated with this world view, you know? And basically, this world view tells us how do you deal with your relatives in the other five or six worlds, you know? They're wigwams, the Deep Earth, Water, Earth, Root, Ghost, Sky, Light, and the Ancestor Lodges.

Our L’nuwey Tplutaqan are the legal principles that are used to navigate these worlds. So as one person goes through or families go through, that’s what you use to, you know, go through these worlds.
Where do these legal principles come from?

You’ve heard from my colleague earlier on that there’s --

our colleague John Borrows says there’s five sources.

Well, here from the Mi’kmaq world view, we -- our

principles come from our stories, our ceremonies, our

songs, our languages, and our dances, you know, and that’s

where our -- most of our legal principles are there.

So in the work that you are doing here, and

when you are listening to stories that folks will be coming

and giving to you, not only will these stories tell you of

many things, but they also can -- I fundamentally believe

that -- and it’s my opinion that these stories will tell

you about some of the legal principles that folks have

encountered in their moving from one world to another.

So some of these songs, like, Ben Christmas

-- he was a captain of the Grand Council. We have a Grand

Council, and he was born on our old reserve -- he kept the

chants alive in living memory. So all -- most of our old

chants are fundamentally different from, you know, out west

or anything like that. They're chants, really. They're

not necessarily songs. They're really chants. And John

Newell, who was my great-grandfather, he told us that the

songs and our chants come from the sisipk, the birds, you

know? And he said that’s where, you know, we learned all

these songs and our chants.
Some of them are also borrowed. One of our chants is -- was given to us by the (Speaking in Native language), the Haudenosaunee as part of the peace process that we entered into with them. That’s because we kind of won the war with them so they said, “No, we came to a draw,” but you know, that’s -- but there is now peace with the Haudenosaunees, right, you know? Yeah.

Now, one of the things that, you know, we often hear the term “justice as healing” and that’s -- in some ways, that’s what some of the desires of our Indigenous folks is, that, you know, look at justice as healing. But unfortunately, it hasn’t been that for a long, long time.

So part of the Kloqowej -- and the Kloqowej model of justice that I proposed in the paper, has four -- based on the eight-pointed star and it’s based on four different principles, which is peace, kindness, sharing, and trust. But in the work we’ve done, it sounds like very -- you know, sometimes I took (inaudible) -- that sounds very, very -- I don't know want to use the -- but the phrase I’m going to use, that it sounds a little airy-fairy, right? You know, it’s not --- you know, it’s like a motherhood type of thing or something like that.

And I tell them, “No, that’s not true. It is a lot of work that's required to get to that point. And
as you move from one stage to another, you have facilitators that help you.”

And so in the work that we did at -- in Gespe’gewa’gi in Gaspe, Gaspe Peninsula, with three
(Speaking in Native language) and one from New Brunswick,
we came up with how you move people through that Kloqowej.
And the first part of it is, we call it O'pla'matijik.

There is a disagreement. There is a dispute. Something has happened. There is a break in a relationship, you know, something terrible has happened. A dispute has come.

So when you're there, you know, and the facilitators move, then the next stage is (Speaking in Native language) or Petka’ma’tijik, the facilitators or the people who help, you know, in this, and they help people move to that next stage. Whether that takes hours or years, its really up to the individual, right, and or how the dispute -- it depends on how severe the dispute was or anything. But Petka’ma’tijik, it’s almost like a tool to separate the parties.

I heard in the last presentation there's a time for healing. The Cree principle was for separation. We do have that also too, Petka’ma’tijik. That is to allow a healing time, a healing space to occur, to let all the emotions to die down, to let them just be fully expressed and then so people are, you know, moved from that
expression.

So Petka’ma’tijik, it’s almost like a calming-down period, you know. Now again, that can take months or years or even days or it can happen very quickly. It depends, you know?

And then we move into the next one, Apiksikta’tijik, you know? Now, in some ways, that’s -- when I say that, people say, “Well, that’s -- does this mean forgiveness?”

In the Christian concept, yes, that means forgiveness, but not in the Mi’kmaq concept. It means you come to an agreement. In our concept of justice, its not really a type of -- you can't really ascribe to it as if it was a criminal base, like, the western (inaudible) base. You have two types, Western -- in the Western system you have criminal and the civil matters. Most of our laws and our principles are rooted in civil, you know, what would be considered civil thing, you know?

So Apiksikta’tijik means an agreement as to how to resolve the dispute or the disagreement. The parties have come to an agreement. In some cases, this may mean a restitution, a separation, and some of our old concepts is revenge, you know, type of thing. And so -- but it’s -- a lot of it is -- comes back to, you know, there is a policy of revenge for if a murder had happened,
the family would come and -- you know, they would take
another life unless proper restitution was made and a
proper acceptance of the responsibility, right?

And so in a bit of a civil matter -- so but
Apiksikta'tijik means they’ve come to an agreement as to
how to resolve the dispute. That’s where, a lot of times,
it’s left there. And in the Kloqowej principle, they said,
“That’s not where it stops. We need to take it one step
further.”

And in the two-eyed seeing approach, if you
look at it from the Western court system, that’s often
where they stop too. The person is sentenced or this
person is done. The court system is done. People walk out
of there, and they don’t necessarily feel that justice has
been done or it doesn’t feel right for them, but that’s the
end of it. The agreement has been reached. Whether it is
satisfactory for everyone, is -- may not be the case but
the agreement.

And so we tell people that under
L’nuwita’simk there’s another stage that they have to go
through. It’s Wek’paltutimk. A healing ceremony has to
come and take place. A restoration of the relationship.

Now, in terms of moving through the
ecological spaces; for example, if you were to -- if I was
to go and -- I’ll tell you a little story one time in
Malagawatch when I was growing up and we hunted cod -- we fished for cod, we fished for cod.

And people say, “Well, you fish for cod, despite the fact that Mi’kmaqs don’t really like cod, right.”

Well, we like the liver and we like the stomach, you know, those are delicacies. The rest of the cod, ugh, no, type of thing.

But -- so me and my brothers, we went out in the rowboat and we were jigging cod. We must have come across a school, and so we were -- and we were just hauling them up. Holy God, we were like, and we caught a whole boatload full and we brought it in.

And we yelled up to our parents and they came down and they said, “Oh, yeah. You did this, you know. Now you have to clean them, you know, make sure you save the (Speaking in Native language) and the (Speaking in Native language), you know, the stomach and the liver, right? And they said, “You have to go and (inaudible).”

And my father said, “Now, what are we going to do with them? You're only supposed to catch enough for supper, two.”

And we said, “But look at us. We caught lots.”

They said, “We have no electricity. We have
no running water here. We’re in the camp.”

So my father had to go to, you know, Port Hawkesbury, buy salt and he was, you know, money was a little bit hard, so he had to buy salt, we had to go and salt. And our Wek’paltutimk (speaking in Native language) disagreement, Wek’paltutimk was, our punishment was that we had to eat salt cod for breakfast, lunch, and dinner for a whole month because we had violated one of the tenents of (speaking in Native language). You don’t take any more than you need. So that’s what we did.

And so after that, we learned our -- you know, that thing. As young kids, we would never do that again, that’s for sure.

But Wek’paltutimk, in -- often we -- you know, it’s a time of helping to restore the good feelings that people had before the relationship broke down in some form or fashion, right? And in small communities, even when things happen that are terrible and all sorts of things, people sometimes have to live with each other, families have to live with each other, and that break impacts far more than the individuals, impacts the whole communities. And so there has to be some sort of a feast or a ceremony coming back.

And we have a (inaudible) game that we use sometimes and it’s a mathematical teaching tool that we
give to kids. It’s teaches about fractions, probability
theory, algebra, calculus. I will never that Native people
did not know their math or we know our math, right? You
know, and so we play it, but there’s also a lot of teasing,
a lot of humour comes up and everything, and that helps to
restore the relationship between the parties.

And that’s -- it will never be the same
before the break, but they can live with each other or they
can live among each other.

It’s like, I have a scar on my hand. And
when I was a little kid I had an incident where my -- the
kids kind of pushed a nail through my hand, you know,
because -- well, you know, they were -- there was thing --
and I can look at it now and I can touch it and I can say,
“Oh yeah, you know, it’s there, but it doesn’t hurt any
more.” And it’s there, and it’s there, and that’s who I
am. I can talk about it.

But the Wek’paltutimk is that if my family
did not bring the other family over and say that we have to
finish it, there would have been -- I could have looking at
the scar and say, “I hate that guy who did this to me,”
right now, or something like that, and carried on. We’re
good friends now, and I tease him about that. I’m never
going to let him near the other hand, that’s for sure, you
know.
But all of this is -- it’s -- it can be used in a small level, and I believe it can also be used at the larger level, you know? We’re current -- the Western system currently uses aspects of it, but they don’t go and continue the finishing of the cycle. That whole Kloqowej is always in a state of flux and needs renewal. Just because you go through it once again doesn’t mean that you have to, you know, you cannot stop. You have to keep working at it, because living with each other in small communities in the small situations, and it can be tough, it can be hard, and there’s always difficulties that arrive. So these are always in need of state of flux and needs renewal, these renewal ceremonies.

So I know I have a few stories, but I can’t really think of them right offhand, but anyways, they’ll come to me in a second as I go to the next one here.

Oh yes, here’s the story something. We heard about the importance of stories. Stories -- a lot of our stories in the L’nu community, the Mi’kmaq community, are really teaching stories. They teach you how to behave when you count your other life forces or when you go into another ecological space.

And so there’s the old ones, the very old sort of creation stories. We have Kluskap, you know, Kluskap (inaudible) which means it’s also you have a
trickster face or a lying face. But Kluskap is our God, you know, similarly, I guess, in what would be the Cree one here. Is it Nanabush, I guess, or Ojibway, is it -- I’m not sure. (Inaudible). That’ the little books that I saw when I was a little kid. That’s the only books they used. We learned all about Nanabush. We never learned about Kluskap, right? There was a ---

So fishing for cod, we have contact stories. Fishing for cod. When the French first arrived -- and somebody mentioned it was 300 years of contact -- not for the Mi’kmaq. It was over 500 years of contact. Much of our traditional knowledge has been lost because 97 percent of our people were decimated by illness by 1850.

In 1610, Grand Chief Membertou was over 100 years old and he was quoted as saying there was more Mi’kmaq when he was young than the hair on his head. By 1850, the census shows there was only 3,000 of us left. We nearly became extinct.

So when one of the stories that they have is that the French constantly fished for cod. Every day, cod, cod, cod. They filled their ships up with cod and we could not understand why. And they would be fishing for and eating cod until they would have to ask the Mi’kmaq, L’nu, for meat.

And we said, “We have to go and hunt for
them and bring it to them.” And they were like, you eat
the cod, you know? That’s all it is, right?

But remember, our fisheries, there was ton
of cod. There were stories, just drop the basket and you
can catch it, right?

Then we also move into everyday stories. In
Grade 8, when I was in Grade 8, we had this substitute
teacher come. And you know, when you're teenagers and a
substitute teacher comes, it gets -- you either have a day,
wonderful day doing nothing, or you just go and tease that
substitute teacher and trying to make them, you know, run
out the classroom or something.

So we had this substitute teacher. She was
a non-Native. She must have just graduated from the
teachers’ -- the normal college in Truro and this was her
first assignment. They always sent them to the reserves,
right?

So in Grade 8 she comes and she asks us, all
of us, she said, “What is it that you guys want to be? So
I’m going to break you guys up in little groups and you're
going to tell me. Do you want to be a fireman, do you want
to be a lawyer, do you want to be a doctor, do you want to
be a nurse, do you want to be an RCMP officer, you know,
what is it that you want to be? Do you want to be a
teacher?”
So we all sat there and everything like that, right? So Baby John, who -- he’s a little bit older than me, John, he says to me, “Tuma, you’re the smartest one in the class. You’re going to be our -- you tell her what we want to be.”

“Okay,” I said, so I was appointed.

Now, when it was our turn, I got up and she said, “Well, what did your group say that you want, want to be when you guys grow up?”

I said, “We’re going to be on Welfare. We’re going to be Welfare recipients.”

And she said, “Oh my God, no, no. No, you can't,” you know, “that’s -- no, no. Don’t you want to be a doctor? Don’t you want to be a nurse? Don’t you want to be a lawyer?”

And I said, “There’s no Mi’kmaq lawyers. There’s no Mi’kmaq doctors. There’s no Mi’kmaq nurses. There’s no Mi’kmaq teachers. There’s no Mi’kmaq police officers. Our lives, going forward, is that all of us are on Welfare, our families are on Welfare. That’s what it’s going to be. Don’t come here telling us that we have hope, that we’re going to be this, you know, when we know that is -- it -- that’s worse.”

And Baby John got up and got mad at her. Said, “That’s our future. That’s what we’re going to be.”
And you tell us that we can be all these things when we know that’s not going to happen.”

After much work, we now have doctors, (speaking in Native language), we now have lawyer --, you know, first Mi’kmaq lawyer -- we have nurses, we have RCMP officers, we have teachers, and we have professors. And we still have people on Social Assistance too.

But there is hope and we want to be able to make sure that whatever we do here, the stories you're going to hear, we may not offer, but we want to come back and use this Indigenous law, and the legal principles it gives, can give us hope. We can make a difference. We can do it.

And it’s rooted in the -- what my colleagues in the first presentation said, the Indigenous legal principles and in this Kloqowej principles. It does give us hope.

And when you listen to these stories, you took a note this morning -- I was so -- one of the things I was really impressed upon that this time we call that (speaking in Native language), you know, (speaking in Native language) you are taking a oath or swearing, affirmate that you will listen carefully. And once you -- every single story will tell you something. You have to listen for these stories. It’s to be an active listener.
I did a -- I’m doing a project on reforming Social Assistance in First Nations communities, and when we were in Wagmatcook and we had an elders’ meeting there, one of the elders -- and I had two student researchers there, and they were like, diligently taking notes down and everything like that -- one of the elders talked in Mi’kmaq about how she was able to use the flour sacks from the Red Rose Company to make her underclothes, and that she had to sew her underclothes from the flour sacks when she was a young girl.

And my researchers were so, “Oh my God, that’s terrible. That’s -- the property was -- must have been ---”

I said, “You’re listening wrong. She’s telling you that how skilled she was in sewing and in making anything, and that she would be okay if Social Assistance were to disappear. She has the life skills and everything.”

The young folks do not have those skills, and that’s why she told us.

I said, “That’s -- we can hear all these stories and you can look at them and say, ‘that’s terrible’, but also listen deeply. All of them are teaching stories, and they will teach us different things and different interpretations from every single story, like
the Lakota Sioux Woman story.”

Different laws have different interpretations.

These are all -- often, our stories are journey stories. There’s a journey into the unknown. You're going into the deep forest. There’s danger there. You need allies. You know, when you -- the worst place to be is in a place of power with no power and no allies. That’s why you need to renewal ceremonies. You need allies. You need your family. You need your friends. You need guidance in how to move in this place. And often, we find that our women are in places that are of deep power with no allies and no power of their own.

So our return or reclamation of our own Indigenous legal systems may provide -- we’re -- not may; I think it will provide being an ally and give our people power, as in when -- as they walk through these ecological life’s -- ecological spaces, that in a contemporary time, you may think as they move from a reserve to the city, even from the city to the inner city or in some streets or even among some homes and some houses, whether they make an ally from folks in the friendship centre or the local gang members, you know?

So these Indigenous legal principles will tell us and help us in reducing -- I think they will help
in reducing the violence in women by providing them with allies and power where there is none.

One of the rich sources of our Indigenous legal principles is in our languages. Now, I’m just using L’nú Mi’kmaq language as an example because that’s what I know, and as a fluent speaker, I can say that. I presume it’s the same or very similar in other languages like Cree or Ojibway or Haudenosaunee or Coast Salish or Inuit, you know? But we also need to do deep research into the languages and what they can tell us, the words, language.

I can only -- our language, L’nu, Mi’kmaq, is verb-based. It’s based on action. It’s not really noun-based. And pronouns are optional. My -- and its purpose of our language is to establish and maintain relationships. Relationships are very important. And it’s knowledge-based, or rather, the experience of the event as rather than the nature of it.

For example, the example I use in the paper is that I cannot say in L’nú that you walked across the room. I would say you went across the room in a walking way or a crossing way. It focus on the action rather than what’s exactly happening. And it use evidential (inaudible) to indicate relationship between life forces. Proto-Algonquian languages in -- are also -- you have the root word, prefixes, suffixes, and endings, (inaudible) and
everything like this, so we need to do a bit more deep linguistic research.

Unfortunately, that allow -- this does mean that it’s -- these legal principles are not easily accessible to the non-speaker. And that’s -- we know the importance of languages, and everybody keeps saying that and everything, but they also contain our legal principles in there. So as our languages die off, so do much of our legal principles.

And so we came very close to losing our own back in the 1850 when we -- the Mi’kmaq nearly became extinct.

So I just pulled out a few words now to bringing all the words that relate to justice or healing in the Mi’kmaq language would be -- oh, we wouldn't -- we don’t have enough time here. I know I’m running out of time too here, too, you know. But we wouldn't have enough time. It would take us several years and a whole bunch of old people.

But here’s some words that I had looked at. Ilsutekek. Ilsutekek means to make right, to judge correctly, according to -- it basically means to counsel the person back to the right behaviour if they, you know, went off the path, then we may have the right.

Nujo'teket, we did -- you know, one of the
things we did today was, there was a witnessing occurrence here. *Nujo’teket* means to witness a particular event. So as you know, sometimes what happens is that people, they witness and then they have different perspectives on the same thing. As lawyers, we’re taught that eye witnesses may not be entirely credible in their -- what they and memory and everything like that, right?

But if you have an official witness in the *Kloqowej*, when there’s a particular event or ceremony happens, we put up official witnesses and their story will become the story of how this history will be repeated from there on. Others may have different versions of it, but that will be the official version.

*Anus’tumakwek*, you’ve caused a pain and now your family has suffered some of your pain. I -- some words and concepts come through very, very quickly. This was done at a sentencing circle that I participated a number of years ago. And when I heard the phrase, I knew exactly what it meant, even though I had never heard the word before. And I was like, whoa, that’s a very powerful word.

In this sentencing circle, this young woman, she was drinking and driving and she ran over another woman and killed her, it was, and that they were sentencing her and everything like that. While they were at trial and in
between the trial and the sentencing, the woman who was the
driver, her sister was found also dead, and it was a
mystery as to how, what happened. And she’s one of the
murdered and missing women that we think of now.

So in her sentencing of it, her -- the woman
who had died in that thing, in the accident, their family,
the mother said, “Anus’tumakwek.” And she said, “I take no
glee in that,” she said. “I’m very, very saddened.” She
said, “The pain that was caused to me by this action and
then the relationship and there’s a -- and the balance and
harmony has been upset. It -- they now, their family is
now going through the same thing. So no matter what we do
here, no matter what we sentence, there’s nothing we can
do,” they said. “They have paid too, so let’s just walk
away,” they said.

And it was a very powerful moment that she
said, “Anus’tumakwek.” And I -- and that phrase still
stuck in my mind as to how it went from O’pla’matijik to
(speaking in Native language) very quickly in that one
minute.

And the family forgave and there was
agreement and there -- we were -- the families came
together in a very, very difficult time.

And yeah, I was, you know, that was a very
powerful time and I thought to myself, I must think about

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that word a bit more. Yeah.

I don't want to say that it’s karma or anything like that. That’s not giving it the right context. That’s not it, I know. But ---

Now, people say, “Well, how does this work, these legal principles and stuff like this, right, you know? There’s 500 years of content. Well, there might have been 500 years of contact, but they were still -- we still used them and we still use them today in some form or fashion. Sometimes it went underground or had to be hidden or anything like that. But other times, Ben Christmas -- I mentioned him -- we have marriage customs, and one of the marriage customs I looked at I thought, these may be useful. If we can bring this back, would it reduce the instances of domestic violence?

It -- one time ago, you know, if a young man wanted to marry, he had to come and sing a hunting song at a community event, and all the women were standing there and they would, okay, if one of them decided okay, you will become my husband, then they would go off and he had to do broom service for one year.

Basically, he had to live with the family of the bride for one year and he had to prove that he was a good hunter. He had to kill a moose during that one year. If he did not kill that moose, the marriage was off. In
other words, you had to know how to provide, and so they --

after one year, they both came back and they held another
feast to the community, and they announced to the community
by singing whether the marriage was successful or not.

And one -- if it was not successful, they
had to sing why. And one of the more famous songs that we
have and is played often by the -- is (Singing in Native
Language), right?

And I -- when I was young, I misheard it. I
thought (speaking in Native language), it means to live
together and sometimes it’s often mean to shack up
together, you know, like, for one week or so or something
like that til the Family Allowance cheque comes or
something like that, anyways.

But it does mean that they had to live
together during the (speaking in Native language), and
(speaking in Native language). And I heard it wrong. And
when I heard the original tape, it means (speaking in
Native language) now, he is now moping around, you know,
and that’s what it meant. And he’s the one who wanted to
get married and now he’s moping around, you know, like
this, right?

So and they're announcing and they put the
blame. And it could very easily be on the woman too,
right? And so the whole community knew that this was not a
good relationship or that -- and so the wife would go back
to her family, the husband would go back to his family, and
nobody would think any wiser of the thing.

The Indian Act took that power away and
allocated to the federal and the province. And that -- in
some ways, it says it’s a marriage song, but it’s a
marriage song, but it’s also a divorce song. And I’m like,
that’s family law right there and then. We controlled it,
we had it, we had our own ceremonies, we had our own thing,
and we had our own witnessing of it, and everything like
this. BNA Act of 1867 took that away. Divorce was given
to the federal government and solemnization was given to
the provinces. Indigenous rights regarding solemnization
and divorce were taken away in that instant, but we still
did it, you know, in a way.

So today I’m now a Justice of the Peace and
I can -- I mean, I make sure that they sing at my things,
like, you know, when they come. And you come back a year
before I sign this off, right? That’s how I bring it back,
right?

But in some ways, you know, we always hear
the stats about it starts off with verbal abuse, moves to,
you know, a slapping and stuff, then it moves -- in this
sense, the community stops it before it gets to that, and
that’s a whole process was there. So our Indigenous legal
principles do have protections, in a way.

Now, our challenges: again, it’s our desire to have L’nuwey Justice System implement us. And people -- sometimes we -- because of the history of colonization and you know, we think what would it look like? What would it be? And sometimes what we want is a reaction.

I was at a community. They said, “Well, we want our own L’nu judge, we want our own L’nu prosecutor, we want our own L’nu defendant, we want our own L’nu sheriff, we want our own L’nu jail, we want our own -- you know, type of thing.

And I’m like, “But we have tons and inquiries and reports and everything that says, “That doesn’t work.” All across Canada. We have the Royal -- Donald Marshall inquiry in Nova Scotia that changed up the justice system in Nova Scotia and across Canada. We had the Helen Osborne inquiry here. We had the Royal Commission on Aboriginal People. We had the Truth and Reconciliation (inaudible). Throughout it all, we know that there’s tremendous problems with the Western justice system. Why would we want to replicate that when our own Indigenous systems are there and that we can reclaim them and bring them back?

However, some challenges to understand: where it comes from and how to incorporate in contemporary
situations. That marriage song and that divorce song, in the old days, the woman went back to her family, the husband went back to his family, and nobody cared. Today, we have -- we need to consider child support, child custody, division of assets, housing, and all sorts of other contemporary issues that make it a bit more challenging.

But lawyers, we love challenges. Policy (inaudible) like me, we love challenges. We can do this. We can work at it. We can -- that’s where the hope comes in. We can bring that out.

But what we’re doing is, we’re going into the deep forest now and when we come out, we will be different. And in some ways, that’s what I’ve noticed about other inquiries, like the Truth and Reconciliation (inaudible).

And I would just also want to point out to the Commissioners that you, in addition, you really know that the impact of what has happened to all the families is there in (inaudible) for us, but you’re now going on this journey. You are going into that deep forest and when you come back, you will show us what we need to be allies and what -- where to get powers in that place where there’s no power, and how our women and our young girls and our trans folks and our two-spirited people will obtain that and be
safe in that -- in those areas.

But you will be changed too. Whether it’s good or for bad is not the point. We’ve seen it in the staff of the Truth and Reconciliation Commission. Some of them are changed dramatically. And that’s -- when you go down into this forest, this is what’s going to happen.

And that also includes the staff, you know, and the folks who we have standing here. As you listen to all these stories that are going to be coming up, you will be changed. When you go on a journey and you come back to your community, you bring that information back. There’s -- you are changed, and just to be prepared for that.

This is a Savannah Sparrow, (inaudible). My great-grandfather is a (inaudible). My great-grandfather, who told us all the songs and chants come from the birds, and this is -- I look back and I see them. They go on journeys south, north, south, east, west; all over, and they're very, very beautiful and even they're small, and they sing and they offer much solace and hope for everybody.

Anyway, so with that in mind, I would like to say Wela’li’loq. Thank you. (speaking in Native language).

**MS. SUSAN VELLA:** Thank you, Professor. I wonder if I could -- I know that we are short of time, but
we are able to stay here past five o’clock, so with your permission, I will ask a couple -- just a couple of questions. Thank you.

Just to help us understand a little bit more about the differences between the Canadian justice system and the L’nuwey Tplutaqan system, when one Mi’kmaq or L’nuwey exhibits improper behaviour such as being abusive towards his partner, who bears the responsibility for those actions?

DR. TUMA YOUNG: One of the things about that is that it’s not borne. It’s a concept of shared liability. If one person in a family does inappropriate behaviour, the whole family is seen in that sense. There’s a shared liability.

So in that sense, the Kloqowej is rooted in the immediate family where in some ways, that -- even if you want to use the Western system, that’s where the court lies, within that person’s immediate family. And they have a vested interest in making sure proper behaviour is done by all of their members at all times.

So as soon as they see somebody step out of line, they bring them back to one of the corrective behaviours that they use, or the corrective concepts. It is a shared liability.

MS. SUSAN VELLA: M’hm.
DR. TUMA YOUNG: It may not sound fair, and people will say, “Well, I didn’t do that. Why should I be punished (inaudible)?”

But the flip side of it is that there’s also a shared celebration of the whole -- you know, when one person does good, it -- the whole family is seen as doing good.

And to give you a little example of that, when I went to law school and I went to University of British Columbia, I graduated in there in 2000. I graduated there and I didn’t get a phone call from my band. No chief called me, congratulations, nobody. And I said, “Okay.” I’m like, “What's going on?” I was like, none of my brothers and sisters called or anything like that.

So I go home and I walked in my mother’s house, and she had all these flowers sent to her. And I’m like, “What’s all this? Who died?”

She said, “Nobody,” she said. “You graduated.”

And I’m like, “But you got the flowers.”

The whole family was seen as being lifted up. The whole family was congratulated, you know. One person does good, it’s on the (inaudible). And that’s the same -- whether it’s right or wrong -- it’s the same as one person -- when one person does wrong, the whole family is
seen as being disgraced. So the vested interest in keeping proper behaviour roots in the family.

**MS. SUSAN VELLA:** M'hm. And is it that the social responsibility makes for more effective deterrent or prevention of harmful behaviour since the -- not only the individual is being -- bearing responsibility but also the whole family?

**DR. TUMA YOUNG:** It does works as a kind of a preventative model too, because before anybody usually gets to that point, the family -- because they are very much aware and they're interact -- they can quickly see where somebody is moving off track, and they will go and they’ll see (speaking in Native language). They’ll bring that person, they’ll counsel that person back because it’s seen as, if we don’t do it, it will impact upon all of us, right? So the whole family has to step in and step in and correct the behaviour when it starts.

But if -- because of the history of colonization and the impacts, and we basically know what has happened, all that’s truths and stuff like this, all the many things that have happened, there’s been a separation in that that sometimes we -- our families are non-existent in that sense, or they're unable to carry on that role.

And especially if families that have
children taken away for whatever reason by the children’s agencies or if there’s something that happened in the family, if there’s a separation there, in accordance with the (speaking in Native language), they may be unable to bring the proper behaviour, or they may be unable to exercise.

So support in the family goes a long way in preventing a lot of abuse, you know, making sure that they are correcting the first behaviour.

**MS. SUSAN VELLA:** And you spoke earlier about the importance of two-eyed seeing and how that may be a way for the Canadian justice system and the Klogowej system to be complementary with each other. And in the example that you’ve used, we have an example as a concept of -- as you know, a vicarious liability in the civil law where employers may be responsible for sexual abuse by their (inaudible) numbers of children, which is a form of collective, perhaps, responsibility as well.

Is there room for -- how would your theory apply to that scenario?

**DR. TUMA YOUNG:** Well, it would -- I think it may -- it probably would very much apply. I mean, you know, vicarious liability would, in some sense, would apply to the entire family for -- like, for example, in an abuse situation, you know? People will be asking, “Why did you
not step in? How come you weren't (inaudible). You're just as responsible for stopping it and behaving and stuff like this, right?"

It’s -- in the modern-day concept, that’s -- people would say, “Well, that’s an unfair determination given to the family, whereas it’s the individual.” And people can back off on that, right? And they would say that -- like, you know, “We disassociate ourselves from that person,” or we -- that person is a kind of a banishment, in a sense, in a form.

And I caution people. Banishment in Mi’kmaq culture, the old way, basically means it’s like a capital death, you know? You may be able to survive physically, but without the support of your family, your community, your allies, your relationships, you will not be able to live.

And so this concept of vicarious liability, if you look at it from the Mi’kmaq perspective, instead of looking at it from how it can be applied this way, how can we take this and apply it in the Western court system?

MS. SUSAN VELLA: M’hm.

DR. TUMA YOUNG: You know?

MS. SUSAN VELLA: How would the L’nuwey Kloqowej justice system decrease the vulnerability of Indigenous women and girls and trans and two-spirited
people to experiencing violence within their own families and communities?

**DR. TUMA YOUNG:** Well, the Klogowej system, the Klogowej model would help by bringing together allies and have relationships in there that would help support women and young girls, trans folks, and two-spirited people in a contemporary setting where they would now have allies and supportive people in there and working through the system; and that the whole dispute would be adjudicated in that way.

And looking at -- it’s not just, you know, trying to adjudicate a particular event, but it’s more really focus on prevention rather than -- like, I used to instinctive Children’s Aid, in a way, right?

**MS. SUSAN VELLA:** M’hm.

**DR. TUMA YOUNG:** A lot of the Western system focuses on protection, whereas like, under the Mi’kmag model, it’s -- you know, the Mi’kmag standard of child care is to prevent these things from happening in the first place, you know, so that you don’t have to go in and take children away in a way -- or, you know?

Yes, if there is need for protection, there would be a need for protection and you will bring those supports in there, but you spend the efforts and the resources on prevention, whereas I think it’s the complete
opposite now, today.

Most provincial children’s legislative acts are all focused on primarily protection, whereas Indigenous communities, the standards is on prevention. And that’s, I think -- that’s where the resources needs to be put forward, you know, and that’s where the Klogowej model would be a very, very helpful one.

And I do have a story on that. I don't know if you want to know.

**MS. SUSAN VELLA:** Yeah.

**DR. TUMA YOUNG:** A number of years ago I worked doing an evaluation of a particular Children’s Aid organization back home. And I had to go and talk to folks about their experiences with Children’s Aid.

And one woman said to me, she said -- she called me up and she says, “I want to talk to you. I hear you're going to be doing this,” she said.

I said, “Yes.” I said.

“Okay, you come to my home and I’ll have tea ready for you,” and stuff like this.

So I said, “Okay, I’ll come.” So I came. And while we’re sitting here -- and she was the mother of a child that had a lot of special needs, in a way. And the child was a bit older; like, 10, 12 years old, and -- but very challenging too. And she was a single mother and
everything.

And she said, “I needed help and I kept asking for it. I kept calling the agency up and I asked for help. I asked for respite care. I asked for this. I asked for counselling. I asked for support. I asked for many things. They couldn't give me help,” she said. “So one day it came to a breaking point,” and she said, “I had to sit down and I had to think about what is it that I needed to do to get the help I can?”

So she said, “I knew what I had to do, and I did it.” She said, “I sat my child down and I slapped my child so hard I left a mark. And then I picked up the phone, I called the agency, and I said, ‘I beat my child.’ Half an hour later,” she said, “I had workers there, I had respite offer, I had counselling, I had everything that I needed.” She said, “Why do we have to get to that point before we get the help we need?”

And I’m like, “Yes, that’s --” and that’s --

And she said, “It -- you know, for years, I’ve asked for the help before,” she said, “but none was forthcoming.”

And I said, “Well, that goes against the complete Mi’kmaq understandings of child care and standards, which is to prevent you from getting to that
point.”

She said, “Yeah.”

So we have a problem here, you know? And I wrote it in my evaluation and unfortunately, because of the way the legislative system works, it’s a -- under the BNA Act, child care and Social Services is provided by the province or is responsibility for it, and the federal government pays for it, and there’s always a dickering about jurisdictional issues. And I think I’m not preaching to the choir here. Everyone here knows about those jurisdictional issues, in a way. What are we going to do about?

And I think if we take and reclaim control over our institutions of governance, basically, our child agencies and root them in the foundations of our Indigenous legal principles. And I tell people that if we do that, and it doesn’t matter who the workers are.

And people say, “Well, all the workers are non-Native in the Children’s Aid agent.”

I said, “It wouldn’t matter if they’re all non-Native if the standards are L’nu.” They’ll be -- you know, they’ll be carrying our wishes, in a way, or we can have a Children’s Aid agency totally staffed with L’nu people, Mi’kmaq people or Indigenous people, and every single one of them, from the Director of the Board of
Directors to the secretary will be -- but if the law that they're implementing is Western, it’s going to be not -- it’s very useful for us -- useless, I should say, not useful, because it’s not rooted in our own Indigenous legal principles.

**MS. SUSAN VELLA:** M’hm.

**DR. TUMA YOUNG:** And that’s why the Kloqowej and other institutions of governance, we need to reclaim these and that will go -- I believe that will go a long way in reducing the violence that’s in our communities.

Like my colleague Val said this morning, you know, we heard that, “We’re not going to eliminate it because the nature of the human condition, we’re going -- there are always going to be some form of disputes, but we can reduce it tremendously.”

And that’s the concept of -- I think, you know, when we root it back and put it up to self-government and self-determination, where -- yeah, well, the word in Mi’kmaq, we call it (speaking in Native language), we’re taking care of our own. We’re taking care. We’re taking responsibility now. And that’s one of the sources of Indigenous law according to Val pointed out to us and that was from John Borrows.

**MS. SUSAN VELLA:** Thank you. Thank you for those recommendations and wisdom.
The -- my final question is, bearing in mind that this is not just a federal inquiry but provincial inquiries, including for the Province of Nova Scotia, do you have any recommendations or suggestions for the Commissioners on how to empower the local Mi’kmaq communities to revitalize Kloqowej so that it can be applied to today’s situations and institutions?

**DR. TUMA YOUNG:** Look at the Covenant Chain of Treaties. There’s a clause in our Treaties that says how the relationship should be between the state, Canadian Western state, and Mi’kmaq people. It’s based on peace and friendship, you know, peace and friendship, and some of the Treaty clauses say that any disputes between the settlers or the colonists and the Mi’kmaq will be settled in the courts of civil (inaudible), the civil courts. It says right there, not in the criminal courts.

And Treaty interpretation principles, I would, you know, even suggest that if it’s not written down in a Treaty, then the Indigenous people retain that right. So any disputes between L’nu and another L’nu should be tried in the Kloqowej model.

And that’s -- that may be a step too far for Canada. But I tell people, “Instead of just -- don’t just look at Treaty rights. From those Treaty rights come Treaty obligations. And everyone has a Treaty.” And I
say, “Nova Scotia, it’s not just L’nus that have a Treaty, it’s also the non-Native people that have a Treaty. Their -- that Treaty is just as much theirs as it is mine.”

But we -- and we both have Treaty rights and we both -- but we have larger Treaty obligations. And I think that’s where the Commissioners can help in producing recommendations for Nova Scotia. That’s where I would start with that.

MS. SUSAN VELLA: Thank you so much. Those complete my questions, and so we will now proceed the -- to questions by the parties, subject to -- should we go right into that, Chief Commissioner?

CHIEF COMMISSIONER MARION BULLER: Yes.

MS. SUSAN VELLA: Yes. Are you okay to answer some questions?

DR. TUMA YOUNG: Oh, yes.

MS. SUSAN VELLA: Yeah.

CHIEF COMMISSIONER MARION BULLER: Would the Witness like a break?

MS. SUSAN VELLA: Would you like to have a break?

DR. TUMA YOUNG: No, might as well keep going, because we’re -- we don’t have a whole lot of time and I have to be home tomorrow. Yeah. So --

MS. SUSAN VELLA: All right.
DR. TUMA YOUNG: And ---

MS. SUSAN VELLA: Please have a seat, or you can stand if you prefer.

Are there any parties who wish to ask questions, and if you could identify yourself, please, for the record? There’s a podium over there as well, if you prefer. Thank you.

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

JOËLLE PASTORA SALA:

MS. JOËLLE PASTORA SALA: Hello. Good afternoon, elders, knowledge holders, survivors, families, Commissioners. Before I ask my question, I just want to -- or my questions -- I just wanted to acknowledge the little boy water drum that was with us in ceremony this morning, as well as the drum that was here earlier and the sacred fires outside and the one that was burning here today.

Thank you for your presentation, Mr. Young.

I have a few questions for you, so I hope you can bear with me.

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

My question for you will primarily focus on the relationship between Mi’kmaq laws and Western laws. And I’m sorry I’m not -- I will be using Mi’kmaq law because I cannot pronounce your names, so I hope you accept

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that.

In the published article that you submitted with your materials, you indicated that Canadian -- the Canadian justice system is unable to see outside its Eurocentric worldview, and that it simply wants to tinker the status quo rather than accommodate the development of a separate Mi’kmaq justice system, correct?

DR. TUMA YOUNG: Yes.

MS. JOËLLE PASTORA SALA: And you indicate near the beginning of that same paper that the Canadian justice system has to begin to understand the sources of Mi’kmaq worldviews and laws in order to truly understand the legal tradition; is that correct?

DR. TUMA YOUNG: Yes.

MS. JOËLLE PASTORA SALA: And you describe the sources of the Mi’kmaq Indigenous laws as being radically distinct from those of the Canadian justice system; correct?

DR. TUMA YOUNG: Yes.

MS. JOËLLE PASTORA SALA: And it would be correct to say that one of the differences between these laws is the role and importance of the sacred gift of your language as a source of Mi’kmaq law?

DR. TUMA YOUNG: Yes.

MS. JOËLLE PASTORA SALA: I would like to
explore this concept in a little bit more depth with you. Given the radical differences between Mi’kmaq law and Western laws, and you understanding that they must be renewed, how, if at all, do these two systems of laws conflict with one another?

**DR. TUMA YOUNG:** Well, first, they conflict in many different ways, and we see that conflict almost on a daily basis, and even within our own people. For example, one of the ways it conflicts is with who gets to hunt moose back home because of the changes in the Indian Act and the imposition of status and who is and who is not. My great-great grandfather was Gabriel Sylliboy of the 1927 case *R. v. Sylliboy*. And he was a Grand Chief of the Mi’kmaq Nation. And he fought for the right to hunt and trap muskrat and everything.

He never was asked for a status card, you know, that there was no status cards issued at that time. He had -- his mother was White, you know? And -- but he -- so in a way, he would have been half, but he was treated like an Indian, in a way, and that’s what we always said, that he was treated like a Native person, Mi’kmaq person, by the non-Native person.

Fast forward 60 -- well, 60 -- yeah, 60 years later, almost 60 years to the *R. v. Simon* case, which is a Supreme Court case, and that was the same case,
another Mi’kmaq man, hunting and fishing the same Treaty, everything. One of the ways he had to prove he was an Indian or a status or First Nation or Mi’kmaq, was he had push -- he had to pull out his status card.

In some ways, who we identify and say is a member of the Mi’kmaq community, before that, was left up to the Mi’kmaq community. In 1927, we had our own laws regarding membership, who was and who wasn’t. In 1985, that was taken -- you know, that was no longer the case. And that’s where one of the laws conflict. That’s an example of that.

And sometimes we, as individuals, Indigenous people, we react and try to utilize Western law to try and find a solution for a problem that may be better answered by referring to Indigenous law or Mi’kmaq law.

For example, there’s an announcement -- and I don’t -- I never blame chiefs or councils or anything like that -- I mean, they try and do a good job as with the limited resources and with the limited authorities they have and everything like this -- but they just announced that in order to hunt moose in Nova Scotia, you have to have a status card.

And I’m like, that goes against everything that we know. But instead of reaching out to what our Indigenous laws are, they reacted by taking what the
Western law, Canadian law is, and that’s where the conflicts. Even within our own communities, we do that because it’s sometimes easier to go that way than it is to do the deep research that’s needed to find our own laws and what -- how they can be applied in the contemporary situation. There’s many examples of how they conflict that way.

**MS. JOËLLE PASTORA SALA:** Thank you. Maybe you could explain your understanding of how we manage that conflict, whether it’s by using your examples or others?

**DR. TUMA YOUNG:** When I did -- a number of years ago I did a report for the Grand Council and I proposed a legislative scheme based on Mi'kmaq law and I presented it to the Grand Council and stuff. But the Grand Council has no legislative authority any more. They're not recognized in Canadian law and stuff like that. So now, how it’s managed is a co-management between the province and the chiefs; which, in a way is rooted in how to get resources. But in getting those resources, just what exactly are we giving up to get there? And that’s an issue.

And again, I don’t blame chief and councils. I have never have because I have seen many good chiefs, many good councillors work within the system and everything like that, and they try and try and try, and this, the
structure itself doesn’t really work.

And so when we look at these laws, we need to do some deep research into it and bring them into creating our own governance institutions. And that’s one example of it. And we can -- you know, and there’s much work to be done. It’s never going to end, I suppose.

We -- in Nova Scotia we have taken control over our educational system. We have the law -- we have law-making authority to make laws regarding education in our own communities. We also have a tripartite agreement as to child welfare, you know? And now we’re looking at Social Assistance reform and creating our own system of Social Assistance or what we call (speaking in Native language). I mean, there’s still a ways to go, but at some point, we looked at it and then we said, “(speaking in Native language), we have to just take control over this and bring it back.”

And so when we create these contemporary governance institutions that will implement, I hope that they will utilize, as their primary source, Mi'kmaq laws or Mi'kmaq legal principles, I should say, rather than Western ones. But I think what may need to happen is that in the meantime, they may have to be a two-eyed seeing approach to allow that to happen or move us toward that situation.

MS. JOËLLE PASTORA SALA: As part of the
materials that helped us prepare for the hearings, the
parties withstanding received last week some academic
papers as well as materials. One of them was an article
that was written by an Anishinaabe scholar, Aaron Mills
from the McGill Law Journal. And the article was entitled,
“The Life Worlds of Law on Revitalizing Indigenous Legal
Orders Today.” Are you familiar with this paper?

DR. TUMA YOUNG: No.

MS. JOËLLE PASTORA SALA: For the purposes
of my question that I’m going to put to you on this paper,
I don't think it’s crucial for you to have read the paper,
but if you feel like you can't answer my question, please
let me know.

So in this article, Mr. Mills talks about
the fundamental differences between Anishinaabe legal
orders and Western laws. And I’m going to paraphrase a
little bit and quote from Mr. Mills. According to him,
because the differences between the laws are core to each
system of law, it’s impossible to integrate Indigenous
legal orders into Canadian law, or vice-versa. Rather, he
says, and I quote:

“It’s becoming part of the orthodoxy of
legal education in Canada that Canadian
law needs to relate with Indigenous
legal orders. The centre of the
dialogue on that relationship is thus now beginning to shift to how they ought to relate with one another.”

Is this explanation consistent with your understanding of the relationship between Mi’kmaq law and Western law?

**DR. TUMA YOUNG:** I don’t -- I really think I need to read the article thoroughly to be able to thoroughly answer that question, because as -- you know, in -- lawyers, we have to be very careful as to we don’t step into a place where we don’t give advice or provide in -- that’s what I’m doing here, and without reading into it.

That’s -- however, I remember my own -- and I’ll tell you a little story about my own experience in law school. I went to the University of British Columbia which had a lot of Aboriginal law courses there, and I really wanted to take these courses and I took them. And one of my instructors from the first year was John Borrows, and loved it and everything like this.

But as I moved on, I realized that what I had learned in law school -- and this is primarily for everyone -- is that I learned that Aboriginal law, as taught in law school, is really Canadian law as it applies to Indigenous people. It is not Indigenous law.

I don’t -- I realized that I cannot go to
law school to learn about L’nu law. That has to learn
outside of the law school, and that’s with the sources
finding it out. But I still became a very good lawyer, you
know, and applying Canadian law to stuff like that.

But that’s sometimes an expectation that I
notice some of my students, they get in there and they want
to be -- change the world. And I’m like, “I have to tamper
your expectation down right off the bat. You're not going
to be learning Mi'kmak law. You're going to be learning
Canadian law as it applies to Mi'kmak people.”

**MS. JOËLLE PASTORA SALA:** I guess, building
on that, I do have one final question. So you spoke today
of the challenges of incorporating Mi'kmak law in
contemporary situations.

**DR. TUMA YOUNG:** M’hm.

**MS. JOËLLE PASTORA SALA:** What are your --
what are the implications of those challenges and what is
your understanding of what a decolonize process to address
missing and murdered Indigenous women and girls would look
like?

**DR. TUMA YOUNG:** I can summarize. To me, my
understanding of a decolonize process is that there’s, in
some ways -- and I know from my own conceptual
understanding there’s four things. One is that we
remember. We must remember what happened. We cannot never
forget that. We remember that.

And then we enter into a state or what I call a mourning ceremony. We mourn our losses.

And then we dream. In order to move to a decolonize process, we dream about what our communities are going to be like or what they can be like or what they were like, and how we can restore them to where they can be.

But I haven't seen us taking the action step. The next step is to take the action, implement what needs to be done, and we’re not quite there yet. We remember, we have mourned, and we are dreaming about our communities, what they can be; a vibrant, healthy, wonderful community. And we have all the recommendations.

And I would -- I think my advice to the Commission would be -- or recommendation would be, help us take that next step from dreaming to taking the action. How do we implement all these steps that we need to implement in our communities?

And that’s my concept of decolonized approach to this. We are there. I mean, I think we need to take the action. We, you know, begin by pulling out to find out what the Indigenous laws are in particular tribes, find out how they will work, how they can be used, and use them. That’s the action step. And I think that to me, that’s the last step in the decolonize process is, you
know, we remember, we mourn, we dream, and then we take
action to make that dream a reality.

MS. JOËLLE PASTORA SALA: Thank you, Mr. Young, for your answers to your questions.

Thank you, Chief Commissioner and Commissioners for allowing me to ask my questions.

DR. TUMA YOUNG: (speaking in Native language). Thank you.

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

MS. ANGIE HUTCHINSON: (speaking in Native language). My name is Angie Hutchinson. I’m a representative of the Missing and Murdered Indigenous Women Coalition here in Manitoba. I am not a lawyer. I am here practicing decolonization actively and with agency.

I just have some follow-up questions similar to the lines of Joëlle around the practical application of some of the concepts that you spoke of, specifically as it relates to our families who have lost loved ones.

I just want to acknowledge when you spoke of the stories and how stories carry principles of justice, and I took -- I completely agree with you with that statement. I listened to many of our families and their experiences and sharing the stories and the loss of their loved ones. A common theme that’s throughout many of the
stories is a shared experience around a reduced sentence or a sentence that families don’t feel does justice to their loved ones.

And so when you speak of the concepts of accepting responsibility, perpetrators of violence accepting their responsibility and restoration for families, what lessons or recommendations can you offer this inquiry to ensure that families who have lost a loved one really feel that this Indigenous practice is being followed through and that they're -- the perpetrators of violence are receiving appropriate sentences, and that families feel that that justice is being served and that restitution is being honoured to the families?

**DR. TUMA YOUNG:** My recommendation would be that in where I come from, we’re gong to be looking at Mi'kmaq law, and here in Manitoba there’s different tribes. Look at what the tribal traditional law -- or not traditional, but what their Indigenous laws are and what their dispute resolution processes are. It could be entirely different and probably is. And it may be utilized different for different types of relationship breakdowns.

For example, you can easily use a Kloqowej for many things; like, for example, a civil matter between somebody owing money or anything like that, where it becomes more difficult. It -- how would it work when
there’s been a serious crime like a murder or a rape or an assault has taken place? And you want to make sure that you're being fair to everyone, including and primarily to the folks who have experienced this breakdown.

Whereas the Western system has failed us is that it hasn’t allowed us to go through that cycle, you know, whereas the families, they haven't come to the agreement, but the cycle has gone on without them. And that’s where they're still in -- they may be still at the (speaking in Native language) stage and they have to -- you know, we have to help folks come to an agreement as to what would be an appropriate sentence be for folks, you know?

What is that agreement as to how to either restore the balance and the harmony, or even look at justice as a healing? And in some communities, like, some tribes like myself, the L’nu, we do have a concept of revenge, but that’s tempered down by restitution.

**MS. ANGIE HUTCHINSON:** Okay.

**DR. TUMA YOUNG:** The challenges is that do those apply in a contemporary society? And then we also have to have the larger discussion as to what are -- when we dream about our communities, what will they look like including our justice systems?

**MS. ANGIE HUTCHINSON:** Thank you. Just to kind of ask a follow-up question to that, a lot of these
principles that you're speaking of are within communities
and within relationships between Indigenous people and
Indigenous people. But what happens with the interplay
between Indigenous and non-Indigenous Canadians?

And we know that many of the perpetrators of
violence against Indigenous women and girls are non-
Indigenous men, and so how can we apply these principles
when dealing with the non-Indigenous community and not
stereotyping Indigenous men as always being the
perpetrators of violence against our women?

**DR. TUMA YOUNG:** Well, there’s -- the first
step to, you know, in our situation is that we look to the
Treaties. The Treaties clearly outline how disputes are to
be handled between non-Indigenous people and Indigenous
people; L’nus and non-L’nus, in this case.

We can bring those up, you know? Today, all
-- whenever we talk Treaties, it’s all about hunting of
fishing or anything like that. But it’s never about
disputes. The underlying foundation of these is about land
and ownership and extinguishment or certainly, what -- how
they want to deal with the land and (inaudible).

But there’s other clauses in these Treaties
that relate. And I keep telling folks, “There’s a clause
there that governs how this relationship should be when
there’s a dispute breakdown.”
And that’s a kind of a middle ground, where it is possible that in this middle ground, where the (inaudible) two circles and they intersect. They intersect and where they intersect, you can have a space, an ecological space, where Indigenous law does not apply, nor Western apply, but a negotiated agreement of what situations may happen, you know, that you can bring in Indigenous law into that space and you can bring in Western law into that space. But it’s based on a negotiated space or on negotiated agreement as to how this was going to happen.

MS. ANGIE HUTCHINSON: So --

DR. TUMA YOUNG: And I’m not so sure that I’m making myself a little bit clear, but it’s -- I have any -- sometimes it happens with academics like myself; we think too hard and it’s clear in my head, but when it starts to come out, it’s not very clear.

But it -- I call it the middle ground, you know, and in dispute between non-Native and Native people, the Treaties out East were very clear on that. Those are to be tried in the King’s civil (inaudible) courts.

MS. ANGIE HUTCHINSON: So are you saying that that middle ground offers some framework as to matters dealing to criminal law, in particular, to violence perpetrated against Indigenous women by non-Indigenous...
people?

DR. TUMA YOUNG: It could, and it could also include more than that, not just the criminal matters; it can also include civil matters too.

MS. ANGIE HUTCHINSON: I’m speaking more specifically to criminal matters in relation to the loved ones who have gone missing or who have been murdered; in particular, to what we are speaking about for -- and what we’re trying to gain for this inquiry.

DR. TUMA YOUNG: In that middle ground, it would be whatever the parties negotiate and bring into it. And the parameters can be whatever they want. And that’s -- I think that’s a -- it’s a space where both Indigenous and most Western can come in, you know, but not the totality of both.

MS. ANGIE HUTCHINSON: Thank you.

--- CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR MS. KRISTEN MANLEY-CASIMIR:

MS. KRISTEN MANLEY-CASIMIR: Hi. I’m Kristen Manley-Casimir. I have the honour of working with Kim Murray and my colleagues from the Indigenous Justice Division in Ontario. And I just wanted to acknowledge the ceremonies this morning, the elders in the room, and all the families that are here today.

I have a couple of questions and I just

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wanted to ask you about providing some context for everyone in the room about the way in which assimilative
government laws and policies have negatively -- including the residential school legacy -- have negatively impacted
the transmission of Indigenous languages and Indigenous legal systems within communities.

DR. TUMA YOUNG: That’s a really good question, and I’ll give you a good example of it. And this is -- it’s a story about my great-grandfather and the one I referred to, Gabriel Sylliboy.

Before he became Grand Chief, it was Grand Chief John Denny, and before his father. And John Denny, he was the Grand Chief, and in Membertou was living in the reserve and the community was on the shores of Sydney. There was an order to move Membertou, the community, up to Alexander Street, where they are at now. Grand Chief protested that. He said no, but he died before he can finish his work.

And so when Grand Chief Gabriel Sylliboy came in, he also protested that. It failed. They moved Membertou up to that. And then he went to court to fight for (inaudible) Treaty rights. And that -- actually, he was given a lawyer hired by Indian Affairs. They were very clear that they wanted to -- this court to go up and it did. And that set a precedent. And he lost that case.
And then shortly after, we had the history of centralization in Nova Scotia, where all the Mi'kmaq communities were moved. They were small little communities all over the regions and they were primarily self-sufficient. And they were moved to two communities, Eskasoni and Shubenacadie.

And they convinced the Grand Chief, my grandfather, to agree to that. And he said this was going to be good. They promised houses, jobs, good future. They got there, there was no houses, there was no jobs, there was -- and the land was salted when they went back.

And then in 1950, the Indian Act band councils were put into place. In the span of 50 years, the traditional leadership, the Grand Council, were -- went from exercising and trying to defend our Aboriginal Treaty rights and their authority over the Mi'kmaq to all of their authority was taken away to what was left was only spiritual authority.

By the time our Grand Chief died in 1963, the only thing he was allowed to do was pray at funerals. He wasn’t allowed to do anything else. He had no legislative powers. And the people also stopped listening.

And the sign of a leader in our community is that you are a good orator and you can convince people to do it. You don’t use force, you don’t use, you know, a
punishment model or anything like that to get people to
follow you; you -- by your orator skills. And when he made
-- and he was trying to do the stuff, but the Canadian
government went in; he lost his base. And that’s a huge
impact, you know, about how the Canadian government used
its powers to take away the powers of our people.

And I think that also happened in all across
Canada, in a way, you know? And that still, in a way,
happens in some communities. I’m thinking about the
Algonquins in -- just outside Ottawa. There’s a dispute
over who’s the traditional chief or who’s the chief in
(inaudible). Indian Affairs says you have to have a, you
know, council. They’re not allowed to let their own
government come up or choose their own government.

And so that’s how it’s impacted severely.
And in some ways, that has ruined or hidden our Indigenous
laws and made them more difficult to pull out, you know?
And that’s one example of what happened back home with us.
And I don’t think there’s a much more clear example about --
-- in a span of 50 years, our leadership was just cut and
cut and cut to nothing was left and then it was replaced by
another type of leadership.

**MS. KRISTEN MANLEY-CASIMIR:** Thank you. In
your presentation, you shared that much of the L’nuwey --
just, am I saying that right?
MS. KRISTEN MANLEY-CASIMIR: L’nuwey law is contained within the L’nuwey language. In your view, is there a need for revitalization works in the context of both Indigenous languages and Indigenous legal systems?

DR. TUMA YOUNG: Yes. It’s very well connected. You can pull out Indigenous -- L’nuwey legal principles from other aspects like songs and ceremonies and dances and chants. But unless you understand the language, that’s going to be very, very tough, you know?

Even among fluent speakers -- like, I mentioned that the song, the marriage and the divorce song that was handed to us, I had heard it differently. It’s not the one that when I went back to the source and then I really realized what it was that I found, okay, this is -- we had control and authority over both the solemnization and divorce in a community. What happened to it, right?

If I didn’t understand the language, I could have said it an abstract way, but this is -- you know, this provides concrete evidence that we have that authority and we never gave it up. It’s just up to us to take it back and start doing it again, you know?

And that’s -- I think we’ve heard from all of the inquiries and the commissions that have gone on before us, language is a very, very important part. And
it’s also an important part of knowing who you are, who we are as L’nu people and being -- and one of the interesting things is that if we get our children to speak the language, they will be very confident in who they are.

I mean, I don’t think I’m saying anything that nobody else has ever said before. We’ve heard this over and over again. That’s the remembering, the mourning, the dreaming, but now we have to take the action. What is it that we need to do in order to save our Indigenous languages from going extinct?

**MS. KRISTEN MANLEY-CASIMIR:** Thank you.

Given the history of government laws and policies that have taken children away for generations from their families and from knowledge keepers and elders within community that hold the knowledge of language and of Indigenous law, is there any urgency, in your view, to the work of revitalization of both Indigenous languages and Indigenous law?

**DR. TUMA YOUNG:** There is a tremendous urgency. One of the things I think about is that I guess there’s about -- somebody asked me today, “How many L’nu speakers are left?”

And I said, “Well, there’s about 6 or 7,000 of us.”

And, “Oh,” he said, “that’s quite a number.”
I said, “No, there’s about 60,000 Mi’kmaq; 1 out of 10, and most folks are my age and up.”

We do have immersion schools and everything. We do have the legislative power to implement laws or create laws that relate to the teaching of the language, and that’s our dream, but we -- somehow, we haven't gotten to that action.

We have it, you know, in our education authority, but not one community has passed a law saying that all education in our communities from Kindergarten to Grade 12 will be taught in Mi'kmaq, yet they have the power to do that.

But sometimes we think that doing that will reduce or diminish our educational system. And I’m like, “No, it makes it much more higher. It’s a higher standard.”

And I give the example of like, in the province -- provincial system, somebody can drop out at Grade -- at 16. There’s nothing to stop Mi'kmaq communities from saying, “You're not allowed to drop out until you're 18.” We do have that law.

Or if you are a child in the Children’s Aid system, that children’s agency has the obligation or they can pass a law saying that the Children’s Aid agency has to provide for support for education purposes until up to 24.
In the family law context, in a case of divorcing parents outside, if the child is still going to school, there has to be support provided that child until their first -- until they're 24 or they're reach their first degree. Mind you, if you go get a Master’s degree, that's a different story. Now you're not responsible any more, but your first degree.

Why can't our Children’s Aid societies be held to that same standard instead of aging them out and just dropping them? Now, we have -- we can pass a law, based on our traditional legal system, saying, “You're -- if you're going to be taking children into care and there’s a valid reason for it -- and well, there may be very valid reasons for it -- you know, each situation is different -- you're going to be held responsible for teaching that child Cree, Mi’kmaq, Inuktitut, and provide them with a Bachelor’s degree or a trade.

And I’m like, “We can do this.” And that’s taking our educational legal principles and applying them in a contemporary sense. That’s my dream, you know? Now we’re going to get to that action. And I hope we’ll find some -- the Commissioners can help us do that.

But we shouldn't also wait for the Commissioners to do that. If you can do that in your own communities, do it. Don’t wait til the report happens. If
you know that we can do some things, take that action.

**MS. KRISTEN MANLEY-CASIMIR:** Thank you. And the final question, in your view, do you think that the revitalization of Indigenous languages and laws would create hope and conditions for healthier communities and more safety for Indigenous women and girls within communities?

**DR. TUMA YOUNG:** It would make -- I -- it would make children be very much aware of who they are and create a strong confidence in their culture and everything. And it would also, by that very nature, it would make them able to resist some of the things that are going on in our communities. And that’s where I think those intersections need to be explored more and more.

**MS. KRISTEN MANLEY-CASIMIR:** Thank you very much, and thank you to the Commissioners for letting me ask my questions.

**DR. TUMA YOUNG:** Okay. (speaking in Native language).

**UNIDENTIFIED SPEAKER:** We agreed that this would be 45 minutes for cross-examination, so as -- is there anyone else who has a question? Of course, the Commission’s ---

All right, so 10 minutes each, please?

**UNIDENTIFIED SPEAKER:** Yes.
UNIDENTIFIED SPEAKER: Thank you. There’ll be two more parties, 10 minutes each.

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

JULIE McGREGOR:

MS. JULIE McGREGOR: I had -- my name is Julie McGregor. I am legal counsel for the Assembly of First Nations, and I had two questions, but I’ll just ask one for the sake of time.

And I’d like to thank the Commissioners for allowing me to ask this question.

Mr. Young, in listening to your testimony today, there was one phrase you said, and you're going to have to correct me if I’m wrong, but I heard you say this phrase: “The worst situation to be in is to be in a position of power with no friends.” Is that correct?

DR. TUMA YOUNG: No, the worst situation to be in is to be in a place of power with no power and no allies.

MS. JULIE McGREGOR: Yes. So that intrigued me because I think that that’s an important teaching that we often hear, and I think it was key to our people’s survival.

And you spoke a little bit about prevention in response to a Commission counsel’s question, and making sure that there’s a building up of supports for Indigenous
women so that they have allies when they find themselves in those positions.

And I just wanted you -- was hoping you could expand a bit on that; like, the building up of supports for Indigenous women so that they're not in situations where they have no allies.

**DR. TUMA YOUNG:** Well, one of the -- one of my past work experiences was, I worked as a street outreach counsellor a number of years ago. And one of the things we did, it was in regards to HIV/AIDS prevention in streets, and we worked with folks who were on the streets. And one of the things we implemented right off the bat was what we considered a user-directed approach. The folks who used our services told us what they needed and how best to provide it. Instead of us going in there and trying to think about what they needed or what they would need or how to -- I don't know how to -- how to “save them”, we asked them, “What is it that you need from us and how best to survive?” And we implemented that in our organization.

And you know, they said, “Well, how far would you take it? Would you want somebody to come in and --- “

I said, “Well, I can -- I have skills in typing.” You know, I went and took typing in high school, type of thing, but I said, “I can teach about typing and a
person can learn skills about how to be a receptionist or
something like that.”

And they said, “How far would you take
that?”

I said, “I would take them all the way up to
the Board of Directors, I said. And that’s, you know,
user-directed. The folks that need the services direct the
services that are needed and tell us. And I think that’s
where we need to go in that sense.

MS. JULIE McGRGOR: Thank you very much.

Just for the record, I did have more questions, but for the
sake of time, I’m going to end with this. Thank you.

DR. TUMA YOUNG: And I do like to thank
everybody. You had one more question? Okay.

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

VIRGINIA LOMAX:

MS. VIRGINIA LOMAX: First, I’d like to take
some time to thank all of the families who have stayed this
long and to the Commissioners for allowing more time.

My name is Virginia Lomax. I’m legal
counsel to the Native Women’s Association of Canada. For
the record, I also had a great deal more questions, but for
the sake of time, I’m going to ask the three that I feel
would be the most important and that maybe haven't been as
answered in detail, I suppose.
So I’ll start by asking you, according to the legal system that you gave evidence on today, what is the best way, within this legal system, to treat the bereaved and victims and survivors of violence, within the legal processes?

DR. TUMA YOUNG: Can you just repeat at the end?

MS. VIRGINIA LOMAX: Yes. Within the legal systems in which you have expertise -- maybe I’ll rephrase -- is there a specific way that is best to treat the bereaved in an issue of conflict or to treat victims and survivors of violence?

DR. TUMA YOUNG: Oh, yes. In the Kloqowej, there’s facilitators, what we -- or and people that help and stand by everyone who’s in -- who’s a party in that process. And they move them from one stage to another, and they stay with them for ever how long they need to be.

Yeah, there is -- there’s no real -- like, there’s no real judge or jury or type of thing. They're community members who work and help. And basically, they stand with everyone in the community, because it’s a shared liability and a shared responsibility too.

MS. VIRGINIA LOMAX: Thank you. Do you have any suggestions or strategies or examples of how the inquiry can employ -- and I’m very sorry if I mispronounce...
-- but the concept of Anus'tumakwek to inspire sincere sympathy and empathy with the stories that the families have and will share with the inquiry, and how this inquiry can achieve Anus'tumakwek?

**DR. TUMA YOUNG:** It’s -- well, the Commissioners basically need to take active listening skills and just listen very carefully, and from several different perspectives, you know? They -- there’s a number of them here, and then -- I mean, instead of listening for the same thing, you know, they can all listen and say, “This is what I heard. This is the version of what I heard and this is what I heard.”

And together, they can bring -- and that will allow for the whole picture to come out, you know? I don’t think I can have any more recommendations other than when you hear the stories, you basically have to listen very carefully and with active listening, is what they usually call it right now.

I just don’t want -- and when I say “active listening”, I don't want people to think like, you know, in just concept of social work right; you know, you nod your head and you say, “Oh, yes indeed.” You repeat back. No, no. You listen very carefully, like what we did with that elder who told us about how she sewed. And what I heard was her skill in sewing. What my researchers heard was how
poor she was. That’s the key in that, to me.

**MS. VIRGINIA LOMAX:** And my final question is that we speak a lot about inclusion in the inquiry, and in different legal systems we always speak about inclusion. But in your expertise in both the Canadian justice system and L’nuwey system, can you identify anyone who may be specifically at risk of exclusion?

**DR. TUMA YOUNG:** Trans women, trans women of colour.

**MS. VIRGINIA LOMAX:** Okay.

**DR. TUMA YOUNG:** And that’s -- you know, I think we were -- we -- there’s a lot of exclusion happening there, and often our own colonized approaches to that make trans women of colour -- in particular, Indigenous women are particularly susceptible to exclusion, even from our own organizations. So I would certainly hope that that would not happen here, but to keep an eye out for that. And if it is, please tell me.

**MS. VIRGINIA LOMAX:** I will. Miigwetch.

Merci ---

**DR. TUMA YOUNG:** Thank you.

**MS. VIRGINIA LOMAX:** --- and thank you to you and to everyone who has been here today.

**MS. SUSAN VELLA:** Thank you very much. That concludes -- subject to any questions that the...
Commissioners may have -- are there questions from the Commissioners?

--- QUESTIONS BY THE COMMISSIONERS/QUESTIONS PAR LES COMMISSAIRES:

COMMISSIONER QAJAQ ROBINSON: Thank you very much for all of your testimony today and the answers to the questions. One of the areas that you’ve touched on a number of times has been on the disempowerment of Indigenous peoples and nations, and the inability to make laws, to the absence of that authority. Is that a sort of fair characterization or the stripping of that agency?

DR. TUMA YOUNG: The stripping of it is probably more accurate.

COMMISSIONER QAJAQ ROBINSON: Thank you. I want to make sure I articulated that properly.

In the course of this inquiry, as we gather information on how to address these issues and as we develop recommendations, part -- a big part of our work is looking at the systems as respond to the violence. And that’s policing, that’s Child and Family Services, two big players. Those are under the BNA Act, the British North America Act, as you described, under a different jurisdiction. The federal government has power in some parts of the country, provinces and territories have power or authority or jurisdiction in other areas.
How can governments; provincial, federal, territorial -- you’ve identified the need to assist in the revitalization, but what is needed from those governments to allow for remedying that stripping? You talked about the impact of the British North America Act. Do you have thoughts on how Canada needs to change at that level to ensure that there is a place for Indigenous laws in this country?

DR. TUMA YOUNG: A colleague of mine from University of Saskatchewan once -- and I think he was the one who originally suggested that we would have a third head of power under the Constitution Act, and that this would be Section 35, and that this would be an area where the listing of legislative authorities that Indigenous nations can exercise.

Like, you would have Section 91, which is the federal heads of powers; Section 92, which is the provincial head of powers; and you can Section 35, heads of powers. And that could be where these could be located. And that would be -- I don't think that has gained much traction, but I think it might be worthwhile for the Commission to re-look at that again.

COMMISSIONER QAJAQ ROBINSON: Do you have specific thoughts on that that you’d like to share with us?

DR. TUMA YOUNG: Yeah, I think it would be
Section 35, head of power, but before we get there, I think we would need to think about engage -- having the Canadian and the provincial government engage in a decolonize approach prior to listing that authorities.

I just don’t want them to give -- say, “Well, we’ll let you have solemnization of marriage, but divorce, no, because we don’t think you're capable of doing that.” That would just smack in the face, right?

But if they were to -- if we were to sit down and think about well, under this -- you know, in a Section 35 listing of powers, what do we, as First Nations and Indigenous communities, what do we want to legislate on? And some things we may, and some things we may not. And then we come to it.

And but again, I just don’t want both provinces and federal -- and any time when you're talking about the transfer of authority, they fight it. Basically, they’ll fight it. Even if you were to ask for solemnization of marriage, which seems like a small little thing, you know, the provinces are going to say, “Well, that’s our jurisdiction and you know, you have to open up the Constitution and try to move this, and then we get all sorts of other stuff in there.”

Well, you know, let’s do it. Well, because we need to offer our communities hope, like, what we said
in that Grade 8 students. We have that hope and we can make our own -- incorporate and bring in our Indigenous legal orders into a Section 35 heads of authorities, and then that will be the basis for our own legislative systems. And each tribe can be different.

And I remember -- I don't know whether it was -- I think it’s either -- it was first approached back in 1980s after the Constitution conferences, and a few Indigenous academics who were legal academics at the time, they proposed it and said -- they called it post-colonial order -- but the reaction was that we’re not in a post-colonial order, and we’re not there yet, and we won't be there.

And so maybe it’s time to think about the -- rethink about that now, and that -- let’s not wait for to get to a post-colonial order, you know, that we just exercise these powers within the thing. Yeah.

CHIEF COMMISSIONER MARION BULLER: Well, Counsel, does that bring us to a close of the testimony for today?

UNIDENTIFIED SPEAKER: That brings us to a close, thank you.

CHIEF COMMISSIONER MARION BULLER: Okay, before we adjourn for the day, Professor Young’s CV will be Exhibit 1, and his paper will be Exhibit 2, please.

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--- EXHIBIT NO./PIÈCE No. 1:

Four-page CV of Tuma T.W. Young

(EH010201)

--- EXHIBIT NO./PIÈCE No. 2:

Article by Prof Tuma Young
“L’nuwita’simk: A Foundational Worldview for a L’nuwey Justice System”
Indigenous Law Journal, Volume 13 issue 1, 2016, pp. 75-102 (EH010202)

CHIEF COMMISSIONER MARION BULLER:

Professor, thank you.

UNIDENTIFIED SPEAKER:  May I respectfully request that the PowerPoint be Exhibit 3, please?

CHIEF COMMISSIONER MARION BULLER:  Thank you, and the PowerPoint – Mr. Registrar, the PowerPoint will be Exhibit 3, please.  Thank you.

--- EXHIBIT NO./PIÈCE No. 3:

Powerpoint “L’nuwita’simk: A Foundational Worldview for L’nuwey Justice System” comprising 12 slides.

(EH010203)

CHIEF COMMISSIONER MARION BULLER:  Have a seat with me.  Would you like to sit with me?

UNIDENTIFIED SPEAKER:  We’re going to close?

CHIEF COMMISSIONER MARION BULLER:  Yes,

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we’re going to close, if that’s okay, or we can (inaudible) if you like.

UNIDENTIFIED SPEAKER: Are we adjourned?

CHIEF COMMISSIONER MARION BULLER: I believe we’re going to do a closing ---

ELDER BLU WATERS: So if we can ---

CHIEF COMMISSIONER MARION BULLER: --- and then we’re adjourning.

ELDER BLU WATERS: So if we can close off today with a prayer. We started today with a prayer and we’d like to close off.

--- CLOSING PRAYER/PRIÈRE DE CLÔTURE

--- Upon adjourning at 6:15 p.m/

L’audience est adjournée à 18h15
LEGAL DICTA-TYPIST’S CERTIFICATE

I, Karen Noganosh, Court Transcriber, hereby certify that I have transcribed the foregoing and it is a true and accurate transcript of the digital audio provided in this matter.

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Karen Noganosh
September 4, 2017