
Prof. Brenda Gunn

Corey O’Soup

Prof. Jean Leclaire

Dr. Dalee Sambo Dorough
II - APPEARANCES

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                                   Stuart Wuttke (Legal Counsel)  
Aboriginal Women’s Action Network (BC)  MiKenze Jordan (Representative)  
Assembly of First Nations Quebec-Labrador (QC)  Wina Sioui (Legal Counsel)  
Assembly of Manitoba Chiefs  Joëlle Pastora Sala (Legal Counsel)  
Awo Taan Healing Lodge Society  Darrin Blain (Legal Counsel)  
Battered Women’s Support Services (BC)  Angela Marie McDougall (Representative)  
                                   Anemki Wedom (Representative)  
Canadian Association of Chiefs of Police (National)  Ashley Smith (Legal Counsel)  
Concertation des Luttes contre l’Exploitation Sexuelle (QC)  Diane Matte (Représentative)  
Directeur des poursuites criminelles et pénales (QC)  Anny Bernier (Legal Counsel)  
Easter Door Indigenous Association (NL, PEI, NB & NS)  Natalie Clifford (Legal Counsel)  
Government of Alberta (AB)  Doreen Mueller (Legal Counsel)  
Government of British Columbia (BC)  Emily Arthur (Representative)  
Government of Canada (All)  Marie-Ève Robillard & Sarah Churchill-Joly (Legal Counsel)  
Government of Ontario (ON, National)  Julian Roy (Legal Counsel)  
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Government of Manitoba (MB, National)  Kendra Jarvinen (Legal Counsel)  
Government of Nova Scotia (NS, National)  Sean Foreman (Legal Counsel)
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APPEARANCES

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Lisa Broda, Marci Macomber & Connie Braun (Representatives)
Gregory Walen, Q.C. (Legal Counsel)

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Krystyn Ordyniec (Legal Counsel)
Amanda Byrd (Representative)
Deputy Grand Chief Anna Betty Achneepineskum (Representative)

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Hilla Kerner (Representative)
Laurel McBride (Representative)

West Coast LEAF (BC)
Raji Mangat (Legal Counsel)

Winnipeg Police Service (MB)
Kimberly Carswell (Legal Counsel)
Shari Bell (Representative)
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--- The hearing starts on Thursday, May 17\textsuperscript{th}, 2018 at 8:20 a.m.

(OPENING REMARKS/PRAYER)

**MS. LAUREEN WATERS-GAUDIO:** ...so that we have that fire to keep us going and to keep us healthy and to have that cleansing, and to have that great Qulliq that was there for our Inuit people to have them continue with life. So it's very important that we honour that fire, just as we do in other nations when we come together, and we have sacred fires, we have those sacred objects that help us on our journeys.

And I'm very grateful that Rebecca is carrying that and carrying for that for us so that all those Inuit know that they're represented in this Inquiry and that all people have value and life, they're all gifts. And to return to our original ways to learn these teachings and to learn what sustained our families for time immemorial. It's the beginning.

And I'm happy to see that all of us are returning to that, returning to our traditional ways and learning about the ways that our ancestors lived and how they governed themselves.

And I think that's what part of this is about with these expert witnesses. We're bringing them in
to prove that these things have always existed and to point out where things need to change. I'm very grateful for our panels, all our panelists that have come this week and told us, no, this has been (inaudible) since the beginning of time, and we're here to fight for you. So to come together as all nations is very important.

Nothing is ever perfect in life. No ways of someone doing something is the right way only. There's many ways. But it's very important that we come together and support each other so that we can continue to do this work, to find the systemic causes, the reasonings why are women, two-spirited LGBTQ community, why are people are going missing, and why is it just us being murdered in such high rates, why are we being incarcerated in high rates.

These are things that we need to stop, we need to find the reasoning's, and we all need to fight together. We know that there is always a little bit of pot that gets thrown around in the way of money, and we all have to fight for it; right. So doing that, we're continuing those colonial ways of separating each other and fighting with each other.

So today, I ask those ancestors if they'll take care of that, and I'll speak that more when I do my opening prayer for you.

But we'll get Rebecca to start us off and
Penelope will come after that and speak in the French language so that you don't have to listen so much through your headphones, and it's a little bit more comfortable for those that are here, those French-speaking, and to honour this territory where this language is.

**MS. REBECCA VEEVE:** (Speaking native language). Good morning, everyone. Once again, we come together. Thank you.

Good morning. It's good that we've gathered again. And I've done some research to find out why we've lit the oil lamps. When people are missing, people light candles for vigils.

I am grateful for the moments we are in today. Our presence here with presentations, the experts I'm very grateful to, as well as the Commissioners for the invitation.

At times, when we're all on our own, we are united through these fronts. For your welcoming's, thank you once again for inviting me. And it's hard for me to express how grateful I am. My heart is jubilant for being here with you all. Thank you.

**MS. PENELLOPE GUAY:** Kwe. Bon matin. Je voulais dire que je remercie mes ancêtres de l'héritage qu'ils nous ont donné. Merci à nos grands-mères, à nos grands-pères d'être présents dans le monde des esprits.
Je remercie aussi les experts ; hier, à la fin de notre dernière prière, je me suis un peu effondrée parce que les larmes venaient facilement d’avoir entendu les experts nous conter leurs droits, leurs revendications et nous aussi, à partir des femmes et des hommes qui ont vécu beaucoup de violence. Alors, ça m’a touchée énormément.

J’ai pensé, ce matin, à ça et je me suis dit : qu’est-ce qu’il faut faire? Parce qu’on sait qu’entendre et réentendre, avec le cœur, on a des traumatismes nous aussi, hein? On les a entendus; vous avez entendu hier aussi.

Alors, ce qui m’est venu, dans mes prières, c’est d’aller dans la forêt, en fin de semaine, d’aller voir les arbres, d’aller leur parler, aussi, de ce qui s’est passé, parce qu’ils entendent, eux aussi. Il ne faut pas garder ça à l’intérieur de nous. C’est ce qu’on m’a enseigné aussi, c’est ce que je vous enseigne : aller dans la nature, vider son cœur, pour qu’il prenne soin de nous.

Alors, en fin de semaine, c’est ce que je vais faire [Rires]. J’en aurais besoin pour me donner de l’énergie pour continuer.

Je vous remercie d’être ici ce matin. Je dis toujours qu’on est en train de marquer l’Histoire, on est en train de faire des pas. Merci les commissaires, je vous
J’ai reçu un enseignement, ce matin aussi, du petit sac de médecine noir : il y a de la sauge dans le petit sac et ça nous permet d’ouvrir nos cœurs. Alors, c’est ce qu’on va faire toute la journée aujourd’hui. Je vous remercie beaucoup.

**MS. LAUREEN WATERS-GAUDIO:** Thank you to those grandmothers that have spoken.

(Speaking native language).

What I’ve said to you is my name is Earth Song. I’m an aayahkwew, which means neither man nor woman. I’m from the Wolf Clan, and my family is from Ahtahkakoop, Saskatchewan and Eskasoni, and I bring that to you so you know where my family is from and you know who I am.

My name means to bring life to the world, to the earth. It was the first sounds that Earth made. So for me it’s very important and I’m very honoured that I get to stand before you to say some words.

I want to thank the Commissioners for bringing in the grandmothers. When we first started this road, they approached each and every one of us with tobacco and they asked us if we’d their helpers. If we’d help guide them on this journey, which is a very difficult journey. And that we’ve done this is a good way, that we bring forth those teachings we were gifted with, that we’re
very honoured that we got from many, many people, to share and to make sure that we’re following our traditional ways. So I say thank you to them for doing that process, cause that’s what’s been guiding us along this journey. By going back to our original ways and including spirituality, including ceremony, including that part of our being that needs to be addressed, not just our emotional, our physical and intellectual.

And for me, when I have this tobacco in my hand, it’s not me who speaks. I ask those Ancestors to help me, help me say the words that need to be said. And when we pray, we pray and repeat the words that need to be said. I’m grateful that that time is given to us for doing that work.

Because we just don’t run by the clock, we never had a clock a long time ago. Ceremony starts when it starts and it finishes when it finishes, and that’s hard for some people to comprehend and to understand because we’re human beings; sometimes we want things to hurry up. “Come on, come on, I have things to do.” But we can’t do that, we can’t rush, when the spirits are asking that words be said, so that we can learn, so that we can say things. Because other times, when we’re acting with our human hat, oh boy, we can just keep going and we can just say things. So I’m grateful that I’ve been given this
gift and I’ve been given this responsibility to share with you. And to share with you that teaching that comes from the Cree and the Anishinaabe people; that’s tobacco and we’re giving it. This is our linkage to the spirit world, this is our linkage to those ancestors, it’s one of our original teachings that to get something we have to give something, and for us, it’s that tobacco.

We give tobacco so we can be guided, so that we can do things in a good way, speak in a good way, hear in a good way, listen in a good way, and then live our lives in a good way.

Then, I’m grateful that each and every one of you are invested into this, because it involved all of our people. One affects one affects many. It’s not just an individual thing that happens to just one family; it affects communities, it affects nations.

So today, those ancestors want me to say to you that, “Don’t worry, we as a collection of people will fix this. These are our people, we need to invest into it. We need to do this work, we need to continue doing this hard work. We need to continue supporting each other, we need to come together. We need to stop all that violence, we need to stop discriminations, we need to stop separation and racisms. All people are gifts from the Creator, no matter where they come from, no matter what colour they
are, no matter what practices they practice.”

So if we come together like that, the
Creator says, and the ancestors say, “We’ll be one and
we’ll be strong. Because one tree in the forest gets blown
down easily; but many trees that help surround it protect
each other. And we may lose a few, but we still have many
more left. So the greater we come together in numbers,
those ancestors say, we’ll be stronger.”

And not everyone will like this process
that’s going on, and that’s okay. But we still need to
support each other, we still need to have a voice. Those
that oppose this, they still need to have a voice. So that
we can learn what it is that they’re feeling and what
they’re experiencing, and how we can make changes and how
can we move forward in a good way. But if we just stop and
not continue to help each other, we will not be strong.

So be like those trees; stand together, be
that great forest, be that strength that’s needed. For
this, I say (Indigenous language). And thank you all for
being here again today.

MS. CHRISTA BIG CANOE: Good morning, Chief
Commissioner and Commissioners. Just before we formally
open into cross, there’s a couple housekeeping items that I
propose I deal with so it’s out of the way.

First, what I’d like to do is, yesterday,
during Doctor Dorough’s testimony, she had raised a couple of documents, or said some information that we just want to put in as exhibits. And one of them was the “American Declaration on the rights of Indigenous people,” was one of the instrument she spoke about.

If we could have that made, and I’m gonna suggest to just that the numbers continue, I’ll just check with Madam Clerk, I believe that’s 27? So if we could have that made 27.

--- EXHIBIT No./PIÈCE No. B27

American Declaration on the Rights of Indigenous Peoples - adopted at the third plenary session, held on June 15, 2016 (22 pages)

CHIEF COMMISSIONNER MARION BULLER: “The American Declaration of the rights of Indigenous...”

MS. CHRISTA BIG CANOE: “People.”

CHIEF COMMISSIONNER MARION BULLER: “People.”

Exhibit 27.

MS. CHRISTA BIG CANOE: Thank you. There is also, I’m gonna say... “The Inuit Tapiriit Kanatami position paper implementing the UN Declarations on the rights of Indigenous people in Canada.” If we could have that made exhibit 28, please?

--- EXHIBIT No./PIÈCE No. B28
Implementing the UN Declaration on the Rights of Indigenous Peoples in Canada (21 pages)

CHIEF COMMISSIONER MARION BULLER: Yes, “The Inuit Tapiriit Kanatami position paper implementing the UN Declaration on the rights of Indigenous people in Canada” is exhibit 28.

MS. CHRISTA BIG CANOE: Also from “The Inuit Tapiriit Kanatami implementing the UN Declarations on the rights of Indigenous people in Canada through a comprehensive legislation”, if that could please be number 29?

--- EXHIBIT No./PIÈCE No. B29

Implementing the UN Declaration on the Rights of Indigenous Peoples in Canada through comprehensive legislation,

Inuit Tapiriit Kanatami, April 2017 (five pages)

CHIEF COMMISSIONER MARION BULLER: Yes. “ITK’s implementing the UN Declaration on the rights of Indigenous people in Canada through a comprehensive legislation” is exhibit 29.

MS. CHRISTA BIG CANOE: And one other housekeeping issue. It is not an exhibit, it was
originally intended to just be a demonstrative aid, was
Corey O’Soup’s resources.

It didn’t actually get up on the screen but
it had been distributed to parties, and we will ensure that
it gets put onto the useful links on the website. If we do
have time, even over lunch, we’ll have it put up on the
screens so that people can see. The resources were just
public Internet resources in relation to a number of the
conventions. And it was done in a slide presentation, but
that was a demonstrative aid, not an exhibit, cause that’s
all publicly available information. I just wanted to
indicate that it got overlooked yesterday.

In terms of housekeeping issues or matters,
I’m complete with those. And so, at this point, I would
like to advise and inform you that we will have 15 parties
with many in attendance for cross-examination, today.

And so, with cross-examination, we will
begin with as each one’s called, we’ll cite the numbers.
The minutes will begin, the time will begin the moment the
counsel steps up and talks.

And so the first party is the Eastern Door
Indigenous Association, and they have 20 minutes. So 20
minutes, thank you.

COREY O'SOUP, Resumed/Sous le meme serment:

BRENDA GUNN, Resumed/Sous le meme serment:
DALEE SAMBO DOROUGH, Resumed/Sous le meme serment:

JEAN LECLAIR, Resumed/Sous le meme serment:

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

MS. NATALIE CLIFFORD: Thank you. Good morning. My first question is for Professor Gunn.

I wondered if you could clarify whether Canada currently has an international obligation to prevent, investigate, prosecute, punish and compensate for murdered and missing Indigenous women and girls?

MS. BRENDA GUNN: Thank you. Yes, I think it’s the simple answer and we can point to Suda and Suda’s (phon.) interpretation of their convention. Which would include all of the general recommendations that they have developed, and they have three that deals specifically with gender-based violence against women. And how gendered-based violence against women is a violation of Suda (phon.).

MS. NATALIE CLIFFORD: Is it also a domestic obligation, maybe by way of the charter, section 7 and 15-1?

MS. BRENDA GUNN: One of the challenges that often exists when we’re talking about domestic application of international law is that, occasionally what we’ve seen is that when Canada does its periodic reporting, it will
report to the oversight body.

So the Committee on the Elimination of Discrimination Against Women, in this case, that they have fully implemented the instrument and they’ll point to different areas of domestic law where it’s implemented. But I’ve seen occasions -- and I’m speaking generally here, not specifically to CEDAW, where when international human rights instruments engaged in domestic litigation, the Department of Justice response tends to be that that Treaty has not been implemented because there’s no specific legislation that can be pointed to. And so I acknowledge that that’s one of the challenges, is there seems to be at least a divide in sometimes what Canada reports internationally and what the Department of Justice allows to be engaged in litigation domestically.

My preferred response would be again to, at minimum, point to the Baker decision where the Supreme Court of Canada said that even -- sorry -- even unimplemented treaties can have legal effect in Canada. And so, if Canada were to say that they hadn’t specifically implemented CEDAW through enabling legislation, we might be able to rely on CEDAW -- or sorry, on the Baker decision to say that CEDAW still has domestic effect. Which would get me to the point where I would say that, yes, obligations like the duty to prosecute -- punish -- sorry, I don’t have
the words in front of me and I can never remember them. Those obligations do exist domestically.

The second aspect would be through the recent arguments by the CEDAW committee that after 25 years, the committee now is of the opinion that the prohibition of gender-based violence of women has evolved into a principle of customary international law which does apply in Canada. And that prohibition against gender-based violence against women includes that obligation to prosecute, punish, compensate, investigate -- I’m getting them all out of order this morning. But ---

**MS. NATALIE CLIFFORD:** So then despite Baker, and despite the application of customary international law, you offered a critique of the Judiciary yesterday that -- and correct me if I’ve misinterpreted -- but that, basically, they buck the appropriate framework for application of international human rights law and -- in the face of it. So is this correct?

**MS. BRENDA GUNN:** I think the Judiciary, like many lawyers, have not received sufficient education on international law, and so they rely on submissions of counsel. And I’m not always sure that counsel, when they are relying on international instruments, do a sufficient job explaining to the Court how they’re evoking international law and what they want the Court to do with
it. So I don’t sort of, fully blame judges, but I do think that Canadian courts in particular have done a very good job of moving beyond the technical issues about how international law applies and have, in many cases, undertaken to interpret domestic law in accordance with Canada’s international human rights obligations. And so, I think that’s a very strong and powerful move towards ensuring that Canada’s international human rights law does apply in Canada. But they do it often through that interpretive approach, which is called the presumption of conformity.

**MS. NATALIE CLIFFORD:** You also pointed to – in your observation and misconception among Canadians and students, was your example, that international law doesn’t have application in Canada; correct?

**MS. BRENDA GUNN:** Yes.

**MS. NATALIE CLIFFORD:** Would it be an appropriate characterization that this sort of, perception, is that it doesn’t have teeth?

**MS. BRENDA GUNN:** I’ve heard that. I’m not sure that’s always what it’s wrapped up to be. I do think that sometimes there is a conflation between issues around law as law, and law and its ability to be enforced, and I think that’s what you’re referring to by not having teeth. And so, yeah, I think that is probably part of the issue,
is that people think since it can be difficult to enforce international law, you know, we’re not -- there’s no international police that are going to come arrest the Prime Minister for failing to uphold the international obligations. That maybe it’s not real law, even though international law is just enforced differently I would say, then a lot of domestic law.

**MS. NATALIE CLIFFORD:** Would you attribute this back to a lack of education about human rights and international law?

**Ms. BRENDA GUNN:** I think so. I am an educator, so I do think education is important and I do think that -- I don’t know where these misconceptions come from. But I do know that as a law professor, it is something that I try to teach all my law students, that international law is law and there’s various ways that it has relevance in Canada.

**MS. NATALIE CLIFFORD:** Do you think that the misconception and -- coupled with the Judiciary’s approach, have contributed to basically developing a reality in Canada whereby individuals don’t seek to assert their human rights to an international standard?

**MS. BRENDA GUNN:** It’s an interesting idea. I think sometimes, I mean, if you don’t know the options, and I know a lot of people don’t understand what the
international human rights obligations are and how they can be enforced domestically or internationally. So if you’re not aware of the avenues, you’re not going to pursue them. I mean, if people were aware of the options and were of the view that the judges don’t take them seriously, then I’m not -- you know, I would assume that would have people hesitant to bring it forward.

But again, I want to reiterate that I am of the opinion, I do think the judges have done a fairly good job of trying to bring in international human rights law in particular into domestic law, and not allow Canada to sort of, take positions where they say internationally that they’ve implemented, but not allow it to be engaged domestically. So the Courts have been good. But I do think -- I guess I’m not sure that the misconception is the part that holds people back from asserting those rights. I think it’s a lack of knowledge of their existence, or what they mean, or how to do that.

**MS. NATALIE CLIFFORD:** Okay. So one of your recommendations was that the Commissioners use an international human rights-based approach in their recommendations; correct?

**MS. BRENDA GUNN:** Yeah.

**MS. NATALIE CLIFFORD:** So I guess my concern, and I wonder if you could support your position in
response to the judicial interpretation of international human rights law, coupled with this misconception as Mr. Leclair characterized it, as a mindset that needs to be changed. Whether that will affect -- or hinder the effectiveness of their recommendations? Is it a lofty goal?

**MS. BRENTDA GUNN:** Thank you. I guess a couple of things. There are many of examples where the Courts are using international human rights law and international law. So the Courts do, particularly the Supreme Court of Canada is quite open to hearing these arguments. And I can provide a few additional examples. But the Courts are open to these arguments when they are properly put before the Courts. If there is some hesitance, whether it be from Canadian governments, and I include provincial governments in that, is using a human rights-based approach going to weaken the Inquiry’s recommendations -- if I understand your questions correctly. I don’t think so.

The human rights-based approach isn’t necessarily going to just say that the recommendations are all going to be, implement human rights. It can be broader than that, right? So that’s why I was saying I would hope that the human rights-based approach would inform the process of the inquiry, including basic human rights, like
ensuring the participation of Indigenous women in the process. But also, can provide a framework to judge Canada’s actions and omissions against, right? So when we’re trying to say that the Canadian state has failed to address this issue, we can speak about it in a general sense, but I think what the human-rights-based approach gives us is an ability to say — provide, basically, a list. Like, these were all the obligations that Canada was required to do, and then look at the actions that Canada has taken, or the failure to act, and say, has Canada met its obligations?

So, it’s a way to sort of create and organize the analysis of the situation of murdered and missing Indigenous women and girls. So, I actually think it would strengthen the recommendations, because instead of the Commission identifying things that Canada should do on its, sort of, through own research or ideas, what the human-rights-based approach does is connect those ideas to legally binding obligations that Canada has. So, it’s, like, you should do this, and that connects to a legal obligation that you’ve voluntarily undertaken in the international arena.

Political will to implement recommendations is another issue, but I think when you ground recommendations in law, and maybe this is because I’m a
lawyer, I think it gives its strength and force.

MS. NATALIE CLIFFORD: Thank you. Dr. Sambo Dorough, I have a few questions. I just wanted to confirm, yesterday, you gave evidence of Canada’s cooperation and control and drafting of the UNDRIP; correct?

MS. DALEE SAMBO DOROUGH: Maybe not control. I wouldn’t use that term.

MS. NATALIE CLIFFORD: Cooperation?

MS. DALEE SAMBO DOROUGH: They did have influence.

MS. NATALIE CLIFFORD: Okay. But, since its release, Canada has more or less side-stepped; correct?

MS. DALEE SAMBO DOROUGH: I would characterize it as -- and you’re speaking specifically about their pronouncement of support for the U.N. Declaration on the Rights of Indigenous Peoples?

MS. NATALIE CLIFFORD: Yes.

MS. DALEE SAMBO DOROUGH: So, first, yes, they did have an active role, and they did have influence in the context of negotiation and drafting amongst states, as well as Indigenous peoples and other parties. With regard to the use of the term “side-stepped”, I would moreover characterize it as a lack of full, comprehensive, meaningful, effective implementation of the rights affirmed in the U.N. Declaration on the Rights of Indigenous
Peoples.

I understand that there is an ongoing discussion about how to do so amongst a range of different actors including, as I referenced yesterday, the bill being considered by -- offered by private member Romeo Saganash. If, as an outside observer, of which I am, I’m not a Canadian national, I wouldn’t necessarily characterize the ongoing process as one of side-stepping. However, I would also indicate that Canada, like many other countries across the globe, has not done a sufficient -- I could use a stronger term, but a sufficient set of activities to operationalize the rights affirmed in the U.N. Declaration in favour of Indigenous peoples.

**MS. NATALIE CLIFFORD:** Thank you. And, does the right to self-determination import a right to self-government?

**MS. DALEE SAMBO DOROUGH:** Absolutely. I think that it’s more important, however, to characterize them in the way they have been articulated in black and white in the U.N. Declaration. Article 3 in the United Nations Declaration on the Rights of Indigenous Peoples affirms that all Indigenous peoples have the right to self-determination by which they can determine their political status and freely pursue their economic, social and cultural development.
This is a right that’s understood in international law. The principle of equal rights and self-determination is affirmed in the United Nations Charter. It’s explicitly affirmed in the International Covenant on Civil and Political Rights, and the International Covenant on Economic, Social and Cultural Rights. Article 1, paragraph 1, “all peoples have the right of self-determination.”

Its articulation in the U.N. Declaration as reflected in Article 3 is the understanding in international law of the affirmation of the right to self-determination and its specific attachment to Indigenous peoples as peoples. Article 4 in the United Nations Declaration affirms the right of Indigenous peoples to self-government. Some have tried to characterize this as solely an internal right. They are two distinct rights. That’s my short answer to your question. Article 3, the right of self-determination; Article 4, the right to self-government, autonomy and so forth.

**MS. NATALIE CLIFFORD:** Thank you. And, finally, my final questions are for Mr. LeClair. I’m going to speak in English. I hope that’s okay. Thank you.

Your evidence yesterday, you recommended or hoped that First Nations, and maybe even suggested that they have an obligation to implement the UNDRIP; is that
MR. JEAN LECLAIR: Well, not an obligation. It’s their decision to do so, but I think they have the legitimacy to do so. And, my argument is that it was also, strategically, an extremely powerful instrument, because in Akwesasne, for instance, they developed a court. So, other nations are doing -- taking other initiatives, and in some ways, it becomes much harder, not just politically but legally, to just bypass these exercises of self-governments.

And, I know that Indigenous nations and First Nations don’t have a lot of resources, but some even small initiatives that prove to be successful are bound to influence governments. For instance, if I take an example I know, the Atikamekw, for instance, the family councils that they provided for in their youth protection initiative proved so successful that the Government of Quebec created what it called, if I remember well, the Committee de Persons Significative, the Significant Peoples’ Committee, to be used where non-Indigenous families were concerned.

And so, Indigenous initiatives are not only strategically and legally a good idea, but it could even serve as examples for non-Indigenous, and that would create better relationships, better understanding of Indigenous legal orders.
MS. NATALIE CLIFFORD: So, with encouraging First Nations to develop internally and use the UNDRIP on their own, I wondered if it would be fair to say that the Indian Act violates the UNDRIP?

MR. JEAN LECLAIR: In many ways. That’s quite understandable. The idea is -- I think everyone agrees about this now. The thing is, is how do you go from the Indian Act to something else? A lot of First Nations are negotiating modern treaties, for instance. But, some First Nations are not in a position to easily do that, because they’re not -- they don’t have the political clout. They’re not on territories that have sufficient resources to provide a spark of interest from the governments. I’m being blunt, but this is a reality. And, I think we have to find ways, because all First Nations and all Indigenous peoples in Canada are not in the same position, and do not necessarily wish to follow the path of self-determination at the same pace or in the same fashion.

So, this calls into -- this begs the question how to do so, and that’s for the First Nations to determine. Some will prefer treaties, but I think, for instance, and that’s a controversial solution, but I’m thinking of John Burrows’ proposition that there might be some place for federal legislation to provide a means of going forward from the Indian Act to greater self-
determination. But, some people say this is not a good idea, the federal government should not be involved, that's a decision for the First Nations to make and Indigenous Nations in Canada, but I'm only saying that not everyone can adopt the same path at the same speed.

MS. NATALIE CLIFFORD: Thank you.

MS. CHRISTA BIG CANOE: Thank you,

Ms. Clifford.

The next party withstanding, Women Walking Together, Ms. LaPlante and Ms. Okemaysin-Sicotte, if you could please come up.

CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR MS. OKEMAYSIN-SICOTTE:

MS. DARLENE OKEMAYSIN-SICOTTE: Hi. Good morning. My name is Darlene Rose Okemaysin-Sicotte. I am the Co-Chair for Iskwewuk E-wichiwitochik, it's Women Walking Together. We're a grassroots organization in Saskatoon, Saskatchewan in Treaty 6.

We actually have been doing our work for 12 years. We -- we don't have government funding, we don't have no office, we're not even non-profit. So we've had a long journey on this work on awareness, remembrance and supports to families, in particular.

So my first question is to Dr. Dalee, and my six questions will be to her and then a few others.
In yesterday's testimony, you spoke about the United Nations' Special Rapporteur on Violence Against Women in her 12-day visit to Canada in April 2018, in particular, about the ongoing systemic inequalities and violence against Indigenous women in Canada.

The expert visited Ottawa, Iqaluit, Montreal, Toronto and Winnipeg, and this goal was to review, assess and address gender-based violence against women to ensure that Canada is honouring its commitments under the Convention on the Elimination of all Forms of Discrimination Against Women and the Declaration on the Elimination of Violence Against Women, with special attention to the situation of Indigenous women who face multiple and interconnected forms of discrimination and violence.

My question is, do you agree the biggest challenge is the inability of the current government to commit to a long-term political will to address this?

DR. DALEE SAMBO DOROUGH: Thank you for the question. I think it's fair to say that, at least with this current government, there has been an expression of willingness.

The campaign promise of the Trudeau Government, not to mention the mandate letters that were issued to various members of his Cabinet with regard to
implementation of the UN Declaration, but also the
reference, the specific reference, for example, to
Minister Carolyn Bennett, indicate and expressly state
reference to international human rights law. Given that,
those two items, the campaign promise, the subsequent
promise, when finally elected, as well as the mandate
letters, that it appears there is an opening an opportunity
to do so.

Political enterprises and political will, I
cannot point to you for certain, and I think to some extent
it is a call to action to all of us to uphold those
promises. And I would regard them as solemn obligations,
especially when you see the statements of the ministers
within the hallowed halls of the UN General Assembly.

Jody Wilson-Raybould spoke to the UN General
Assembly, Minister Carolyn Bennett spoke to the UN
Permanent Forum on Indigenous Issues. So I would
characterize those as solemn obligations, the
representatives of government who have made important
pronouncements.

And words matters, as I said yesterday. So
I would suggest that, absolutely, and let's see how the
promise intersects with the political will in regard to,
not only the UN Declaration on the Rights of Indigenous
Peoples, but as stated in the mandate letters, other
international human rights law.

MS. DARLENE OKEMAYSIN-SICOTTE: Okay. Thank you.

Do you agree that Canada should immediately, in terms of the visit from the Rapporteur, to immediately implement legislation and provide maximum resources to address the inequality of access to housing, funds to education, employment training and child welfare on reserves, and if so, can you expand?

DR. DALEE SAMBO DOROUGH: The short answer is absolutely. I think that the visit of the Special Rapporteur on Violence Against Women is an alarm. And usually, when you hear an alarm, you pay attention, you take action, you exit the building. Whatever it takes; right?

So as far as the opportunities, I think at the moment that she issued these statements, it would have been highly constructive for Indigenous women across Canada to stand up, link arms, and say, did you hear what she said. Sort of along the lines of what Corey O'Soup was saying in relation to children.

I think that there are numerous options on the basis of the statements that she made, and as you know, the forthcoming actual country report. And in fact, that may have been an opportune time in terms of the issuing of
the report to take further actions at the local level and
the regional level, at the national level, but also, I
think it's an invitation at the international level.

MS. DARLENE OKEMAYSIN-SICOTTE: Okay. Thank
you.

This is still in regards to the visit from
the Rapporteur. Do you think Canada, all provinces and
territories, should redesign the child welfare and foster
care system and practices, in particular, those children
left behind of the missing and murdered Aboriginal women?

DR. DALEE SAMBO DOROUGH: Yes. I must say
as a proviso, that I am not intimately familiar with the
specific conditions of Indigenous children in Canada.
However, if the issues are similar to those in Alaska, a
concrete, constructive response needs to be undertaken,
especially in the context of orphaned children.

This is a -- when, for example, Corey spoke
about the best interest of the child, the Indian Child
Welfare Act in the United States and within our
communities, our Inuit communities and other Alaska native
communities that actually means something and something
important. The urgent nature of it, the threats and risk
to such orphaned children needs immediate response.

MS. DARLENE OKEMAYSIN-SICOTTE: Thank you.

Do you also agree that a monitoring
mechanism is recommended in -- that was recommended in the
document of the CEDAW to track and monitor the conditions
of Murdered and Missing Indigenous Women and Girls post
Inquiry is necessary to prevent further violence against
Indigenous women?

DR. DALEE SAMBO DOROUGH: Yes. I would only
amend that statement to say throughout, and not necessarily
post Inquiry. And I think that that was one of the key
messages of the Special Rapporteur on Violence Against
Women as she left Canada following her country visit. That
even before the work of the Inquiry is concluded that
action should be taken.

So I would say that not only post Inquiry,
but as soon as possible, as -- and I think there are ways
in which action could be taken.

MS. DARLENE OKEMAYSIN-SICOTTE: Okay. Thank
you.

This is the last question on the Rapporteur.
Do you agree that a national action plan on violence
against women should have a specific prevention of violence
plan against Indigenous women that reflects the barriers of
the Indian Act and to accommodate the over 620 different
communities, their languages and cultural practices in such
a plan?

DR. DALEE SAMBO DOROUGH: I think that the
first step should be outreach to all of those Indigenous, First Nations, Métis, as to what the major priority is in regard to the Indian Act.

I'm not familiar with discussions to date regarding the Indian Act. I'm familiar to some extent with its impacts upon especially Indigenous women but I think that any kind of national action plan in response to these issues needs to start with dialogue with the Indigenous peoples concerned and their exercise of the right of self-determination because they are the self in self-determination and that a national action should begin in that way in order to identify the priorities and what the specific problems are and what the potential solutions are.

If there is dialogue and discussion about instituting a national action plan, it should also draw from the developments that have taken place at the international level. Yesterday I referred to the U.N. declaration, a range of other international human rights instruments, as well as the sustainable development goals and you could probably very quickly and easily identify the alignment of the issues and concerns related to the Indian Act, the status and the rights and interests of Indigenous women and girls and put together something fairly comprehensive.

MS. DARLENE OKEMAYSIN-SICOTTE: Okay, thank
you. That ends my questions for Doctor Dalee.

My next question is for Brenda Gunn. In your testimony yesterday, you spoke about forced disappearance may be a rule of customary international law which would apply in Canada.

Would you say that this forced disappearance implies murder when they're the first -- when there's first abduction, then detainment ending with location of the person that was abducted? In Canada, how would we hold Canada responsible under the international convention for the protection of all persons from enforced disappearances? If so, would you recommend that compensation and restitution take place for the families of missing and murdered Aboriginal women and girls?

MS. BRENDA GUNN: Thank you for the question.

Yes, I did say that it's -- that enforced disappearance is beginning to be recognized as a rule of customary international law. At least some are making that argument. And so my point was if it is a rule of customary international law, then it does apply directly in Canada as law and that was sort of held by the court in 2008 with how customary international law applies.

I did raise that convention and the idea of enforced disappearance because I do thing that many of the
circumstances that we know about of the process of murdered
and missing Indigenous women and the way in which Canada
has known about this situation for a significant period of
time and arguably has failed to act in a way to
successfully prevent, investigate, prosecute, punish and
compensate that, you know, this seems to fit with what that
collection is aiming to do.

Now I do want to be clear. I know that
Canada has not actually ratified that convention, so we
can't use that convention generally but holding Canada
responsible I think is always a challenge. Despite being a
lawyer, I don’t always think that litigation is our best --
best approach.

I do think that the inquiry is part of the
process of holding Canada responsible and I think that’s
part of -- I mean holding someone responsible is also
understanding what they've done, right. And so the truth
that is being sought through the inquiry process I think is
key to that accountability process.

I can't say that the international standards
do speak to compensation and reparations. Reparations is
the term generally for a remedy in international law. So
it would be reparations and compensation is what they speak
to. And so if Canada is found to have these obligations,
which I strongly believe they do, and has failed to uphold
them, then yes, international law requirements does include aspects of compensation and reparations.

And it's important to also think that reparations internationally can include a broad range of activities.

Yesterday I spoke about some of the cases of genocide that I worked on in Guatemala and for those communities, they were looking for a range of things. There was some personal compensation that was made but in a couple of the communities, there were memorials that were built. One of them in particular was a big stone thing and it has kind of a book and all around it has all the names of the people who were lost in that particular genocide.

There were dollars set out for community health. I'm trying to think of the range of activities. There was a need to apologize publicly and in various Indigenous languages and on the radio and to make the decision publicly available so that, you know, for the survivors and others to know that the genocide had occurred and that Guatemala had -- is part of that responsibility.

So I do just want to point out that compensation and individual financial payments can be part of that but it can also be much broader and include some of those requirements to do community building and some of those socio-economic programming that is necessary to
adjust the situation going forward, just both a cause and a consequence in that sort of way.

**MS. DARLENE OKEMAYSIM-SICOTTE:** Yes, thank you. I'm really glad that you were able to give an example.

My next question is to Corey O'Soup, the Saskatchewan Children's Advocate. In light of the crisis of the high suicide rates of Indigenous girls in Saskatchewan, the Arctic and around Canada, in your experience at the Government of Saskatchewan's Education Ministry, can you share for example a school or program that has culturally-based learning environment and would you -- would it be a more desired focus on future long-term resourced education delivery?

**MR. COREY O'SOUP:** One specific school? Okay. There's a school actually in Saskatoon called Oskāyak and I think you're pretty aware of that and I believe that school could be a school that not only Saskatchewan can look to but the rest of the country can look to.

It's culturally-based. The staff is culturally-based as well. The administrators are First Nation and Métis. They have elders in the school and I believe it's a shining beacon within our province of the way that we can do better or a way that we should do
better, a way and a place that our children feel like they belong. They feel like they are welcomed. They feel like they are valued and that their culture and their traditions are infused, are a part of their education system. And those are all things that we advocate for at the office as well.

So if you're looking for one particular school, that's one particular school that I could point out to you.

MS. DARLENE OKEMAYSIM-SICOTTE: Okay, thank you.

Would you agree that the political will should provide maximum resources in that area as a preventive instrument in light of the epidemic of missing and murdered Aboriginal women and girls?

MR. COREY O'SOUP: Yes, I believe that we need to fully resource our -- I want to say this correctly. We should fully resource our education system to meet the needs of our First Nation and Métis children in the Province of Saskatchewan. We have it as one of our key priorities at the Ministry of Education in Saskatchewan. Now the challenge I see there is that we don’t always fully resource our priorities, especially when it comes to our Indigenous children. And I think that that’s one of the things that we can do better, and we should do better.
MS. DARLENE OKEMAYSIN-SICOTTE: Okay.

Thank you very much. That ends our questions to the panel.

MS. CHRISTA BIG CANOE: Thank you.

Next I would like to invite up Ms. Beaudin from the Regina Treaty Status Indian Services.

And, yes, just for the record they have 20 minutes.

CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR MS. ERICA BEAUDIN:

MS. ERICA BEAUDIN: Good morning, everyone.

Once again, I acknowledge the welcome and the hospitality to this territory in which I’m a guest from Treaty 4. I’m glad to be going home to my home fire today as my Kokum heart dearly misses my new grandson.

I thank the knowledge keepers and the Elders for their prayers, medicines and songs we are all protected by.

For the record my name is Erica Beaudin and I am the Executive Director of the Regina Treaty Status Indian Services. I shared my lineage for the public record on Tuesday. I will get right into my questions.

My first questions are for Professor Gunn.

Thank you for your discussion yesterday, as extremely informative and helpful. Yesterday you spoke
about the International Convention for the Protection of All Persons from Enforced Disappearance and the Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment as other instruments that could be used to assist as foundations for other measures -- and I hope I’m not being too wordy here -- to protect Indigenous woman against violence.

Very quickly, could you expand how practically this could occur, starting with having Canada sign on?

**MS. BRENDA GUNN:** Thank you.

I guess part of the reason I raised those instruments, including -- I’m going to use the abbreviation CAT for torture one, that Canada is a party to, and the enforced disappearance that Canada is not, was more along the lines of my overall recommendation that the inquiry take a human rights-based approach to analyzing the causes and consequences of murdered and missing Indigenous women and girls and trying to get to those root causes.

So my recommendation and discussion was that the Inquiry could consider the full range of obligations and protections that exist in international human rights law to judge Canada’s actions and omissions against. And so that was one way that I was suggesting was that you take the different responsibilities to get the big picture of
everything that Canada has to do. Instead of this, there’s this treaty and this treaty and this treaty and this treaty, and this declaration and this declaration and this report by the Special Rapporteur and all of this, but try to bring it together to a bigger picture because of the way in which they all interact.

But I think your question may also be getting at how to sort of get Canada to start engaging with these instruments more. The process for Canada to become a party to a treaty is simple and difficult all at the same time. I mean, from the international perspective it’s quite easy; Canada just needs to sort of sign the instrument, send the letter, do what it needs to do.

But, practically, the Canadian approach is to take broad-scale consultations with all of the different provinces to ensure that if they sign on they’re able to implement it. So I do think that there may be some challenges if we want sort of immediate action for Canada to sign on, that may be a longer process; which is why I think we don’t need to hold ourselves back and wait for that to happen.

We can use some of the normative ideas within those instruments to start judging Canada’s actions against. So -- and I think, you know, practically, actions that people can also start taking is learning about these
different instruments; there’s lot of different information
online, and starting to push Canada, and to become a party
to that instrument.

It’s been a recommendation by many different
human rights bodies already but I don’t hear that push
domestically. I haven’t seen a lot of community
organizations. And, I mean, I’m part of the NGOs; I’ve
been part of the NGO delegations to the U.N. that have
gotten these recommendations, you know, so I include myself
in that we haven’t, I think, successfully started a
movement in Canada that’s put that pressure on to become a
party. So I think actions like that.

Sometimes I also think naming actions in
relation to human rights standards can be powerful. We do
often refer to murdered and missing Indigenous women and
girls and to spirit again I recognize that I’m using an
abbreviation but I mean to be inclusive and beyond Cis
gender.

But we can, you know, think about is -- does
it help the advocate see? Does it help us to name this as
enforced disappearance, right? Particularly because many
people when they think about enforced disappearance think
about Latin American countries and I don’t know if it’s
drug cartels or what sort of comes to mind when people hear
those terms and so what would it mean if we started using
that term here in Canada to say that the state has known about a systemic, widespread problem and enforced disappearance and has failed to act?

So those are some of my ideas in a general sense. I’m not sure if I fully got to the heart of your question, but...

MS. ERICA BEAUDIN: I think we could have a two-day seminar on that one question itself.

MS. BRENDA GUNN: Okay.

MS. ERICA BEAUDIN: But thank you for at least two steps in there on how we can practically start, and also from community level on.

My second question is in one of your later slides, you discussed how we may decolonize through a human rights lens. I realize the discussion was more about the different high level measures, however, I’m wondering how we could use these tools to ensure that beyond safety and security, which is the ability to survive or live, how we could include reclamation of our lands, languages, cultures and traditions which we require to survive and thrive as Indigenous peoples, which I believe is integral to creating strong and vibrant woman and societies.

MS. BRENDA GUNN: Thank you. That’s a really great question, and I feel that I’m going to disappoint you by going back to the high level.
But I think even within your question is an important point that I was trying to highlight, is that human rights work together, and a violation of one human right is a violation of many. And so I think you’re absolutely right and Dalee talked a little bit about the right to security of the person that exists throughout. Well, as Indigenous peoples we don’t have safety and security if we don’t have our full cultures. And our cultures are connected to the land and our being, and our knowledge of who we are is connected to those territories.

So it’s sort of reinforcing in that way that if we don’t have our full access to our lands and territories, we don’t actually have that safety and security in that really holistic way.

So I actually see those ideas as being really connected and important for the realization of human rights. Again, I’m not sure I can think of more practical ideas but I do think that when I was talking about how human rights can be used for decolonization part of what I’m speaking to, and I think this builds off Dr. Dorough was speaking about, is that we are looking at removing that sort of colonial control that continues to exist in many different fashions, and looking to ensure that we as Indigenous peoples can determine our own futures. And so part of that decolonization process is a removing of that
government control over our lives to make sure that we have
the space and recognition to make decisions for ourselves.
So -- and so I think it all works together in that way.

**MS. ERICA BEAUDIN:** Okay. I’m going to go a
little bit apart from what we’re discussing. In Slide 13
you discuss state’s guilt in not providing safety and
security amongst other violations. First of all, who
decides if the state is guilty?

Secondly, do you believe this National
Inquiry could possibly be a measure or the beginning of the
government to avoid court through a class action suit by
the families of MMIWG, such as the IRS and Sixties Scoop
that's now before the courts or there is a recent decision
made? Could this still occur?

**MS. BRENDA GUNN:** I'm not sure I feel
comfortable on whether or not a class action could or
should occur or whether it would be successful. I think
that's a legal opinion that's sort of beyond my expertise
and the scope. But what I am able to comment on is sort of
who decides if a state is guilty.

I mean, some of the ways that we've -- I
think some of the experts have been pointing out is that
when you look at specific human rights treaties, so if we
look at the Convention on the Elimination of Discrimination
Against Women, it's the committee on the Elimination of
Discrimination Against Women that makes the comments and observations if Canada is upholding its obligations.

And in all of the periodic reports, particularly the couple that were referenced in my evidence, and is -- I think we included them as exhibits, right -- they clearly speak to Canada's violation or failure to uphold their obligations. So that's one place. And that already exists; right? That doesn't need to be a new finding. It's already clear. These international bodies in several different instances have said that Canada has failed to uphold its obligations under various treaties in relation to the failure to address murdered and missing Indigenous women and girls.

So I think part of that already exists out there. I do think that the Inquiry, if they take a human rights-based approach where they're using international human rights standards to evaluate Canada's actions against, part of their conclusions and the benefits of the sort of legal process that is involved is I think that they're able to say, if they look at international rights standards and look at actions, they can make conclusions if Canada has failed to uphold those obligations. And so I don't use the term "guilty" per se, but whether they're -- they failed to uphold their obligations or whether they violated rights is the phrase that I tend to use. And I
think the Inquiry may be in a very good position to build upon the existing determinations that already exist out there.

**MS. ERICA BEAUDIN:** Thank you. When we look at the national and international conventions, declarations, et cetera, and we look at the intersectionality of those instruments, many of our nations live and/or hunt, trap fish on both sides of the Medicine Line; therefore, they would be considered dual citizens. How can the tools mentioned above, or that we discussed, work together to protect the rights of those Indigenous women who have this reality?

**MS. BRENDA GUNN:** The UN Declaration on the Rights of Indigenous Peoples and I believe the American Declaration, right, Dalee, both make reference to borders; right? Okay. Yes. Yes. They both make reference to the way in which borders have impacted Indigenous peoples and the rights to be able to continue practicing their traditions.

So there are already standards that exist that can be referenced and need to be considered. This issue is also being addressed in different forums. I believe there's going to be some further studies on what does this mean coming out in the next year or two from various universities and expert bodies.
So, sorry, I guess my simple answer is that the issue of borders is included within the UN Declaration and the American Declaration, so we do have a touch point to start looking at the violations and how those interact. And some of the trafficking instruments also sort of speak to that movement of people across borders, but I don't think your question was on that aspect. It was more for nations that are divided by these new lines that states inserted.

MS. ERICA BEAUDIN: So this is a formal question, but could you clarify the author of the quote, "The system is breaking people down faster than we can build them up." You had mentioned that yesterday and I just loved it so much I wanted to use it, but I don't want to -- you -- it may be you.

MS. BRENDA GUNN: I was going to say me but now I'm afraid that I'm going to misquote someone. I think that's something -- because it wasn't on the slide; right? If it was on ---

MS. ERICA BEAUDIN: No, it was ---

MS. BRENDA GUNN: I think that was what I had said in response to one of the questions from the Commissioners I believe, yeah.

MS. ERICA BEAUDIN: So I can quote that as you?
MS. BRENDA GUNN: Yeah, I guess. I'm sure the transcript will clarify if it was me or not but, yes, I'm pretty sure that was my words.

MS. ERICA BEAUDIN: Okay. Thank you ---

MS. BRENDA GUNN: Thank you.

MS. ERICA BEAUDIN: --- very much for your time, Professor Gunn.

MS. BRENDA GUNN: Okay.

MS. ERICA BEAUDIN: Next questions are for Mr. O'Soup. I realise that I'm at five minutes left so I'm going to be a fast talker and I hope you are too.

(LAUGHTER/RIRES)

MR. COREY O'SOUP: Depends on the question.

MS. ERICA BEAUDIN: So thank you for your presentation yesterday. Your passion for the wellbeing of our youth is very apparent.

Much of your time yesterday discussed education as being a pathway to survival for our youth, starting out with graduation from Grade 12. The statistics of 43.2 versus 85.4 in Sask is very disturbing. Is this graduating Grade 12 out of regular K to 12?

MR. COREY O'SOUP: The way that we measure statistics in Saskatchewan with regards to Grade 12 is -- and the stats that I used are from Grade 10 to 12, so a 3-year graduation rate, on time graduation rate. So, that's
the way that we measure it in Saskatchewan.

**MS. ERICA BEAUDIN:** Okay. You also discussed redefining success for Indigenous youth and challenging norms. This I take to mean creating alternative benchmarks and supports to meet those benchmarks. In doing this, creating success in our definitions relate to less female youth going missing and/or murdered? ---

**MR. COREY O'SOUP:** I think raising the education levels and putting in -- within our education system, both as achieving education, but both -- but also as putting in the curriculum topics like missing and murdered Indigenous women and girls to educate them will definitely result in the reduction of more young women and girls going missing, for sure.

**MS. ERICA BEAUDIN:** Okay. Bullying is violence, slut shaming, gay bashing, et cetera, are unfortunately very prevalent in our school systems. How can schools and parents, as well as us as the village who raises all of our children, stop this verbal, spiritual and
physical violence before it escalates into suicide or murder, especially for our young Indigenous women?

MR. COREY O'SOUP: You know, that's one of the biggest topics that we had in our book; right? And that takes us directly to Article 19 within our UNCRC and also aligns with the Article 22 in UNDRP. And I believe that the answers come from our kids.

And within this report -- like, we can -- as adults we can create programs and initiatives for our kids and we do that. You know, we create stop bullying, anti-bullying campaigns for them, but we base those so often on what it was like when we were kids, you know. And we base those decisions and we invest dollars and money because of what we think is best for kids. And I think I said yesterday a little bit how we don't always know what's best for kids because it's different nowadays to be a child in today's world. And I think we need to reconsider the way that we create those bullying programs.

You know, and our kids give us some -- actually, some concrete answers within the book here. And I think if we go to them more often than we go to us, as adults, I think we'll find the solutions.

So I can point out a couple of those. And the first thing that they say really is stop bullying; right? And that's a message to everyone; right? And then,
you know, they speak to our communities and they speak to our leaders, you know.

One example from the children and youth that they said about a solution to stop being bullying was, why don't you call a community meeting -- and this was to their Chiefs -- why don't you call a -- why doesn't the Chief call a meeting of all of the people in the community and we'll go up front, not just one of us, but a group of us, and we'll tell them what it's like to be bullied in this community, and maybe that will change. You know so, things like that, practical things like that.

But the other piece that we need to do as well is -- and I mentioned this yesterday as well -- is we need to rethink ourselves as adults and the way that we participate in bullying behaviour. And I think that's a key for us, because we weren't surprised by bullying being one of the behaviours that led to, you know, suicide, and it shouldn't be. But one of the things we were surprised by was that adults were particularly pointed out by our children and our young people.

So we need to create anti-bullying programs for adults, for professionals, for parents, for teachers, you know. Different things like that, that we can do to help our children and our youth, and those are things that they specifically point out to us.
MS. ERICA BEAUDIN: Thank you. Just very quickly, and I apologies, I want to get to the Doctor and Professor, today.

In the Prairies, we’ve had two very disturbing and heartbreaking legal decisions that found the killers of our Indigenous youth that being the killers of Colten Boushie not guilty.

How do we impart hope into our youth and parents when the message from the jurisdiction system is young Indigenous people don’t matter? I raise this question in response to your discussion regarding the mental health of youth.

MR. COREY O’SOUP: You know, those are both really disturbing things that happened, and I won’t speak to the justice decision on that, I will more speak to the things that happened during the things that happened after, you know. Especially when you go on social media and you see all of the comments, all of the hurt, all of the pain that are pointed at us as Indigenous people, you know.

And I was asked this question one time: is it okay that we’re having this discussion? And for me, I’m okay with it, because I think we thought we were somewhere else-- and I’ll speak for Saskatchewan. I think we thought we were somewhere else in this discussion around racism, around, you know, the things that happened. We thought we
were further along this path of reconciliation, because we had glossed things over.

But what happened when we saw these cases come out and the resulting backlash -- whatever you want to call it on social media -- it really gave me a true picture of where we were. And at least now we can have that discussion about reality, instead of about the discussion about, we’ll maybe we’re 10 steps along this way. In reality, we are way back here.

And it’s okay that those things are out there, because now we can talk about them. They’re not hiding behind closed doors, they’re not hiding in discussions behind our backs; they’re actually right in our faces, and now we can confront it, now we can deal with it, you know.

And those things directly impact our children and youth, you know. Racism and being put down and not feeling like they’re good enough or they’re equal; those things affect the mental health of our children and our young people.

And yes, they do end up in reports like this, you know, there’s a direct correlation between that, so we must do better and we can do better. But I’m okay that we’re having that discussion, because at least it’s now out and we can directly confront it.
MS. CHRISTA BIG CANOE: Thank you very much, thank you.

CHIEF COMMISSIONER MARION BULLER: Thank you, Ms. Beaudin.

MS. CHRISTA BIG CANOE: I would like to invite Miss Zarpa up on behalf of ITK. ITK will have 20 minutes.

CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR MS. ZARPA :

MS. ELIZABETH ZARPA: Hi, good morning. My name is Elizabeth Zarpa, I’m counsel with ITK. So I just wanna start off with saying thank you all for being here. I know everybody has travelled really far to be here, this week.

My questions this morning will predominantly be geared towards Doctor Dalee Sambo Dorough, and maybe if I have time to the others. So I first off wanna start with questioning sort of Dalee, you, you travelled from Alaska to get here.

MS. DALEE SAMBO DOROUGH: Yes.

MS. ELIZABETH ZARPA: How long did it take to get from Alaska to Quebec City?

MS. DALEE SAMBO DOROUGH: A total time of at least 10 hours. I actually overnighted in Vancouver to get here, so it took me two days, so. But in actual flight time about 10 hours.
MS. ELIZABETH ZARPA: To traveling here or just traveling generally from sort of Alaska and northern regions takes around two days?

MS. DALEE SAMBO DOROUGH: Yes.

MS. ELIZABETH ZARPA: Okay. And is the flight cost quite, are they sort of, how much do they usually range in?

MS. DALEE SAMBO DOROUGH: As far as this particular trip, I’m unaware of the detail cost, but anywhere in Alaska is expensive for a couple of reasons. So I don’t have a detailed response to the cost of this travel, but generally speaking, travel from Alaska to anywhere, since we’re not considered a major hub, there’s a specific term actually used in with travel agents and others as to how to characterize even Anchorage, which is our largest city in Alaska.

MS. ELIZABETH ZARPA: Okay, so traveling, is it generally quite pricy to, like, 1,000-2,000$ return trip?

MS. DALEE SAMBO DOROUGH: Yes, no question, no question.

MS. ELIZABETH ZARPA: And that’s a common sort of experience across, sort of, Canada’s north?

MS. DALEE SAMBO DOROUGH: Absolutely.

MS. ELIZABETH ZARPA: Okay. And do you think
that that sort of cost to traveling and the time it takes
to get down to sort of the southern hub is kind of a
deterrent to individuals who wanna, who have to travel?

**MS. DALEE SAMBO DOROUGH:** No question. Just
a quick example; I was invited to service faculty to the
(Indigenous word) program in Iqaluit in 2014 or 2015. It
took at least two and half days and just the flight from
Ottawa to Iqaluit alone was a minimum of a 1,000$.

**MS. ELIZABETH ZARPA:** Okay. And you
mentioned also sort of in your experience of traveling for
education, you had to go outside of Alaska to pursue your
Master’s and also PHD?

**MS. DALEE SAMBO DOROUGH:** Yes.

**MS. ELIZABETH ZARPA:** Is that because there
was no law school in Alaska?

**MS. DALEE SAMBO DOROUGH:** That’s exactly
right. There is no law school in Alaska.

**MS. ELIZABETH ZARPA:** Okay. And is there any
law school in the north, like, in Nunavut?

**MS. DALEE SAMBO DOROUGH:** In...?

**MS. ELIZABETH ZARPA:** Canada’s north?

**MS. DALEE SAMBO DOROUGH:** No, not to my
knowledge, hence programs like the (Indigenous name)
program. Greenland, likewise. So Alaska, Canada,
Greenland, I am fairly certain, but not 100% certain that
the Siberian Yupik people in the (Indigenous name) region
wouldn’t have access unless they went to an urban centre.

**MS. ELIZABETH ZARPA:** Okay. And you
mentioned that you’re involved in the (Indigenous word)
program?

**MS. DALEE SAMBO DOROUGH:** Yes, I was invited
as faculty during that, when they had funding and were able
to offer the program to Inuit students, those interested in
pursuing law.

**MS. ELIZABETH ZARPA:** Okay. And so, did you
see the sort of, sorry, I’m trying to draw between sort of
the experience of obtaining legal education in Canada’s
north with generally understanding of access to justice and
recognizing sort of, I guess, Article... I think it was
Article... it was in the SEDAW recommendations... SEDAW
recommendations from 2016, 9-B, that looks at awareness
raising within Indigenous communities of especially
marginalised groups of Indigenous women.

Do you have any sort of insight with regards
to how to better implement SEDAW 9-B within sort of
northern remote communities where individuals,
predominantly Inuit, live in the north when they don’t have
to travel down south to obtain a legal education?

**MS. DALEE SAMBO DOROUGH:** I think that
generally speaking not only... SEDAW, but other instruments
related to -- I’m just quickly having a peek at -- at the
various different articles. And so a number of different
international instruments that reference education,
including the UN declaration, but a wide range of them.
And as far as a one pathway toward the access to justice,
in my experience, and I’ve served as a mentor to Inuit law
students, in particular more recently, one who attended
University of Ottawa Law School. There are huge barriers.
The cost, first and foremost, and this is on the part of an
individual who managed to have some resources. But as far
as access to resources and access to even admission at one
of these institutions is -- there are numerous challenges.
Am I being responsive to your question?

**MS. ELIZABETH ZARPA:** Yeah. You’re
recognizing sort of, the barriers that exist to asserting
or, sort of, implementing, sort of ---

**MS. DALEE SAMBO DOROUGH:** Yeah.

**MS. ELIZABETH ZARPA:** --- access to
Indigenous rights, sort of, doctorence (sic) on the ground
in Nunangat.

**MS. DALEE SAMBO DOROUGH:** Yeah.

**MS. ELIZABETH ZARPA:** Yeah, thank you for
that. I also sort of wanted to get a little cognisant of
the time.

I wanted to also recognize, sort of, the
experience of individuals, sort of, living within Inuit and Nunangat and having to travel down south for different services. It’s a common theme and I think that one of the, sort of, gaps within the testimony are sort of something that was alluded to a little bit was travelling down south for services. But I think there’s an increasing number of Inuit who also live in urban settings. And I also wanted to recognize there’s currently -- we talk about services in the north, education, access to justice.

But I’m also cognisant that Ottawa has a very large number of Inuit within Canada, and I also want to respectively provide a document to be tendered as evidence relating to the ongoing missing women’s case of Inuk, Mary Papatsie, who lived in Ottawa. And she’s still missing. So I wanted to sort of highlight that and pass it along for an exhibit.

**MS. CHRISTA BIG CANOE:** So has this been previously provided? Can we stop the time for one moment, please? Has this document been previously provided? Can we give the expert an opportunity to see it? To see if ---

**MS. ELIZABETH ZARPA:** She’s already seen it.

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

**MS. DALEE SAMBO DOROUGH:** I have seen news media reports about this particular issue, yes.

**MS. CHRISTA BIG CANOE:** So but has she
actually seen this document? May I see it for a minute to
show her?

**MS. DALEE SAMBO DOROUGH:** Yes, yes.

**MS. CHRISTA BIG CANOE:** Okay. So have
parties -- have all other parties with standing, or the
Commission have had the opportunity to see it?

**MS. ELIZABETH ZARPA:** No.

**MS. DALEE SAMBO DOROUGH:** Yes, I received
and internet link to this particular story.

**MS. ELIZABETH ZARPA:** Okay. Wonderful.

**MS. CHRISTA BIG CANOE:** Time is still
stopped. And we just have to resolve a couple of quick
things if we could. So we now have established that the
witness has seen it. We have provided one copy to the
Commissioners before it is actually exhibited. Could you
undertake to send it electronically to all parties with
standing as well, or by email send them the link?

**MS. ELIZABETH ZARPA:** Yes.

**MS. CHRISTA BIG CANOE:** Do any parties
object to receiving this document in that manner? On the
basis of implied consent, can you then before we go -- I’ll
start the time again. Can you seek to then have the
exhibit put in on that basis, please? The implied consent
of the parties, because they didn’t receive a prior copy.

**MS. ELIZABETH ZARPA:** Sure.
MS. CHRISTA BIG CANOE: Thank you. So we can start time again.

MS. ELIZABETH ZARPA: So yes, I wanted to link in, sort of the experience within the article, states that, "Ms. Papatsie, prior to moving to Ottawa ---"

CHIEF COMMISSIONER MARION BULLER: Excuse me. We haven’t formally marked the document. So the news article entitled “Brother of Missing Inuk woman questions police investigation” posted June 13, 2017, it’s a CBC article, is Exhibit 30.

--- EXHIBIT No./PIÈCE No. B30:

“Brother of missing Inuk woman questions police investigation” CBC article by Stu Mills posted June 13, 2017 5:00 AM ET, last updated June 13, 2017 (five pages)

MS. ELIZABETH ZARPA: Thank you. So yes, I wanted to get into a little bit of the experience of having to go down south and moving down south. So within the article itself, Ms. Papatsie -- it outlines that she’s moved down south around 15 years ago after she -- her brother stated that -- in the article, that she experienced a sexual assault and then moved down south. I want to sort of go into a little bit of detail perhaps, with regards to accessing different services which are Inuit specific in
southern -- in southern areas.

Are you aware of, sort of, any -- so the article -- the article that you sent around, which is “Where do you go when it’s 40 below?” domestic violence among rural Alaskan native women. It sort of, illustrates within that the experience of Alaska native women when they experience domestic violence and uncertainty about where to go.

But I’m sort of -- or interested in understanding what your ideas are around, where do Inuit women who experience different levels of hardship -- when they’re living in northern remote communities that don’t have access to, you know, health care or mental wellness programs. They move down south to pursue educational aspirations. When you’re below the 60th parallel in urban settings, do you think it’s equally as important to have Inuit specific programming that deals with, you know, the well-being of Inuit communities?

**MS. DALEE SAMBO DOROUGH:** First of all, let me just say that I wasn’t familiar with the procedural aspects, so I’m pleased to note that this particular article has been admitted and will be circulated to all.

In specific response to your question, as I characterized yesterday, despite the imposed borders for Inuit throughout Alaska, Canada, Greenland, and the Russian
far east, there’s no question that there are numerous barriers and challenges to access any kind of services. It was my understanding in the review of this particular article that Mary, in particular, was a well-adjusted woman within her community, active, engaged until she became a victim of sexual assault, and thereafter, unwell in terms of the security of her person. And that she ended up travelling to Ottawa, I don’t know by what means, but I’m sure that there were difficult issues that exacerbated her mental health condition in order to find her way to Ottawa and then subsequently become missing. And if I also understand correctly, on the basis of the quotations from her brother, that no prompt action was taken, hence the headline of the story questioning the capacity of the police to follow up despite repeated efforts and calls.

So I would submit that there are numerous examples. I could cite additional examples coming from the Arctic region in Alaska, in terms of access to services. For example, typically even after such an event it takes on average, because of issues of jurisdiction and law enforcement that are -- well, there are many complications just in regard to law enforcement and access to law enforcement. It may take a day, it may take two weeks depending on weather, for a law enforcement official to get into a community. That’s just one thing in order to
respond to such a crime. And then of course, in terms of health services and if the individual is, as I said yesterday, injured or just in the way of evidence and gathering of evidence, these things, you know, sometimes they’re delayed in a way that there wouldn't be in an urban setting. So I mean, there might have been many different contributing factors to the experience that she had.

And then, I think it aligns with what I was trying to say about the difficulties within the Artic Region and the barriers, not to mention, I mean, the physical barriers, the financial barriers, but also, the emotional barriers.

**MS. ELIZABETH ZARPA:** Thank you for that. And I wanted to sort of look into the idea of sort of service providing and frontline workers within sort of northern regions.

I know with, though, in the hearing about the realities of intimate partner violence in the Northwest Territories from frontline service providers, the report that you submitted as evidence.

**DR. DALEE SAMBO DOROUGH:** M'hm.

**MS. ELIZABETH ZARPA:** Within that, it outlined sort of the barriers that exists within sort of that region.

And a majority of the participants on page 9
of that report had provided information. Their occupation are RCMP officers, nurses, shelter workers, victim service workers, counsellors, social workers. A majority of the participants who gave information for this report are non-Indigenous, and the Northwest Territories is predominantly an Indigenous sort of area.

DR. DALEE SAMBO DOROUGH: M'hm.

MS. ELIZABETH ZARPA: Is it a common theme that individuals within sort of northern regions that work within these certain fields, even though they make up a majority of the population, don't actually have these types of job titles?

DR. DALEE SAMBO DOROUGH: I think that as a pretty solid generalization for most of these institutions across the Canadian Artic and throughout the Circumpolar Artic, with potentially the exception of the Nordic States, that yes, that would be the case.

MS. ELIZABETH ZARPA: And do you think that having individuals who are, say, Indigenous to that particular territory or region would provide sort of more insight with regard to an issue if there was a violent -- there was violence against an Indigenous women or a girl or murdered -- missing and murdered case in that region? Do you think that adds value to having more Indigenous presence within these sort of frontline working job?
DR. DALEE SAMBO DOROUGH: Absolutely. I didn't have a chance to detail one of my recommendations in this regard, but the idea that culturally appropriate services be provided, which would include Inuit in holding such positions. Whether it is in relation to behavioural health, domestic shelter workers, law enforcement, local legal systems and institutions, I think there is no question.

If you looked at the -- for example, I referenced yesterday the Alaska Judicial Council's study on racial disparity in sentencing and their final recommendations, they were quite comprehensive about their suggestion that more Indigenous persons be employed in this wide range of positions to be responsive to the problem of racial disparity.

MS. ELIZABETH ZARPA: Right. And thank you for providing that sort of information and that feedback.

And -- but is it okay to make the assumption that individuals potentially would fulfill these types of very important positions to give a cultural background if there was more access to educational institutions for the training within northern regions?

DR. DALEE SAMBO DOROUGH: No question. I think that -- well, there are two things I would say about that. Not only formal education and access to education in
all of these various different areas, but I think we also need to lift up the local knowledge and recognize that our own measures of social control, consistent with Inuit values and perspectives and customs and institutions, can be marshalled as well in response to these issues.

So I think it's a combination of creating the intellectual and the political space as well as the financial resources in order to allow that to develop, in addition to this important linkage that you're making about access to education and informing those who are passionate about this area of work to gain education to be responsive within their own home communities. So I think it's made up of at least these two important dimensions of responsiveness to these issues.

**MS. ELIZABETH ZARPA:** Right. And also sort of understanding your rights and knowing how to assert them within sort of the environmental sort of context.

Are you aware, sort of -- you mentioned yesterday in your testimony about this experience of natural resourced companies coming into different regions? Did you want to sort of emphasize a little bit more with regards to different measures that could be taken to better address the issue and how it affects Inuit women, specifically?

**DR. DALEE SAMBO DOROUGH:** M'hm. I think
that one of the key issues -- and the example that I gave yesterday, the Mandan, Hidatsa, and Arikara people, actually, I should make a correction. It was oil development on their land and on their territory on the basis of an arrangement and an agreement that they were parties to and this dynamic of what I characterize to be the dark side of resource development.

I think that from the outset, if in fact such activity is going to take place, that the place and the voice of the Indigenous peoples concern the Inuit communities, concern their leadership should, again, at the outset take into consideration all of these various different adverse impacts before development takes place.

Yes, we recognize that there may be positive and uplifting dynamics, but as far as the adverse impacts that those should be addressed at the outset.

And this is what I was trying to say when I indicated that we've known about these conditions for years, yet we don't do anything about them as far as taking into account all of the implications of research development. We often think about them in terms of environmental impact, but as far as social impact, social and cultural impact, that this is an area that I believe is a major gap across the board, not just for Indigenous communities, but for many communities.
I know that before major developments took place in Alaska, for example, the Trans Alaska Pipeline System, that all kinds of environmental standards had to be met. To some extent social and cultural, but they looked at, oh, well, we may end up crossing a sacred grounds burial site, things like that, but not with the living beings that were going to be impacted in terms of social/cultural impacts. So I would suggest that this become an element in consideration.

And then also, the practical aspects of, okay, if the development's going to take place, then those that are there to monitor the stages and steps, which means that you have to operate on the basis of local control and self-determination, that do we have sufficient police and law enforcement activity driven by Indigenous peoples in order to monitor such activity.

I mean, the last thing you need is what took place with the Mandan, Hidatsa, and Arikara. And again, I stated yesterday, I was only there for less than three days, and these events took place. But they also spoke about other factors in terms of alcohol abuse, drug abuse, sale of drugs. I mean, the list went on. And it was stunning to know.

MS. ELIZABETH ZARPA: All right. Thank you. I think I'm out of time. Thank you.
MS. CHRISTA BIG CANOE: Thank you, Ms. Zarpa.

Commissioners ---

CHIEF COMMISSIONER BULLER: Excuse me. I've had a request for a short break.

MS. CHRISTA BIG CANOE: And I was going to ask for the same thing.

And actually, rather than just asking for a short break, though, I will ask for the morning 15 minute break. And I know I'm sounding quite sharp on this, but we will recommence in 15 minutes with the next party, which will be Government of Saskatchewan, whether people are in the room or not.

--- Upon recessing at 10:34 p.m./
l'audience est suspendue à 10h34
--- Upon resuming at 10:53 a.m./
l'audience est reprise à 10h53

MS. CHRISTA BIG CANOE: ...up, the Government of Saskatchewan. I believe Barbara Mysko is counsel for Saskatchewan Government of Saskatchewan has three minutes.

We need the mic on, please.

CROSS-EXAMINATION/CONTRE-INTERROGATOIRE PAR MS. BARBARA MYSKO:

MS. BARBARA MYSKO: Good morning. My name
is Barbara Mysko. I'm counsel for the Government of Saskatchewan.

I have a short amount of time. I don't have any intention to cross-examination in a western traditional sense. I just want to assist in supplementing the record through a briefing note that I provided, distributed to all parties last night, and which I understand Mr. O'Soup has had an opportunity to review.

First I would just like to ask for permission to address Mr. O'Soup and to thank you for your presentation. I found it very engaging and I hold you in very high esteem and have enormous respect for the work that you do.

So I'd like to just direct your attention to the briefing note that I mentioned. It's -- I have to go through the process of identifying it so that it's on the record. It's entitled The Truth and Reconciliation Addressed in Current Curriculum. And it's dated June 17th, 2015 and it was revised on May 16th, 2018.

Mr. O'Soup, have you had an opportunity to review that briefing note?

**MR. COREY O'SOUP:** Yes, I have.

**MS. BARBARA MYSKO:** Okay. And are familiar with the contents therein?

**MR. COREY O'SOUP:** Yes, I am.
MS. BARBARA MYSKO: And are you familiar with the programs that are represented in the briefing note as well?

MR. COREY O'SOUP: Yes, I'm very familiar with most of these programs. In fact, I was a part of developing quite a few of them when I worked at the Ministry of Education.

MS. BARBARA MYSKO: And you talked about the importance of incorporating Indigenous perspectives into the Saskatchewan curriculum, and I acknowledge that we have work to do, and I would just like to ask you whether these represent some of the improvements that we've seen in our system over the last number of years.

MR. COREY O'SOUP: Yeah, you know, I'm actually really proud of the work that we've done in Saskatchewan with regards to incorporating and infusing First Nation, Métis, Inuit ways of knowing into our curriculum. It's something that we've worked really hard on in Saskatchewan and something that I'm proud to be a part of.

And I guess for me, when it comes to we have to do better, we need to do better, I think the question I was asked earlier about Colton Boushie, you know, and the resulting, you know, actions online. For me, that says that, yes, we are doing really good and we have a lot of
stuff, but there's still so much more to do; right?

And that's where I kind of come across on that way is, yes, I think we're doing some really good stuff, but our kids need to know, our parents need to know, our adults need to know the other side of history.

You know, like for me, growing up, I wasn't taught any of this stuff in school.

**MS. BARBARA MYSKO:** Me neither.

**MR. COREY O'SOUP:** You know, I didn't learn about my people, other than in a negative way, you know, that we were savages, we were uncivilized, we had to be saved, until I got into university. So I'm very thankful for the things that we're doing here, but it just shows to me that we still have a lot further to go when we have cases like Colton Boushie and we have the racism that comes out. You know, and we need to educate our children and our families more.

**MS. BARBARA MYSKO:** Thank you very much for that.

I'd like to tender this briefing note as an exhibit.

**CHIEF COMMISSIONER BULLER:** Truth and Reconciliation Addressed in Current Curriculum Document dated June 17th, 2015, revised May 16, 2018 will be the next exhibit. And I think that's 31.
MS. CHRISTA BIG CANOE: Is that 31?

CHIEF COMMISSIONER BULLER: Okay. Thirty-one (31). Thank you.

--- EXHIBIT NO/PIÈCE NO. B31:

“Truth and Reconciliation addressed in current curriculum” Ministry of Education briefing note by Maria Chow and Delise Pitman, created June 17, 2015 revised May 16, 2018 (four pages)

MS. BARBARA MYSKO: Thank you, Chief Commissioner. Thank you, Mr. O'Soup.

MS. CHRISTA BIG CANOE: Thank you.

The Commission would like to call upon the Native Women's Association of Canada next. I believe that's with, yeah, Virginia Lomax. And Ms. Lomax will have 20 minutes.

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

VIRGINIA LOMAX:

MS. VIRGINIA LOMAX: Good morning. My name is Virginia Lomax. I'm the counsel to the Native Women's Association of Canada.

And if it's all right with you today, Mr. Soup [sic], I'd like to begin with you.

You mentioned that youth are speaking to each other about mental health but not necessarily to
adults; is that correct?

MR. COREY O'SOUP: Yes. The statistics are when talking about mental health issues, particularly the area of suicide, 54 per cent of kids actually go first to their peers, then to anyone else.

MS. VIRGINIA LOMAX: Could you give me some reasons why that might be happening?

MR. COREY O'SOUP: Well, I mean, I think sometimes as adults, and I think I mentioned this yesterday, I think we -- and our kids mention this as well -- you know, when they come to us with some of their concerns, you know, we tend to come back with certain responses and they've mentioned these responses. You know, they tell us that, you know, when they come to us with something that's happened to them, a lot of times we'll say, "Well, why don't you just get over it?" You know, "Things will be better tomorrow." Or, you know, "When I was a kid, you know, it was way harder than when you are a kid. You have it so easy." So why would our kids want to come to us when we say things like that?

Or they specifically mention teachers in here. When they go to their teacher, you know, the person they're supposed to trust, the teacher plays favourites; right? And, you know, sometimes, you know, they disregard what that child has to say, or sometimes even what they've
said in here is, "When I'm getting bullied in school, I have to move. I am removed from the situation. Why is the bully not removed? Why do I have to leave the situation?"

And, you know, our kids, you know, have told us those different things and I believe those are some of the reasons why they don't come to us, because the people that they're supposed to trust, their parents, their teachers, their caregivers, the ones that they are supposed to able to tell anything to, we react in those ways. And it doesn't take long for our kids not to trust us.

And me, personally, with my own children, I'm still building up that trust from some of the things that I did as a parent, you know. And like I said, these kids have taught me so much and they've changed my life and they've changed the way that I parent and that I talk to young people and to my own children.

**MS. VIRGINIA LOMAX:** Thank you. Do you have any specific best practices for relationship building for youth in remote rural and northern communities?

**MR. COREY O'SOUP:** You know, it's always a challenge, particularly as a government organisation, to build those relationships, and particularly in our northern and our Indigenous communities, because governments for so long have been seen in a negative light. And particularly when you come in and you're asking questions; right? And
we ask our young people, we ask our northern people, we
survey them to death, we ask them the same questions over
and over, and then we leave.

For me, the best way that we can do it is to
commit to building that relationship. And that just
doesn't mean going and taking and not giving back. The way
that we built our relationships with our children and our
youth is we went to where they were. We didn't ask them to
come to Saskatoon or to come to Regina. And we didn't ask
them to come into a situation where they were uncomfortable
with.

We decided early on -- and, you know, the
geography of the north was discussed earlier. You know,
the geography in northern Saskatchewan is a system of roads
that are not paved, most of them are hilly and you cannot
see what's coming over the next. And if they have gravel,
great, if they don't, you better not be driving on them in
the rain, you know. And we made that commitment that we
were going to go into those communities. We were going to
build the relationship with the kids, in particular, and we
have upheld that commitment.

And, for me, that's the best way to do it.
Go where they are. Meet them where they're at and make
that commitment.

And I think I've probably spent almost half
my time in my job up in our northern communities and I have
staff that's dedicated to working up there. So it takes a
lot of perseverance, patience and it also takes a will to
do it.

**MS. VIRGINIA LOMAX:** And could you comment
on any specific best practices for relationship building
that may be specific to Two-Spirited, LGBTQ+ or gender
diverse youth?

**MR. COREY O'SOUP:** Yeah, you know, we had a
number of those represented in this document that we have.
So us, we've made that commitment as well to our LGBTQ2S
youth and they're a very important part of the work that we
do. And their voice was heard in here too.

You know, they mentioned -- I'll -- more of
a direct quote. It's not a word I would use. But they
said, you know, "Gays get bullied way more than the
straight kids"; right? So I think it's upon us, as adults,
to build that relationship with them, to create safe spaces
for them. It's even more difficult for Indigenous LGBTQS --
- 2S people and our children and youth, and even more
difficult for our youth to come out, you know.

And I think we need to create those safe
spaces, first in our schools, which we've been doing, but
also in other areas of our community. And we have to do --
we have to educate our adults, you know, and we have to
give them a space to listen and to learn, and that has to be right within our communities.

I know we do a lot of Internet this, Internet that, online this. The best way that we can teach our kids and we can teach the adults in our communities, I believe, is face-to-face, and that takes a commitment.

**MS. VIRGINIA LOMAX**: Thank you.

And so, we have heard from some families who have testified that there is either a lack of funding or sometimes there is a reluctance or a refusal for funding for certain types of education for Indigenous youth, and that this can have a direct link to violence against Indigenous women and girls.

So by way of example, there may be a preference to fund university level education and a reluctance to fund or devaluing of funding certain types of trade schools. For example, a trade school or a college or even an esthetician program, and that this can contribute to Indigenous youth not accessing the education that they wanted and turning to the streets in many circumstances.

Have you witnessed this situation I have described?

**MR. COREY O'SOUP**: I would say that right now, currently, there is not sufficient funding to meet the needs of our Indigenous children and youth in the Province
of Saskatchewan. I would echo that's probably similar across Canada.

Particularly on Reserve, which many of our northern communities are, there is a distinct funding gap, and it depends on where you are how good you can write a report or a proposal, you may get more funding compared to the First Nation beside you. So there are distinct gaps when it comes to funding our schools and our education system, particularly when it comes to our Indigenous kids.

And you know, even though we may say it is a priority, I believe we have to invest in our children, we have to invest in them early and often. I believe the best place and the most effective place would be to invest in them in the early years.

And I think that's statistically proven as well. If you can invest in those kids early, if you can get them reading at a certain grade level, if you can get them achieving by a certain time, and different things like that, they'll go on to graduate, they'll go on to be more successful.

And I think we tend to often go to our education system, we go to our child serving systems, we go to our Indigenous people, and we make cuts there. And I find that quite troubling how often it actually happens. So I think we need to do the opposite.
There are many studies out there -- I didn't bring any of them, but I know Dr. Eric Howe in Saskatchewan has done a couple, one for the FSIN and one for the Métis Nation of Saskatchewan, that talks about investing in our education system, and investing in our young people.

And you know, they come out with figures like if we invest in our young people and if we get them to certain levels of high school, of graduate, of post graduate levels of education, the impact on our economy is in the billions of dollars, you know.

And I know our governments go in four year cycles and it's a challenge to think, you know, or to invest in things that are maybe, you know, 20 years long, rather than the 4 year cycle in trying to create that system. But if we make that concerted effort to invest in our young children, the impact on our economy, particularly in our Indigenous children and youth, is measured in billions of dollars. I can't see how we cannot do that, and I continue to advocate for that.

MS. VIRGINIA LOMAX: Thank you.

And so you spoke yesterday about reclaiming the child welfare system. Could you give me an idea of what you think that reclamation might look like?

MR. COREY O'SOUP: Well, I think, you know, this is a conversation that's happening across the country
in our First Nations. And currently, the way that it works in our province, I don't want to speak for any other ones, but the child welfare system on Reserve is operated by our people, but the authority comes from the provincial government, through delegated agreements.

And what I mean by reclaiming and what I mean by supporting that, is I believe that our people should have full autonomy over their own child welfare systems. And I believe that's the direction we're going.

I don't think we're all ready for that. I think different agencies are at different areas of readiness to actually do that reclamation. And I've had some conversations with some chiefs, and maybe it's a 5-year plan or a 10-year plan, but I believe that control of our child welfare system should go back to our people. Then we can more fully incorporate our traditional ways of, you know, of parenting, of knowledge, of growing, of education, and those can impact our kids in a different way that they're not getting right now.

**MS. VIRGINIA LOMAX:** Thank you.

And you spoke yesterday about the complaints mechanism for the rights of the child at an international child. Would you agree that it may be useful to have a complaint system in place within provincial and federal levels and provincial and federal jurisdictions similar to
that complaint system for youth to bring forward human
rights complaints, as access to justice is certainly a
barrier for youth?

MR. COREY O'SOUP: Yeah. I mean, we do have
a couple of systems in place, you know, provincially. I
mean, in the Province of Saskatchewan, you know, we would
be the place where children and youth can come that have
concerns about their rights under their -- underneath the
Convention, and basically any rights. Any youth or adult
or member of the public can call our office professionals,
they call our office.

So I believe we are that body within the
Province of Saskatchewan. There's also the Human Rights
Commission as well, but they deal mainly with complaints
around discrimination.

And the problem is that the UNCRC in
Saskatchewan, in particular, and I don't want to speak
again for everybody, but in Canada, in general, does not
have any real teeth legally; right? And I think that's the
big concern for us, is how do we get some teeth into that.
And if we can elevate that to an international level with
the third optional protocol on communications and the
complaints, I think that that would allow us to at least
take it to another level.

Because on things like, say, for instance,
Jordan's Principle, you know, we spent millions and millions of dollars fighting this through the system, right, and we exhausted everything. If we would have had that protocol in place, we could have elevated it to the UNCRC to the international level, but we don't. So there is other examples like that that we can point to as well.

**MS. VIRGINIA LOMAX:** Thank you very much.
And now, I have some questions for Professor Gunn.

You mentioned yesterday that there is a general prohibition in international law against violence against women. Is that correct?

**MS. BRENDA GUNN:** Yeah.

**MS. VIRGINIA LOMAX:** Would you say that there is the same prohibition against violence against two-spirited LGBTQ+ and gender diverse individuals?

**MS. BRENDA GUNN:** That's a really good question. And to be honest, this morning, I can't actually recall specifically the position and...

The reference I made was specifically to gender-based violence. And I want to say yes. I'm just having difficulties at the moment recalling a specific citation that I can sort of point to in my knowledge. And I am sorry. There is a lot of international law that floats around out there, and I just -- sometimes I'm afraid
to say a definite yes without...

But I can't imagine that there wouldn't be that extension with -- given the awareness and inclusion of diverse sexualities and gender identifications. This is knowledge and included within human rights generally, so I can't imagine that it wouldn't extend.

But I'm sorry that my answer is somewhat qualified, and there may be others in the room that could point to the specific to say for certain. Sorry.

MS. VIRGINIA LOMAX: It's all right.

So yesterday, you mentioned that there is a perception in Canada, even among legal professionals that international law is not real law. Is that correct?

MS. BRENDA GUNN: Yes.

MS. VIRGINIA LOMAX: And would you agree that it's possible that the reason this perception exists is Canada's failure to consistently implement international legal principles or implement what they have signed to?

MS. BRENDA GUNN: At one level, yes. I think for lawyers and judges, when I hear that, that it's not real law, I think it's that sort of idea. But -- I mean, I hear it from second year law students who wouldn't necessarily know that. Like these are students on their first day of international law, you know, "Why are you in this class?" "Oh, it's interesting. I know it's not real
law, but I think it's interesting."

And -- so I actually am not fully sure that I understand. But it definitely contributes, at least in the legal profession, to the idea that this isn't real law.

I had one lawyer once approach me to see if there's any international avenues available for a case that had stalled out domestically. And the lawyer, quite a senior lawyer, well-respected in the jurisdiction that he practices, said, "You know, you know how it goes. When all else fails you turn to international law; right?" That it was the last resort and not sort of a real option, but if you have nothing else you can try that.

So I definitely think -- I think it’s dual in that it’s also quite technical, and people, if you don’t know the technical rules, you just work off assumptions that have infiltrated your knowledge in some sort of way.

But if I could flip your question I would say that if Canada was more consistent in its approach to international law, for what it says internationally and domestically, it would help the situation and address that issue.

**MS. VIRGINIA LOMAX:** Thank you. And you mentioned yesterday that you teach a course in Métis people and the law; correct?

**MS. BRENDA GUNN:** Yes.
MS. VIRGINIA LOMAX: Could you identify any elements or issues within the international treaties and declarations that you’ve discussed with us here this week that may have unique impacts on Métis women, girls, or gendered first people?

MS. BRENDA GUNN: These are really good questions. Thanks. They’re really getting my brain going this morning.

Perhaps I can speak in some generalized fashions and -- but I think it’s fair to say that there’s very little recognition of Métis land bases and delineation and demarcation and legal protection of Métis traditional lands.

The Métis governments -- governance systems that exist internationally and in the provinces do not necessarily have the same recognized jurisdiction that may, for example, exist under the Indian Act, even though all of its limitations and problems with the Indian Act. I’m not sort of saying it’s a good system but it is a system that provides some form of recognized jurisdiction over people and space over certain subject matters.

And so outside the Alberta settlements there isn’t necessarily that recognition, and so I think that makes it a particular challenge. I’d heard anecdotally that even in my home province, sometimes consultation on
various issues doesn’t always address the Métis people because they may not know where the Métis are or there's not a First Nation Reserve or there’s not that easy place to go to, or sometimes the Métis consultations occur just in general urban centres in the general place.

So given those general issues and perhaps differences it’s my assumption that that can translate to some unique challenges in relation to murdered and missing Indigenous women and may then also require some unique considerations.

**MS. VIRGINIA LOMAX:** Thank you.

And with the rest of my time my final questions will be for Dr. Samo Dorough.

Yesterday you mentioned that we need not wait for the end of the Inquiry before acting; is that correct?

**DR. DALEE SAMBO DOROUGH:** Yes, echoing the words of the Special Rapporteur on violence against women.

**MS. VIRGINIA LOMAX:** Would you be able to give me some specific examples of what immediate actions you believe could be taken?

**DR. DALEE SAMBO DOROUGH:** I think that, for example, a line of communication within the context of the Inuit Crown Agreement concerning issues related to intimate partner violence, domestic violence, sexual assault, and
other discriminatory acts perpetrated against Inuit women,
that such a line of communication could begin promptly.
And an opportunity for the National Inuit Organization, as
well as the respective political institutions but more
significantly the Inuit women and girls impacted by this
distressing concern, that they could begin to identity --
open the line of communication but then begin identifying
ways forward even well before the conclusion of this
National Inquiry, that that would be one important starting
point.

MS. VIRGINIA LOMAX: Thank you all for
sharing your knowledge with us.

MS. CHRISTA BIG CANOE: Thank you, Ms.
Lomax.

Next the Commission would like to call up
Ms. Comacchio on behalf of Ontario Native Women’s
Association.

CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR MS.
CHRISTINA COMACCHIO :

MS. CHRISTINA COMACCHIO: Once again, I’m
actually going to share my time with some of the members of
Ottawa that are present with me.

MS. CHRISTA BIG CANOE: We can start time
and just so it’s noted for the record, there’s 25 minutes.
And if you could introduce your colleagues, that would be
helpful. Thanks.

**MS. CHRISTINA COMACCHIO:** My name is Christina Comacchio; I’m counsel for the Ontario Native Women’s Association. With me is Cora-Lee McGuire-Cyrette, Courtney Skye, and Cheryl Bagnall, and they are employees with ONWA.

I would like to direct my questions to Jean Leclair, please. And unfortunately, they’re in English.

Can you explain your experience in applying a gender-based, culturally relevant analysis to your work?

**MR. JEAN LECLAIR:** Could you repeat slowly, please?

**MS. CHRISTINA COMACCHIO:** Yes. Can you please explain your experience in applying a culturally relevant gendered lens to your analysis of the Canadian Constitution and Federalism?

**MR. JEAN LECLAIR:** Well, the issue of intersectionality has been raised. The fact that Indigenous women are discriminated, both as women and as Indigenous in our system, and this plays out in many ways. For instance, I don’t know specifically what you’re looking at but certainly the issue of how women have been treated by state law, starting with the -- with what has been remedied in part by C-31 in 1995 -- 1985, rather, and the ongoing litigation over the Mcivor case.
But this also plays out where membership rules are concerned. And certainly the cultural dimension is absolutely essential for -- because the big challenge is having state law recognize the legitimacy of Indigenous legal orders that have their own understanding even of what is comprised in our material world; is this confined just to material objects or are there more spiritual dimensions to issues.

And the Ktunaxa case, just before Christmas that was rendered by the Supreme Court of Canada was a good example of that; whether the spirit of the grizzly bear should be protected in the Ktunaxa area.

And so these issues are constantly present because state law is built upon an ideology which is very western culturally, and in many ways, very, very male in a gendered -- from a gendered perspective.

**MS. CHRISTINA COMACCHIO:** Thank you.

Yesterday in response to one of Commissioner Audette’s questions you mentioned that Canada has implemented laws that don’t create social realities for Indigenous communities and Indigenous women, and that these laws were to help Aboriginal communities. Is this concept of helping not reflect dominant racist, paternalistic discourse within Canadian law, and should that discourse be changed?
MR. JEAN LECLAIR: If I understand well, what I meant by the fact that law does not create social reality is that unless there’s legitimacy to law, if we distinguish legality; legality is does the institution adopting the law has a right to do so according to its own rules. So you have the Indian Act, for instance, that was adopted democratically according to western rules, but whether it has legitimacy in the eyes of the persons that are being dealt with by the Indian Act is an entirely different question.

So you can create the Indian Act but it doesn’t mean that it’s going to be followed on the ground. And I think that we have to focus on the legitimacy of the rules from the perspective of Indigenous peoples. And that’s why I find it so important first that, as I said, Indigenous peoples make the declaration their own, according to their own understanding. And actually the very, very big issue and it’s been present in all the presentations is the willingness of the State to give a space to this understanding of law from an Indigenous perspective. And I think that if the State could just realize how, in a sense, its own legitimacy was -- would be buttressed by the -- by its recognition of the legitimacy of efficient and legitimate rules of Indigenous peoples, we would be on the right path to reconciliation.
But there are all sorts of, as you mentioned, ideological convictions that are deeply rooted, and bureaucratic practices that are not easily changed, and these are the most difficult challenges we have to face. It's a transformation of mentalities.

**MS. CHRISTINA COMACCHIO:** Just building on that, do you agree that in the discussions of absence of political will behind legislation give it teeth that while the beneficial legislation, their lax political will, there is, on the flip side, political will to implement sexist and racist legislation, like the Indian Act, that does create negative social realities for Indigenous women and girls?

**MR. JEAN LECLAIR:** It certainly can, but I think it's becoming much more difficult. For instance, take the LaValle case in the seventies that said basically that treating women discriminately in a... *d'une manière discriminatoire*, in a discriminatory manner was justified. Then the human rights committee said in the Lovelace case that this wasn't right, and the government had to change its position.

I'm thinking of the Idle No More movement that was led by women and that, I think, maybe I'm wrong, but it seems to me that it has transformed Indigenous civil society, and that these movements will make it much more
difficult to implement a more sexist legislation.

But I think, as I said also, this is something that's internal to Indigenous communities also. They have their own issues over these distinctions, and they have to face this critically also.

**MS. CHRISTINA COMACCHIO:** Just a few quick questions. So yesterday, we entered into exhibits the gender and violence article. An important part of the contextualization of this article is the Aboriginal Sexual Violence Action Plan that it is critiquing. I believe this is cited at Footnote 2 of the article. Have you read this plan that the article is based on?

**MR. JEAN LECLAIR:** Honestly, no. I only read the paper.

**MS. CHRISTINA COMACCHIO:** And actually, that action plan is also -- builds upon the strategic framework from 2007 for violence against women, and these documents were written in partnership by the Métis Nation of Ontario, Ottawa and the OFIFC.

Would you agree that these background information -- the background reports that this article is critiquing are necessary for the Commissioners to review to properly understand the context of the gender and violence article?

**MR. JEAN LECLAIR:** They probably are. And I
also think that the Commission would be very -- it would be a good idea for the Commission to meet with Val Napoleon and Emily Snyder and John Borrows, who wrote the paper.

**MS. CHRISTINA COMACCHIO:** On that basis, I would like to tender actually those two documents as exhibits. I have -- just as a -- I have circulated them to the parties and Commission counsel and received no objections.

Can you pause the time, please?

**MS. CHRISTA BIG CANOE:** Yes. You can – you're actually going to have to exhibit on the record in your time. There's no objection.

**MS. CHRISTINA COMACCHIO:** Okay.

**MS. CHRISTA BIG CANOE:** So go ahead and exhibit.

**MS. CHRISTINA COMACCHIO:** Do you want me to bring the copies? I only have one, stapled, sorry.

**CHIEF COMMISSIONER BULLER:** At some point, we'll need copies as well.

**MS. CHRISTINA COMACCHIO:** Yes.

**CHIEF COMMISSIONER BULLER:** Okay.

**MS. CHRISTINA COMACCHIO:** I can undertake to provide them electronically as well.

**CHIEF COMMISSIONER BULLER:** Thank you. The document, A Strategic Framework to End Violence Against
Aboriginal Women, prepared by the Ontario Native Women’s Association and the Ontario Federation of Indian Friendship Centres, September 2007, will be Exhibit 32.

--- EXHIBIT NO./PIÈCE NO. B32:

“A Strategic Framework to End Violence against Aboriginal Women” prepared by the Ontario Native Women’s Association and the Ontario Federation of Indian Friendship Centres, September 2007 (12 pages)

CHIEF COMMISSIONER BULLER: And Aboriginal Sexual Violence Action Plan by the Métis Nation of Ontario, 2011, will be Exhibit 33, please.

--- EXHIBIT NO./PIÈCE NO. B33:

“Aboriginal Sexual Violence Action Plan” Ontario Federation of Indian Friendship Centres / Métis Nation of Ontario / Ontario Native Women’s Association, 2011 (31 pages)

MS. CHRISTINA COMACCHIO: Thank you. Those are all my questions, and I’m going to pass it to Cora now.

CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR MS. McGUIRE CYRETTE:

MRS. CORA-LEE MCGUIRE CYRETTE: My questions are to Professor Brenda Gunn.
In light of multiple non-compliance orders, the Canadian Human Rights Tribunal has issued post caring society. Inquiry -- or if the Inquiry does recommend a national action plan with a monitoring body, how can we assure that Canada and all levels of government actually uphold these obligations when Canada cannot uphold the court order of the Federal Human Rights Tribunal?

**MS. BRENDA GUNN:** I'm not sure I have an answer, and I'm not sure if the question is somewhat rhetorical.

In -- I mean, enforcement of the law is always a challenge, and I think that was the sort of point that I was raising when people say that international law doesn't have teeth. From my experience, when I engage in civil society and engage in advocacy and international law, I mean, the only thing we can do is keep trying to put the pressure on Canada and make their non-compliance known and push for that.

I'm not sure I have any magical answers. I do think that, you know, if the government doesn't want to act, I don't know how we do it. I don't know if we can arrest the prime minister. I'm not sure of the extent of how Canadian law works. I don't know. I know what happens if I fail to follow a court order and injunction. I don't know how we enforce it, necessarily.
I mean, some would answer that this is the whole point of a democratic government, that if the government fails to follow the law, the next election cycle they get dealt with that way. I'm not sure that's a satisfactory answer.

But you know, in Bill C-262 on the implementation of the UN Declaration, this was part, I think, the wisdom of the Act is that you state that, one, needs to create the national action plan; and two, you say that you have to periodically report back to Parliament on the actions taken. So I think that's a sort of attempt to create an accountability mechanism, right, so that you have to do something and then you have to publicly state what you're doing. And if you're -- you know, if the government in power isn't doing it, I think there's opportunities for opposition parties to bring it up and remind government of obligations.

So those are some of my answers, but I agree with the challenge on enforcing the law.

MRS. CORA-LEE MCGUIRE CYRETTE: Thank you.

Would you agree child welfare is the root cause of missing and murdered Indigenous women and girls?

MS. CHRISTA BIG CANOE: I'm sorry. Stop the time.

I'm not sure if that's within the expertise
of this particular witness, if you're asking a question in relation. If the witness believes she can answer in part, I'd just ask her to qualify her expertise in that area.

**MS. BRENDA GUNN:** Yeah, thank you.

I was going to respond with sort of my limited knowledge. But what I can say is that the periodic reports of Canada to various human rights treaty bodies, the treaty bodies have made those connections.

I believe Canada's periodic reports to the Convention on the Rights of the Child and in the responses that have come from the Committee, I believe have made that connection, at least, if not directly, I think implicitly, by saying problem with child welfare, problem with murdered and missing Indigenous girls when it's in relation to the rights of the child; right. So I believe others have made that connection.

**MRS. CORA-LEE MCGUIRE CYRETTE:** Thank you.

Do you agree that the Inquiry should hear direct evidence of the child welfare system?

**MS. BRENDA GUNN:** I think that's a little hard for me to answer, other than to say if a human rights-based approach is taken and if the information that they collect demonstrates that this is one of the human rights obligations that Canada has, and may be violated, it could be an important aspect. But I don't have that knowledge to
say that in my expertise there is international Indigenous rights.

**MS. CORA-LEE McGUIRE CYRETTE:** Okay. I'm going to pass it over to...

**CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR COURTNEY SKYE:**

**MS. COURTNEY SKYE:** Hi. I'm going to be asking questions to Dr. Sambo Dorough. And we just wanted to thank you for your lifetime of work and the knowledge and lift up your work that you bring here and to acknowledge the -- how clearly you spoke about the individual and collective rights faced by Indigenous women and how Indigenous women's advocacy has made that happen.

The 4th World Conference on Women in Beijing highlighted the essential need for empowered and autonomous women as being essential to achieving accountable government administration and sustainable development in all areas of life.

Can you further expand on how the political mobilization of Indigenous women in decision-making is affirmed by international declarations?

**MS. DALEE SAMBO DOROUGH:** Well, first of all, there is the general reference to, for example, within the UN Declaration on of Rights of Indigenous Peoples as well as the American Declaration and the ILO convention number
169, the broad reference to gender equality in terms of the
rights of Indigenous women and Indigenous men.

Secondly, as I stated in my intervention, the rights affirmed in these various different
international human rights instruments including the UN Declaration on the Rights of Indigenous Peoples are
interrelated, interdependent and indivisible. So one could make a very strong argument about the, again,
intersectional perspective of the rights and the interrelated nature of the rights.

So I think that there’s many, many different ways to respond to this particular question, and also in the context of the exercise of a specific right and specific case studies.

**MS.COURTNEY SKYE:** Thank you. Women’s equal participation in decision-making is not only a demand of simple justice or democracy, but can also be seen as a necessary condition for women’s interest to be taken into account. Without the active participation of women and the incorporation of women’s perspective in all of decision-making, the goals of equality, development and peace cannot be achieved.

In your opinion, how can this Inquiry’s recommendations assure that the broad political mobilisation of Indigenous women through organisations of
their own choosing across all issues that affect their lives in order to sustainably address systemic violence and create safety for Indigenous women?

**MS. DALEE SAMBO DOROUGH:** You should have been president for the drafting of the UN Declaration on the Rights of Indigenous Peoples.

I think that a number of different rights, in particular as affirmed in the UN Declaration on the Rights of Indigenous Peoples affirmed the right to participate erectly in matters that affect you at all levels and on the basis of representatives chosen by the Indigenous peoples concerned.

And because of the gender equality provision and the strong potential and the power and the influence of Indigenous women, in this particular issue of Indigenous women and girls, that there’s no question that the voice and the objectives and the concerns of Indigenous women and girls across Canada and across the globe can have extraordinary influence in all of these matters.

And you point to the Beijing platform, any field and any area, the sustainable development goals that I referenced yesterday, including some of the objectives regarding gender equality and all of the various different indicators is another example. Again, I think there are any range of possibilities, and the potential for these
important instruments to inform that engagement.

There’s many strategies that can be undertaking, and I would urge a multi-faceted or multi-pronged approach. And it seems pretty clear that your respective organisations are doing this in terms of local action, regional action, national and international engagement.

**MS. COURTNEY SKYE:** I have one final question. So yesterday you spoke about the direct result of increased violence experienced by Indigenous women and girls who live near resource extraction industries.

Would you agree that a recommendation should be made to create a mandatory legislated requirement that all corporations engaged in resource development need to work with the nearby Indigenous women and communities and be required to adequately fund the necessary measures to ensure their safety for the duration of the resource extraction?

**MS. DALEE SAMBO DOROUGH:** Yes, I think, and you’ve stated your question in a very comprehensive fashion. I think that here again there is important need for intersectional perspectives.

Brenda Gunn yesterday referred to the guiding principles on business and human rights, and this is an extraordinary body of important work that is being
invoked by Indigenous peoples in numerous ways where extractive industries especially are engaged in resourced development.

I think that specific to this would be the need to call all of the various different international instruments as well as any national laws, policies and regulations in order to build up this entire area and dimension of safeguarding Indigenous women and girls and Indigenous peoples generally.

I want to make note that at the recent permanent forum on Indigenous issues, and this was a stunning development in my view. The report from-- and I forget it specific title-- but the report concerning mercenaries being employed by, in some cases, state government, but more specifically third-party corporations where Indigenous peoples are attempting to defend their land rights being met by mercenaries.

And this is... you know, we’ve been involved in this human rights work for a long time and how is it that mercenaries become engaged in defending the rights and interests of third-parties and to a larger state government interests in the face of, again, the human rights instruments that have been developed that should be in favour of all of us as individuals but Indigenous peoples as collectivities?
So this has also sparked an entire area, and it’s my view, that there is a need for a discussion about Indigenous human rights defenders. Because yes, we can talk about human rights defenders, but in the Indigenous context, especially when we’re talking about the distinct status and rights of Indigenous peoples, including their political, economic, social and cultural rights, and the political right to self-determination, and inherent rights to lands, territories and resources that we should be engaged in harmed conflict over the defence of our lands, territories and resources.

I know that’s probably not entirely responsive and probably too much to take on now in terms of our rights, but these are… emerging developments that are heightening the impacts upon Indigenous women and girls. And we as Indigenous women know the power of women when it comes to defense, especially of their fruits’ security and their lands territories and resources, and more often than not it is Indigenous women who are the frontlines of those battles.

So I hope I didn’t overwhelm you with that response, but it’s important for everyone to know.

MS. CHERYL BAGNALL: (Indigenous word) and good morning to the panellists. The rest of my questions will be directed towards Corey O’Soup.
So Corey, in your experience as an educator and an advocate for children, do you have experience in educating youth on the human rights? And can you speak to me in fact of this education, specifically as this increases the safety of girls?

MR. COREY O’SOUP: Yes, you know, our curriculums are limited when it comes to educating our children and youth on human rights, and even more specifically on women’s rights and even much specifically on the United Nations convention on rights to a child.

So in all my time teaching, I’m trying to think back if it ever came… There’s probably not one class that I had a curriculum that I taught that had any of those issues actually within it, and I taught history 10-20-30, I taught wellness, I taught science, I taught a number of different classes, and during my time teaching I would say that it has not been represented. But part of what we are advocating for within Saskatchewan is that those things are included in curriculum. I know they’re there. They just weren’t in places that I taught. Typically they are, you know, maybe one day, one lesson, you know, as part of, you know, United Nations or different things like that, or you know, in those types of situations.

My goal is to have them actually woven throughout curriculum so that you cannot go through our
school system without learning about women’s rights, or about UNCRC, or about human rights. And I believe that that should be start -- start being taught right from kindergarten, right to grade 12, so that you cannot have the experience that I had, and that many of us had, about not learning about it. And then also from the other side of the table, now that I recall, about not teaching about it, you know? So I believe that serves two purposes. It serves in educating our children, but it also serves in educating our teachers who are teaching our children about those rights.

**MS. CHERYL BAGNALL:** In the, “Shush, Listen to Us” report, did you copyright the used stories and do you agree that all the stories belong the people and communities who experienced them?

**MR. COREY O’SOUP:** I don’t believe we’ve copyrighted them, but all of the guidelines were followed but research ethics and I believe the stories belong to the children and the youth. And whenever I reference them I like to say that I’m not talking as Corey, specifically when I talk about the voices in here. They are their voices and sometimes when I challenge people using their voices they challenge me, and it’s like, it’s not me that you’re talking to. It’s our children that you’re talking to and they deserve to be heard.
MS. CHERYL BAGNALL: So would you also agree that the National Inquiry’s final report must not own the stories they have heard and instead honour these stories, but not copywriting them?

MR. COREY O’SOUPO: Oh, gee. That’s a -- I’m not even sure where they’re going. But I believe all of our stories belong to all of us. They belong to the women, and the children, and the girls. I’m not too sure where that’s ---

MS. CHRISTA BIG CANOE: Time’s up.

MR. COREY O’SOUPO: Oh, people are ---

MS. CHRISTA BIG CANOE: Sorry.

MS. CHERYL BAGNALL: Our time’s up?

MS. CHRISTA BIG CANOE: Yes. Thank you. Just so it’s clear though, that if a witness is answering a question that was asked, we allow the witness to complete the question.

Next we would like to call up the Battered Women’s Support Service. I believe this will be Ms. Angela Marie MacDougall and Anemki Wedam and the -- this party, Battered Women’s Support Service, has 40 minutes and as soon as they start talking the time begins.

CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR MS. ANGELA MARIE MacDOUGALL:

MS. ANGELA MARIE MacDOUGALL: Good morning.
Thank you to the Elders, thank you to the Commissioners, and thank you witnesses, and to counsel. I -- as mentioned, my name is Angela MacDougall and I’m Executive Director, and I’m here with my colleague Anemki Wedam. And we drew straws and I got the straw which says that I’m going first.

Dr. Sambo Dorough, thank you for your work and for your vision and clarity of voice. I’d like to ask you please, you spoke earlier about resource extraction and extensively about the dark side, I think, of resource extraction. Would you be willing to give us a sense about how you see through your consultations, how you’ve noted the ways in which this dark side is at the -- is at a core of colonization, in terms of resource extraction and economic development and the making of nation states, settler nation states?

**MS. DALEE SAMBO DOROUGH:** In fact, I’d like to respond in the context of how the UN Declaration of Rights of Indigenous Peoples was drafted and where the attention of all actors was focussed. The contentious issue of the right to self-determination and the arguments that I discussed yesterday about states wanting to prescribe the nature of the right to self-determination of Indigenous Peoples and our response. That was one area.

The second contentious area is what you’ve
just said. The rights of Indigenous Peoples to their lands, territories, and resources. And I think that your linkage to the colonial nature and the -- what I referred to yesterday as colonial violence, hits the nail right on the head. Because in hindsight, this was probably the most important cluster of articles in the UN Declaration. The cluster of articles related to lands, territories, and resources. Because since the time of first contact it’s always been about the gold. And up until more recently, nearly every land claims agreement, nearly every discussion about resolving the rights of Indigenous Peoples to lands, territories, and resources, has been triggered by those keen to access the renewable and non-renewable resources on Indigenous Peoples’ lands.

And I can cite specifically our own experience with the Alaska Native Claims Settlement Act of 1971, a unilateral piece of legislation adopted by the United States Congress, signed into law by President Nixon, that did a wide range of things. Including provisions to extinguish the rights of Alaska native people to all lands outside of the settlement area, as well as -- get this -- as well as to extinguish Aboriginal hunting and fishing rights. And it said, in just a very few words. Imagine that impact. And in that context, and I learned about this at a very young age, in that context I think it’s safe to
say that Indigenous Peoples are the only peoples in the entire world that are forced to have their rights extinguished. Maybe someone has done other research and knows about this. But I think it’s pretty safe to say.

So if you think about colonialism, if you think about racial discrimination, if you think about the - - even the simple question of how is it that one peoples has the power and the right to purportedly extinguish the rights of others? That’s a -- that’s, you know, a great question for an ethics class, right? But never mind that.

I think that there are all kinds of linkages throughout history that can be made by individual Indigenous Peoples to get to the heart of your question and the essential nature of your question. The only other examples that I want to cite is what I stated yesterday about the James Bay Northern Quebec Agreement and hydroelectric power. Here again, it was a resource that was needed and largely that and claims agreement, which fortunately dramatically contrasts with the experience in Alaska. That land claims agreement was propelled by the need of New York State for electricity. And I can cite many other examples where -- especially we’ve seen heightened violence between Indigenous Peoples trying to protect their land rights, as I just spoke of, and extractive industries. Or again, any kind of renewable or
non-renewable resource triggering an address of the rights
to lands, territories, and resources, and the legacy of the
colonial violence that has emerged from that.

MS. ANGELA MARIE MacDOUGALL: Thank you for
your answer.

I’m just going to go across the panel randomly. Professor Gunn, you spoke yesterday about
intersectionality and in -- actually, sorry. I apologize. That was you also Dr. Sambo Dorough. I’ll get back to you, Professor Gunn.

The intersectionality and looking at the various declarations, and the conventions, and reports from the UN, and wanting to map those out in some way and thinking. Do you see -- in thinking about that specifically, you know, we come from the territory now called British Columbia, and in the region, the Squamish, Tsleil-Waututh, the Musqueam people, Coast Salish people. And, there aren’t treaties, there’s very few treaties within -- that have been signed within British Columbia, and resource extraction and the Canadian enterprising nature in terms of resource extraction has been there since the beginning of British Columbia. And, it’s very intensifying right now around third parties with respect to pipelines.

Do you imagine a way to use these
international instruments to entrench or at least begin a
dialogue around violence against Indigenous women as it
relates to resource extraction through, perhaps, legal
proceedings, domestic legal proceedings?

**MS. DALEE SAMBO DOROUGH:** Yes. I think that
if I’m correct, the voices of First Nations have been
amplified in relation to resource development in British
Columbia. As an outside observer, I’ve paid attention to
these developments. Some of them have been raised within
the U.N. Permanent Forum on Indigenous Issues, and
representatives from First Nations in B.C. travelling to
participate in the Permanent Forum and raising their voices
about this area. I think there is no question that the --
especially the Indigenous-specific international human
rights instruments throughout B.C. and elsewhere can be
invoked.

**MS. ANGELA MARIE MacDOUGALL:** May I
interrupt? I’m sorry.

**MS. DALEE SAMBO DOROUGH:** Yes.

**MS. ANGELA MARIE MacDOUGALL:** Specifically,
around violence against Indigenous women and girls, the
piece around -- maybe you were getting to that point.

**MS. DALEE SAMBO DOROUGH:** I was trying to,
but yes. Go ahead.

**MS. ANGELA MARIE MacDOUGALL:** Building in a
framework to highlight in very clear ways the relationship to resource development and extraction to violence against women, and anything we want to do, anything that wants to be done specific to land claims.

**MS. DALEE SAMBO DOROUGH:** Yes. I guess I would just quickly say that the response that I gave earlier about social and cultural impacts, that this needs to take on a very unique and, I suppose, as I said yesterday, a distinctions-based approach in relation to the individual and the collective rights of Indigenous women and girls when it comes to resource development activities. And, I think I would not be surprised that this becomes a very specialized field of development when we talk about social and cultural impacts and that side of development, and would just simply urge that anyone taking on this particular human rights enterprise, again, review all of the available tools and resources at the international level, as well as at the national level, but even more significantly, Indigenous knowledge and Indigenous legal traditions.

**MS. ANGELA MARIE MacDOUGALL:** Thank you for your reply. Professor Gunn, you spoke yesterday about -- you gave evidence relating to finding ways to build in human rights frameworks within civil society, am I correct?

**MS. BRENDA GUNN:** Yes.
MS. ANGELA MARIE MacDOUGALL: In British Columbia, we’ve had, at various times, a Commission of Human Rights, and that was dismantled a few years ago and it’s being reimagined. I’d like to enter into evidence a document, Human Rights Commission for the 21st Century - British Columbians Talk About Human Rights. I did email copies. I don’t have a hard copy.

MS. CHRISTA BIG CANOE: Can we stop the time for a moment, please? When you say you emailed copies, they were provided to Commission counsel and all parties?

MS. ANGELA MARIE MacDOUGALL: To Commission counsel, yes, and to all parties, yes.

MS. CHRISTA BIG CANOE: But, has it been put to the actual witness?

MS. ANGELA MARIE MacDOUGALL: No, it has not.

MS. CHRISTA BIG CANOE: Okay. So, one of the things we’ll do before we actually ask for it to be entered is I’m seeing if I have a copy on me so that we can see if the witness is familiar with that document.

MS. ANGELA MARIE MacDOUGALL: If chief counsel doesn’t have a copy and in the interest of time, I would be willing to speak around the document without having to reference the document.

MS. CHRISTA BIG CANOE: It’s not an issue,
it’s just a matter if we have it, then she can see it. She might be very familiar with it and then it’s easy to move forward with it. Can you remind me the name of it, please?


MS. CHRISTA BIG CANOE: Yes, if you don’t have a hard copy, I’m not sure what to tell you, because I don’t have that.

MS. ANGELA MARIE MacDOUGALL: It might be the best way to proceed.

MS. CHRISTA BIG CANOE: All right.

MS. BRENDA GUNN: I’m not familiar with this document. There was an underlying question, I believe?

MS. ANGELA MARIE MacDOUGALL: Would it be okay for me to read a paragraph from the document, as evidence?

MS. CHRISTA BIG CANOE: Okay. So, it’s outside of normal practice, but for the purpose of if you’re reading or pinpointing a paragraph, and you’re willing to undertake to provide that page and citation, then we can talk about putting it into an exhibit after the fact, if the Commissioners are okay with that approach.

CHIEF COMMISSIONER MARION BULLER: That’s agreeable. Thank you.
MS. CHRISTA BIG CANOE: Thank you.

MS. ANGELA MARIE MacDOUGALL: Thank you very much.

MS. CHRISTA BIG CANOE: And so, we can start the time again.

MS. ANGELA MARIE MacDOUGALL: Thank you.

This would be in the introduction of the Human Rights Commission for the 21st Century - British Columbians Talk About Human Rights.

The province is re-establishing the British Columbia Human Rights Commission to do this thoughtfully. Feedback is gathered in order to guide decisions and the rules. The 21st century human rights system, as a place that is open to new ideas and modernizing our systems, B.C. should become the leader in 21st century human rights services. The Human Rights Commission should, as soon as practically possible, collaborate with and consult Indigenous groups to develop Commission policies, practices and honour the principles set out in the United Nations Declaration on the Rights of Indigenous People. Commission staff should have all
cultural understanding and cultural safety
training to help create a safe where
respectful conversations can take place.
As well, the Commission should develop, in
collaboration with Indigenous partners, a
focused engagement strategy to increase
awareness and effectiveness of the
Commission, and its role for the
Commission to learn from Indigenous
communities.

MS. CHRISTA BIG CANOE: So, sorry, stop the
clock again? Could you do me a favour and just pinpoint
it? One of your colleagues has been nice enough to pull it
up. That was such a large read-in that it’s not going to
be fair for the -- yes. But, if you can pinpoint it,
please, like, which page you’re looking at?

MS. ANGELA MARIE MacDOUGALL: Just one
moment, please. The introduction and the...

MS. CHRISTA BIG CANOE: The page numbers are
right on the bottom corner.

MS. ANGELA MARIE MacDOUGALL: Page 19.

MS. CHRISTA BIG CANOE: Thank you. I’m
sorry, do you know which paragraph that began at? Just on
the introduction, is that recommendation on the
independence of the Commission?
MS. ANGELA MARIE MacDOUGALL: No. So, here we go. It’s number (e), page 27.

MS. CHRISTA BIG CANOE: I’m sorry. Okay.

And so, we’ll just note that.

MS. ANGELA MARIE MacDOUGALL: So, in summary, the paragraph refers to ---

MS. CHRISTA BIG CANOE: Sorry. Sorry, the time is still stopped, so wait one moment, please.

MS. BRENDA GUNN: I think I may have pulled it up on my laptop, which will be much easier to read because my -- yes, I believe I have it in a font size that is...

MS. ANGELA MARIE MacDOUGALL: Thank you, chief counsel.

MS. CHRISTA BIG CANOE: And, although I do like the reference to being a chief counsel, I’m actually just Commission counsel. So, we’ll start the time again, and please proceed with asking the question after the read in.

MS. ANGELA MARIE MacDOUGALL: I am wondering what you think about this idea of a domestic agency applying a declaration into the infrastructure?

MS. BRENDA GUNN: I think in all of my work in advocacy generally has been about translating international human rights forums into domestic law. And
so, I think it’s important for this to happen in various aspects. I have recently released a paper on the role of national human rights institutions on implementing the U.N. Declaration. It’s a little bit beyond what I’ve spoken to here, but I do think that the international human rights standards that exist and the protections that they provide, particularly in relation to violence against Indigenous women and girls. It's important to have multiple avenues and I'm not sure that we can over-implement something or have too many avenues to pursue. So I would say in a very general sense I'm in favour of such approaches. Without having read the full report I'm not sort of willing to say that, you know, I would support a B.C. Human Rights Commission, but I think in a generalised, yes, inter -- domestic human rights norms and understanding should be informed by international standards as well.

MS. ANGELA MARIE MacDOUGALL: Thank you.

My next question's for Corey O'Soup.

Morning.

MR. COREY O'SOUP: Good morning.

MS. ANGELA MARIE MacDOUGALL: You gave a harrowing statistic yesterday of Indigenous girls and suicide. Would you be willing to repeat that again?

MR. COREY O'SOUP: Yeah, for Indigenous girls in Saskatchewan on the area of suicide, our
Indigenous girls are 26 times more likely than non-
Indigenous girls in Saskatchewan to die by suicide?

**MS. ANGELA MARIE MacDOUGALL:** Thank you.

How do you understand this? How do you make sense of this?

**MR. COREY O'SOUP:** You know, if you look to
-- and this is why we went and asked the questions of our
kids around the topic of suicide; right? And they laid it
out pretty clearly for us. You know, they gave us six
themes as to why; right? We also asked them for solutions
and they gave us some calls to action. So the six themes
are, if you have your book, they're on page two, you know,
as to why, from the kids.

The first one is bullying and cyberbullying,
which we've discussed quite a bit here. The second one is
around lack of emotional support. Third one is the impact
of substance misuse, lack of physical safety, lack of
activities, the impact on emotional and mental wellness.
So those were all the six themes that the young people gave
us and they detailed quite clearly in the report about --
underneath all of those about why those were themes, and
then they gave us some solutions as well. So I always like
to turn back to the young people.

**MS. ANGELA MARIE MacDOUGALL:** Thank you.

In that work, in your work -- and we spoke
in -- it was spoken here yesterday or the day before around
provide a gender-based lens, looking at gender. To what extent do you think that Indigenous girls in Saskatchewan can speak to their experiences on the gender-based lens?

MR. COREY O'SOUP: Well, I mean, when we're talking to young people we have to ---

MS. ANGELA MARIE MacDOUGALL: I mean this in terms of the -- we're in a culture, in a context where there's a lot of pervasive sexism and misogyny and it's very difficult I think.

MR. COREY O'SOUP: Yeah.

MS. ANGELA MARIE MacDOUGALL: We've -- that it's difficult to even raise issues of gender in mixed and co-ed settings.

MR. COREY O'SOUP: I think the first challenge is actually giving them that setting; right? Giving them the voice and the right to be heard, which is one of their rights, you know, under Article 12. So I think we need to create those settings for them, and we don't always give them that safe opportunity to do so. So, you know, I think that's the first that we have to do.

And I would say they do not have very many opportunities to do so in a safe environment where they feel like their voice will be heard. But I believe that -- through the process that we went through, they did have that opportunity in a safe environment. Elders were
around. Mental health supports were around during this process in order to give them that. But as a general rule, I would say that we don't give them the opportunity and they are not afforded that opportunity to exercise their right.

**MS. ANGELA MARIE MacDOUGALL:** In terms of applying a gender-based analysis to ---

**MR. COREY O'SOUP:** Yes.

**MS. ANGELA MARIE MacDOUGALL:** --- to their experiences?

**MR. COREY O'SOUP:** Yes.

**MS. ANGELA MARIE MacDOUGALL:** Thank you. I appreciate that. Thank you.

**MR. COREY O'SOUP:** Yes.

**MS. ANGELA MARIE MacDOUGALL:** I have one more questions, and that would be for you, Professor Leclair.

Yesterday you spoke of three things and one of them was money. I don't recall the other two. I thought I wrote it in my notes, but would you mind repeating those again?

**MR. JEAN LECLAIR:** Yes, it was political declaration and the use of legislation.

**MS. ANGELA MARIE MacDOUGALL:** Would you be willing to expand on that a bit this morning for those that
perhaps are watching testimony?

**MS. CHRISTA BIG CANOE:** What's the question about?

**MR. JEAN LECLAIR:** Yes. Well, there are many ways of implementing international norm and Professor Gunn spoke eloquently on this issue a few minutes ago. But basically what I was saying is that you can do it politically via resolution in the assembly, but this is basically just a political tool. It's quite useful, but it's limited. Sorry.

But then if you look at some of the rights that are recognised by the Declaration, many of them require investing money. And that's another means of providing for the implementation of the Declaration. And sometimes it's -- I was -- what I was saying is that it's easier to spend law instead of spending money in the sense that you would just adopt a law and that's -- so I'm just saying that -- and I was just saying that adopting a law is a very good idea, but you have to be aware that you have to follow up on this and make sure that what you're aiming at will be implemented.

And finally, I was spoking [sic] of -- speaking, rather, of using -- resorting to legislation to do so. And then what I said is that you have -- you can either choose a general incorporation, and that's a useful
tool, as long as it's articulated to what you find, for
instance, in the Romeo Saganash Bill, which provides for --
and, again, Professor Gunn spoke about that a few minutes
ago -- a supervision process where a parliament is called
upon to assess every year how it can manage the
implementation of the Declaration.

And then finally -- because I don't want to
take too much time -- you have specific legislation in
specific areas that would take into account the specificity
of a particular Indigenous perspective or issue.

**MS. ANGELA MARIE MacDOUGALL:** Thank you.

One final question before I pass to my colleague. One of
the things that we are experiencing now in British
Columbia, which I think has been a factor across the lands,
is -- and it ties to your comments, Dr. Sambo Dorough.
Canada has decided to underwrite a third party with respect
to resource extraction, which is to say that to underwrite
any losses that they may have as a right to Indigenous
resistance, or resistance and insistence on free, prior and
informed consent in terms of -- and that -- and Canada's
going to underwrite that, so to allocate taxpayer resources
in terms of underwriting that. And, you know, we've heard
testimony yesterday and the day before that was specific
around the absence of resources.

I'm wondering from either of you panellists,
are you willing to speak to how do we make sense of
Canada's priorities with respect to human rights vis-a-vis
industry and capitalism?

MR. JEAN LECLAIR: You're asking ---

MS. ANGELA MARIE MacDOUGALL: This is
whoever would like to speak. It's open for whoever would
like to take this. This is at the heart of the -- in terms
of we're using international instruments, how do we make
sense of it? How do we apply that when on a very -- basis
on a daily -- day-to-day basis?

DR. DALEE SAMBO BOROUGH: M'hm. Yeah. I'll
just quickly answer what -- and hope that we have time for
other panellists to answer.

I think that one of the things I would point
out to you is a report that was done by the Club de Madrid
entitled Shared Societies, which gets at this question of
capitalism and, let's say, free market economy and the need
to have an entire paradigm shift. But going to what you've
referenced about government willing to underwrite the
process to achieve the operationalization of free, prior
and informed consent, that this -- I would characterise
that as quite significant, as long as the substance and the
procedure in relation to that particular right are met ---

MS. ANGELA MARIE MacDOUGALL: Well, I think
I've made everything clear.
MS. DALEE SAMBO DOROUGH: Yeah.

MS. ANGELA MARIE MacDOUGALL: Underwriting the third party in terms of industry and denying Indigenous.

MS. DALEE SAMBO DOROUGH: I see. Not underwriting.

MS. ANGELA MARIE MacDOUGALL: No.

MS. DALEE SAMBO DOROUGH: This is -- that's a completely different discussion of which, in my view and opinion, would be a violation of, in particular, the right to self-determination of the Indigenous peoples concerned. And if you see free, prior and consent as an element of the right to control your lands, territories and resources, as affirmed in Chilcotin, that -- yeah, that's a whole different issue which would trigger, I wouldn’t be surprised, litigation.

MS. ANGELA MARIE MacDOUGALL: Thank you. I’ll pass to my colleague.

CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR MS. ANEMKI WEDAM :

MS. ANEMKI WEDAM: Thank you. Professor Gunn, you spoke of the forced disappearance the past -- yesterday, as well as today, regarding murdered and missing Indigenous women and girls. I would like to ask you, would you agree that it’s also forced displacement from
Indigenous communities due to the lack of underfunding [sic] and services within First Nation communities?

**MS. BRENDA GUNN**: I will say that personally, I appreciate how you’re thinking through the ideas. The international jurisprudence that I’m aware of, and definitions of, sort of, removal and forces is -- I guess it’s quite literal in that removing people from the land. I’ve recently -- I believe that the World Bank, their new -- I forget what they’re calling them -- social policy -- their new approaches, their indicators for development projects are starting to be aware that where land is developed in reducing Indigenous peoples’ ability to use their land in the traditional ways that they had may be considered a forced displacement. To my knowledge, I’m not aware of that interpretation. And so, I would say currently, I’m not sure the international law has recognized that. It doesn’t mean that it couldn’t recognize that. I think other rights are also implicated in that process of requiring people to move for services. Yes, I think that’s...

**MS. ANEMKI WEDAM**: When the Indigenous women and girls are forced to leave their community, to cleave violence either from their intimate partner relationships within Indigenous community, and they are forced to leave their community due to the underfunding, lack of services,
lack of intervention on the part of leadership, and
sometimes it’s leadership that invokes the violence through
the way in which they operate as organizations within
community, that seems to continue and compound when they
leave. Would you agree that it gets worse once they’re
displaced from their family and from their community, and
then forced to move away because they don’t get the
adequate supports?

MS. BRENDA GUNN: I can’t speak to the
availability of services specifically, but what I can say
and connect back to my testimony yesterday was that one of
the starting point recognitions of the U.N. Declaration was
the negative impacts of colonization, including and
especially the removal of Indigenous peoples from their
lands and traditional lands. So, I think as a starting
point, international Indigenous rights has recognized that
the removal or the forcing of Indigenous peoples off their
lands is a very fundamental violation and leads to all
sorts of other rights violations. And so, while I
appreciate the statements, and I think I would, in my
personal capacity, generally agree, due to my limited, sort
of, knowledge and preparations on that, available services,
I think I’m limited to just say that international law has
recognized the problems with that, being forced to move.

MS. ANEMKI WEDAM: Dr. Dorough, you
mentioned yesterday about the fiduciary obligation that exists in Canada, particularly as it relates to the Crown, and we continue to see that fiduciary duty being eroded by Indigenous Affairs due to the *Indian Act*, which further compounds the human rights of Indigenous women and girls.

Could you speak to how we can use the international human rights lens to address those breaches of that fiduciary duty of the Crown?

**MS. DALEE SAMBO DOROUGH:** I want to respond with a proviso that I’m not familiar with the case law and priorities set by those impacted by the *Indian Act*. But, with regard to your specific question about use of the international human rights instruments to respond to this range of issues, I think that there are many creative and innovative ways that Indigenous peoples can utilize these instruments, again, at the local level, at the regional, national and international level, and I regard them -- this is akin to something that Brenda Gunn stated, that I regard them as one of the useful tools. At the outset of my intervention yesterday, I referred to the Inuit engagement in this work, because we saw that this specific international human rights instrument responding to Indigenous peoples would be a useful tool.

Depending upon the particular circumstance and the case, obviously, the use of the international human
rights mechanisms, and by this, I mean specifically the human rights treaty body that would be a venue depending upon the particular case of bringing forward either a shadow report to the Government of Canada’s reports, or to file information with them, depending upon, again, the actual controlling treaty, raising it at various different Indigenous specific fora.

The requirement to exhaust domestic remedies, at least for me and what I’ve seen in regard to that specific requirement of exhausting domestic remedies, is a bit difficult and troubling because oftentimes, it is the domestic institutions that have triggered the problem and the lack of implementation at the domestic level in response to the solemn and legal obligations once a government has acceded to or ratified an international instrument. But, I think there are many different ways in which Indigenous peoples can utilize the system.

One of the more recent examples is how Standing Rock peoples utilized various different mechanisms, again, at the local level with the state, at the national level in terms of their pressure on the federal government, and then taking their cases and issues to the international level.

**MS. ANEMKI WEDAM:** The other question I have for you was regarding, how do we balance the individual and
collective rights within Indigenous communities, particularly for women and girls that are equally marginalized? To me, I see -- you know, I see within our communities, women and girls that are deeply impacted through violence. Their children are abducted through the child welfare system, and yet, within that internalized marginalization and internalized violence, how do we balance those rights of the women and girls that are deeply marginalized?

**MS. DALEE SAMBO DOROUGH:** I think that that’s one reason why I made the reference yesterday to the voices of Indigenous women in the context of the drafting and negotiation of the U.N. Declaration on the Rights of Indigenous Peoples, and their insistence upon a specific reference, especially where it was of concern to them against the backdrop of cultural practices, customs and institutions, many of which may be long standing within Indigenous nations, communities and peoples. The specific references, and in particular, Articles 1 and 2, and also, the article concerning gender equality within the U.N. Declaration, can formulate the compelling legal arguments in order to safeguard Indigenous women as persons, as individuals, but then, also, a way to then challenge some of these practices internally. I think Jean Leclair responded to some of this yesterday in a comment that he
made about some of the debates that do take place within
Indigenous communities and the difficulty with reconciling
collective customs and practices that impede or deny the
rights of an Indigenous women or an Indigenous girl. And I
think that it is hard to have a general answer without
knowing the specific context, but it's important to
recognise that in international human rights, instruments
that speak to the rights of Indigenous, an un-Indigenous
woman, it's one powerful collection of rights and the
balance that exists within the UN Declaration.

**MS. ANEMKI WEDAM:** Corey, you spoke about
the underfunding for Indigenous youth relating to education
and you suggested that there's a real dire need to provide
special support services to ensure that we can cultivate
the achievement for Indigenous youth and education systems.
And you framed it as special services. And I guess, would
you agree on the flip side of that that many Indigenous
youth are marginalized and overprescribed as delinquent
youth in the public education system and funnelled into
alternate schools as opposed to providing support in a more
substantive way that can ensure their strengths as
Indigenous youth can be emulated through the public system?

**MR. COREY O'SOUP:** Yes. If I can clarify.
I'm not sure how it was perceived out there but my
intention was special measures ---
MS. ANEMKI WEDAM: Okay.

MR. COREY O'SOUP: --- not special services for our Indigenous youth, which is, you know, stated in Article I believe 21 of UNDRP for our children, and with also aligns with the best interests of the child, which is Article 3 in the UNCRC.

So I wouldn't say necessarily to fund special services for our children and youth. I would say more overall funding for the overall education system on reserve.

And I do agree with you, there has been instances where we have entire classes full of our Indigenous children and youth just because they are Indigenous and they term them behaviour. They term them, you know, cognitively challenged. They use all of the terms in the book. And part of that reason is because when you get funding for those kids, you get extra funding if you funnel them into those programs.

So I believe there's inherent problem with that and when we do designate funding for those services, because those kids that desperately need those services are the ones that should be getting those services and we shouldn't just be designating funds just because our children are Indigenous.

So I would say that the overall education
system, particularly on reserve, is underfunded in all areas. And often we have to make choices between, you know, field trips and speech language pathologist. We have to make choices between those types of things. You know, taking our kids and letting them experience other things because of the underfunding. So I believe that that needs to happen that that funding needs to come up to equality.

**MS. ANEMKI WEDAM:** Are you aware that the provinces and territories get extra funding for Indigenous youth that are treaty or registered separate and above what they get through transfer payments from the federal government?

**MR. COREY O'SOUP:** Are you ---

**MS. ANEMKI WEDAM:** We used to call them master tuition agreements.

**MR. COREY O'SOUP:** No, I ---

**MS. CHRISTA BIG CANOE:** Sorry, sorry. I'm not sure -- you can -- if you're comfortable answering, but I'm not sure if the information you're providing him is going to be able to fall within his area of knowledge and if you feel like you can answer it.

**MS. ANEMKI WEDAM:** Sorry.

**MS. CHRISTA BIG CANOE:** But I would ask for the qualification.

**MS. ANEMKI WEDAM:** Sorry. I'll reframe the
question.

The federal government transfers funding to the provinces and territories, and quite often the provincial Ministries of Education or the school boards in each region of the country do -- are not accountable for how those transfer payments go to support Indigenous youth in public education systems. So would you agree that there needs to be better accountability to ensure that Indigenous youth in the public systems are getting the right to quality education with those transfer payments?

MR. COREY O'SOUP: Well, I couldn't speak directly to the amount or the number or a dollars that those transfer payments would specifically be. I can just state generally again that we do need more additional funding for our children and our youth, specifically our Indigenous children. And I think that's the clear point here is that, you know, whether it's coming from the federal government or the provincial government, it is not enough and it's not sufficient to meet the needs of our children and our youth.

MS. ANEMKI WEDAM: Okay. Thank you.

MS. CHRISTA BIG CANOE: Thank you. Thank you very much.

Chief Commissioner and Commissioners, I note that the time is 12:30. I also note that there's
approximately 3 hours of testimony left. On that basis I am going to request a 30-minute lunch so that we can commence at 1:00. And the first party that will be called at that time will be Families for Justice.

CHIEF COMMISSIONER BULLER: 1:00 please.

MS. CHRISTA BIG CANOE: Thank you.

--- Upon recessing at 12:29 p.m. /
La séance est suspendue à 12h29
--- Upon resuming at 1:10 p.m. /
La séance est reprise à 1h10

MS CHRISTA BIG CANOE: Good afternoon, Chief Commissioner, Commissioners, you'll just note -- oh, and it just went away as I was about to point it out.

There was -- oh, yes. Earlier I had just made a housekeeping reference and it's not an exhibit, but resources, so we've had it up over the lunch hour and as I said, it will be available online with our other links and all the parties have received it.

If we could recommence. The first party that we'd like to call after the lunch break is Families for Justice. So Ms. Fraser's here and she has 25 minutes.

CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR MS. SUZAN FRASER:

MS. SUZAN FRASER: Thank you. Good morning -- or good afternoon, Commissioners, thank you. Panel
members, thank you. Good afternoon.

My name is Suzan Fraser. I'm here on behalf of 20 families and we've called ourselves Families for Justice, families of -- from across Canada, almost, we've -- not too far north but -- and not too, too far east, but British Columbia, Alberta, Saskatchewan, Manitoba and Quebec, and they include families members of Shoshone women, of Cree women, of Dene women, and Anishinaabe women, and also include the family of Pamela Holopainen who went missing on December the 14th, 2003 and her mother was an Inuit woman.

So we want to thank you for the knowledge that we share. Professor Leclair, I was not able to be here for your evidence yesterday so I won't have any questions for you this afternoon, and I'm sorry I couldn't hear it in its entirety.

I want to start by addressing some questions for you, Mr. O'Soup, as advocate, on your wonderful job with the report, and focusing on Article 12 of the Convention on the rights of a child and participation. So I'm right that Article 12 gives children and youth the right to be heard and to participate in matters affecting them.

MR. COREY O'SOUP: Yes.

MS. SUZAN FRASER: Okay. And by you
engaging as an advocate with young people and hearing from
them directly, that is in partial fulfillment of that
right.

MR COREY O'SOUP: Yes, I would say so.

MS SUZAN FRASER: Okay. The right -- and
that right is an inalienable right, so it is -- they hold
it themselves?

MR COREY O'SOUP: Well, it's based on the
UNCRC but I believe that is true as well.

MS SUZAN FRASER: Okay. And so what means
is that they are permitted to exercise that whether the
adults around them necessarily think that they should have
that right or not; is that fair?

MR COREY O'SOUP: Yeah, and I believe that
they do on many different occasions, yes.

MS SUZAN FRASER: And it's not just about
dealing directly with the provincial government or federal
government, any kind of administrative matter, even in a
proceeding like this, they would have a right to
participate in.

MR COREY O'SOUP: Yes, according to Article
12.

MS SUZAN FRASER: Okay. And so part of the
challenge in dealing with young people because of their
circumstances is that in order for that right to be
meaningfully exercised we need to create meaningful opportunities for them to be heard and the adults have to be prepared to listen, or those are sort of the conditions for really the exercise of that right.

MR. COREY O’SOUP: Yes.

MS. SUZAN FRASER: Okay. So when I look at your report and the measures you took. And first, I just want to stop and look at the report, noticing the size of the report and that it doesn’t neatly fit on a shelf, right?

MR. COREY O’SOUP: You know, that’s the way that we intended it to be. Actually, it was to honour “Go Down a Secret Path” is why we chose this size.

MS. SUZAN FRASER: Yes.

MR. COREY O’SOUP: It’s the size of an LP and that’s where we got our inspiration from. Because you’re right, it doesn’t just sit comfortably on a shelf, so you can’t put it on a bookshelf. And you know if you run your finger along your bookshelf, there it is; or if you put it on your desk, it stands out.

MS. SUZAN FRASER: Right. And that’s because you want people to give life to this report and for it to be in people’s faces?

MR. COREY O’SOUP: Yes.

MS. SUZAN FRASER: Okay. So, and if we can
just go on page 1 of the report, which is your executive summary.

MR. COREY O’SOUP: Yes.

MS. SUZAN FRASER: One of the objectives of the report is for the report to be, and this is, it’s at the second objective so in the second column part-way down, the second objective of this report is to be a platform for the voices of these young people to be heard. Right? So it’s really to elevate their voices and to bring them forward.

MR. COREY O’SOUP: Yes.

MS. SUZAN FRASER: Okay. And so, I want to look at how you operationalized that, just in terms of the process and the steps that you took. Because sometimes... the way that you get to the point where young people is... the foundational work that you do will sometimes really assist you or really allow young people to make their voices known and to be comfortable doing so. Would you agree?

MR. COREY O’SOUP: Yes, I would agree 100%.

MS. SUZAN FRASER: Okay. So when we look at your, on page 9 of your report for the people following along with their own version, the steps that you took to engage with young people.

MR. COREY O’SOUP: Yes.
MS. SUZAN FRASER: The first thing you do is you approached it with the rights framework and the literature in order to give an understanding of statistical trends in youth engagement on the topic. Right? So you did your homework, essentially?

MR. COREY O’SOUP: Yes.

MS. SUZAN FRASER: Okay. And then you met with the Chiefs and the leaders and the stakeholders, who had lost young people, to listen and to learn from them, and to explore a role with your office?

MR. COREY O’SOUP: Yes.

MS. SUZAN FRASER: Right? Am I right in understanding that the reason you would do that is you would have to, in order to meaningfully participate with young people, establish a level of trust with the leadership and the adults in the community?

MR. COREY O’SOUP: Yes, you know, with our process, we needed them to be aware that we were in their communities, especially on our Indigenous communities, because we do respect their right that they are on sovereign territories and we did want them to know why we were there and what the process was and, you know, for what purpose.

MS. SUZANE FRASER: And sometimes, even though you probably have a right to seek out young people and to hear from them directly as part of the legislative
framework that governs what you do?

MR. COREY O’SOUP: Yes.

MS. SUZAN FRASER: But just because you have the right to speak directly to young people doesn’t mean that’s gonna end up being the best process for hearing from them, is that fair?

MR. COREY O’SOUP: Yes, that’s fair.

MS. SUZAN FRASER: And sometimes if you want to access young people, when you gain the trust of adults, they will help transfer that trust to the young people?

MR. COREY O’SOUP: Yes, you know, because a lot of the times, and the places that we went, the young people wouldn’t have known us. So we had to lean on the relationships that we had with some of the adults within the community to be able to reach those young people.

MS. SUZAN FRASER: All right. And if you had not done of all of that preliminary work, in terms of doing your research and making those relationships in the community, would the young people have come to you?

MR. COREY O’SOUP: I would say probably not have, not in the numbers that they did, you know. We might have, you know, engaged with a few here and there, but I mean, we would have been strangers entering into their worlds and them not knowing who we are or what we were there for.
So I believe we needed to, you know, frame that in order to make sure that they were safe and that they weren’t just talking to basically strangers.

**MS. SUZAN FRASER:** Right. So then that sort of became, once you had established those relationships and done your homework, that became the next piece of the work that you do was to establish with the young people a kind of informed, what I would call as a lawyer informed, consent process, but what really is about telling them about the work that you intend to do, telling them about what you hope to gain from them and telling them about what’s going to be done with their stories once they had told them?

**MR. COREY O’SOUP:** Hum, mmm.

**MS. SUZAN FRASER:** And you conveyed all of that information in advance and got their agreement on it before you actually started hearing from them?

**MR. COREY O’SOUP:** We did a couple of things. Before we actually went into this report, we actually did presentations to them and we gave them an invitation. So we did presentations to over 1,000 youth in the north, and after the presentations were done they were given an invitation to come and participate.

So they were taught about our office a little bit, taught about their rights, and then we had a discussion about why we were there. And then, we invited
them to participate, and out of that over 1,000, there’s approximately 264 that decided to participate.

And then with the consent piece, if they were over 16, they could sign the consent form themselves. If they were under 16, they had to get permission from a parent or guardian and they had to sign the consent forms.

**MS. SUZAN FRASER:** So that would be, and the parents also having the same kind of information about what your process was gonna look like before the young person engaged?

**MR. COREY O’SOUP:** Yes.

**MS. SUZAN FRASER:** Okay. So then, in presenting to those thousand youths across northern Saskatchewan, how many communities did you have to visit?

**MR. COREY O’SOUP:** We presented in 12 communities.

**MS. SUZAN FRASER:** Okay. And if you hadn’t invited young people from Saskatoon, without doing that work, as kind of an alternative way of doing it, do you think you would have had effective participation from the young people?

**MR. COREY O’SOUP:** Like, within the city of Saskatoon?

**MS. SUZAN FRASER:** Yes.

**MR. COREY O’SOUP:** I think if we would have
went through the same process and presented to them.

MS. SUZAN FRASER: Yes?

MR. COREY O’SOUP: We probably would have had similar numbers. I mean, it’s, you know... there’s 250,000 people in Saskatchewan, or in Saskatoon, so we probably would have got a good number, I would have said.

MS. SUZAN FRASER: Right.

MR. COREY O’SOUP: It’s hard to tell, though.

MS. SUZAN FRASER: And so, but would you get the same reception from the northern communities if you were just inviting people to Saskatoon?

MR. COREY O’SOUP: Oh, you mean inviting them down to Saskatoon?

MS. SUZAN FRASER: Yes.

MR. COREY O’SOUP: Oh, no, for sure not. There’s definitely implications of travel, of, you know, parents coming, you know, supervision, all of those different issues that would’ve have affected that, so no. I thought you meant if we invited kids from Saskatoon to participate.

MS. SUZAN FRASER: No.

MR. COREY O’SOUP: No, to ask them to come to Saskatoon or Regina or any major city was not a consideration, because we felt like we had to go to them.

MS. SUZAN FRASER: Okay. And then, you went
back?

MR. COREY O’SOUPI: Yes.

MS. SUZAN FRASER: Once you collected all the information, you went back to the young people to tell them what you had heard and how you had understood what they had conveyed to you?

MR. COREY O’SOUPI: Yes. We made that commitment early on to them, when we first met with them, that we would come back to them and we would validate what they said to ensure that it truly was a representation of what they told us before we actually shared that with anybody else, we went back to them.

And then, that gave us the validation, and in some places, we went back more than once to ensure that we had their voices and their validation. And even now, to this day, we continue to go back to those communities and continue to talk to those young people in order to keep and establish that relationship going.

MS. SUZAN FRASER: Okay. So in terms of a process like this; this process has its own timeline, its own deadline, it’s possible that this process could get an extension. But if young people wanted to participate in this process, do you think it would be necessary for there to be similar outreach and similar engagement?

MR. COREY O’SOUPI: I think whenever gathering
children and youth voice, we have to consider who were going
to, how we’re going to get to them and how many before we
want the engagement to be.

I would say to anybody, including this
process, that if you want to get that information, you have
to go to the young people. To expect them to come, like we
did, to come to a place like this is not always easy, it’s
not always doable.

And it took over a year for us to do that,
just to get to those 12 communities, just recognizing the
geographical distance, the number of communities, trying to
balance schedules. It took us over a year to really do it
the way that we needed to, and that was just on one topic of
youth suicide, you know.

When I first started, I was like, to my
staff, I said, “Well, can we get this done by March?” You
know, and this was November. And you know, we set ambitious
timelines. And you know, my staff said, “Well, maybe June.”
And then, June came around and you know, I leaned on some of
my colleagues across the country and I asked them, you know,
“What about your processes? And how long does it take?”
And they said, “You need to take as long as it takes to
ensure that you get a quality product; that you ensure that
the voices are heard.”

And, you know, it took us till December of
last year. So it was over a year to do that. You know, I was really anxious and I’m the kind of person that wants to get things done, like, right now and yesterday is too late for me.

**MS. SUZAN FRASER:** Right.

**MR. COREY O’SOUPL:** But I had to be patient in order to ensure that we followed the process and that we got the children’s voices. And, you know, it -- it was the right thing to do.

**MS. SUZAN FRASER:** Okay. Thank you very much for that.

And I think there was one part of your process that maybe I didn’t talk to you about which was engaging the community supports, in addition to the leaders in the community.

**MR. COREY O’SOUPL:** Yes.

**MS. SUZAN FRASER:** But also making sure that the young people were supported by people that they knew and trusted in the community.

**MR. COREY O’SOUPL:** Yes. Whenever we spoke with our young people mostly we had mental health supports there. We did have -- occasionally we had Elders when they were available to support the young people throughout the process. So they were in the room with us, the young people were made aware; the staff were made aware that they
were available for them if the topic became too difficult. They were also available after the discussion if things were -- you know, became too difficult. Because we weren’t always able to stay and provide that support, we ensured there was support of someone within the community that they could go to once we had to leave.

**MS. SUZAN FRASER:** And that’s sort of a key component to the work, right, because you don’t want to leave people in a worse position than when you started with them.

**MR. COREY O’Soup:** Yeah. You know, on the topic of youth suicide, and anytime we’re talking about death is a difficult topic and we need to ensure that those supports are there because we don’t -- exactly what you said; we don’t want to leave them in a worse position than we came. You know, and we did have some ---

**MS. SUZAN FRASER:** I just want to note for the record that I see Dr. Samo Dorough nodding along with you.

Do you agree with what you’re hearing from Mr. O’Soup?

**DR. DALEE SAMBO DOROUGH:** Yes, no question.

**MS. SUZAN FRASER:** Okay, thank you.

So please continue.
MR. COREY O’SOUP: Yeah, you know, and the topic was a difficult one. It’s not one that we’ve always been able to talk to. There’s stigma attached to it. There’s a whole bunch of other things attached to the topic of youth suicide, so we had to ensure that those supports were in place.

MS. SUZAN FRASER: And I suppose there’s another component to it, as I hear you speaking, which is that if you’re persuading a young person or a young person is opening up for a first time, if that goes well and is a meaningful experience, that can be a building block to a lifetime of using their experience to make change for the better, right?

MR. COREY O’SOUP: Yes. We hope that the experience we left them with, and I believe that we have, of empowering them.

MS. SUZAN FRASER: Yes.

MR. COREY O’SOUP: You know, giving them voice also empowers them to be change-makers within their community. It’s part of -- one of our priorities and, you know, those go hand in hand with us. And I believe that it can have a positive impact on them for the rest of their lives. If you give them voice, if you give them the opportunity to be heard, and even more so if you go back and you validate that, and you tell them what that voice
has done and the impact that it’s had, then they’re going
to be even more empowered throughout the rest of their
lives. And we’ve -- I don’t know if I’ve said we’ve taken
this report literally around the world, you know, and we’ve
communicated that back to those kids that your voices are
not sitting on a shelf. They’ve gone across Saskatchewan,
they’ve gone across Canada. We’ve communicated them to the
leaders. We’ve been invited to the world stage to take the
voices of you all around the world. And, you know, like,
for us and for them, that’s so empowering.

MS. SUZAN FRASER: Right. It’s a movement.
You can actually building a movement of young people by
empowering them in the way that you’ve done.

MR. COREY O'SOUP: Yes. Yeah. And that’s
what we want to do. We want -- and I think I said this
yesterday, too, our children are not just our future, they
are our present, you know, because by the time our kids --
by the time that we typically give them the chance to have
a voice they’re adults, right? So they’ve lost that
opportunity to influence as children and youth, the future
generations, right? So I think we need to let them have a
voice so that they can be our present and not just our
future.

MS. SUZAN FRASER: Right. And that would
include a process like this.
MR. COREY O'SOUP: That would include any process where we engage children.

MS. SUZAN FRASER: I’m going to thank you very much for what you’ve told us today.

Professor Gunn, I’m going to shift the focus to you because in your paper that’s now an exhibit in this Inquiry, at page 94 you talked about participation of women and Indigenous girls as part of a Convention right. And I’m just wondering if we can talk about that for a minute.

MS. BRENDA GUNN: Yes. Sorry; you said page...?

MS. SUZAN FRASER: Page 94. And I understand what you said in that paper is that a human rights-based approach should inform the substantive issues of the Inquiry but also the process of the Inquiry, and that international human rights principles and norms should guide all the policies and programming in all phases of the Inquiry. The approach requires, I think what you said, is direct participation of Indigenous women and girls in the Inquiry’s process from beginning to end as the right to participate in the decision-making is increasingly recognized as a basic right of Indigenous peoples and especially, and including, Indigenous women.

So I’m just wondering -- you know, what good looked like to you when you wrote that, in terms of direct
participation in the Inquiry from beginning to end?

**MS. BRENDA GUNN:** I think I’m struggling to use words beyond “direct participation” and I think I used the words in the planning, right in the development and in the operationalization from -- you know, not only just to who the staff people are but to who was participating in hearings like this; who’s on the panels. I think all of those different --

**MS. SUZAN FRASER:** Okay. And as the Inquiry moves to hear more evidence through its institutional and expert hearings, it will eventually come to the age -- or the stage where they have to make recommendations to take -- to put their report. Do you think it’s important that the women who are directly affected by the work continue to have a voice in this process as we move through the recommendation phase?

**MS. BRENDA GUNN:** Yes.

**MS. SUZAN FRASER:** Okay. And so if women are -- and girls are more vulnerable or for whatever reasons can’t make it to a city to participate in this process do you think it’s incumbent upon the Inquiry to actually conduct outreach to smaller communities to gain access to women and girls so that they can actually be heard in this process?

**MS. BRENDA GUNN:** I think the idea of
engaging human rights standards and using them as a baseline is in part trying to recognize, and I think the various experts have tried to highlight the need for recognizing the different ways that women experience violence and experience violation of their human rights, and providing space and opportunity for that participation and making sure that it’s women from different segments.

I’m trying to think of how this international standard has been articulated and utilized and trying to think whether or not, you know, under the current status does that require the Commission to go out or, you know, to provide the space. And I think, you know, ideally of course everyone would be going to speak to everyone and I think those are the, perhaps, best practices. But I think what we’re starting to see the language being used in international law more and more are good practices, realizing that there’s ideals and there’s minimum standards and then there’s sort of what we hope and expect people to do to upholding certain human rights.

So I think my best answer I can give -- or maybe it’s a good answer, maybe it’s not but the best answer that I can give is that it’s about providing the space and opportunities for that participation to different voices. And it’s hard for me to say how that needs to happen because I’m not in the process. I don’t know how
these decisions are being made but, yes, making sure that —
- I would say a human rights-based approach suggests that
need to hear from the rights holders themselves in every
stage of the process.

**MS. SUZAN FRASER:** Thank you. Thank you. I
appreciate that. And, we’re just going to switch gears for
a minute, if I could. In Ontario’s -- and this is, again,
for Professor Gunn. In Ontario’s provincial child --
*Provincial Advocate for Children and Youth Act*, there is a
provision that says that statute should be -- the
principles of the U.N. Convention on the Rights of the
Child should be applied in the interpretation and the
application of that Act.

So, I’m just wondering if you can tell us if
that assists -- if that’s a means of expressly putting into
legislation the adoption of those principles, and if that
gives more power, in your view, to the ability to use the
convention for the children in Ontario?

**MS. BRENDA GUNN:** The Supreme Court of
Canada has recognized that even though our technical rules
of international law require direct incorporation or
implementation, which is usually through enabling
legislation, they’re increasingly recognizing the different
ways that international law is being incorporated, and
there’s some discussion about whether or not international
human rights law can be implicitly implemented.

And so, I haven’t read the Act, and I’m not sure if your wording was a direct quote or, sort of, a summary of what it’s stating, but I do think, at a minimum, where domestic legislation is saying that international law can be used as an interpretative approach that aligns with, sort of, the minimum standards that the courts have been using to say that domestic law should be interpreted in line with Canada’s international human rights obligations as one way to ensure and assist Canada in upholding those obligations to make sure that the two lines are consistent.

And so, I would suggest that it’s a good thing that there’s making that reference and an attempt to sort of read the two instruments together. Whether or not -- and I’m not sure if your question is trying to get me to say that you could use it in court as a cause of action in and of itself. I’m not sure, and I think that would be a fairly technical question that I might have to see the legislation and perhaps beyond my expertise.

But, I do think that it does allow one to invoke and encourage an interpretation of the domestic legislation in line with the principles and obligations under the convention.

**MS. SUZAN FRASER:** Thank you very much. I see my time is up. I have many more questions I could ask,
but I want to thank you very much for coming on behalf of my clients who are very, very grateful for the knowledge that you’ve provided to the Inquiry.

MS. CHRISTA BIG CANOE: Thank you. Next, Beth Symes from Pauktuutit, AT, Saturvitt, OICC and MIA, has 20 minutes.

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

MS. BETH SYMES: As part of my introduction of myself to you, I’m probably the oldest person who is participating in these proceedings and educated in the last century when international law, where I went to law school, involved the law of the sea, and I didn’t take the law of the sea, because I came from a landlocked place that I didn’t think it was going to be all that helpful to me.

But, I must confess that I bear the scars of over 40 years trying to litigate issues, raising international human rights conventions, policies, et cetera, and being met with either dead silence or the command, “Move on, Mrs. Symes”.

So, with that beginning, I am Beth Symes, and I represent five Inuit women’s organizations, sort of across Inuit Nunangat, and I’m going to be asking you, each of you, questions about, sort of, the same set of facts.

On Tuesday, I focused on housing, and this afternoon, I’m going to focus on children and youth, and
the obligations to children and youth pursuant to the international covenants, and let’s just do two of them, the Rights of the Child and UNDRIP. I mean, there’s lots more, but those are enough.

So, Dr. Sambo Dorough, for Inuit children and youth, in fact, in lived reality, is the principal difference between their current rights under human rights where they live, human rights legislation under the Charter, and under the Constitution, the explicit inclusion of social and economic rights as found in, for example, the Rights of the Child and UNDRIP? Is that really the core difference?

**MS. CHRISTA BIG CANOE:** Can you answer constitutional and Charter questions?

**MS. DALEE SAMBO DOROUGH:** Yes, I was going to respond with the proviso that I’m not intimately familiar with the national organic documents that you’ve referred to, but in regard to the broader issue of the international human rights instruments, when one takes into account the wording of, in particular, the international covenants and the individual rights orientation of those documents with the exception of Article 1 of both of the international covenants, it’s safe to say that human rights would attach to youth and children as human beings if we take into account the nature of human rights, that they are
universal regardless of age, sex, ethnicity, cultural background, religion, et cetera. So, the short answer to the question is yes.

**MS. BETH SYMES:** And, because we don’t have social and economic rights as part of the Charter explicitly written out, would you agree that they include the essentials of life?

**MS. DALEE SAMBO DOROUGH:** I would surmise without the documents in front of me that yes, in terms of organic documents on the basis of the peoples of Canada. But, as to the explicit details in that broad phrase, I can’t answer specifically. I can cite, for example, the relevant articles of the U.N. Declaration on the Rights of Indigenous Peoples that would be responsive to that particular question.

**MS. BETH SYMES:** In terms, then, of measuring the social and economic rights, and let’s just take in the Rights of the Child and in UNDRIP, would you agree that they are measured in terms of the relative worth -- pardon me, the relative wealth of Canada as opposed to, let’s say, Nepal? That is, the standards with respect to housing, health care and education that are imposed on Canada would be different than in, say, the fourth poorest country in the world?

**MS. DALEE SAMBO DOROUGH:** No, I would submit
that, again, going back to the nature of human rights, their universality, the attachment of human rights on an individual basis and a collective basis, regardless of the context of the GDP or the GNP of a particular country, that this would create no distinctions.

I will point out, however, that there has been what I would refer to as a false dichotomy, especially on the part of the United Nations, that access to various different resources by the UNDP, for example, are there primarily to support so-called developing countries. So, in that regard at the international level when those of us, as in Indigenous peoples, and Inuit in particular, have made arguments within the United Nations system, especially in the context of specialized agencies, organs and bodies of the United Nations that defer to this notion of the developing world and the developed world, this is a false dichotomy, because the social and economic and cultural conditions of Inuit throughout the Canadian Arctic, as well the Circumpolar Arctic, we oftentimes face the same exact dismal socioeconomic conditions of those in the so-called developing world.

In some of our communities -- I'll give you specific examples. In some of our communities, we have no potable water, and this is the -- is specifically in the Alaskan context. We have no potable water, we have no
other infrastructure to support basic things.

    Now, if you can think about potable water as an issue, it touches everything to do with the day-to-day activities of the lives of individual Inuit children, and can have numerous serious implications in elation to their health and their welfare and their well-being, their quality of life, in every way, shape and form.

    And I'm certain that you're acutely aware of the report of ITK in relation to the social and health determinants. The increase in tuberculosis and other resulting implications of something as basic as potable water.

    MS. BETH SYMES: My question is, under Canada's obligations aren't Inuit entitled to the same standards of healthcare, housing, education as the rest of Canadians?

    DR. DALEE SAMBO DOROUGH: Absolutely.

    MS. BETH SYMES: Okay. And that's what I'm trying to say, is the measure for Canada is what are -- what is available in the rest of Canada. We must bring everyone at least to that standard, and if we argue in terms of special measures or equality of results, additional resources in order to make up for past discrimination, past omissions.

    DR. DALEE SAMBO DOROUGH: Yes, absolutely.
I think that one thing I would say in regard to this term, "special", is that I think it's more accurate to say "distinct". Because special measures, at least in various different venues, when the use of the term "special measures" has been applied to Indigenous peoples it has increased the level of resistance and racism because, "Oh, those people get special measures" without the background and knowledge of the fiduciary obligation, without the background and knowledge of the distinct status and rights of Inuit, for example.

But I think in terms of responding also to individuals that are the most marginalized, politically, economically, socially and culturally, that distinct measures should be taken.

MS. BETH SYMES: But Dr. Sambo Dorough, don't you agree that the fact that section 15(2) is in the Canadian Charter of Rights and Freedoms is a marked difference on this than what the legal system is in the United States?

DR. DALEE SAMBO DOROUGH: I would have to defer to someone else on the panel to respond to that specific question.

MS. BETH SYMES: Professor Gunn, would you agree with me that the specific provision of section 15(2) in the Charter specifically mandates and saves special
measures, and that's been decisions of the Supreme Court of
Canada in that and other cases?

**MS. BRENDA GUNN:** I think when you look at
the couple of cases under 15(2) that are particularly in
relation to Indigenous rights, 15(2) has been included in
our Charter in order to ensure that Canada can take
positive steps. And -- so it has protected the fishing
rights, and in the Cunningham case, the Métis settlements.

So I believe if that's sort of what you're
saying, that special measures -- I just -- I do appreciate
Professor Dalee Sambo's point that -- but terminology
distinct may sort of move away from some of that backlash
that arises.

**MS. BETH SYMES:** No. The question I -- or
the fact situation that I want to pose to you to ask the
questions is in -- is around suicide. And on Monday, in
what the Registrar said is Exhibit 5, the social
determinants of Inuit health on page 9, I'll just quote to
you that:

"The suicide rates of Inuit children
and teens are 30 times more likely as
are the rates for youth in Canada."

(As read)

For Inuit youth, 30 times the rates.

And Mr. O'Soup, we're not racing to the
bottom, or having a competition about which is worse.

DR. DALEE SAMBO DOROUGH: M'hm.

MS. BETH SYMES: What's interesting in the ITK document is that the rates for Inuit male youth are higher than for Inuit female youth, that is, the rates of suicide.

And so, this month there has been two news articles, CBC, May 8\textsuperscript{th} and National Post, May 14\textsuperscript{th}, in which the Nunavut Minister of Health, Pat Angnakak, reported -- his report -- she is reported to have said that in Pangnirtung, which is this stunningly beautiful village, fly in, remote, in Nunavut, of 1,400 people, had 12 youth attempted suicides in a 2-week period in February.

The Minister is reported to have said it is a crisis:

"It's not just [in] Pangnirtung [she said]. It [is] everywhere."

And I assume she was speaking about everywhere in Nunavut.

Let's just assume that the facts are accurate; 12 attempted suicides in a community of 1,400.

So Mr. O'Soup, I want to come to you and talk about Saskatchewan.

In the remedy from the Canadian Human Rights Tribunal from the Caring Society, Canada was essentially
directed to pay all reasonably necessary costs -- sorry, the costs of all reasonably necessary health services for First Nation and youth.

Does that, in Saskatchewan, cover First Nations and youth who don't live on First Nations' land?

MR. COREY O'SOUP: My understanding is, yes, that it would.

MS. BETH SYMES: In Saskatchewan, does that remedy cover Inuit children and youth?

MR. COREY O'SOUP: My understanding is that it would.

MS. BETH SYMES: Yesterday, you told us about the lack of mental health services for First Nation children and youth in Northern Saskatchewan.

MR. COREY O'SOUP: M'hm.

MS. BETH SYMES: Following the decision of the Canadian Human Rights Tribunal, what has changed in Northern Saskatchewan?

MR. COREY O'SOUP: Well, you know, the challenge there is that if we're talking about Jordan's Principle, in particular, I would say that the challenge is that the people in Northern Saskatchewan would not even all have knowledge of Jordan's Principle, nevertheless, the ability to access it.

I know there is 24-hour lines put out there,
but the reality is, and this is my reality, maybe
anecdotally, hearing from children and families, is that
access is still an issue; right. You go into our northern
communities, they don't all have phones, so they can't all
dial the 1-800 number. You go into our northern
communities, they don't all have Internet connection. So
you can't just fire up on the Internet and look and search
for these resources.

And I think that's the big challenge that we
have within Northern Saskatchewan, is that we create these
programs and initiatives and these, you know, national
programs and we assume that everybody can access them;
right. And that's not always the case in our northern
communities. I don't know what it is like for you guys,
but I know in Northern Saskatchewan, that's not the
reality, you know.

So again, we have to find, and we have to
create, and we have to be innovative in the ways that we
reach our people, particularly in those northern and remote
places so that they know that those supports are in place,
so they don't have to suffer anymore, you know.

Because Jordan's Principle is intended to
support health, mental health, education, all of the things
that we know that it's supposed to support. But, if you
don’t know that you have that, and you don’t that you have
that ability, or if you have these barriers to you, then is it really going to help you? Is it really going to change your life? Or, is it just another dream? So, I would say no.

**MS. BETH SYMES:** So, let me put it to you very practically, pragmatically. Although there is a ringing decision from the Canadian Human Rights Tribunal in terms of the rights of children and youth to services, on the ground, two years later, you say that there are still people who should have the benefit of that decision who don’t even know that it exists?

**MR. COREY O'SOUP:** I would say that that’s the reality. I mean, we are getting better, and the decisions are getting better, communication is getting better. I believe we’re heading in the right decision, but there’s not always recognition that people out there don’t still have phones, and don’t still have the internet, and that’s the reality in our world; right? Especially in the northern areas of our country. And so, I would say yes.

**MS. BETH SYMES:** So, I wanted to turn to you, Professor Leclair. I think I understood your thesis. You speak very rapidly and it was hard to follow in the translation, but I think your thesis would be for Inuit that the Inuit leadership might exert political pressure, shaming Canada for its failure to live up to the
international covenants with respect to provision of
services for these youth, children and youth who are
committing suicide, and that the political pressure might
obtain the desired results with greater certainty of
outcome, faster, at less cost, and with better result, that
is an effective order that might have an action plan with
goals, timetables and accountability than if they were to
go to court. Is that essentially your thesis?

MR. JEAN LECLAIR: Well, I’m saying that you
must not put all your eggs in the same basket. So, yes,
you can go to court. But, also, as I said, you can use the
Declaration, for instance, as a shaming mechanism on the
international level, because Canada is very picky about its
international reputation. And, if it becomes clearer and
clearer that nothing is done, that the rule of law is not
respected within Canada, Canada’s rule of law, not just the
UDNRIP but the Human Rights Act in this case, it might be
another tool in the box of Indigenous peoples to have their
rights recognized. As I said, the Cree successfully did
that.

MS. BETH SYMES: But, you would certainly
say, sir, that it’s up to Inuit, First Nations and Métis
whether to take your advice?

MR. JEAN LECLAIR: Well, actually, that was
the very first thing I said, and I even said -- I’m
disappointed it didn’t go through in the translation, but
that the very first thing would be for the Indigenous
peoples themselves to make the Declaration their own. That
was the very first thing I said.

MS. BETH SYMES: That’s my time.

MS. CHRISTA BIG CANOE: Thank you. Thank
you, Ms. Symes. Next, we would like to welcome the
Vancouver Rape Relief & Women’s Shelter, Ms. Hilla Kerner.

MS. HILLA KERNER: Hello. Good afternoon.

MS. CHRISTA BIG CANOE: And, sorry, just --
yes, 40 minutes, please. So, the Vancouver Rape Relief &
Women’s Shelter will have 40 minutes.

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

MS. HILLA KERNER: Thank you. I’m a member
of the collective of Vancouver Rape Relief & Women’s
Shelter. I’m not a lawyer, so I might make some mistakes
in the way I bring forward questions, and I’m sure
Commission counsel will be helpful in that.

I will start with you, Professor Gunn.

Yesterday, you stated that human rights framework enabled
to evaluate unjust distribution of power. Would you
elaborate on that?

MS. BRENDA GUNN: Yes. I think the basic
idea is that it’s sort of two-fold. It allows for a
protection against state exercise of power. So, it provides that safety net, and that sort relates back to what I was saying about the evolution of human rights and the importance of remembering that international human rights were developed to ensure that there was an ability for the international world to start looking inside the domestic actions of a state to provide that protection. So, I think that’s one way that it starts to potentially shift.

And, the second way is that broader idea that I was speaking to that is highlighted in the U.N. Declaration where the process of realizing human rights and Indigenous peoples’ human rights requires a move beyond a colonial structure where Canada exercises control over Indigenous peoples in all fashions of their life to one where Indigenous peoples can self-determine their own affairs and their own lives, as well as set that relationship between Indigenous peoples and the state. So, those are, sort of, two ways that I see that power-shifting potential.

**MS. HILLA KERNER:** Okay. So, would it be fair to say that, at best, the redistribution of unjust -- the distribution -- the redistribution of power would mean eliminating the oppression of women by men, of people of colour and Indigenous people, by white people, in the poor
by capitalist and Neo-Liberal forces? So, each member of the world will have equal share of power and equal share of the world wealth.

**MS. BRENDA GUNN:** I think stemming back to some of the questions and comments earlier, I mean, the idea is with the realization of human rights that all humans are free and equal to all humans, and having the same standard of living, and same access to water, and housing, et cetera. So, I do think that the hope is that it’s levelling in that sort of fashion, yes.

**MS. HILLA KERNER:** Okay. And, you also said yesterday, I think you were trying to make a point that focusing in a substantial way on women does not mean infringing men, and you said something to the effect that self-government concepts that all members are protected means that focusing on the needs of one group does not mean disregard to the needs of another group.

So, would you agree that self-governing models that will protect women is a model that each member, both men and women, have equal share of power and equal access to and use of resources?

**MS. BRENDA GUNN:** Sorry, I’m struggling, because I think I agree in a very generalized sense, but I think the idea that I was getting at is that it’s about the opportunity to participate in the public life and having
the ability to participate, for example, in decision making. So, if there’s an issue to be resolved by the community or, for example, a resource development proposal, my understanding is that this fundamental principle of participation and decision-making means that, you know, women and men must be both allowed to participate in the decision-making process, again, focusing on substantive equality.

And so, if we’re thinking of, sort of, power sharing and benefitting from the resources, I think we’re in a very substantive equality sense, and I’m not sure we can divide power and sort of, you know, do formal equality on power, but it’s about that substantive and having that influence over the decisions of the ability to participate, but also, to influence the outcome needs to be sort of on par with other members of the community.

**MS. HILLA KERNER:** Yes. I think the point I wanted to make, there is very important, and strong, and valid call for self-governments, and we should follow the Indigenous feminist call that -- for self-governance, to fulfil itself in a just way. It means abandoning the colonialist structures some First Nations took on and allow women to have equal share of power and equal share of resources.

Dr. Dorough, both you and Professor Gunn,
you made a really important point that it will be a mistake
to fight only for one set of rights, that all the human
rights are interrelated and interdependent and
interconnected. And this is consistent with our analysis
that fight for Indigenous women only in terms of the sexist
oppression, they will not be able to realise their equality
as women because they will be hampered by the rest of
oppression in the other way. Fighting for Indigenous women
to have equalities Indigenous people will not be realised
because it will be hampered by their sexist -- the sex-
based oppression is essential for economic rights.

Do you see this translate to also
collaboration in the UN level? Is there a way -- I
definitely notice that Article 22, it's a declaration for
the right of Indigenous people, try to answer to both forms
of oppression when it comes to women. Do you mind reading
it out loud and elaborate on that?

**DR. DALEE SAMBO DOROUGH:** Okay. Article 22
of the UN Declaration on the Rights of Indigenous People
states,

"Particular attention shall be paid to
the rights and special needs of
indigenous elders, women, youth,
children and persons with disabilities
in the implementation of this
Declaration.
States shall take measures, in conjunction with indigenous peoples, to ensure that indigenous women and children enjoy the full protection and guarantees against all forms of violence and discrimination."

In the context of the international Indigenous people's movement, we have seen a very strong Indigenous woman's caucus emerge at the international level.

So, for example, their participation within the permanent form on Indigenous issues, there is a clear and strong voice by the Indigenous Women's Caucus. And in large part, they are responsible, for example, the recommendation that I referred to that was adopted by the Permanent Forum at 17 Session concerning a review or survey of good practices as to how to alleviate this horrific conditions of Indigenous women and girls to violence.

MS. HILLA KERN: Thank you. Yesterday you - - I think it might have been anecdotal but I think it was an important point that you made, that you saw a research that was surprising because it showed that in spite of the equality that Canadian women have, they suffer high level of violence from a male partner in the domestic setting.
So I wanted to propose a few possibilities and explanation to that and to see if you agree with that.

I would like to explain to you that in Canada women are enjoying formal equality and not substantial equality. Strikes -- a very striking example is family courts where women are fighting for their motherhood. They will not be in favour of the mothers. Many women are economically dependent on their domestic male partner, and we have a pontification of our culture that keep reinforcing women's image as a sexual commodity. And I think this is definitely one explanation why women are still in Canada are being -- suffering sexual and sexualist form of violence and battering by the hand of men.

The second explanation I would like you to entertain is that we see time and again that women -- when women do gain some forms of equality there is a backlash, and often the backlash means forms of violence. So when women got access to employment and to labour fields, we saw the backlash in terms of sexual harassment. There is -- in theory, there are much, much, much more options for women to choose and now we see the intensification of prostitution as a choice. So, a lot of time when women gain some measure of equality, more possibility, more access to public life, there is a backlash that very, very
often will manifest itself as a form of male violence.

Do you agree to either explanation and -- or would I suggest, both?

**DR. DALEE SAMBO DOROUGH:** I think if we take on these particular issues just in the context of formal equality that numerous difficulties arise. And I know that throughout yesterday's offering of testimony that substantive or relative equality, we didn't have a chance to really dwell on this particular issue and elaborate how relative or substantive equality would emerge within the Indigenous women and girl's context.

So I want to say that first that that would be an important discussion to have. What does relative equality look like within an Indigenous context? What are the contours of substantive and relative equality, not just for Indigenous women and girls, but for Indigenous peoples as distinct peoples, as distinct cultures?

And so this leads me to say that, in relation to the scenarios that you've described, as far as access to formal equality may trigger other reactions and responses, I think there's no way for me to generalise and say yes or no. I have seen certain individuals, and at a very micro level, some of these kinds of scenarios becoming a reality and playing themselves out.

And by this I will say only the dynamic that
we've seen in some of our smaller communities where, especially Indigenous women and girls who managed to capture an opportunity to pursue higher education, to pursue, as you suggest, positions elsewhere, that there are jealousies. There are envies. There are, you know, these things that take place, but this is on a very micro level. So I would not entertain answering in a generalised fashion those specific questions.

**MS. HILLA KERNER:** Okay. Well, I hope you will consider what I'm proposing is an answer in terms of women's oppression, just because of the expertise that I bring for my work with the women's movement.

**DR. DALEE SAMBO DOROUGH:** M'hm. M'hm.

**MS. HILLA KERNER:** I believe both Professor Gunn and you, Dr. Dorough, you presented that the main challenge with Human Right Declaration and Convention is abiding and the complying with the principles and the values that they bring. And with this Inquiry we see clear examples of a strong grassroots struggle and protest for many, many years.

In 2008 I believe they resulted with a concluding recommendation of CEDAW to Canada to conduct an inquiry and nothing happened. And the grassroots movement pushed and pushed and pushed, led by Indigenous women, and finally, 10 years after -- 9 years after, the Canadian
government struck the Inquiry and still very, very challenging way for -- and I applaud to the Commissioners who are still holding onto this important task. But it's obvious that the Canadian government is not making their job easy at all, or on the contrary, they put a lot of difficulties in the way.

So would you agree with me, both Professor Gunn and Dr. Dorough, that one really important avenue to get International Human Rights Convention and Declaration really brought into power is by strong, consistent, insistent grassroots movements, both when it comes to women's rights, when it comes to Indigenous peoples right and definitely when it come to Indigenous women's right?

**DR. DALEE SAMBO DOROUGH:** No question. I would agree that it will take, and has taken, such a movement at the, certainly at the international level, and I would suggest that the same may be the case at the national level, and that this window of opportunity that exists with this current government that the opportunity should be seized.

And this also has to take into account, at least from my perspective, as I’ve stated already numerous times, that the urgency of this particular situation, that, and along the lines of the questions from the various different Inuit organisations, that marginalized peoples,
again, primarily politically but also socially,
economically, culturally, spiritually and otherwise, that
the concerted effort and with all of the existing national
and international instruments that something’s gotta give
at some point in time. The dam will have to break.

And if these initiatives are short up by a
grassroots Indigenous women and girls movement, and it’s
already been referenced in terms of, for example, the “Idle
no more” actions, here, in Canada, that maybe there will be
some substantive concrete comprehensive attention paid to
this issue.

At the same time, I would also suggest that
all these other strategies and tools that are available
should be triggered and utilised to the maximum extent
possible.

**MS. HILLA KERNER:** Professor Gunn, you said
yesterday that even though international human rights
conventions and declarations are considered soft laws,
there is a convention within the court to respect the
normative value that they bring forward.

And I was wondering if there is example, not
necessarily in Canada cause I believe there isn’t, but in
other places of the world, that it’s true when it comes to
decision on violence against Indigenous women?

Are there courts that had to deal or judge
on cases of violence against Indigenous women, that took
into account the aspiration that comes from the
combination, probably, of SEDAW, the 1993 resolution on
ending male violence against women, and the convention on
Indigenous peoples rights?

**MS. BRENDA GUNN:** Thanks. We do actually
have examples where the Canadian court has used
declarations, and we do have examples the Canadian courts
are starting to cite and look to the UN declaration, and
consider it in their decisions.

So I do think we do have some examples and,
I’m sorry, and I, the second, I didn’t quite get the
second...

**MS. HILLA KERNER:** The crux of my question
was: do you have examples, cause obviously I don’t, about
applying to violence against Indigenous women?

I think there is a common knowledge about
injustice in the decision regarding the murder of Cindy
Gladu, the matter will be discussed in the Supreme Court of
Canada in a few months. We have too many examples of that
in the acceptance of the violation of Indigenous women’s
barely integrity, I was wondering if there are examples of
the opposite?

**MS. BRENDA GUNN:** Okay, thank you. I’m not
sure of specific examples, but if you don’t mind, I’m going
to take your question in a slightly different direction.

In part because what I’ve come to learn, and I’ve had the opportunity to do various traditional education seminars training judges on various aspects of the law and working on several jurisdictions committees, you know.

I’ve had judges remind me that they’re really required to make decisions based on (cut) for them. And so, what I often then urge when I’m training lawyers and other advocates is that, you know, judges can only rely on what’s put before them, and so we need to start putting forward these international instruments, including declarations and these decisions.

And then, we cannot just throw them out there cause the judges won’t know what to do with them, so we have to give them the international instruments and say, “This is how we’re relying on them and this is what we want you to do with them.” And then, you can give them some situations where judges have taken similar steps.

So no, not in the violence against women, but we’ve seen it in environmental law, we’ve seen it in refugee law, we’re seeing it in a few other areas. So to let judges know that this isn’t as big of a step or a leap as they might think it is, but as actually quite standard practice generally, it has just not happened in a specific fact, situation or with a specific instrument.
MS. HILLA KERNER: Another question to you, Professor Gunn. You mentioned the due diligence duty, that it has five components.

Can you describe the five components, and how does it might look like in terms of interpreting those five components?

MS BRENDA GUNN: Yes. So I believe you’re referring to the duty of due diligence to prevent, investigate, prosecute, punish and compensate? I can say those again if you need, I was trying to figure out an acronym to see if that would help me, but it’s prevent, investigate, prosecute, punish and compensate. And so...

I guess, I’m struggling to explain them, because the prevention aspect is taking all reasonable measures and taking steps to address and prevent and...

There, I think, are, through the various international human rights, trinity bodies that have looked into the issue. There’s lots of recommendations that have been made on what are the various ways that Canada specifically can prevent this, and this is what I was pointing to with dealing with the socioeconomic marginalisation and addressing these as economic rights. Investigate...

MS. HILLA KERNER: Sorry, so maybe we’ll go one element after another.

MS. BRENDA GUNN: Okay.
MS. HILLA KERNER: So if I paraphrase what you’re saying, women’s economic independence, for example, is a crucial way for a preventative measure?

MS. BRENDA GUNN: Yes. They don’t sort of phrase in it that way, but they have noticed the sort of access to education, you know, job market and those things are a contributing factor. So thus to address or to resolve, you’d need to address this issue, yes.

MS. HILLA KERNER: Yes, and I would also suggest it needs to be mentioned in a few resolutions in relation to male violence against women, strong women’s movements and the contribution of the women’s movements, to fight for women’s equality and against male violence against women.

Another, supporting the strong women’s movement can that be definitely seen as another preventative measure?

MS. BRENDA GUNN: I think so, and there’s recommendations that have been made about insuring adequate funding for services that exist, and I think the standard is culturally appropriate and relevant, so that when we’re talking violence against Indigenous women, the services should be provided by Indigenous women in culturally appropriate fashions, etc.

So that strong movement is well recognized,
and I think to answer your previous question, that Doctor Dalee Sambo Dorrough addressed -- I mean, this is why also the international arena has created specific venues for civil society organisations to engage at the international level and provide these alternative reports when Canada is reporting their activities under specific treaties.

So I think there is a strong recognition of the powerful and important role that civil society plays in addressing human rights violations.

**MS. HILLA KERNER:** So investigate, would you agree that it means investigating individual act of individual man committed against individual woman? And the collective act of male violence against women, against the collective class of women, like this Inquiry?

**MS. BRENDA GUNN:** Yes. They talk about both investigating the individual cases as you’ve mentioned, but also they speak to it more of addressing the root causes. I’m not sure if you falls under investigate per say, it’s they talk about just addressing the root causes, and so they may technically slot that under prevention, but that is why we talk about them altogether, I’m not sure that matters where we slot it.

**MS. HILLA KERNER:** And in prosecute, they mean only the individual man who commits violence or how in general the prosecute element of due diligence is
MS. BRENDA GUNN: I think generally it’s understood as the individual men. I guess there is, to a certain degree, a recognition where there’s widespread and systemic issues that, again, they need to be addressed. I’m not sure there’s an expectation of -- under the prosecution aspect, but I think they’re looking more at the prosecution at the individual level.

MS. HILLA KERNER: And, the element of punishment, which is very complicated, we heard in the previous days there is a rejection by Indigenous feminists, the colonialist version of restorative justice that ignores the power imbalance, and sexism, and misogyny within societies, but also, we know there is a huge problem with existing prisons systems. And, my group is advocating for criminalization and charging and criminalizing men, but we’re definitely -- we’re not arguing for harsh sentencing or imprisonment.

Is there other examples from the United Nations human rights arena for punishments that are holding men accountable, which is a key element of impunities, repeating again and again, in any United Nation’s document that deals with male violence against women, a way to hold abusive men accountable as a way to give women justice, but also, to send a clear public message, this is an
unacceptable behaviour, the undermining and compromising women’s equality and safety?

**MS. BRENDA GUNN:** Yes, I think that sort of what -- as this was, you know, first emerging as these international ideas, it was, I would say, envisioning a fairly traditional criminal justice process for, you know, the investigation, prosecution, punishment, sort of viewing typical western criminal justice systems to address impunity; right? So that police are investigating, prosecution is prosecuting, and that the judges are sentencing; right? Like, I think that’s what it envisions. But, I would suggest that where we’re talking about Indigenous men who may be perpetrating the violence, or generally, when we’re speaking of situations involving Indigenous women, again, we need to make sure that we’re very contextual in our analysis and recognize that these ideas of prevent, investigate, prosecute, punish and compensate may also need to ensure that they’re applied and considered in a culturally relevant way so that under the U.N. Declaration, Indigenous peoples have a right to their traditional institutions which could include legal systems and the administration, potentially, of some of the justice systems.

And so, not saying that we use the colonial restorative justice process, that’s not what I’m arguing,
but where Indigenous peoples are -- desire to take on some
of that and revitalize and utilize Indigenous laws in
relation to this that that should be part of the
consideration.

I don’t have an answer as to what the
outcome would look like, and I think it would depend. I
mean, I’m Métis from Manitoba, my spouse is Cree; right?
Our own people, while we live in proximity and mostly
peaceful relations between our people historically, we
would have different concepts; right?

And so, it’s hard to sort of envision, but I
would say that it has to be engaged in a specific
Indigenous context, and that’s where this general principle
that’s coming out of CEDAW needs to include that Indigenous
class and where the U.N. Declaration and the American
Declaration can be very useful.

**MS. HILLA KERNER:** And, as a non-Indigenous
feminist, I can tell you that it will be really wonderful
for all women if we could have been relying on our
community to hold men accountable and not relying on the
state. We’re just not there.

To the element of compensation, can it be
interpreted as individual compensation to the individual
victim on one hand, but also, as a collective compensation
to the class of women or to the class of Indigenous women
in form of affirmative action in terms of Indigenous women’s rights?

**MS. BRENDA GUNN:** Yes, I think -- I believe I pointed to this in an earlier question today, and I’m scanning the audience to try to remember who I was speaking with. But, the idea of compensation can include the broader idea of reparations. That’s the idea that comes out, and I provided some of the examples from the genocide cases that I was working on in Guatemala, and some of the ideas.

So, I think there definitely can be a collective aspect to the reparation, particularly when we’re looking at widespread and systemic violations of human rights, that it’s not necessarily just limited to that individual case-by-case. So, a process such as this that’s looking beyond individual cases to look at systemic issues. It may be appropriate to think about some collective reparation.

**MS. HILLA KERNER:** Thank you very much. Dr. Dorough, I’m back at you with two points. One, you mentioned Article 43 in the Declaration, that it sets minimum standards. Can you explain this idea?

**MS. DALEE SAMBO DOROUGH:** The idea is that the rights, the provisions, the articles affirmed in the U.N. Declaration on the Rights of Indigenous Peoples are
the floor, and that if, for example, a government were to
undertake the enterprise of implementing the U.N.
Declaration on the Rights of Indigenous Peoples, any
provisions in order to do so cannot fall below the
standards and norms affirmed in the U.N. Declaration.

It doesn’t prevent a government from
exceeding these minimum standards, and that’s one reason
why I raised, for example, especially in relation to
violence against Indigenous women and girls, the standard
affirmed in the American Declaration on the Rights of
Indigenous Peoples, and to look to the highest standard
possible.

So, the government, as far as the
understanding and interpretation of the rights that are
affirmed herein, again, represent the minimum standard. If
there is an attempt to go below such standards, an Inuit
community, an Indigenous First Nation, any others could
challenge such an action on the basis that you have gone
below the minimum standard.

**MS. HILLA KERNER:** And, would it be fair to
say that -- actually, I would like to allow you to give
examples, if you can do on the spot. What would be -- you
said the floor standard. What would be closer to the
ceiling? What would be, if it’s even possible to envision,
some rights or elements that have not been articulated?
I know in my group, we speak about equality, which is in a very limited state context, liberty and women’s liberation, that it’s very hard to imagine when we live in an oppressive society. So, can you imagine or have a concept of what it means if there is room to rise above and way above the minimum standards?

**MS. DALEE SAMBO DOROUGH:** Well, I think that, really, the objectives of these minimum standards is the ultimate realization and exercise and enjoyment of the rights affirmed in the U.N. Declaration. This is the ultimate objective. And so, the ceiling would, at least in my view, would be the reality for Inuit women and girls, Inuit peoples, Indigenous peoples, to exercise and enjoy these rights.

I would hesitate to establish what I might -- or even pronounce upon what I might consider to be the ceiling and the highest possible standard, in large part because of what you started to ask me originally. In these oppressive conditions, if we cannot even meet these minimum standards, why at this moment in time talk about the possible ceiling?

But, in my view and opinion, the reality is the ultimate objective of which I want to recall the intervention I made yesterday and the opening introduction that really, the ultimately objective is to push back the
tide of colonialism and again, for Indigenous peoples to realize, exercise and actually enjoy the rights affirmed herein.

At one point in time, Indigenous peoples were gathered at one of the meetings to negotiate this Declaration, and it was the anniversary of the Universal Declaration on Human Rights. We were able to select one individual to make a very brief statement. At that time, it was the Commission on Human Rights Working Group on the draft Declaration.

And really, the message of this Indigenous woman who was chosen to make this statement was wouldn't it be wonderful if Indigenous peoples were exercising these rights. And that was the Universal Declaration on Human Rights. So that would be my reply in answer.

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

I also want -- I heard that on your way here you had a layover in Vancouver. So I would like, on behalf of my collective, if you have a layover back to come and have dinner with us in our house.

**MS. FANNY WYLDE:** Okay.

**DR. DALEE SAMBO DOROUGH:** M'hm.

**MS. HILLA KERNER:** I'm grateful for all of you. I'm sure you know you're educating. Not just the Commissioners, my group and many, many people across Canada
are watching all of you and learning a lot. So you've been doing a great service to Canadian people and to Indigenous people. Thank you. Qjannamikk.

**MS. FANNY WYLDE:** Thank you.

So the next party to ask questions is the Assembly of First Nations.

Oh, okay. Commissioner Audette is asking for a short recess. Five minutes. Thank you.

--- Upon recessing at 2:36 p.m./

l'audience est suspendue à 14h36

--- Upon resuming at 2:46 p.m./

l'audience est reprise à 14h46

**MS. CHRISTA BIG CANOE:** Excellent.

Chief Commissioner and Commissioner, I notice Mr. Wuttke is already at the podium, so Commission counsel would like to call Assembly of First Nations. They have 40 minutes.

**CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR MR. WUTTKE:**

**MR. STUART WUTTKE:** All right. Thank you.

Good afternoon.

Before I start, I'd like to acknowledge -- and time's ticking. Can I introduce myself first?

**MS. CHRISTA BIG CANOE:** We haven't given any of the other parties that advantage.

**MR. STUART WUTTKE:** So I'd like to acknowledge that we are on Huron-Wendat land. My name is
Stuart Wuttke, I am general counsel with the Assembly of First Nations. I'm also from Garden Hill First Nation, which is in Manitoba. And the Assembly of First Nations is a national organization that advocates on behalf of over 630 First Nation.

Now, I'll begin by asking Ms. Gunn questions. First of all, I'd like to thank you for your submissions yesterday. They're clearly and truly and insightful, and I have learned a lot from your submissions. My questions will be -- tend to be more of clarification type questions, because I really agree with the testimony you provided.

Now, with regards to your pet peeve where you state that a lot of people feel that international law is not enforceable in Canada or in any other countries, would it be fair to say that the assumption may be related to challenges in enforcing international law?

MS. BRENDA GUNN: Yes. I think that's what I was saying, at least in one aspect, at least for the lawyers. I think that -- and that's where the assumption comes from.

MR. STUART WUTTKE: All right. And yesterday, you also mentioned that the international community is really not concerned with the jurisdictional boundaries within the federation. That should a province
breach any international agreements or human rights
standards, that Canada as a state is still responsible for
any violations.

**MS. BRENDA GUNN:** Yeah. I think how they
approach it is that the human rights obligations are
binding on the state as a whole, and the internal
mechanisms of how those get realized is an internal
problem, but the obligation is owed to the international
community regardless.

**MR. STUART WUTTKE:** Okay. Thank you. Now,
with respects to human rights types of frameworks, would
you agree that unlike treaties or conventions where
sometimes those documents have enforcement provisions such
as arbitration or a reference to the International Court of
Justice, human rights standards really don't have that type
of language imbedded in their framework. Is that correct?

**MS. BRENDA GUNN:** I think the enforcement
mechanisms that exist in the international -- or at least
the UN treaty -- or the treaties that exist, the standard
international human rights treaties -- sorry; it's been a
bit of a long day. My brain is slowing down and I need to
slow the thoughts down.

The enforcement mechanisms that exist in the
UN human rights treaty system exists in the periodic
reporting, so that Canada is to report back every 2 to
4 years on actions that they are undertaking. So it's more in the supervisory monitoring.

There are situations of individual complaint processes that exist where individual people can bring complaints to international bodies. They're not the same as the international court, per se, but they are, at a minimum, quasi-judicial bodies that engage in anything from investigations to just more passive receiving information and then providing concluding recommendations.

MR. STUART WUTTKE: All right. Thank you.

So with respect to international human rights enforcements, it's more nuanced in some ways where there is this mobilization of shame, the periodic reporting on states' compliance. In some ways, there is also provision of technical assistance to various states or the withholding of monetary benefits. Those are primarily ways that international human rights legislation is enforced?

MS. BRENDA GUNN: Yeah, I think that's fair to say. Yes.

MR. STUART WUTTKE: And those types of mechanisms, other than the periodic reporting, really wouldn't affect countries such as Canada?

MS. BRENDA GUNN: You know, it's difficult to say how international pressure affects. I will say that we had a period of time in Canada, particularly under the
Conservative Government of Harper, that we seemed to be very much immune to our international reputation.

But from my experience, I think that's more of an exception than the rule for Canada. I think Canada very much cares about its international reputation. And I think this -- I don't know if we can still call them a new government -- I think the Trudeau Government has been far more conscious of its world reputation and has been taking steps to promote a positive image. And so I think they respond more to negative criticisms.

And so I think, you know, this is why I think we now have very large delegations of the Minister of Indigenous Affairs and the justice minister attending the Permanent Forum and other mechanisms and spending, you know, holding multiple side events to sort of showcase the work. So I see a lot more commitment and involvement in these international mechanisms.

So I do think that we're at a time where that international pressure will have more -- will have greater effect.

**MR. STUART WUTTKE:** Okay. Thank you.

Now, with respect to enforcement and other incidences of human rights abuses by other states in other countries, would you agree that a lot of body of evidence was captured in those abuses through the accessing and
obtaining of state records?

MS. BRENDA GUNN: I'm sorry, I'm not -- I don't understand the question.

MR. STUART WUTTKE: Well, for instance, like in Nazi Germany, a lot of the Germans were meticulous in maintaining records that sort of showcased their abuse that was later used as evidence.

So would you agree that, you know, accessing and acquiring state records regarding various abuses that take place can be used as evidence to showcase that there has been abuses?

MS. BRENDA GUNN: I think I understand where you're going. I will say that one interesting aspect that has come up from many of the reports from various treaty monitoring bodies in relation to murdered and missing Indigenous women and violence against women is the need for Canada to provide better disaggregated data.

And that's not exactly the documents but what they really are pushing is they don't just want Canada to appear and say, look, these are all the wonderful programs. And they list them. They come -- it's amazing the things, like the states can come up with that they're doing.

What many of these UN treaty-monitoring bodies are looking for is they want to see the data and
they want to see monitoring and evaluation of programs to actually be able to determine whether or not those different programs are actually meeting the standards and addressing human rights situations. So, yes, documentation is required, and a particular call is for disaggregated data that looks at men and women, Métis, First Nation, Inuit, on-Reserve, off-Reserve, sexuality, ability; all these different sorts of aspects so that there’s a way to better judge the information and claims that are being put forward.

MR. STUART WUTTKE: And you’re aware of the child welfare case that people have been talking about?

MS. BRENDA GUNN: At a general level, yes.

MR. STUART WUTTKE: Okay. If I were to suggest that in that case what really turned the matter was the fact that Canada was forced to disclose a lot of documentation regarding how the child welfare program was head up; highly prejudicial documents and that’s what carried the day. Would you agree with that?

MS. BRENDA GUNN: I have no knowledge; sorry. But I will say, again, if there is data that is provided that support claims that -- you know, at least at the international level, that’s what we’re looking for is data that identifies the meeting or violation of rights.

MR. STUART WUTTKE: So AFN is of the opinion
that this Inquiry should subpoena -- use its subpoena powers to compel the production of documents from federal and provincial governments. Would you agree with this recommendation?

**MS. BRENDA GUNN:** I don’t disagree with it, but I’m not sure in that sort of general sense.

Again, my recommendation yesterday was the need to ensure that there is data and that you need, at some point, once you develop the human rights framework, what are the standards you need to then be able to judge actions against -- determine what Canada is doing or not doing against those standards.

And so in a very general sense that, yes, documentation that indicates that Canada’s actions or failure to act, I would assume, would support that work. And I’m not sure if that needs to happen through a subpoena or what those documents are, but I guess in a very generalized sense.

**MR. STUART WUTTKE:** You mentioned statistics. One of the issues we have with statistics, especially with police forces, in Canada anyways, there’s no obligation for them to keep statistics on their interaction with various groups. And as a result of that there is no data being collected. Would you agree with a recommendation that perhaps police forces, education
entities should be required, through legislation, to be begin collecting those -- that data?

MS. BRENDA GUNN: Yeah, and -- I would agree with it and I would say that has been one of the resoundingly large calls from all international human rights bodies, for Canada to collect better data. And I’m not a numbers person or a statistician; in fact, I’m not even sure if I can say the word, but I think what I’m hearing or at least how I understand the calls for disaggregated data is that sometimes Canada will say, “15 percent of Indigenous peoples this,” and they don’t want that sort of formulated or worked over -- I need a math person to help me, that sort of worked over number. They want that raw data that can then be used to analyze, not already analyzed information that sometimes goes into creating the statistic.

Does that make sense? Sorry.

MR. STUART WUTTKE: It does.

Now, I’d like to move on to your discussion on the difference between conventions and declarations. I was wondering if you can provide more information regarding the difference between how declaration and conventions are ratified and implemented in Canada and what this means in practice?

MS. BRENDA GUNN: Sure. So a convention is
a treaty that requires the state to take specific actions
to sign on. So it requires any state to take a positive,
explicit step to become a party to. And then, as I said,
our technical rule for reception into domestic law, in
order for that treaty to apply then in domestic law
technically requires Canada to pass enabling legislation
that brings that international law into effect.

And a declaration, those are harder to speak
of in generalization because they come in all different
sorts of ways. So if I assume correctly the greatest
reference or concern might be the U.N. Declaration on the
Rights of Indigenous Peoples. So I’ll speak to that one.

That’s a resolution of the General Assembly,
the highest deliberative body of the U.N. As Dalee has
mentioned, that’s an instrument that took approximately 30
years to negotiate from the first NGO conference to the
final Resolution. After Resolution, the General Assembly,
I think Dalee you had said eight? The count now is at
least eight instances where the General Assembly has
referenced the Declaration. So it’s not just an instrument
that was sort of passed one day and then moved on. It’s an
instrument that has continued to garner a lot of
international attention. And in that sense, many have
argued that its normative value is exceedingly high as it’s
one of the only international instruments that speak
specifically to Indigenous people’s human rights.

And so when we think about how that applies in Canada, if we take the common approach of the courts of not looking at the technical character; is it a treaty? Is it a declaration? Has it been implemented? But looking at the normative value of the instrument and how that can influence our domestic law, there are many that would argue, and I agree with, that the U.N. Declaration is a highly persuasive, representing broad normative values, including in many aspects, customary international law. And so it has been argued, and I have argued, that it has very strong relevance and effect in Canada.

MR. STUART WUTTKE: Okay, thank you.

Moving on to the U.N. Declaration, keeping in mind that provinces may need to be involved considering the jurisdictions that they have authority over, considering that the U.N. Declaration really deals with what we would call in the Constitution an “Indianness,” would the federal government be able to enact the -- or, you know, implement the legislation under Section 91(24) as it relates to the “Indianness” aspect of their federal head of power?

MS. BRENDA GUNN: I guess my answer is, in a very general sense, yes. I think the federal government does have jurisdiction to implement the U.N. Declaration,
particularly as it relates specifically to Indigenous people’s rights, that it would fall under 91(24). But part of me feels that pragmatically the involvement of the provinces is probably important for the operationalization of the rights, given the fact that many of the rights deal with lands and resources. And I think Jean Leclaire was saying this yesterday, that much of the land in Canada is legally categorized as provincial Crown lands and so -- and if it’s the provinces that are giving the resource development licences, that even if the federal government could pass legislation, the involvement of provinces would assist in ensuring that the issuing of resource development licences is occurring with the full -- or is not happening without the full participation of Indigenous peoples.

**MR. STUART WUTTKE:** Thank you. With respect to UNDRIP, you mentioned yesterday that the category of being a peoples under UNDRIP is similar to that of the U.N. Declaration on the Rights of Peoples -- or the Universal Declaration on Human Rights; is that correct?

**MS. BRENDA GUNN:** I believe that I was saying that Indigenous peoples are peoples and have the same rights to self-determination as all peoples, and that -- and I think Dalee said this as well that the phrasing of Article 3 in the U.N. Declaration is virtually an exact mirror of Article -- Common Article 1 of the International
Covenant on Civil and Political Rights and the International Covenant on Economic, Social, and Cultural Rights. The main difference is it’s not all peoples have a right to self-determination in the U.N. Declaration, it’s Indigenous people. So that’s the swap.

So the point that I was making was that Indigenous people have the same right to self-determination as all peoples. It may -- the implementation and the exercise of that right may look different but it can’t be limited in a way that other people’s rights can’t be limited.

**MR. STUART WUTTKE:** Now, were you here for the panel that was before this panel?

**MS. BRENDA GUNN:** I only got here Tuesday afternoon and I saw a few of the last, and a little snippet online here and there on Monday of some of the presentations.

**MR. STUART WUTTKE:** You may not be able to answer this question but a couple of days ago one of the experts gave an opinion that, essentially, you know, heaven forbid we get self-government that self-government somehow would be negative. Would you agree with that statement?

**MS. BRENDA GUNN:** I think my opinion that I stated yesterday, which I think goes to the concerns I had understood that were raised yesterday and that have been
raised in the literature and by various organizations over the least 20 years, is that exercise of self-government, of Indigenous peoples’ self-government must still ensure that there are protections for Indigenous women. And so, I have no opinion on whether or not the Charter should apply. I think that’s for individual nations to determine.

But, I am of the opinion that as Indigenous peoples exercise their right to self-government that they should be upheld to international human rights standards, including those in the U.N. Declaration. So, I don’t see self-government as inherently bad or good, but thinking about how is it operationalized and what protections need to exist so that all peoples benefit equally from that exercise?

MR. STUART WUTTKE: Now, would you agree that the right to self-government should not be suspended until a future time, that it should be exercised as soon as possible by Indigenous peoples?

MS. BRENDA GUNN: I’m going to keep working around your questions. They’re very direct and I’m going to dance around them. My apologies.

I think the position that I’ve been trying to put forward is addressing what I see as a fairly long-standing debate, Indigenous women’s rights first, or self-government and then we deal with the Indigenous rights? My
position has been that all of these rights are necessary. So, I’m not opposed or in promotion of self-government or holding it back, but the -- I think my baseline is that we need to move together to realize all of the rights and their inter-dependence.

And so, I think self-government that isn’t addressing other issues of Indigenous peoples, men and women, two-spirited, trans-gendered, et cetera, all those protections need to be in place, and the conditions that lead to marginalization need to be addressed at the same time, and it needs to be part of a larger strategic plan to realize all of the fundamental human rights.

**MR. STUART WUTTKE:** Okay. With respect to some of those issues you were talking about with respect to protection of equality rights, but even Indigenous world view, spirituality, respect for the environment, all of that is attainable under UNDRIP, would you agree with that?

**MS. BRENDA GUNN:** Yes, I think so. I think that’s what it’s setting out to do.

**MR. STUART WUTTKE:** All right. Now, you mentioned that human rights discourse really started to become an issue or were really brought to fruition after the Second World War, considering all the abuses that occurred. It was also during this time, essentially after World War II, that other peoples around the world started
ending their foreign rule and subjugation and exercising the right to self-government. Would you agree with that statement?

MS. BRENDA GUNN: Are you referring to the decolonization process in Africa and some of those processes?

MR. STUART WUTTKE: Yes.

MS. BRENDA GUNN: I must admit, I’m terrible with dates. I know there was a large portion, but I’m not sure when it started, but there was definitely increased awareness, and I think the Universal Declaration of Human Rights speaks to some of those issues that are surrounded, and I think Dalee may have a better answer ---

MR. STUART WUTTKE: Sure.

MS. BRENDA GUNN: --- on that one than myself. I’m not sure if you can phrase it in another way, but I don’t think I can...

MR. STUART WUTTKE: Perhaps, Dalee, do you want me to...

MS. DALEE SAMBO DOROUGH: Just very quickly, and more of a footnote to the discussion, yes, the decolonization process, in fact, Alaska was listed in one of the listings of non-self-governing territories. So, Article 1, paragraph 3, related to non-self-governing territories is relevant to the discussion, and if you had
asked that direct question to me, my answer would be, yes, that’s how one could characterize the important need for all peoples to exercise the right of self-determination, including those in areas that experience colonization.

MR. STUART WUTTKE: Just to pick up on that as well, could you sort of explain to the panel what subjugation and domination, or foreign domination, would entail in the international sense?

MS. DALEE SAMBO DOROUGH: I suppose probably in the most elementary terms, the answer is colonization, and those elements of subjugation, domination and exploitation are captured in the broader concept of colonization. So, subjugating persons to foreign rule, to dictatorial conditions, we could point to any number of circumstances.

Domination, obviously, with regard to total and complete imposition of powers by others over other peoples. Exploitation, of which we still see today. I think, in fact, actually, in my intervention yesterday, I indicated that these forms of colonial violence linger in different ways, but exploitation of peoples for certain purposes. And, indeed, this is one reason why the ILO Convention No. 107 was put in place, because Indigenous peoples, as labourers, as forced slaves, were being exploited. That’s one example. And, the assimilation
orientation of the original ILO Convention No. 107 was one of the reasons why it was revised and emerged as Convention No. 169 in 1989.

**MR. STUART WUTTKE:** Thank you. Ms. Gunn, yesterday, you were asked about a national action plan, and Commissioner Audette asked you a question regarding the action plan. But, given the reality that the implementation of a national action plan requires political will, how would you suggest that we can ensure the national plans are meaningfully monitored, evaluated in the long term and beyond political mandates?

**MS. BRENDA GUNN:** Yes. Again, I’d just say that this is a tough question. I think part of the answer -- again, I would just point to Bill 262, and one of the aspects that I appreciate about that is the inclusion of periodic reporting. And so, a national action plan should have timeframes that, of course, are flexible, but the development and implementation process included should have timeframes that are set out.

I think the will to implement them increases where all parties are involved in their design. And so, while difficult, I believe that a national action plan that, you know, the government is buying into from the beginning has a greater chance of being implemented; right? So, I do think that the goal of a national action plan is
for all stakeholders, including governments, to be involved in that process, and to buy in and agree with the plan, and that such a plan is one that’s likely to -- is more likely, I guess, to be put into place.

But, I think the best safeguards that I can think of, at least at the top of my head to date, is having that periodic reporting and contingencies that exist; right? So, that they’re developed with the idea of -- one of my colleagues in another context said we should be developing legislation, not for the government we have, but for a hostile government; right? So, that these plans shouldn’t be developed just with the idea that we have a government that’s interested in addressing the issue, but sort of build in some of those contingences, and to think about how to ensure that it continues to have on. And, I think, again, there’s a strong role for grassroots people, once that plan is in place, to keep the pressure on to make sure the governments are upholding it, and that people know that it exists and that commitments were made.

MR. STUART WUTTKE: All right. Thank you.

I just have a couple more questions on the international aspect, and I’ll ask Dalee the last few questions on this topic, anyways. Going back to the subjugation type of framework, would you agree that under those colonial regimes, that horrible human rights abuses have occurred,
and particularly against women in those societies?

   MS. DALEE SAMBO DOROUGH: Yes, I would agree
with that statement. And we have also seen in numerous
different contexts that have been of concern to the United
Nations, and in particular, for example, armed conflict and
other forms of violence.

   MR. STUART WUTTKE: Okay. And just building
on that theme, in fact, the condition that many Indigenous
women face today are similar to what people were
encountered in those colonized areas as well; is that
correct?

   MS. DALEE SAMBO DOROUGH: I think it's safe
to say, as a general response, that -- and we still see
these forms of violence taking place in other areas of
violence that -- so, generally speaking, yes.

   MR. STUART WUTTKE: And would you also agree
that state being complacent or enabling the preying on
Indigenous women, for instance in Canada, is a tactic that
was used in the past to subjugate populations?

   MS. DALEE SAMBO DOROUGH: Again, very
generally speaking, and if you look at and review those who
have chronicled the history of contact between settlers or
colonizers and Indigenous peoples, whether it was in
relation to actual armed conflict between Indigenous
peoples and settlers, yes.
And I think that there are probably numerous recordings of this type of activity and I'm certain there must be a pool of scholars that have done work in this particular area as well.

**MR. STUART WUTTKE:** And I have one more question for you. You talked about these camps, mining camps or other industry camps are located in northern areas, would you say primarily the people working in those camps are non-Indigenous?

**MS. DALEE SAMBO DOROUGH:** Yes, I would say absolutely yes. And I can speak from direct firsthand experience. For example, anyone who, even to this day, takes an Alaskan Airlines flight to the north will see a good number -- in fact, actually, they have dedicated flights for North Slope workers.

I know for a fact also in Ontario there are direct flights out of Kitchener/Waterloo to mining communities in the north where, you know, there are nearby Indigenous communities, but what has sprung up around them are smaller work camps and communities that are certainly a majority of non-Indigenous employees and other supervisors and workers.

**MR. STUART WUTTKE:** All right. Thank you.

I'm going to move on to Mr. O'Soup. And once again, thank you for your -- the evidence you gave the
other day. I found it to be very enlightening and you're doing a lot of good work in that province.

I'll start off on CFS. You mentioned yesterday that 90 per cent of the children in care in Saskatchewan are Indigenous; is that correct?

MR. COREY O'SOUP: I think the estimates go as high as 90 per cent. They can be as low as 70. I think the problem with that is data collection and, you know, we rely on self-identification most of the time. And there are a lot of instances where our people do not want to self-identify. And I think that skews the data a lot.

And, you know, historically, data collection has been used to negatively impact our people and in negative ways, so there's lots of instances where, you know, that data can be translated in different ways. So we like to say between 70 and 90.

MR. STUART WUTTKE: Okay. Thank you.

And with respect to children being put into protective care, do you agree that a negligent or neglect, I should say, and abuse are the two main categories where children are put into care?

MR. COREY O'SOUP: I think those are two of them. I wouldn't say they were the main, but I think they're right up there, for sure.

MR. STUART WUTTKE: Okay. And with respect
to neglect, the criteria would be inability to feed your child, inability to clothe your child, provide adequate housing, provide an education?

**MR. COREY O'SOUP:** Keep them safe and protected. Yeah, the list goes on and on, yes.

**MR. STUART WUTTKE:** So, okay, thank you. And really, in your view, would these types of factors be related to poverty?

**MR. COREY O'SOUP:** Yes, those are definitely things that are related to poverty.

**MR. STUART WUTTKE:** So would you also agree that a lot of First Nation or First Nation children are being removed from their communities because of -- basically out of their loving families because of, you know, poverty issues?

**MR. COREY O'SOUP:** Yeah, I would say that I would agree with that statement.

**MR. STUART WUTTKE:** Have you -- you talked yesterday about the child welfare case, have you read the decisions?

**MR. COREY O'SOUP:** Which one specifically?

**MR. STUART WUTTKE:** The main one from 2016, October 2016?

**MR. COREY O'SOUP:** The -- sorry, you have to be more specific.
MR. STUART WUTTKE: Well, there are a number of compliance decisions ---

MR. COREY O'SOUP: Oh, the Human Rights Tribunal?

MR. STUART WUTTKE: Yeah, the Human Rights Tribunal, yeah.

MR. COREY O'SOUP: I haven't read them intimately, but I am aware of them, yes.

MR. STUART WUTTKE: All right. Thank you.

Now we talked about funding yesterday and a lot of children in care. The child welfare case really dealt with a perverse incentive as far as funding, meaning that children -- CFS agencies were basically funded on the number of kids they brought to care, and they were underfunded for that. And would you agree with that?

MR. COREY O'SOUP: Yes.

MR. STUART WUTTKE: And in order for the agency to get more money, they would have to apprehend more kids.

MR. COREY O'SOUP: Yes.

MR. STUART WUTTKE: So that really created the perverse incentive.

MR. COREY O'SOUP: You know, it's a challenge that we have; right? I mean, unfortunately, sometimes taking children away from their homes is a
business; right? And like you just mentioned, taking away children from their homes is a way to make money.

And, you know, I think we need to flip that. I think we need to invest in prevention and solutions so that we can find ways to stop taking away our children. And, you know, once we invest in those children in other ways such as education and health, you will find that the economic impacts in the future by investing in those children will far outweigh the benefits of the small business of taking them away and putting them in other places.

MR. STUART WUTTKE: I agree. And under the provincial legislation, least disruptive measures or prevention is to be utilised first and apprehension's a last resort; is that correct?

MR. COREY O'SOUP: Yes.

MR. STUART WUTTKE: But the opposite is this in First Nations where they're required to apprehend before they can provide any services; is that correct?

MR. COREY O'SOUP: No, I think that there are prevention services available before apprehension, but that does happen.

MR. STUART WUTTKE: Now with respect to the issue of neglect, would you agree that neglect is often seen through a Eurocentric view?
MR. COREY O'SOUP: I think we definitely have different viewpoints when it comes to the way that Indigenous people raise our children and youth compared to the western viewpoint, which is why I think that we need to definitely consider giving back control of the child welfare system to our Indigenous people so that we can -- I don't want to say impose, but we can use the way that we were brought up moreso than the western way that we've been, you know, kind of forced to fit into their box.

MR. STUART WUTTKE: I agree. And, for instance, taking a child on the land to hunt and to learn the natural environment and traditional ways is valued by First Nation communities, not so much by eastern teachers; is that correct?

MR. COREY O'SOUP: Yeah. I think that's changing as well though, but, yes, we definitely value it more as an educational experience than, say, a field trip. You know, and for us, I mean, we use that to teach many different things to our young people. You know, hunting, fishing, trapping, going out, gathering berries, I mean, there's so many different lessons that we can teach our children through that.

And I think that we need to get back to that more and I -- you know, I've been a part of the provincial education system too and there are pockets of, I guess, you
know, rays of light out there that are starting to realise
the value of that. But for sure, we definitely value it
more in our Indigenous world.

MR. STUART WUTTKE: And with respect to when
a child is removed from the home, typically they're taken
out of the community, put in a non-Native foster homes.
There are some First Nation foster homes. But when a child
is taken out of the community would you agree that, you
know, they lose their identity, they lose aspects of their
language, their culture, the attachment to the community?

MR. COREY O'SOUP: Yes. You know, I believe
we need to get back to a place, and we need to be at a
place where the first place that we look to, you know, make
sure our children are safe. And I'm not saying that they
should never be removed because there are definitely
instances where our children need to be removed and put in
safer, protected places, but we need to start looking more
within our own community so that our children and youth can
grow up surrounded by their own people, by their own
practices, by their own language, by their own culture. We
need to start looking at kinship, as well, as a place of
placement, you know, because I do believe that far too many
of our children initially are being taken away, and then
when they are, I believe we need to find more ways to keep
them at home.
MR. STUART WUTTKE: Thank you. And I'm running out of time so I'm going to move on to education. This might be a very long question.

MR. COREY O'SOUP: How much time have you got? We can go -- I mean, it's ---

MR. COREY O'SOUP: Oh, wow.

MR. STUART WUTTKE: So you mentioned that the average graduation rate for Indigenous peoples is about 43 percent in Saskatchewan.

MR. COREY O'SOUP: Yes.

MR. STUART WUTTKE: Now, with respect to education, would you also agree that education's also rolled out in a very Eurocentric type lens?

MR. COREY O'SOUP: The education system is still based a classroom setting with a teacher at the front of the room, kids sitting in desks being lectured to. Again, it is changing, but I don't think it's changing fast enough. And if you can measure it by the success of our students in that system, you can tell that it doesn't work for us and that the system needs to change to meet the needs of our kids.

For far too long, I believe that we've blamed our families, we've blamed our children as not being smart enough, as not being ready to learn, as being too poor, as coming into the classroom with all of these
different issues. And our system has said, well, when they're ready to learn then we'll teach them.

But as we know that from no fault of their own, our children enter into our learning facilities not always ready to learn. Sometimes they might be hungry because they haven't eaten for a couple of days. Sometimes they may not have slept because, you know, maybe they played videogames all night and there was no parent there, or maybe their parent was there and, you know, they just weren't there.

And the kids, you know, from no fault of their own, come into our school systems in those types of situations. And in the way that we would have said before is, you know what, you need to have them fed, you need to have them sleeping and ready to learn.

But I believe that, you know, if our children are hungry when they come into our schools, we need to feed them. If they've been up all night for no fault of their own, we need to let them put their heads down on their desk and maybe catch a few Z's. Because they can't learn if they're hungry, they can't learn if they're tired, and we need to adapt to meet their needs.

MR. STUART WUTTKE: All right. Thank you. That's probably going to be the last question. But one of the questions I do have, and I think
all parents with children in school can relate to stories.

I remember one of my kids had this assignment where he had to put pins on the flag of the world where his parents came from. So he put one in Manitoba where I'm from and put one in my wife's tribe in California. And the teacher said, you can't put them there. Nobody was here before -- I mean, nobody came from here. So he put them in different countries.

How do we deal with that type of ignorance of educators when they really don't understand the history of Canada, history of First Nations people, treaties, the Indian residential schools, Sixties Scoops, all the abuses that occurred? How do we -- how would you recommend we begin to address and overcome that?

**MR. COREY O'SOUP:** Well, you know, I think for us reaching the younger generation, definitely, I've said it before, it needs to be in our curriculum. We're doing a better job of that, but it needs to be there more.

I think that when it comes to the older generation, and I -- by older, I mean over 18, so I think you're all included in that older generation, I didn't want to offend anyone. But there are different ways that we can do that, you know, and that's through public education; right.

We had a challenging situation in
Saskatchewan just a few months ago with one of our ministers. You know, she felt like treaty education was too infused and that we needed to un-infuse it and put it in a box in a single class, you know.

And the uproar was pretty significant, you know. And I like to take pride in the fact that our people stood up and we made some noise, and that our allies stood up. Non-Indigenous people as well stood up for us.

So I think we need to search out those allies, I think we need to do a better job of public education. I think we need to do a better job as Indigenous people of engaging in conversations with non-Indigenous people.

And I was taught one time about this continuum. You know, we have this -- a continuum and there's seven stages in this continuum. And say on this side of the continuum you have people that are fully aware, fully knowledgeable of Indigenous people, and then over here, you have the most racist people that you can find. And I think sometimes we try and move these people all the way from, you know, Stage 1 in this continuum, all the way to Stage 7 in one conversation.

But what we'd like to do and what I was taught is that, you know, we just to move these people from Stage 1 to maybe halfway through Stage 1, then into
Stage 2, and you know, we need to see, and we need to bring them along in that way. So if they're in Stage 5, let's take them to Stage 6. We need to recognize that people are the way they are because that's the way they were brought up to be, and it's not easy for them to change as well.

So if we can recognize and figure out where they might be on the continuum and have a conversation with them that way that's not necessarily confrontational, but just recognizes who they are, where they are, and that that's the way that they were brought up as well.

MR. STUART WUTTKE: All right. Those are all my questions. Thank you very much.

MS. CHRISTA BIG CANOE: Thank you, Mr. Wuttke.

Commission counsel is welcoming or inviting Treaty Alliance of Northern Ontario to come up, and they have 20 minutes.

CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR

MS. ORDYNIEC:

MS. KRYSTYN ORDYNIEC: (Speaking native language). I am Krystyn Ordyniec for Treaty Alliance of Northern Ontario.

First, I would like to acknowledge the sacred items in the room. The grandmothers for keeping us strong, and the traditional territory of the Huron-Wendat.
Treaty Alliance is made up of Grand Council Treaty 3 in Nishnawbe Aski Nation, which is 77 communities in Northern Ontario and Eastern Manitoba.

Today, I have also with me the Deputy Grand Chief of Nishnawbe Aski Nation, Deputy Grand Chief Anna Betty Achneepineskum.

I would like to first start by asking Professor Gunn some questions. And Professor Gunn, I'm going to move away from the academic for a minute.

**MS. BRENDA GUNN:** I'll try to go with you.

(LAUGHTER/RIRES)

**MS. KRYSTYN ORDYNIEC:** There are communities in Northern Ontario and Eastern Manitoba that have lived under boil water advisories for decades. They lack adequate housing, running water, electricity, and there are virtually non-existent health services. They're living with human rights atrocities on a daily basis, but at the same time, they're mourning loss of loved ones. And they were ones that really advocated for this Inquiry to happen, and they're - they are wondering what is happening at these expert hearings.

So I'm going to ask how you would help to meaningfully describe to these communities, to these First Nation people, whose human rights are violated every day, what it actually means to apply an international human
rights framework to this Inquiry?

**MS. BRENDA GUNN:** Thank you for the question. I guess I tried to do that yesterday when I described it, and I'm not sure if your question implies, and understandably so, that I was not successful in ---

**MS. KRYSTYN ORDYNIEC:** No, it doesn't ---

**MS. BRENDA GUNN:** --- explaining it an -- no. But it's fair enough. I am an academic.

But I think -- and this relates to -- I think, Commissioner Audette's question was along the same lines; right? That -- this is the challenge, and I -- sorry. I think I'm -- just as my brain gets tired I'm taking longer paths to get to questions.

Is that, you know, I was -- years ago, about 10 years ago, I was doing training to provincial -- one of the provincial territorial organizations on the UN Declaration. And I got about -- and I had been invited, and I got about two minutes into my presentation before a chief stopped me. And it was like, "What are you talking about? Like these are the crisis that we're dealing with on a daily basis, you know. You're talking about this UN stuff."

And so I understand, and I appreciate that it feels like there is a disconnect between sort of what sometimes we speak about and is this actually going to
clean the water; right? And I guess my only response or my
best response that I can provide is that, one, I think by
using international human rights law we are able to speak
of these issues of the -- I think you mentioned -- boil
water advisory, housing and health services as violations
of fundamental human rights that impact security of the
person, the right to life for peoples. But also then, the
flip side of that is that it also allows us to speak of a
legal obligation that Canada has to address these issues.

And so, while all countries have multiple
pressures on their resources, when we think of the right to
clean and accessible drinking water when we think about the
right to a safe and adequate house, when we think about the
right to healthcare, which would include access to our
traditional medicines, it means that governments are
obligated to spend -- under the one convention, to spend
the maximum available resources to realize those rights.

So, for me, it’s about putting this in a
framework of government has to address these matters. It
can’t be the boil water advisories or housing. It can be
the issue that keeps falling off the budget; right? We
can’t just keep running out of money. If the money doesn’t
stretch that far, this means, as a legal obligation, it has
to move higher up; right? The budget has to be there for
the progressive realization of the rights.
I think the second point that I was trying to think about yesterday is I recognize the disconnect between potentially the individual lived experiences and the systemic changes that I’m trying to push forward that I think the human-rights-based approach addresses. And so, I do think that the system is broken and that all of the issues that you raised are symptoms of a broken system. And, while we can try to fix each of these, you know, every time the boil water advisory comes up, we can try to fix the system or create a sanitation system, but it’s all part of a larger broken system.

And so, part of the energies that I am dedicating is to see if I can fix that system to address these, sort of, symptoms that are very real and very lived. And so, in that way, I’m playing a longer-term game, but hoping that governments will also take steps immediately to start addressing these issues.

**MS. KRYSTYN ORDYNIEC:** Thank you. And, in no way did I mean to suggest that you didn’t do a good job yesterday, and I appreciate your answer, and I know that it’s difficult, so thank you very much for that.

The next questions are going to be directed to Mr. O’Soup. You mentioned and spoke in detail with Ms. Fraser when you were conducting research with the youth in regard to the suicides, that you attended in the
communities multiple times. We heard that today; correct?

**MR. COREY O'SOUP:** Yes.

**MS. KRYSTYN ORDYNIEC:** And, just applying what you learned throughout that process, how do you think that this particular National Inquiry should proceed with its work in terms of travelling to the remote communities, both now and on a future basis, to make sure to understand those unique perspectives of the northern communities?

**MR. COREY O'SOUP:** Well, you know, I mean, I’m challenged to give them advice because I don’t understand the full scope and the ability and the finances and all of that behind what they have to do. You know, even myself, you know, over that year, I was not able to personally attend to every session. I was in, you know, a lot of them but not all of them. So, I think that has to be recognized, that I did have staff that did attend to every session and met with all of the children and youth, you know? So, that made it, I guess, more -- made me more able to do it that way, you know?

But, I do believe that our children and youth need to have their voices heard, you know, and it’s not always easy for them to come to a place like this, even. I’m sitting on a stage like this with the lights, and the cameras, and all of these lawyers and people here in their faces, it’s not an easy place for them to sit and
for us to ask those difficult questions.

You need to be able to build a relationship with them. You need to be able to, you know, coax those answers that you’re looking for out of them, and that can only be done, you know, in a place where they feel safe and protected and, you know, where they feel comfortable. This is not a place that they would feel comfortable in doing that.

That’s why we had to go to them, you know? And, it wasn’t always me personally. So, there’s ways that we can do it, you know, and I think those ways are acceptable. So, you know, I think for me, that’s what we have to consider, is that, you know, our children are not adults. They’re not professionals. They’re not, you know, people that are used to this type of environment, and especially if they’re in a remote and northern community. You know, we’ve had stories where kids have never even gone into a restaurant and ordered food, you know? Those are the types of barriers that our kids face.

There’s places in our northern communities, they don’t even have banks or restaurants or different things like that. So, for them to come here, they don’t have hotels, you know? Everything would be a challenge for them. And then on top of that, we ask them these difficult questions, you know?
So, I think we need to make an environment and create an environment where they are able to be at their best, and to be able to engage at their best, and I don’t know if this would be the best environment for them to do that.

**MS. KRYSTYN ORDYNIEC:** Thank you.

Yesterday, you spoke in your testimony both about lack of mental health resources as well as the criminal justice system, and I’m just interested in hearing your thoughts as related to the intersection of these two and what you’re seeing in your community and in Saskatchewan.

**MR. COREY O'SOUP:** Yes. You know, they have a lot to do with each other, right? You know? And, a lot of times, we criminalize our young people because of mental health issues. And, if we can properly diagnose, and if we can properly treat these mental health issues earlier on, and if we can, you know, find out what it is, and if we know exactly what we’re dealing with, then we can give these kids the best start, you know? And then they won’t end up in our criminal justice system because they had behaviour problems or because they had a disorder that could have been treated with counselling or with medication; right? And, instead, we criminalize them for having a mental health issue.

We don’t criminalize people for breaking
their leg or for having a heart attack. These are the same
types of things; right? They’re just, you know, health
issues of the mind and of the brain, you know? And, even
in our northern communities, the access to diagnose, to
treat, to educate is not there, you know? And, that takes
dollars. That takes targeted funding. You know, we’ve
used the words “distinct measures”, “special measures”.
That’s what it’s going to take for us to really get at the
heart and the root of our problems in the area of mental
health.

You know, and then our justice system takes
them, and we don’t necessarily always treat what the issue
is with them. Yes, they receive those supports and those
services once they’re in there, but they’re criminalized
already, and now that follows them wherever they go. So, I
think we need to really take a good examination of that
system and how they do intersect.

**MS. KRYSTYN ORDYNIEC:** Thank you. Yesterday
-- two days ago, sorry, I had asked the panel, and you
spoke about when an Indigenous youth ages out of the child
welfare system, and you mentioned that there were -- you
feel like they are unsupported during those times. What
would some of your recommendations be in order to address
that gap?

**MR. COREY O'SOUP:** I think we need to,
particularly in Saskatchewan, we need to redefine the age of a child. Right now, it’s 16. So, a lot of the services drop off at the age of 16. We need to raise that to the age of 18. I couldn’t speak specifically for all of the provinces across Canada. A lot of our services, we do extend to age 21. We have suggested legislatively that those services go to the age of 24 so that those transition pieces are there so that we can support our kids as they look to further their education, as they look to become contributing members of their society.

So, I think we need to look at those types of measures, you know, because those kids fall through the cracks a lot of the times; right? And, those are the ones that end up in our systems. Those are the ones that end up, you know, in an inquiry like this, and I think that we need to provide better supports because as a parent, I mentioned this yesterday, my daughter just turned 18. I didn’t kick her out the door and not provide her with any supports or any services. In fact, she’s still living at home. I’m still feeding her. I’m still providing for her. I’m still giving her shelter. I’m still supporting her as she goes on to university next year.

You know, I’m supporting her in every step of the way of her life, and I didn’t just cut it off at the age of 18. I believe if governments are going to take our
children, and they're going to take responsibility for
them, they need to follow that up and not just cut them off
as soon as they turn 18.

**MS. KRYSTYN ORDYNIEC:** Thank you very much.

And, I have just one last question. As an educator, how do
we ensure that young family members of those who were lost
to violence and are the subject of this inquiry are
protected from future trauma, especially in remote northern
communities when the information, as you identified,
doesn't always get to them or they see something on social
media.

**MR. COREY O'SOUP:** I think that's a
responsibility of us, as adults. I think sometimes we
expect and we push things on governments to do our job as
parents, as adults, as aunties and uncles, as kokums and
moshums. I think that we -- you know, sometimes we say,
well, if the government gives me this or this or this, then
I can do this. But I think when it comes into those
places, especially in our northern and remote communities,
the answers are within our communities.

You know, the answers aren't going to come
from me in Saskatoon. They're not going to come from
Ottawa or Quebec City. We need to go into our communities
and we need to search for the answers there, because I
believe the answers are there. They lie within our family
systems. They lie within our elders. They lie within our communities. And if we can take that responsibility back, I believe that we can make a difference in our communities. And I believe the job of government is to support us as we take those systems back and as we take those roles back, you know. And that's what I believe that we should be doing.

**MS. KRYSTYN ORDYNIEC:** Thank you very much.

My last question will be for Dr. Sambo Dorough. Yesterday you spoke of the value and necessity of desegregated data. And I wonder if you could just touch on that a little bit further, and especially in the context of the application of certain legislation that may have certain -- well, not may have, it's a legacy of sex-based discrimination in certain legislation.

**MS. DALEE SAMBO DOROUGH:** I think that -- first acknowledge that Brenda Gunn referred to the need for desegregated data. Indigenous peoples have made this intervention on numerous occasions within in particular the special mandates in relation to nearly everything. Because across the globe, and I would expect here in Canada as well, there isn't sufficient desegregated data so that we can even establish the baseline as to the status and conditions of Indigenous peoples in Canada, whether it is to health, to housing, et cetera. And more often than not,
we're finding NGOs and others to provide that information, if you set aside the issue of self-identification, because that is an individual right to determine your own identity, and your willingness to share that information.

In relation to this particular issue, the subject of the Inquiry, Indigenous women and girls, I think that it would be extremely helpful if a mechanisms could be put into place to look at all the status and the conditions of the rights affirmed in the various different international instruments and give us at least a baseline as to where things stand. And if issues such as discrimination, violence -- it would be a complex system but on a community-by-community basis I do think that it is possible to allow for the appropriate agencies at the national level and at the local level.

And also, to piggyback on the comment that Corey made, for communities themselves to begin such -- or at least put the -- a little meat on the bones as far as the opportunity to track this kind of information. It's a difficult task and it takes someone with skill to do so, but we've seen Indigenous communities elsewhere develop that. I mean, the social and health determinants, for example, of ITK is one example.

**MS. KRYSTYN ORDYNIEC:** Thank you very much.

And with that I would just like to say
Miigwich to the experts, to the Commissioners and also to the parties who have shared their knowledge today. Thank you.

MS CHRISTA BIG CANOE: Thank you.

Next, Commission Counsel would like to invite the Advocate for Children and Youth of Saskatchewan up, Mr. Gregory Walen. He will have 20 minutes.

CROSS-EXAMINATION BY/CONTRE INTERROGATOIRE PAR MR. GREGORY WALEN:

MR. GREGORY WALEN: Thank you.

Commissioners, members of the panel, my name is Greg Walen. I am counsel to the ---

MS. CHRISTA BIG CANOE: We don't have volume yet.

CHIEF COMMISSIONER BULLER: We need to stop the clock.

First of all, on the motion of Registrar, we're making the following order, just a brief housekeeping matter.

MS. CHRISTA BIG CANOE: Okay.

CHIEF COMMISSIONER BULLER: That it's an order to redact all personal identifiers on CVs that have been filed as exhibits.

Thank you. My apologies, Mr. Walen.

MR. GREGORY WALEN: That's fine. That's
fine.

I appear on behalf of the Advocate for Children and Youth for the Province of Saskatchewan, who just happens to be an individual that I will be cross-examining. And I'm in a ---

(LAUGHTER/RISES)

MR. GREGORY WALEN: --- relatively unique position in that regard. I do realise that Rule 45 of the protocol suggest that I'm to restrict my cross-examination in a -- to non-traumatising questions, so I'll attempt to stick to that.

I will be, of course, addressing Mr. Corey O'Soup directly and I have no questions for the remainder of the panel, so you can relax.

(LAUGHTER/RISES)

MR. COREY O'SOUP: I think you should.

MR. GREGORY WALEN: Yes. Mr. O'Soup, in -- you filed 15 recommendations in Exhibit 12 during your examination in-Chief and I wanted to reference. Do you have that in front of you by any chance?

MR. COREY O'SOUP: Yes, I do.

MR. GREGORY WALEN: Great. I'd like to reference, first of all, recommendation number 12. You state in recommendation number 12 -- and I'll just read it out,
"To create a statutory National Children's Commissioner, independent from the Government of Canada, but accountable to the Parliament, with particular emphasis on Indigenous children and youth and the national dimension of the work on programs, evaluations and outcomes." (As read)

Is that correct?

MR. COREY O'SOUP: Yes, that's correct.

MR. GREGORY WALEN: Okay. Would you agree that -- I believe your testimony was yesterday that currently all provinces and territories, with the exception of Prince Edward Island and the Northwest Territories, have a sort of a children's advocate in one form or another?

MR. COREY O'SOUP: Yes, they all do.

MR. GREGORY WALEN: Some are independent of the government, like your office.

MR. COREY O'SOUP: I believe they're all independent.

MR. GREGORY WALEN: They're all independent?

MR. COREY O'SOUP: Yes.

MR. GREGORY WALEN: Okay. To what extent, if any at all, would gaps be filled in by a National Children's Commissioner in terms of -- why aren't the
provinces able to cover off all the things that you want them to cover off?

MR. COREY O'SOUP: You know, there's a number of challenges and we all do have varying degrees of legislation. Like, for instance, in Saskatchewan I think I've given testimony as to our responsibilities, then our legislation allows us to look into places like social services, which covers child welfare and places like that, education, health, justice and corrections. That would not be the same for every province and territory. I think we need some sort of standards when it comes to that and a National Commissioner could bring those standards.

But I think for the purposes of the National Inquiry, I believe that the biggest thing that this would bring for us would be a Commissioner that can attend to the needs of our Indigenous children and youth. I believe that even in Saskatchewan and even being an Indigenous person and even taking the steps that I've taken, my ability to -- I guess to look into the lives of children and youth, particularly Indigenous children and youth, is challenged by my legislation.

I believe if we empowered a national Commissioner, and I believe that person -- and I said this yesterday as well -- should be Indigenous, would be able to, with proper legislation and proper support, be able to
go onto our First Nations and work with our First Nations and work with our Métis people in a way that we cannot. Because there are many national issues that I believe should be addressed that we are limited at our Canadian Council of Children and Youth Advocates because of our varying legislations and because of the fact that we have 12 or 11 different people sitting at the table as well. So I think there are opportunities, like even on the issue of youth suicide, Indigenous youth suicide. It's not just a northern Saskatchewan Indigenous youth issue. It's actually a national issue. And it's something that we should be talking about nationally and we need a national youth voice on this issue. And the only way that we're going to be able to do that is if we are able to bring all of those youth and bring their voice together in one form or another. And I believe that, you know, I'm doing that work in Saskatchewan but I can't go do that work in other provinces or territories.

**MR. GREGORY WALEN:** You would agree with me that advocates offices across Canada, the ones that do exist, for the most part are independent, but they are relegated to simply investigating, reporting and advocating on behalf of children and youth; is that correct?

**MR. COREY O'SOUP:** Yes.

**MR. GREGORY WALEN:** They have no power of
sanction against the government or any government agencies, would that be correct?

**MR. COREY O'SOUP:** Yes. I think that’s one of the challenges that we face, you know, because we do investigate, we do make recommendations, but our recommendations are non-binding, and we have to use different ways to influence and hope and make those decisions and those recommendations come to fruition. You know, we hold regular meetings with our ministries, and they are standing items, those recommendations, but still, at the end of the day, they can choose to ignore them if they want. Of course, we go to public opinion, we go to the media, and we use that as a tool to hold our governments to account.

But, if a national commissioner was ever appointed, I believe they would need those powers to go beyond just making recommendations, because that’s the same situation we’re in right now. And, you know, if we don’t give this national commissioner those powers of sanction or those powers to make binding recommendations, then, you know, I don’t think we’re any better off than we are right now.

**MR. GREGORY WALEN:** Thank you. You spent some time yesterday and, indeed, in cross-examination today talking about the Shhh...LISTEN!! report, and youth
Indigenous suicide in the north, the north half of Saskatchewan. This is an inquiry into murdered and missing Indigenous women and girls. What’s the connect?

**MR. COREY O'SOUP:** I believe there’s a direct correlation to the things that the young girls brought up to us in this report. You know, I mentioned the six themes earlier. Those are all themes that directly correlate to our young girls going missing and being murdered. You know, themes of bullying and cyber bullying, that directly relates to our young girls running away from their homes, running away from their foster homes, running away from those care placements. You know, drugs and alcohol, those are all things that are contributors to, you know, what’s happening in our report.

And, you know, I believe that those are forms of violence; right? And, that directly correlates to, I would say, Article 19 within the UNCRC and, of course, Article 22 within UNDRIP. And, you know, in order for us to protect our young girls from those forms of violence, we need to hear what they have to say, and we have to react to that, and that’s what this report does for us. It brings out all of those situations, all of those reasons why, and they also give us solutions, right? And, I think that’s even more important than the reasons why, because I think we have a general understanding as, you
know, the Canadian public as to why, but we haven’t always been able to get those solutions from our young people, and I think that’s really important.

MR. GREGORY WALEN: Thank you. We heard yesterday from other members of the panel that international treaties have the same legal obligation, the same legal obligations exist for the Government of Canada as if it was a law, essentially. Did you -- would you agree that the obligations, et cetera, as set forth in the United Nations Convention on the Rights of a Child should also impose those same legal obligations on the Government of Canada?

MR. COREY O'SOUP: You know, I think unless we actually do that, we are still in the same position of advocating, of lobbying, of hoping, you know, that they will do the right thing until they actually become whatever the term within the legal ---

MR. GREGORY WALEN: Legal obligations.

MR. COREY O'SOUP: With a legal obligation, yes.

MR. GREGORY WALEN: Thank you. You reference in Recommendation 14, and I’ll just read Recommendation 14 out for the record, “That the Federal Government adopt all necessary measures to ensure the full inclusion of the optional protocol to the United Nations
Convention on the Rights of Children, on the sale of children, child prostitution, child pornography into its domestic legal system.”

Why did you recommend that?

MR. COREY O'SOUP: Well, you know, this optional protocol has been, I’ll say, mostly accepted by Canada, but there are some provisions in there that I believe directly influence the way that we deal with our young Indigenous women and girls. You know, particularly, they mention that girl children, to use the language, are disproportionately, I guess -- disproportionately over represented in sexual exploitation in the world and in Canada in general.

And, you know, we have these things in place to protect our children. So, you know, I think we need to fully adopt that here in Canada, and some of the concerns that I have with that is it is data collection, again. You know, we don’t know, and if we don’t know, then how can we make properly informed decisions on how to react, how to implement, how to legislate, how to lobby?

The other piece here is the public is not fully aware of that. So, we need to have public awareness campaigns. It’s not fully budgeted for, you know. And, one of the other things in there that concerns me probably the most and why I think that Canada needs to fully adopt
and ratify this optional protocol is because with all of the protections that we have in place, it’s still not illegal to sell a child here in Canada.

MR. GREGORY WALEN: Thank you. I have no further questions. That wasn’t so bad.

MS. CHRISTA BIG CANOE: Thank you, Mr. Walen. Commission counsel will now call upon the last party with standing to be cross-examining today, and that will be West Coast LEAF, I believe, Raji Mangat. And, Ms. Mangat has 20 minutes.

MS. RAJI MANGAT: Thank you.

MS. CHRISTA BIG CANOE: She actually hasn’t started yet, so can you reset, please?

CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR MS. RAJI MANGAT:

MS. RAJI MANGAT: Good afternoon. As Ms. Big Canoe said, my name is Raji Mangat. I’m here representing West Coast LEAF, a non-profit organization working in B.C. on gender equality. I’d like to echo the thanks offered by others to all who have come together for these four days of learning.

As with the other time I got to cross-examine, many of the topics I wanted to cover with the witnesses have already been done so very ably by my friends. So, I’m going to primarily be directing my
questions to Mr. O’Soup, and I apologize in advance if I jump all over the place. I’m trying to avoid duplicative questions, but I might not be perfect in doing so.

So, when you were giving your presentation, Mr. O’Soup, you spoke about the barriers to breaking these cycles, the cycles that seem to perpetuate cycles around poverty and violence. One of the barriers that we’ve been discussing with you over the past day and a half is this crisis level of Indigenous children in child protection. And, you know, when we’re saying the low end of the estimated range is 70 percent, to me, that’s a crisis.

MR. COREY O’SOUP: That’s more than a crisis.

MS. RAJI MANGAT: More than a crisis.

Exactly.

MR. COREY O’SOUP: It’s something we should definitely be looking at. And, you know, we’re actually not the worst. Somebody said a race to the bottom. You know, I think Manitoba actually has reports that it’s 90 percent that they can verify. So, you know, we’re beyond the crisis level.

MS. RAJI MANGAT: It’s an epidemic.

MR. COREY O’SOUP: Yes.

MS. RAJI MANGAT: Yes. And so, one of the things you talked about when you were discussing the U.N.
Convention on the Rights of the Child is a right of children to be raised by their parents when it’s safe to do so.

MR. COREY O'SOUP: Yes.

MS. RAJI MANGAT: I’m not super familiar with that convention. And so, I was wondering if you would be able to talk a little bit more about that right?

MR. COREY O'SOUP: Yes. I think for us and for the convention, I think that they needed to identify the best place, the most secure place, the most loving place, the most caring place for our children and our youth is with their families, you know? And, I think that’s why it was explicitly put in there. I’m not like the doctor here. I wasn’t a part of the writing of the convention like she was of UNDRIP, but my understanding is that the best place for our children and youth is to be surrounded by their family, by those that love them, by those that trust them, by those that have their best interest at hand.

You know, of course, that’s not always -- you know, unfortunately, it’s not always the case with our young people. You know, we do deal with cases where the family have been a part of the problem, you know? But, in those cases, it’s not always, you know, the immediate family. If it is, there are extended family that we can look to, you know, to take our children into their homes,
and to love them and care for them. I believe those are the places that we need to go to first, you know? And, within our communities, within our First Nation communities, within our Metis communities, within our Inuit communities, we need to look there first. And I think often we do not go there first, or you know, our people are disqualified for simple things that, you know, that they shouldn’t be, right? And then that’s something that takes our kids away from their homes, you know? And we can put them in these loving, caring environments.

**MS. RAJI MANGAT:** Absolutely. And so that would be like, kinship careers ---

**MR. COREY O’SOUP:** Kinship care, yeah.

**MS. RAJI MANGAT:** --- I guess, is what you’re talking about.

**MR. COREY O’SOUP:** I believe I mentioned that. That is, you know, for me that’s the best place for our kids, if it’s safe to do so.

**MS. RAJI MANGAT:** So just sort of stepping back a little bit, could you describe briefly what the legal process is in Saskatchewan where a determination has been made about an Indigenous child needing to be removed from her home? Where does she go? What happens? Just very briefly. I’m not sure everyone -- I’m -- in fact lots of people, I think, don’t know how these systems work in
our law.

MR. COREY O’SOUPT: Yeah. Well, for us it’s the Ministry of Social Services that does that and makes that determination. And the complaints can come from anywhere really, you know. Like, someone can see a child in a grocery store being yelled at or whatever, or you know, it happens all too often in our hospitals, you know? Children are taken away at birth for no reason. But I believe that, you know, the process is a challenge to me, right? Because we are imposing, I guess, western ideals, on our Indigenous Peoples once again. And we aren’t using, and we’re not asking our First Nation and our Metis People to be a part of that situation and a part of that system.

So you know, anybody can call. Ministry of Social Services opens up a file. They go and the do an investigation. They knock on the door. They could show up at any time, and if they determine that that child is not safe for whatever reason that they deem, then they can remove that child. And once that happens, you have a file open on you pretty much forever. And you are always kind of on their radar, and then in order to get your children back, it’s not an easy process either, you know? And that’s a difficult one too. So you know, the legalities of it lie within our Social Services Ministry.

MS. RAJI MANGAT: That very much aligns with
the experience that I’ve heard from Indigenous families in B.C. Often no reason is provided, or at least not in any kind of reasonable period of time. And so that level of uncertainty and that scariness of having somebody come into your home, not tell you why they’re removing your child, it sounds like that’s something that’s being experienced across jurisdictions. Is that your -- is that what you’ve heard from your counterparts in other provinces?

MR. COREY O’SOUP: We haven’t really gone into that discussion very deeply, so ---

MS. RAJI MANGAT: Okay. Fair enough.

MR. COREY O’SOUP: Yeah.

MS. RAJI MANGAT: So do you think that there is any difference in the way that standards are applied when -- or interpreted, when it comes to removing a child, an Indigenous child from her home, versus, you know, maybe from like, where there have been concerns around harm to that child in foster care? Like, is there -- is the -- does the system approach that child and that child’s circumstance in the same way when it’s coming from her Indigenous home, versus, she’s in foster care and there’s some concerns about her treatment in foster care?

MR. COREY O’SOUP: I would say anecdotally, I would have concerns about that. We do have policies and procedures in place to protect our kids, but sometimes
those policies are flawed, you know, and we’re dealing with human beings and their own personal judgement. So I would say that I’m hoping that that’s not the case, but I can’t say 100 percent that it is the case -- that they’re not being treated differently.

**MS. RAJI MANGAT:** Right. That there aren’t

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**MR. COREY O’SOUP:** Yes.

**MS. RAJI MANGAT:** --- let’s say, kind of racist attitudes, or stereotypes, and gendered ideas about Indigenous women for instance, that apply in one context that perhaps don’t apply in the other?

**MR. COREY O’SOUP:** Yes.

**MS. RAJI MANGAT:** Okay. Thank you. In B.C.’s legislation -- and I’m not going to go deep into B.C.’s legislation because I know that’s -- you’re coming from Saskatchewan. But I wanted to know if -- in B.C. there is a responsibility to provide supports to parents to be able to parent their children. So I think this might be that least restrictive means kind of concept you were talking about. Is that something similar in Saskatchewan’s legislation?

**MR. COREY O’SOUP:** Yes. We provide supports, yeah.

**MS. RAJI MANGAT:** Okay. So the -- so what
I’ve heard from some women is that because you -- as you said, there is this idea that once that Ministry opens the file it can be very difficult to disentangle yourself from that Ministry, or from the various social workers and other people that are part of that apparatus. So I’ve actually heard from Indigenous women in B.C. that they have a lot of fear, even when they recognize that they might need supports for themselves to parent, and there is this obligation in the legislation to provide that support.

There is a fear on their part that the supports won’t be offered, the child will just be removed, and is that something that you’ve heard about or come across in your work as Saskatchewan’s advocate?

MR. COREY O’SOUPI: I feel like I’m getting a little close to -- to individual cases and --

MS. RAJI MANGAT: Okay.

MR. COREY O’SOUPI: --- to respecting the confidentiality and the anonymity of our families and our children and youth there.

MS. RAJI MANGAT: Fair enough and I’m sorry I ---

MR. COREY O’SOUPI: No, no. That’s okay.

MS. RAJI MANGAT: --- certainly didn’t intend to go that way.

MR. COREY O’SOUPI: No.
MS. RAJI MANGAT: Okay. Well, you had said, I think it was yesterday, you said something, and I’ll paraphrase. That we asked our Indigenous schools to do the same thing as what the public school system is offering with less funding and then we blame those schools for not succeeding. Would you draw a parallel with the child protection system, or child welfare system? Similarly, that we -- you know, for these delegated Aboriginal agencies we are maybe setting them up to fail? We are putting a lot of obligations but not resourcing properly.

MR. COREY O’SOUP: I would say that that’s -- if Cindy Blackstock was here, she could give you the 10-year fight that she went through. And that’s where I would point to, is the fight that Cindy went through for the last 10 years to get equality of funding for our children and the child welfare system on reserve. So I believe that that is the case when it comes to child welfare, similar to education.

MS. RAJI MANGAT: M’hm. So you would draw that parallel, absolutely.

MR. COREY O’SOUP: I would draw that parallel, yes.

MS. RAJI MANGAT: Okay. Yesterday and earlier today we talked a little bit about the best interests of the child as a standard. Not only -- like, we
know that this is a domestic standard, but in the
Convention on the Rights of the Child it’s an international
standard as well. You’re familiar with it. I’m ---

MR. COREY O’SOUPO: Yes.

MS. RAJI MANGAT: --- very familiar. And
your -- you understand that that standard, best interest of
the child, is a primary consideration in all actions
concerning children, including actions of child welfare
agencies?

MR. COREY O’SOUPO: M’hm.

MS. RAJI MANGAT: And do you find that that
best interests of the child is being used as this guiding
principle in Saskatchewan, in your experience, when it’s
relating to child welfare hearings?

MR. COREY O’SOUPO: You know, it is in our
policies, it’s part of our Act actually, the best interests
of the child within Saskatchewan. So it’s something that
we are well aware of and something that we hold our
government to account to, particularly our Ministry of
Social Services. But I think if I can reflect back to the
numbers, you know, I think the numbers tell the story more
than I could tell the story. You know, if we were truly, I
guess, adopting, and adapting, and receiving that best
interests, we wouldn’t have 70 to 90 percent of our kids,
our Indigenous kids, in care, right?
So you know, I would take it back to that number. Even though it’s in policy and even though we say it. I think if we look at the numbers and we look at the number of kids that have been taken away and the number of them that are Indigenous, I think that tells a different story.

**MS. RAJI MANGAT:** Right.

**MR. COREY O’SOUPE:** Yeah.

**MS. RAJI MANGAT:** And I’d ask this question a few days ago and what I’d like -- what I’m trying to do is kind of like, this idea of what’s in a child’s best interest with what’s in the best interest or -- how do you frame that around, sort of, who are the carers in that child’s life? And that you can’t really divorce, in my view, best interest from the context in which they’re being actualized or would be actualized. So would you agree with me or with the proposition that the best interests of children are inextricably linked to the lived experiences of the caregivers in their lives, like their mothers, their grandmothers, their aunties, the various people in their circle of caring?

**MR. COREY O’SOUPE:** I would say in general I agree, but I think we need to apply some of the other articles, you know, like the non-discrimination, the right to life and survival and the right to thrive and the right
to have voice knowing -- if all of those foundational
principles from the UNCRC are being applied in those
situations with their mothers and their grandmothers, then
I think that would be -- yes, then I could agree with that.

MS. RAJI MANGAT: Okay. Do you know if
Indigenous youth in Saskatchewan are primarily cared for by
female caregivers? Like, whether that's moms or other
female caregivers, like kinship carers?

MR. COREY O'SOUP: Oh, I'm trying to think
of the numbers. I don't think I would ---

MS. RAJI MANGAT: Okay.

MR. COREY O'SOUP: --- be able to answer
that question.

MS. RAJI MANGAT: Okay. Fair enough.

So I think that might be everything with
you.

And I just have a couple of -- I noticed I
just have about five minutes and I have a few sort of I
guess sort of housekeepingey [sic] things that I'd like to
kind of get onto the record. And I'd like to do that by
directing my inquiry to you, Professor Gunn.

You should have been provided with a copy of
a five-page document called Violence Against Indigenous
Women and Girls in Canada, Review of Reports and
Recommendations.
MS. BRENDA GUNN: Yes, I have it.

MS. RAJI MANGAT: And I understand that this document was emailed around to counsel for the parties withstanding. And I have a couple of copies if we need.

MS. CHRISTA BIG CANOE: So the violence ---

MS. RAJI MANGAT: Yes, that's right.

So I think I'm right in that that was provided to all parties, withstandings, counsel, as well as to the Commissioners, and to the witness.

MS. CHRISTA BIG CANOE: And there's no objection, so I'm assuming it's applied -- implied consent.

MS. RAJI MANGAT: Okay. Fantastic.

So just taking a look at this document, Professor Gunn, it says on the first page this was prepared by Pippa Feinstein and Meghan Pearce, dated February 26, 2015?

MS. BRENDA GUNN: Yes.

MS. RAJI MANGAT: Are you familiar with this work or this document?

MS. BRENDA GUNN: In a very general sense. I was able to review it briefly the other evening and I'm generally aware of the work, the Legal Strategy Coalition.

MS. RAJI MANGAT: Okay. Well, I'm not proposing to ask any questions. I simply wanted to sort of establish the document on the record and hope to have it
marked as an exhibit, if that's okay.

    MS. CHRISTA BIG CANOE: If I might, I don't think there's going to be a need to mark it as an exhibit. And the -- and we can stop the time in case she has more questions. Our interim report points specifically to the research we've undertaken, which is actually to utilise the Legal Strategy Coalition's original report. And we actually, through our research team, have included not just the 40 in this but now over 90 of the reports using at least 1 of the same researchers. So our process is informed not only by the Legal Strategy Coalition but it's documented within our interim report.

    So for, you know, reference I think it's helpful, but if you don't actually have a question for the ---

    MS. RAJI MANGAT: No, no, that's ---

    MS. CHRISTA BIG CANOE: --- witness in relation to it, I'm not sure if we need to exhibit it.

    MS. RAJI MANGAT: No, that makes perfect sense to me. Thank you. I was not aware that it had already been incorporated.

    MS. CHRISTA BIG CANOE: Thank you.

    MS. RAJI MANGAT: The other thing I'd like to do and ---

    MS. CHRISTA BIG CANOE: You can start time
again.

MS. RAJI MANGAT: --- again by -- oh.

MS. CHRISTA BIG CANOE: Yeah, we can start time again.

MS. RAJI MANGAT: Just similar sort of thing is earlier counsel for the Native Women's Association of Canada, Ms. Lomax, had asked questions about international human rights instruments around two-spirit and LGBTQ persons, protections from violence and discrimination for those populations. And there was some question around whether there are instruments at the international level dealing with violence and discrimination against those populations.

I know at the time we weren't sure, but I understand from counsel for Nova Scotia, Sean Foreman, he circulated a couple of international human rights documents that do look at protections for two-spirit and LGBTQ people. And I just kind of -- I don't have copies. I'm not proposing to put them in the record.

MS. CHRISTA BIG CANOE: So I'm sorry, but now what you're doing -- we haven't stopped time. I'm not sure if you're getting to a question and I'm trying to -- this is not a formal objection.

MS. RAJI MANGAT: No, that's fine.

MS. CHRISTA BIG CANOE: But another counsel
who has found information that hasn't necessarily been put
to us, even if it's been circulated in this particular
format would not be appropriate because if you're
challenging a question or you want to sort of see, but her
answer to the question ---

MS. RAJI MANGAT: Sure.

MS. CHRISTA BIG CANOE: --- so was asked and
previously answered and her answer was she just couldn't
pinpoint without documents and stuff in front of her.

MS. RAJI MANGAT: M'hm.

MS. CHRISTA BIG CANOE: So if you want to
put the documents in front of her and then she could verify
it. But if not, then you're -- the question's now been
asked and answered to the best of her ability in this
circumstance so.

MS. RAJI MANGAT: Okay. Well, but in the
interest of just kind of having complete information for
the work of the Commissioners I thought I might just read
out the titles of these two documents. Would that be okay
to put on the record?

MS. CHRISTA BIG CANOE: Are you putting it
as a question to one of the experts?

MS. RAJI MANGAT: I can ask her if she's
familiar with them.

MS. CHRISTA BIG CANOE: Thank you.
MS. RAJI MANGAT: Professor Gunn, are you familiar with the 2011 report of the UN High Commissioner for Human Rights to the General Assembly's Human Rights Council? I'm sure there were many 2011 reports, but one that deals particularly with LGBTQ.

MS. CHRISTA BIG CANOE: We'll have a subtitle. Do you have the subtitle or the ---

MS. RAJI MANGAT: I do not have the subtitle.

MS. CHRISTA BIG CANOE: --- the number?

Okay. So ---

MS. RAJI MANGAT: Sorry.

MS. CHRISTA BIG CANOE: Yeah.

MS. BRENDA GUNN: No, I need a UN document number. I'm aware of many ---

MS. RAJI MANGAT: Okay.

MS. BRENDA GUNN: --- 2011 OHCHR ---

MS. RAJI MANGAT: I'm sure.

MS. BRENDA GUNN: --- documents including those produced and that I helped produce for the expert mechanism on the rights of Indigenous people, which I think you're not referring to so.

MS. RAJI MANGAT: No.

MS. BRENDA GUNN: I think given the ---

MS. RAJI MANGAT: Okay.
MS. BRENDA GUNN: --- wealth of work, if we
don't have a UN it's going to be ---

MS. RAJI MANGAT: The second one -- okay,
leaving that one aside -- is a more recent one. It's from
2017 and it's an overview of UN efforts to combat violence
and discrimination against LGBTI peoples. Is that
something that you're familiar with at all or no?

MS. BRENDA GUNN: No, I don't believe that
I've specifically read it or at least in a way that has
been incorporated into my memory.

MS. RAJI MANGAT: Okay. No, that's fine.

Thank you.

And that's my time.

MS. CHRISTA BIG CANOE: Thank you.

Chief Commissioner, Commissioners, it's now
4:20. I'm going to request a 10-minute break at which
point when we return I will be asking.

So I'm going to formally close the cross-

examination now that we've heard all of the parties. So
Rule 38 as it applies to Commissioner and counsel no longer
is in effect. And I'm going to, after our break, invite
the Commissioner's questions. And I anticipate the need to
use my re-examination. So it's usually the same assignment
as any of the parties, so 20 minutes. I'll try not to use
the whole one but thank you.
So if we can take a 10-minute break?

--- Upon recessing at 4:22 p.m./

La séance est suspendue à 16h22

--- Upon resuming at 4:40 a.m./

La séance est reprise à 16h40

**MS. CHRISTA BIG CANOE:** Just for the record

notes before we get going again, the Chief Commissioner has

had to leave. However, there's three presiding

Commissioners. I understand the Chief is undertaking to

review the remaining transcript when it becomes available

and that she's conferred with you in terms of any

outstanding questions.

I see you nodding. I assume that means yes.

Okay. On that basis, if we can recommence.

At this point I would like to offer the Commissioners an

opportunity to ask questions. I just want to make sure we

all have -- does everyone have a device that they need?

Okay. Perfect.

So at this point I would offer the

Commissioners an opportunity to please ask questions.

**QUESTIONS BY/QUESTIONS PAR COMMISSIONER BRIAN EYOLFSON:**

**COMMISSIONER BRIAN EYOLFSON:** Okay. Thank

you very much.

Thank you very much. First of all, I just

want to thank all the panellists for taking the time to
spend with us and help us with your guidance and I just
have a few follow-up questions from some of the evidence
that we heard.

First of all, Professor Leclair, I just
wanted to ask you about a follow-up question about human
rights treaties that must be implemented through domestic
legislation to have full effect. And could you just
comment or clarify on how Canada gets -- potentially gets
provinces on board where there might be reluctance or what
Canada could do if provinces are reluctant and they're not
on the same --- well, I guess Brenda would be more
competent than me to answer, but usually, if you take these
huge treaties for NAFTA, for instance, the federal
government, in order to have its treaty respected by the
provinces in the areas that fall within provincial
jurisdiction will consult with the provinces. So, that’s
basically the way they operate.

When a federation signs a treaty without
being sure that the states within the federation will apply
the treaty, they can use what’s called a federation clause,
meaning that the state only engages its responsibility
within the limits of what it can apply within the state,
and Brenda will correct me if I’m wrong on this. But,
usually, in Canada, they try to seek the cooperation of the
provinces to make sure that they will do their jobs.
COMMISSIONER BRIAN EYOLFSON: Okay, thank you very much. Do you have anything to add, Professor Gunn?

MS. BRENDA GUNN: The only thing I would add is I think part of the question included, what can the federal government do if provinces are reluctant? Did I hear that correctly? Okay. One of the things that some of us are maybe holding out a little bit of hope for now is the renewed, revitalized, return, federal, territorial, provincial human rights meetings. So, there was one in December, I believe, of last year.

So, I would say that, I think, a few of us human rights advocates are hopeful that one of the things that’s going to happen, hopefully, on an ongoing basis is regular meetings between the provinces and territories and federal government to discuss human rights’ standards, and that they may have an agenda to address these things so that if there is reluctance, there is maybe a venue to have these conversations. And, the negotiations that have to happen over, you know, if a province is concerned, what is the concern and what is the hold back? You know, if it’s a monetary issue, you know, how are those things going to be addressed?

COMMISSIONER BRIAN EYOLFSON: Thank you very much. I have a couple of questions. I think these would
probably be best for Dr. Dorough or Professor Gunn. So, more than one witness that we’ve heard from this week has referred to violence against Indigenous women and girls being carried out with impunity. And, I’m wondering in such circumstances if you can comment on the engagement of international human rights instruments in such circumstances with a view to government accountability in Canada?

**MS. DALEE SAMBO DOROUGH:** Brenda, would you like to take it first or...?

**MS. BRENDA GUNN:** I would love if you want to take it.

**MS. DALEE SAMBO DOROUGH:** Okay. The way that I characterized it, again, was in relation to the very public and stunning murder of Rio de Janeiro council woman, and the way that the journalists reported it. And, in regard to this climate of impunity, I think that it is safe to say that if we look at even the history of this Inquiry and the numerous reported cases heaping one upon another suggests that there is a climate of impunity on the part of the member state that acceded to and ratified numerous both direct and indirect international human rights treaties that should serve to protect those Indigenous women and girls that have suffered from this horrific condition which in the context of Indigenous youth and Indigenous children,
as we’ve heard from Corey, has achieved crisis level. We just heard that, but also, epidemic levels.

And, as far as recourse, I think that it’s important to recognize that what we’ve introduced through our various different interventions as expert witnesses, that there are an array of important and very powerful tools that have emerged, and I would urge the Inquiry and also, indeed, all of the various different respective representatives, the parties with standing, and others to pick those tools up and use them in order to change the climate of impunity. I think that the record is clear in this regard.

**Ms. Brenda Gunn:** Thanks. If I may, if I think about the value of engaging human rights in a situation where murdered and missing Indigenous women and girls has been ongoing for such a long period of time, I think as Dalee said, words are powerful, right? And, I think one of the benefits of using international human rights law are some of the words that we can start to use to label this crisis. There fails to be a word, I think, strong enough to describe what we’ve been hearing and experiencing.

But, you know, one of the things that struck me when I was doing the research for the paper was a reference to widespread and systemic instances of enforced
disappearance may be a crime against humanity; right? And, I’m not saying that this has reached that level, and I haven’t done that research, but if research were to indicate that, if we understood what the standard is and to look at Canada’s actions, and particularly, the failure, I think terms like that are powerful.

Enforced disappearances, again, taking things that we think are Latin American problems and realizing that these are the challenges at home, right, that we have to have that mirror and reflect on the actions here. I think that can be really important in helping people come to grips with the situation and to move the Canadian government to act.

The other aspect that I think the human rights lens can be very helpful on is we talk -- sometimes we hear the statistics, and I think people think of 600 or 1,000, or 1,200, or 2,000 or whatever the number is of murdered and missing Indigenous women as 2,000 individual cases. But, I think what the human rights analysis that has existed so far has done is stated the way in which these are part of a systemic problem with the marginalization and -- the social and economic marginalization of Indigenous women.

And then I think the third aspect that can be beneficial is that although these individual cases may
have been perpetrated by individual private actors, that
this may involve Canada’s complicity in the process because
Canada has failed to uphold its standards. So, I think
shifting that focus from individual cases to a systemic
problem that Canada is responsible for can be important
when trying to mobilize responses.

COMMISSIONER BRIAN EYOLFSON: Thank you.
So, I want to thank you for the evidence regarding using a
human rights framework. That’s both substantive and -- an
international framework that’s substantive and
intersectional in analyzing and in formulating the
recommendations that the National Inquiry creates, but I
want to ask more about around our recommendations
ultimately being implemented.

So, you know, given what -- some of the
conversation we’ve had here the last two days about
international human rights standards not necessarily being
incorporated in Canadian domestic law, and I’m thinking in
particular about social and economic rights, so I’m just
wondering if you have any further thoughts or
recommendations in relation to the recommendation that this
Inquiry is ultimately going to come up with, and how those
can ultimately be implemented in terms of, are there
mechanisms? Are we relying on political will? In terms of
your international expertise.
MS. BRENDA GUNN: This is always the struggle, and it's the, I think, hardest question to answer, you know, what can be done? Again, I go back to saying I think the benefit of a human-rights-based approach means that when the recommendations are being made, they're grounded at least to some extent in legal obligations and framing them that way. So these aren't sort of things, oh, Canada should do this or Canada should do this. It's Canada has legal obligations and has failed to uphold fundamental human rights, right, so that the language may— or engaging an international human rights-based approach may engage more mandatory language to recommendations potentially because they are grounding in legal obligations and I don’t know if you have stronger language that leads to more implementation, I'm not sure.

The other thing that I was really struck by and really appreciated was Corey's comments earlier about the different responsibilities, right. And so, you know, part of ensuring obligations or encouraging people to follow through with the recommendations may also be that we think creatively on who's responsible and how to engage all the different parties.

And as part of that, empowering Indigenous women to also be involved in this implementation process, right.
What I'm not sure is super successful is, you know, a stack of recommendations to the governments and then we sort of all walk away but building in, you know, the periodic reporting, having recommendations that the community, including Indigenous women and families of murdered and missing Indigenous women, also believe in that they're going to rally behind, right, so that the people who have been involved in this process and the people who haven't been involved in this process, when they read them, they're going to be like, yeah, this is something that people need to do and they're going to push for them, you know.

And I think we've seen some of that momentum coming out the Truth and Reconciliation Commission's Calls to Action that there's been really large buy-in from different sectors and different ground -- grassroots movements and pushes to begin that process. So I think that helps.

And to use Jean Leclaire's ideas of legitimacy, I also think that when you ground them in human rights, to certain audiences that may give greater legitimacy. To others, it may not, right. I do recognize that sometimes to Indigenous communities, human rights feel like a very foreigner western concept and so whether or not that's alienating or how to bring that in but it may also
give some of that legitimacy to recommendations.

**COMMISSIONER BRIAN EYOLFSOON:** Next, Doctor Dorough.

**DR. DALEE SAMBO DOROUGH:** Thank you very much.

I've said repeatedly that the international human rights standards don't really mean anything in the halls of the United Nations. They're not relevant at the U.N. Headquarters in New York. They're really not relevant in the context of the Centre for Human Rights in Geneva. Where they are relevant is at the national level. Where they are relevant is where the human rights violations are taking place.

So I think that in terms of the larger, as Jean Leclair said, social enterprise of changing the structural and underlying causes and risks that we can start through taking, for example, the legal system and when there is discrimination, call it discrimination. Don't let anything sit for a moment longer. I mean we know. We know it when we see it.

As individuals, we know it, we see it. You know, think about the person on the bus when he sees discriminatory act being taken by someone and to stand up and say, you know, I'm watching you. This is unacceptable and intolerable behaviour.
So as governments, in particular those responsible for gaining the resources, whether they're subsidized by the federal government or the taxes of the provincial level, supposedly in favour of the people through social contract, the policing of that system that is consistent with the basic and fundamental principles of human rights of non-discrimination, equality and so forth, but I think also even moreover that the actions taken by these various different institutions, as I said previously, from the investigators to the public defenders, the prosecutors, everybody throughout the system that this is one area where some change can happen in very practical terms that are consistent with the international human rights standards. So you compound that with the obligations and, again, very, very practical measures out there and on the ground.

I'll just share quickly, in Alaska, we had difficulties with our land claims agreement, the recognition of tribal governments and federally recognized Indian tribes. And some of this work emerged from Thomas Berger who the Inuit Circumpolar Council managed to secure as an independent commissioner of what was referred to then as the Alaska Native Review Commission.

His report is entitled "Village Journey: The Report of the Alaska Native Review Commission". He
captured the voices of Indigenous peoples in regard to the problems and impacts of our land claims agreement in Chapter 7.

So the empowerment of people out there and on the ground was one thing but it took -- it took engagement with the state government, the equivalent of provincial or territorial governments here, to really start that dialogue at the local level and then eventually at the national level.

And one of the important things that came out of all of this work was what was referred to as the Millennium Accord wherein our state government sat down with tribal governments or the First Nations' equivalent in Alaska and every agency within the state government had to engage in dialogue with their corresponding peers within tribal governments.

And in particular, Division of Family and Youth Services had to sit down with those responsible for implementing the Indian Child Welfare Act as a tribal government and to begin this dialogue about, okay, how do we make sure -- as Corey cited, how do we make sure we're not losing children from our communities that get captured in the system and can have great difficulty in being returned.

And this was just a very practical step of
people talking to their counterparts as far as -- as far as
government is concerned. And I think that the U.N.
declaration and other international human rights
instruments can offer these important guidelines for
engaging in that type of discussion at the grassroots level
and where people are being victimized the most.

MS. CHRISTA BIG CANOE: Sorry to interrupt
your questions. I'm going to ask or request if there's any
further questions for Monsieur Leclair as he will have to
depart and I'm going to ask if you can excuse him from any
questions. So first if you have questions and direct them
into if you can.

COMMISSIONER BRIAN EYOLFSON: Okay. So I'm
finished with my questions. So I'll pass the mic onto my
colleagues.

QUESTIONS BY/QUESTIONS PAR LA COMMISSAIRE MICHÈLE AUDETTE :

COMMISSAIRE MICHÈLE AUDETTE: Parce que
c'est très bref. C'est pour tout le monde.

Brièvement, un gros, gros merci, Monsieur
Leclair, avant que vous repreniez la route-là pour
Montréal.

Ma première question je vais la retracer
parce que je l'ai écrit en français. Croyez-vous que le
Canada... et ça s'applique pour tous les panelistes en
avant-là, les experts... que le Canada... ou avez-vous
l'impression ou avez-vous des preuves que le Canada... je vais le dire dans mes mots, o.k.

Est-ce que le Canada reconnaît que les causes profondes que les femmes vivent là au niveau de la violence sont reliées à la violation de leurs droits économiques, sociaux et culturels?

*Me JEAN LECLAIR:* Je sais pas ce que le Canada, les représentants canadiens en pensent mais quand on regarde les choses, quand on regarde les dizaines de commissions qui sont tenues, quand on regarde plus de 1 000 recommandations je pense ont été faites, je pense que ça crève les yeux qu'il y a un problème très grave qui se manifeste dans les statistiques qu'on a entendues. Et je pense que c'est en utilisant toutes les normes qui sont disponibles, que ce soit des normes de droit international, soit des normes de droit fédéral, provincial, constitutionnel, il faut mobiliser ces normes-là pour exiger du gouvernement qui -- des gouvernements qu'ils prennent les mesures qui sont nécessaires.

*COMMISSAIRE MICHÈLE AUDETTE:* Dans ce cas-là, parce que les travaux de l'enquête, l'analyse de la preuve, le rapport et les recommandations, nous le faisons, et encore une fois je vais le dire dans mes mots, avec une lentille, avec un esprit-là dans lequel les droits de la personne font parties de notre grille d'analyse. Que ce
soit au niveau du genre, de la culture, ça aussi c'est important là dans nos travaux.

Et on remarque avec des internationaux, nationaux ou interaméricains que certaines conventions n’ont pas été ratifiées par le Canada. Et on a entendu quelques fois de la part de différents panelistes que la disparition forcée, l’une des conventions-là qui... est-ce que le Canada devrait ratifier cette convention-là... bien y en a deux-là, une internationale pour la protection de toute personne contre les disparitions forcées, est-ce que le Canada devrait la ratifier?

Me JEAN LECLAIR: Vous me demandez ça à moi?

COMMISSAIRE MICHÈLE AUDETTE: Oui.

Me JEAN LECLAIR: Bien, c'est sûr que...

COMMISSAIRE MICHÈLE AUDETTE: Pour que les gens vous entendent à travers le Canada.

Me JEAN LECLAIR: Je pense que oui. Je crois que... mais comment répondre à ça? Comment... la réponse, c'est oui, pour ça ; la question, c'est de savoir pourquoi ces conventions-là, même si elles sont signées, elles ne sont pas nécessairement un grand changement. C'est plutôt ça, la question qui est colossale.

COMMISSAIRE MICHÈLE AUDETTE : Oui. Ça, c’était la sous-question.

Me JEAN LECLAIR : Oui. Écoutez, je suis
juste un juriste, je ne suis pas donc, je m’en tiens à mon expertise pour répondre à une question comme celle-là. C’est sûr que quand on regarde la construction de l’État canadien, il s’est construit sur le dos des peuples autochtones. Je pense qu’il y a des efforts sincères de réconciliation qui se font. Je pense que la Cour suprême, dans la limite de ce que peuvent faire des juges non élus dans une démocratie constitutionnelle, tente de transformer les choses. Je pense que la Cour suprême - je n’ai pas le temps d’élaborer, mais je pense qu’elle sert la vis toujours un peu plus. Mais c’est une institution humaine, c’est une institution qui ne remettra jamais en question la souveraineté de l’État canadien, c’est clair. Donc, les tribunaux judiciaires sont limités dans l’étendue de ce qu’ils peuvent accomplir - ce sont des outils. Et je vous donne la réponse de Jean Leclair l’être humain aussi bien que le juriste : je pense que le travail de cette commission-là, mon espoir, c’est qu’elle contribue, enfin, à ce que les mentalités se transforment. En même temps, je me dis que le droit relatif, même aux autochtones, n’était même pas enseigné il y a 15 ans d’une manière systématique dans les universités. J’ai eu 180 étudiants cette année ; 75 % d’entre eux sont des femmes. Il faut voir l’espoir là où il se trouve.

COMMISSAIRE MICHELE AUDETTE : Vous parlez
d’espoir et c’est là-dessus que je terminerais et j’invite tout le monde à répondre, si vous avez des choses à dire. Moi, je viens d’un milieu très très proche de ma communauté et c’était ça, mon école. Et quand on nous a mandatés, en 2016, un mandat très très vaste, un pays énorme, qu’on appelle maintenant le Canada, avec une diversité culturelle magique, forte et incroyable ou, à certains endroits, plus difficile de maintenir sa culture, sa langue et ses traditions. Et on ne nous a pas demandé d’étudier sur un nombre d’années et des sujets bien précis. On nous a donné un grand mandat.

Et dans ce mandat-là, on nous a aussi donné, ordonné – j’aime la traduction franglaise que je fais, we order you, on nous a mandaté de faire un rapport avec des recommandations faciles ou, je dirais dans mes mots, pratiques. Alors, quand on entend parler des conventions internationales, des pactes, des droits humains, ça peut paraître très loin dans la survie d’une femme, comme ça a été mentionné par certains membres de partis intéressés.

La question est difficile, mais comment on peut faire en sorte, dans nos recommandations, qu’on sente qu’on a pris cette lunette-là, mais qu’on a aussi des recommandations qui vont faire en sorte que le Canada soit imputable?

Me JEAN LECLAIR : Écoutez, je suis bien
honnête, je suis venu ici pour speak in a good way. Je pense qu’il faut... je pense que le droit international qui a été exposé aujourd’hui fait partie de la solution. À la grande échelle, c’est un discours normatif essentiel qui peut servir aussi de levier politique.

Mais en même temps, je répète ce que j’ai dit, il me semble que ce qu’il faut... puis c’est vraiment personnel, ce qui pourrait faire la différence entre cette commission et d’autres, bien humblement, je me dis que s’il était possible de recommander que des initiatives autochtones à petite échelle... parce que le droit international, c’est la très grande échelle. Mais est-ce qu’il n’y a pas des initiatives autochtones à petite échelle qui ont du succès? Ou à moyenne échelle, qui ont du succès? Je pense aux travaux fait par Cory, avec l’aide, même, du gouvernement. Essayer de trouver, dans ces succès-là, même si ce ne sont pas des succès nationaux, ça peut être des succès régionaux, ça peut être des succès locaux, ça peut être des succès de petits villages, de petites communautés, de se servir de ça comme d’un tremplin pour voir qu’est-ce qui pourrait avoir de la légitimité, qu’est-ce qui pourrait fonctionner.

Parce que souvent, je trouve qu’en droit, en fonctionne comme si les êtres humains étaient des surhommes ou des sur-femmes. Il faut fonctionner avec une
anthropologie, je dirais, minimale : les gens sont coincés dans le monde dans lequel ils sont puis que le droit doit tenir compte de cette fragilité-là. Il y en a qui sont capables de faire de grandes choses : vous, plein de gens ici. Mais il y en a d’autres pour qui c’est plus difficile. Alors, il faut que les solutions soient appropriées pour tout le monde.

**MS PENELOPE GUAY:** So, I am sorry...

**Me JEAN LECLAIR:** Je vous remercie beaucoup, puis je m’excuse, c’est pour des raisons personnelles importantes que je dois m’absenter. Merci beaucoup du privilège de m’avoir eu ici.

**COMMISSEIRA MICHELÉ AUDETTE:** Merci.

**MS. CHRISTA BIG CANOE:** So, actually, I know that you are dashing off, M. Leclair, but Pénélope has something small for you.

(PRESENTATION OF GIFT/REMISE DE CADEAU)

**COMMISSIONER QAJAQ ROBINSON:** Mr. Leclair, before you go, I would just like to give Audrey an opportunity to explain the gift wrapped in the floral cloth that has been given to you because this comes with responsibilities, as I’ve been taught.

So I want to give her the opportunity to convey this to you.

**MS. AUDREY GIRARD:** Thank you for being here
and sharing your knowledge, your energy, what we call medicine, too. And what is in there is the white tail feather from a bald eagle, as was shared with me in Edmonton -- Winnipeg; I can’t remember. This is the feather for the warriors.

You have allowed yourself or put yourself to be on the tip of a particular spear and this is -- acknowledge the good that you’ve done, and also to remind you how to take care of yourself and take care of others, not just with the knowledge but also with the energy and the spirit and to acknowledge the work that you’ve already done. So we raise our hands and say haitch’ka (ph).

MS. CHRISTA BIG CANOE: Commissioner Robinson, do you have any questions?

QUESTIONS BY/QUESTIONS PAR COMMISSIONER QAJAQ ROBINSON:

COMMISSIONER QAJAQ ROBINSON: I think you know me well enough by now. I have questions and I have more questions than we have time for but I’ll do my best.

I also have some questions that Chief Commissioner Buller handed to me, and I think I’m going to start with one of hers. And I’ll direct it to you, Professor Gunn, because it’s building off one of your slides, but I think this is also something that I encourage any of the panellists to speak to if you feel that you are compelled.
On your slide that speaks to who is obligated to uphold human rights -- and I’m going to go back again and preface this.

It’s really for me, as we do this work, constantly necessary to connect what we’re learning back to what it means for those living this. So as we talk about obligations, there’s a whole range of people with power around a woman, around an Indigenous woman and child who, by virtue of takin this power, have obligations. So I think it’s really important that we talk about these obligations, what they mean, and who holds them.

At the bottom of your slide you indicate that Indigenous governments hold obligations under international human rights instruments. Can you elaborate on that? What do you mean by Indigenous governments? Particularly in a country where there’s been limited agency or space provided to many Indigenous peoples to structure themselves and to have that space as a government.

**MS. BRENDA GUNN:** Thank you for the question. My decision to include this was related in part to some of the conversation that I heard on Tuesday, and I think came up again here, was concerns about if and when Indigenous peoples exercise the right to self-government, will that process lead to a better outcome for Indigenous woman. And I’m aware in the nineties and earlier there
were conversations about whether or not the Charter of
Rights and Freedoms should apply to Indigenous self-
governance.

And I guess part of my inclusion there is a
belief that particularly in reference to the U.N.
Declaration where Indigenous peoples were the first
drafters of the very first draft, were involved at every
stage of the articulation of the rights, that the rights
that are encapsulated in the U.N. Declaration really
reflect Indigenous people’s own understandings of human
rights. In particular the U.N. Declaration also makes
reference to Indigenous people’s own laws, customs,
traditions, and institutions. And so I do believe that you
know, Indigenous peoples aren’t just rights holders but
where and when we govern ourselves we have the obligation
to uphold those same international human rights standards.

And I would point particularly to the U.N.
Declaration, at a minimum, for example, as one that
Indigenous peoples were involved in negotiating and
identifying the standards and making those connections.
Then, again, I don’t see it as being an imposition but in
reference to Indigenous people’s own laws, ensuring that
decision-making processes are participatory, right? And
that Indigenous women and children and youth are involved
in decision-making processes. I believe this is part of a
real foundational right that exists in international law
and as we continue to govern ourselves and be recognized to
be self-governing, I think these are appropriate standards
to hold ourselves up to.

I’m not sure if the question was also hoping
for me to say, like, you know, Indian Act, chief and
councils, et cetera, but I do think that this Indigenous
governments it was the shortest bullet point on the slide
and it was sort of in some ways the vaguest because I did
mean it in a very vague and general sense, knowing that at
this point in time in Canada Indigenous peoples are self-
governing in various fashions. There’s communities that
still have traditional councils that exist and you know,
the Métis communities in Manitoba at least we’re still --
technically the Manitoba Métis Federation is a corporation,
right? So we’re still under that corporate structure. But
these are standards that I hold -- I do call that my Métis
government and I do hold them to those same standards.

So I mean the term quite broadly but I also
meant to imply it in that sort of ongoing basis of
negotiating for greater recognition of self-governance.
Does that get to the question?

**COMMISSIONER QAJAQ ROBINSON:** It does to a
degree and I guess it goes to this question of what is a
government so -- and, you know, what is self-government.
MS. BRENDA GUNN: And that’s what I’m hedging around.

COMMISSIONER QAJAQ ROBINSON: We could be in school for ---

MS. BRENDA GUNN: Yeah.

COMMISSIONER QAJAQ ROBINSON: We could do this for years.

MS. BRENDA GUNN: but I ---

COMMISSIONER QAJAQ ROBINSON: Dalee, do you have a comment?

MS. BRENDA GUNN: I’ll let Dalee -- I’m sorry.

COMMISSIONER QAJAQ ROBINSON: It looks like you have something to say.

DR. DALEE SAMBO DOROUGH: No, I simply wanted to say that Brenda’s reference to the U.N. Declaration acknowledging and affirming Indigenous practices, customs, institutions, self-government and actions should be taken consistent with those traditions, customs, and practices, including legal traditions. And I know that, Qajaq, you’re familiar with not only rights but responsibilities. If we think about many of our -- we call them Indigenous governments but we know that it’s -- that doesn’t translate, actually. You know, things like the word “sovereignty” and “self-determination,” it doesn’t
translate neatly into Inupiaq or Inuktitut or Siberian Yup’ik language. But we know what it is. We know what it is, we feel it. We work in terms of rights and responsibilities. And I think that, for example, even Nunavut as a public government but a majority Inuit that -- to adopt the U.N. Declaration and to begin implementing it, to some extent, there are areas that are easily translatable.

The other dynamic I wanted to point out is that there has become an emerging practice on the part of Indigenous governments or Indigenous political institutions far and wide, of adopting the -- of formally adopting the U.N. Declaration, translating it into Indigenous languages, and looking at how they can incorporate these things into their own practice and behaviour.

One of the best examples that I have is that the Treble (ph) government in southwest Alaska in Bethel, Yup’ik people, Yup’ik all the way and what they chose to do again in relation to child welfare was to begin the drafting of a new and different Tribal Code. The first source of their Tribal Code to take care of their own children is their knowledge, all of their practices on -- and Corey started to describe this as well -- when a child is orphaned or the practice of the UPIC is the first uncle. So they used their own knowledge.
Then they borrowed the best that there was available at the national level, which at that point in time was the Indian Child Welfare Act.

Then they went to the international level and they looked at the Convention on the Rights of the Child and integrated that into their own UPIC Code and other international human rights instruments that speak to protection of children, and that became their Code. Most of it is oral, completely oral, UPIC, but they did take the effort to translate it into their own language.

And so I think the reference that Brenda made in that particular slide is in likelihood informed by all of these different developments, but also looking at rights and responsibilities within our own community, many of which are not translatable.

COMMISSIONER QAJAQ ROBINSON: And that absolutely goes to the crux of what I’m asking about. You know, in the conventional Euro-Canadian sense, we can look at these international instruments and human rights legislation and say, “Okay, well, they ratified it. They legislated it -- so the feds did -- and then the Province did, and then the Territories did, and their delegated authorities did.”

To connect those dots, it does not go in terms of the -- whom is legally obliged follows that
mechanism that we talked about yesterday.

And am I right to say that this does not automatically then go to Indigenous governments? For example, the Nunatsiavut government has jurisdiction over social, family, youth services through their land claims and self-government agreement. There’s different nuances, mechanisms whereby they are legally bound.

What you have both shared with us is more of responsibility that we have regardless of what the legal mechanism is. Is that a correct way to characterize it?

**MS. BRENDA GUNN:** Yeah, I think so, and particularly, you know, when we start looking beyond those specific instruments, the normative standards really do become clearer, and I think we’re fortunate now because we live in an era where there is the UN Declaration that when we’re speaking of Indigenous People’s rights, we have a really good starting point to figure these things out. So I am talking -- I think you’re right -- more of that normative and beyond that sort of technical.

And at a minimum, I mean, I could have caveat ed it a whole bunch of different ways, but I thought it was worth throwing out there at least as a starting point for conversations that, you know, there are responsibilities of governments, and especially if we’re saying the Canadian government needs to hold this standard
when engaging with us, it’s hard to think about why we wouldn’t hold ourselves to the same standard.

**COMMISSIONER QAJAQ ROBINSON:** And we’ve heard this week about trepidation and fear that women, Indigenous women and children have about the switching of power in that -- in the most simplest sense because it’s the hand of -- it’s the power to switching from one oppressor to another. And we have to acknowledge, and I have to acknowledge, as someone who has heard this directly from families and survivors across the country, that that is the fear. There is huge fear.

Would you think, in terms of as our position it would be a wise recommendation to -- it would be wise for us to recommend to either Indigenous governments, Indigenous political organizations, to engage in what you just described to us of taking those standards and implementing them and upholding them? As a means of -- I think there’s two positive outcomes there, that -- what’s that word -- just sort of this flagrant normative -- how violence has become normal, how this reality has become, you know, just this unspoken just the way life is. The word is lost to me now, but that doesn’t matter.

Do you think that this might be an instrument that can help Indigenous women gain some confidence when it starts looking at who will the service
providers be as self-government becomes actualized as well?

DR. DALEE SAMBO DOROUGH: If I understood you correctly, the new norm, the status quo becomes just we accept this level of violation and insecurity.

I think that in answer to your specific question, my advice and recommendation to you as Commissioners would be to include such a proposal and First Nations, Métis and Inuit, will decide on the basis of self-determination if they want to be responsive.

But I get what you’re saying about the trepidation as well and the fear, and we have examples of that. I think for me anyway, one of the clear examples is greenling government, where the Inuit are a majority, but they’ve taken some steps that are actually in violation of the rights and interests of communities that could be severely and adversely impacted by the decisions that the government has made and undermining the rights of the people who will be most adversely impacted.

So it serves as a warning and also a target about good governance and the principles of good governance that should be practised not only by all the governments and in particular those that ratify or exceed to international human rights instruments, but good governance in the context of Indigenous governments as well, including those where they are majority Inuit.
COMMISSIONER QAJAQ ROBINSON: Thank you.

Yeah, go ahead.

MR. COREY O'SOUP: You know, I was going to -- you know, we’re talking about responsibility, right, and whose responsibility is it? And, you know, I always like to take it right back to the child. Do they know who the United Nations Director General is or whatever it is? Do they know who the Prime Minister is, the Premier? They might know who their Chief-in-Council is, but at the end of the day, I believe responsibility lies for the child first, for the young girl first with those that surround her.

COMMISSIONER QAJAQ ROBINSON: M’hm.

MR. COREY O'SOUP: You know, with their parents, with their caregivers, with their grandmas and their grandpas, right? Because they don’t know -- they don’t understand what the UNCRC is. They don’t understand what UNDRIP is.

So I believe the first level of responsibility doesn’t lie with our governments, and I would say not even with our First Nation and Métis and Inuit governments. I believe the first responsibility lies within our communities, within our families. And that’s what our kids understand. That’s what our young girls understand.

And, you know, we can apply these in our
family lives, you know, the best interests, ensuring our children have a voice, without them even knowing that their rights are being upheld within that family unit or within that community unit.

And I think for me, if I want to take it right back to the granular level where it's going to impact our young girls the most, the people that are going to do that are their family. You know, it might be the Chief, but depending on who that Chief is or who that leader is, they might be the perpetrator.

I had one Elder tell me, you know, that our men need to start being men again. They need to stop doing the things that they're doing to our young girls and they need to start being the leaders and they need to start being men again.

So, you know, if we're taking it to the leadership level, you know, that might even be an issue. I think we need to go even further down on who's responsible, even if they don't understand what those international rights are and that they have. I think that we need to make recommendations and we need to hold our families, our communities, we need to hold our men to account when it comes to these situations.

COMMISSIONER QAJAQ ROBINSON: Thank you. As we talk about -- I mean, one of the big hopes for us as
Commissioners coming out of this week was really fully understanding how a human rights analysis, and how framing recommendations and solutions in this human rights -- and when I say that I include UNDRIP and Indigenous rights. And we’ve -- it’s not just you that has brought this out as something that needs to be the methodology and the approach that’s taken. Setting those benchmarks and standards against which those with responsibilities and those that bear the obligations must be measured up against. There’s been some criticism about applying a straight human rights framework or that which is defined by these instruments, as it arguably could result in a lack of inclusion of Indigenous rights and Indigenous views.

I’m going to try to formulate this as a question, because -- to be fair. Do you see this as being something that we should be cognisant of? Does this human rights lens or analysis -- situational analysis I think, is what it’s been called. By applying just a human rights lens, do you see there being some limitations, and particularly because of that concern that it doesn’t include Indigenous legal frameworks, or Indigenous legal values? And how can we address those limitations? Again, to whomever.

**MS. BRENDA GUNN:** He and I are just going to keep passing the ball back and forth, I think. I guess my
answer is, depending how you do this. I think if you just take the sort of, instruments on sort of the words on the page and just try to use that in an a-contextual approach there is that worry. But I mean, one of the reasons that I have -- am so moved and impassioned about implementing the UN Declaration and using the UN Declaration in connection with broader human rights, is that I really believe that the UN Declaration is grounded in Indigenous Peoples’ own laws. And that when we take general human rights standards and use them to analyse a situation in relation to Indigenous Peoples, you have to bring in those understandings and those Indigenous laws.

And so, I think that concern can exist if it’s not done in an appropriate contextual approach, right? So this is where things like the best interest of the child may look different when we’re talking about Indigenous children. And that’s why the Convention on the Rights of the Children has a general recommendation on Indigenous children that talks about how the general Convention applies specifically in relation to Indigenous Peoples, right? That we look at these things in different ways.

The other thing that I would come back to is part of this foundational aspect, you know, once we say no discrimination, equality, self-determination, foundation, I mean, I would say one of the next foundational principles
in international human rights law is that Indigenous Peoples are involved in the process, right? So I mean, there’s then a responsibility of the Indigenous Peoples who are involved in the process to bring in that perspective and bring in some of that Indigenous law, so that the space is made and that it’s brought.

So I think those are some of the safeguard that could exist to ensure that the human rights based approach doesn’t just perpetuate western European views.

And I would say that I’m very impressed with the ways in which international human rights bodies have begun to understand how general human rights instruments apply in a specific context. And the Committee on the Elimination of Racial Discrimination had a general recommendation that talks about Indigenous People’s rights in relation to racial discrimination. There’s lots of those, sort of, documents that help to start think through how general human rights apply in a specific context.

**MS. DALEE SAMBO DOROUGH:** I’d also like to say that those human rights treaty bodies that were following the developments and the negotiation of the UN Declaration started to actually invoke it, even when it was a draft declaration. And in fact, some of the recourse mechanisms that had been previously utilized by Indigenous Peoples, namely the Inter-American Commission on Human
Rights, the Inter-American Court of Human Rights, invoke
the declaration when it was in its draft form. So it meant
something to these various different institutions. And
this is my way of saying that we have to be mindful of the
objective of the Declaration. That the key and primary
parties and the way that it was drafted was to compel the
UN member states to take into account the distinct cultural
context of Indigenous Peoples, no matter where they were.
And that the -- that was the primary objective.

And so, when you look at -- when you look at
the preamble, for example, of the Declaration, the final
preambular paragraph before Article 1, solemnly proclaims,
the following United Nations Declaration on the Rights of
Indigenous Peoples as a standard of achievement to be
pursued in a spirit of partnership and mutual respect. And
the partnership in this context is between nation states
and Indigenous Peoples’ nations and communities. And I
think that that in addition to how you begin to take the
rights affirmed herein and implement them at ever possible
level, including within Indigenous political institutions,
lends itself to operationalizing these rights.

But again, the most important party and the
most important element is the nation states, as Jean
Leclair said, has -- that have built their nations on the
lands and the territories of Indigenous Peoples.
Especially throughout the Americas, Africa, and Asia. So I think it’s important for us to be mindful about what its real objective happens to be.

COMMISSIONER QAJAQ ROBINSON: Thank you. I’m very mindful of the time, so I don’t want to keep going too much. So I’m going to leave it to two more questions. Two more themes, sorry.

We’ve talked about the enforced disappearance and I think the -- what’s the acronym for that -- sorry. The Convention on the Protection of all persons from enforced disappearance. And this was one that was new to me, so I pulled it up and read what the definition of enforced disappearance was. Brenda, in terms of -- so this is currently not signed by Canada. What value do you believe this instrument would add to the existing legal instruments Canada is a party to? When looking specifically at the issue of violence against Indigenous women and girls.

MS. BRENDA GUNN: A couple things. Yes, Canada is not a party. I did indicate that there is some academic writing that the rule against enforced disappearance is becoming a rule of customary international law, which then if we accept that or that it’s a growing rule of customary international law, the Convention can then be seen to have some normative value and directions
for what it says.

Value -- and I should also reiterate that

I'm not alone in calling for Canada to ratify, that I can't remember all of the different treaty monitoring bodies that have reported, but I think, if I'm correct, both CEDAW and CERD have both called for Canada to ratify this Convention.

So I think it has several values. I mean, Canada has said they're serious about addressing the situation, so why -- and that we are human rights abiding state, so why not become party to a convention that specifically addresses enforced disappearances?

The second thing that I think -- or maybe that was third. I don't know. I can't count anymore. The next one is that the jurisprudence that's coming out of the Committee is useful in that it's fleshing out some really good ideas of what is appropriate and necessary action of the state.

And I'm not sure I can pull up the details but my article provides a few examples where there are enforced disappearances in different countries and sort of -- you know, the Committee found that taking X amount of days to respond was too long; right? So there's some really practical information coming out from the Committee that oversees it.

And, yeah, so I think those are some of the
examples. And I just think that, at least for me, someone who, you know, believes in human rights and wants to see Canada do better, it's really important that if Canada truly says that they're going to start addressing the situation that they exceed to a convention that addresses the issue; right? Like, I just don't understand how someone can say we're committed to addressing the issue but we're not willing to be bound by these international standards that provide protection against this, right, and that set out these obligations.

And so for someone -- in my own mind then I'm thinking of the rule of law. I don't understand how one can old those positions. And so that's why I included it in my proposals.

**DR. DALLEE SAMBO DOROUGH:** I just want to quickly add that I wouldn't be surprised if, in fact, this intersectional perspective that Pragna Patel and others have written about in terms of gender and racial discrimination, that this particular issue arises, especially if you recognise, for example, on the Convention Against Torture, that the UN Special Rapporteur on torture has now been urged to take an anti-torture framework in relation to gender and violence.

And so I think that this is a really important thing to consider in terms of the potential for a
much more expansive role on the part of, for example, Special Rapporteurs ---

**COMMISSIONER QAJAQ ROBINSON:** Okay.

**DR. DALEE SAMBO DOROUGH:** --- who are looking specifically at the issue of violence against women and specifically violence against Indigenous women and girls.

**COMMISSIONER QAJAQ ROBINSON:** So it's really the recourse mechanism that this -- the body overseeing the implementation of this Convention would provide. In addition to the substantive rights they're recognising it's that mechanism that's of value.

**MS. BRENDA GUNN:** Yeah, I think it's a final level. It also then provides a recourse or a body. But I do also just think that some of the conversations that they're having on what the state needs to do, I think for an Inquiry like this that is trying to sort of set out what Canada needs to do, some of the standards that are being set out can be helpful.

**COMMISSIONER QAJAQ ROBINSON:** Thank you.

Do you think that in addition to the issues of disappearances and violence and murders, we also hear a lot about what I will call state violence and denial of rights in relation to children, girls in the child welfare system, youth, female youth in custody, and women in
custody. We're hearing about this huge overrepresentation of women, not only from the families and survivors, but it's coming out in reports from the Office of the Correctional Investigator, Statistics Canada's data is showing this as well and it's an alarming reality.

Is this a Convention -- do you think this Convention will help frame understanding in responding to that issue of women in custody and girls in the care system?

**MS. BRENDA GUNN:** The International Convention on ---

**COMMISSIONER QAJAQ ROBINSON:** Enforced Disappearance.

**MS. BRENDA GUNN:** --- Enforced Disappearances we're thinking of specifically? You know what? I hadn't fully turned my mind to that and how it would apply ---

**COMMISSIONER QAJAQ ROBINSON:** I don't want to ---

**MS. BRENDA GUNN:** --- in those circumstances.

**COMMISSIONER QAJAQ ROBINSON:** --- put you on the spot.

**MS. BRENDA GUNN:** Yeah, I ---

**COMMISSIONER QAJAQ ROBINSON:** It's just sort
of what I'm thinking ---

**MS. BRENDA GUNN:** Sorry, I think at this point in the day I'm not able to think of exactly how except, again, for the interconnectedness of them. I mean, when we're looking at what is causing the enforced disappearances and state complicity, many of the international reports have noted the problem with over-incarceration, the problem with that. I mean, at the International Human Rights arena they are seeing all these issues as being related. So just at that general level I would say yes, but ---

**COMMISSIONER QAJAQ ROBINSON:** Okay.

**MS. BRENDA GUNN:** --- specifics I can't pull up in my head.

**DR. DALEE SAMBO DOROUGH:** I just quickly want to say that I think it's even more elementary than that in terms of just the equal application of the rule of law. If we look at the disparities that exist within -- for example, Indigenous women in custody, so I think that it's, again, even -- yeah, basic and fundamental human right.

**COMMISSIONER QAJAQ ROBINSON:** Yeah, by no means am I suggesting that it's the only instrument.

**DR. DALEE SAMBO DOROUGH:** Right.

**COMMISSIONER QAJAQ ROBINSON:** I'm trying to
understand how as an instrument that Canada isn't a
signatory to it helps supplement the analysis and when
we're looking at the rights and obligations perspectives.

We had an extensive presentation yesterday
from Professor Leclaire on the domestic implementation of
the UN Declaration on the Rights of Indigenous Peoples.
And I'm aware that Inuit Canada Me has developed their own
views on the domestic implementation as well as looking at
Inuit Tapiriit Kanatami has developed their own views on
the domestic implementation, as well as looking at it
through a comprehensive -- implementation through a
comprehensive legislative framework. And that's where
these two documents, Exhibit 28 and 29 were added.

I don't want to get into this too much
because I -- again, it's something that we could speak to
for an incredibly lengthy period of time. But I see that
one of the recommendations, the fourth recommendation
speaks to an Indigenous Human Rights Commission. And I'll
read it,

"This Commission would establish --
would be established consistent with
the UN Paris Principles relating to the
competence and responsibilities as well
as status of such a national
institution and those core fundamental
-- those core function would be to
promote and protect Indigenous rights
and ensure the harmonization of
national legislation."  (As read)

We also heard about sort of this type of
idea from Tim ---

**MS. CHRISTA BIG CANOE:** Argetsinger.

**COMMISSIONER QAJAQ ROBINSON:** ---

Argetsinger. When you know people by their first names
it's -- anyway, on our first day. I was hoping, Dalee, if
you want to speak a little bit more on that recommendation?
And first, you've played a role in the drafting of this
position or you've been advising ITK on this position, as I
understand it. Could you expand a little bit on what you
see the value and necessity of this Commission?

**DR. DALEE SAMBO DOROUGH:** Quickly, the first
thing that I want to say is that the Paris Principles
establish essential guidelines for the creation of national
human rights institutions, just for those that may not
know.

As far as the idea of an Indigenous People's
Human Rights Commission, one could the idea of an
Indigenous Peoples Human Rights Commission, one could, I
think, easily argue that in Canada as well as other
countries across the world with a high concentration of
Indigenous Peoples is that this has become a specialized area of law. Some of it draws upon, in fact, Nation states customary practices and behaviour toward Indigenous Peoples, and indeed that’s how we argued for the recognition of the collective rights of Indigenous Peoples was to point to all the laws, policies, constitutions, etcetera, that Nation states have put in place to refer to Indigenous Peoples as Peoples, which is an expression of customary practice and behaviour, and hence customary international law.

So the idea is to then build upon that foundation of what I would again refer to as very specialized areas of law, to the extent that we’re encouraging instruction in law schools about Indigenous law, even within universities, just basic general education requirement to know about Indigenous Peoples.

So establishing a Commission that would monitor the implementation and the compliance of the state with the norms and standards in the UN Declaration and other international human rights instruments that apply specifically to Indigenous Peoples, so a national human rights institution that is specific to Indigenous Peoples.

MS. CHRISTA BIG CANOE: Commissioner Robinson, the Paris principles, the principles relating to the status of the national institutions was actually
potentially ---

COMMISSIONER QAQAJQ ROBINSON: It was an exhibit filed, I believe, or it was in our material.

MS. CHRISTA BIG CANOE: Was it, though?

COMMISSIONER QAQAJQ ROBINSON: It wasn’t filed.

MS. CHRISTA BIG CANOE: It wasn’t file. It was one that was potentially going to be filed, so I’m going to suggest we file it now.

COMMISSIONER QAQAJQ ROBINSON: Yes, I would like it filed. Thank you.

So that will be Exhibit ---

MS. CHRISTA BIG CANOE: Thirty-four (34).

--- EXHIBIT NO./PIÈCE No. B34:


(three pages)

COMMISSIONER QAQAJQ ROBINSON: Thank you.

I think those are all my questions, and I’m really mindful that people are going to have to travel.

I want to express -- our grandmothers are going to do it as well, but I just want to express my gratitude, our gratitude for the learning and what you’ve
been able to provide us over this week. Our Terms of Reference ask us to investigate and report on all forms of violence in its Indigenous women and girls -- it’s incredibly broad -- and to look at recommendations on how to address it, again incredibly broad. And we have heard about numerous, numerous, numerous types of violence that speak to so many different legal instruments and responsibilities and obligations, and to understand and to help frame how we look at that has been tremendously helpful. It, of course, confirmed the complexity and the further complexity that is revealed every step of this process.

But I want to, for myself and my colleagues who are nodding -- I’m assuming they agree -- how helpful this has been. And I am very hopeful that Canadians have been listening because it’s important that we understand the realities that the families and survivors have shared with us is a direct result of the legal, political realities that we’re hearing about and it speaks to what needs to be done, and I think that we all have to be engaging in this learning together.

So I’m hopeful that Canadians have been watching and learning along with us.

**MS. CHRISTA BIG CANOE:** Commissioners, mindful of the time and the fact that I don’t want to take
up 20 minutes -- sorry, objection?

**MS. SUZAN FRASER:** I’m sorry to rise at this point.

**MS. CHRISTA BIG CANOE:** If we can get her mic on please?

**MS. SUZAN FRASER:** I’m sorry to rise at this time of the day, Commissioners, but I do rise just to object, before you close the proceedings, to the departure of the Chief Commissioner. I understand you have the authority to sit as three, but with the Commissioner’s departure without an explanation on what has been a very important day, it gives my clients great concern, and I’m obliged to bring those concerns to your attention.

And I like to operate from a principled basis to bring my criticism right to you when I have it. I think this is the place for it. I come here on that basis, so that you are aware directly of my client’s concerns.

So I’m sorry to keep the witnesses and everyone ready, but I just thought I should make that concern known while we’re here.

**MS. CHRISTA BIG CANOE:** Noted, and you’re free to respond if you would like. It’s noted on the record and you’re free to respond if you’d like.

**COMMISSIONER QAQAQ ROBINSON:** Thank you for raising the objection and raising it directly with us in
this moment. I think that’s important as well, and we will share that.

**MS. CHRISTA BIG CANOE:** So, sorry, I was just about to actually waive my right too — actually, yeah, everyone cheer here. This is where you’re going to all love me this week. I was going to raise my right to re-examine, because I would have been afforded 20 minutes to clarify, and I do have a whole list of things I could have clarified, but I do recognize, given the non-adversarial nature of the work that the National Inquiry does, that the experts have provided us an abundance and well more than what we would normally see on any other record in terms of cross-examination with a number — including 15 parties and the Commissioners asking them questions.

So on that basis, I won’t, but I do actually ask if I can just put one proposition to them, and I’m not asking for a particular specific answer in this moment, but to put your mind to one thought. We have heard over and over again across the country people’s positions on media. And I only raise that because we’ve also heard in the course of this panel that corporations also have obligations, not just stakes. A number of media are now major corporations.

So I’m going to ask if the panel, and it’s
at their own choice, if they could just put their mind to
sort of the intersection of what obligations does a
corporation like a media have as it relates to the
perpetuation of the stereotypes and harms that are
occurring to women across the country and the way they’re
classifying. And I give an example like Cindy Gladue
where the stigmatization, the racism, all of the human
rights that you’d be afforded against discrimination that
occur from a media corporation.

I’m not asking you to answer this now as
this is not re-examination, but because the issues of
corporations having obligations as well has come up, if you
could put your mind to that and reply back to the
Commission, we would share with all parties with Part 3
standing any of the responses.

And I do want to -- I’m not re-examining,
but I would like to offer Mr. O’Soup an opportunity to
present something to the Commission and to explain it.

MR. COREY O'SOUP: I think, first of all,
I’m incredibly grateful for the opportunity -- I didn’t
think I was going to well up here -- but for the
opportunity to come speak for children and youth. They are
my passion. They are my heart, especially our young
people, our girls. I have three girls of my own, and two
boys, but you know how dads and their girls are. But I am
so appreciative of the opportunity to come and represent our young people here on this national stage and to bring their voice, because I believe it’s so important and I believe it’s their right to be represented, and I know it’s their right. It’s in the international laws and treaties that we’ve been talking about here today.

I never thought I’d be sitting here probably even a month ago. You know, I didn’t think I’d be in this chair and having this opportunity to bring their voice to this table, and I felt that it was so important that we are here.

It’s in our office and my own tradition to bring gifts and to offer things to you for the opportunity, because I can’t stress enough how important it is that our children have a voice in every step of the way, in everything we do, and all the decisions that are being made about them. And this is probably, in the history of our country, one of the most important things that’s going to affect our young girls in particular. And I just want to offer my thanks and my gratitude for being allowed voice and opportunity today and yesterday.

So I just wanted to present this to you guys. This is from a local artist in Saskatchewan, Kevin Pee-ace. We did have this commissioned for our office. It is what we do in our office. These are our young people,
our young girls reaching for the stars. And the stars are
many different things for many of our youth, and I believe
it’s our job as an office, but also as a country, as a
people, to help them reach their biggest potential, to help
them reach their dreams and their goals, and those are
represented by the stars there. So I just wanted to leave
this with you as a gift from our office to you. To all of
you. You can decide on where it goes. So I’d just like to
present this to you.

(APPLAUSE)

MS. CHRISTA BIG CANOE: I understand the
Commissioners also have gifts for the witnesses. So -- so
if I could just formally close the hearing at this point
and call an adjournment on the part three hearings, and
concluding the second hearing of three, of the part three.
So just an adjournment. And I do believe though, however,
we will be having a closing for those that wish to stay.

COMMISSIONER MICHÈLE AUDETTE: Okay.
Parfait. Après ça, I need... j’aimerais inviter nos sages,
nos aînés, nos grands-pères... il y en a un en arrière. This
part I’ll -- I will try to say it in English and you will
understand why. You talked about a meeting where two Amber
alert was happening. Well, yesterday sad to say, a family
lost a daughter, and I’ll say, again. In Winnipeg, Red
River, she was found, April Carpenter. And the family says
on the Facebook page, that we should all pray for them. That we should send love for them because it’s very hard. Like, what we’re doing is very hard. But to lose a daughter, it’s unacceptable. So we take this very seriously and we know that the prayers are also part of our culture, but it’s sending us a message also that we are all responsible. I don’t want them to disappear, none of my kids, or my friends’ kids.

So if it’s possible for you to join us for a moment of silence for the Carpenter family. Yeah. She was -- she went missing on April 26th and found yesterday. So --

(MOMENT OF SILENCE)

Merci. Merci beaucoup. We’re all human beings. We’re also super mum, and fighters, but also very, very, very dedicated. It is not a job. It is for me, more than a passion. We’re not perfect, but I’m sure together all of us will make sure that we will be able to say Canada is a safe place to live, I hope for to the end, the rest of forever. But in order to get there, we need to finish this Inquiry. We need to do it right and we need to do it not for this generation, but for the seventh generation to come.

We will have a song from the warriors, the women’s warriors after my closing remarks. And of course,
after our Elder from this beautiful land, Wendake, the Nuwansu (ph) and we’ll finish with your beautiful and powerful song, grandmothers. I want to say thank you for the Wendat People for welcoming us, welcoming you. You’re in -- you are in my yard, just so you know. And I’ll try to speak English to you, but it comes from my heart because I listened to you in French and you have few minutes to hear a speaker in French, so I hope you understand how I feel all day, and I laugh later. I’m not weird, I’m telling you.

And I say thank you for the grandmothers for being there for us everyday, strong warriors, strong grandmothers. They call them minions, but for me they’re more than minions, they’re super grandmothers. But most of all, I want to say thank you for family members like you, Maggie, for being here and making sure that we are doing this. It’s not perfect, but we have to do it and I always take the message or the criticism as a learning thing to change or improve, and I take hugs too.

I have to say thank you also for the witness, amazing people. We read books about you, articles, or we heard you at the UN or other event that brings the international community together. But to have the privilege to be sitting with you in this capacity and they're making a chapter in the history of Canada. And
that I commend you and I say thank you very much.

I say thank you also for the parties for being here in my yard in Quebec City, in this territory of the Wendat people. Thank you for coming. Thank you for adding your expertise, your passion, your knowledge and representing the voice of the people that you represent. That was very, very important and I know this journey is not over. We have other hearings that are coming too fast, to be frank with you, but this is what we have been given right now. So from inside there is warriors to say this is not a healthy way to do things but we have to do it. So thank you for being here and adding this to this important journey.

We have the duty to do it together, not only for this Inquiry, but for the people across Canada, the men and the women, the youth and the elders, the people that we work for or walk with.

But I want to add also for the Canadian what -- for you too, Canadian. My dad is white, white. He's pink, I should say.

(LAUGHTER/RIRES)

COMMISSIONER MICHÈLE AUDETTE: But he's the most beautiful Québécois my dad. So beautiful. And they are part of the solution. I don't want to blame. I want them to walk with me and us and say let's change those
legislation. Let's change many, many thing for the benefit of everybody, but most of all women and -- Indigenous women and girls of course.

And this hearing is one of the next -- there's other hearing that coming, like I said too fast, but they're coming. There's no extension too fast. I hope Ottawa you hear me. It help us, it help me to make sure that we're doing the right thing by adding the human rights lens, the gender lens, you know, all the cultural -- everything we discuss, change, challenge, wonder and with your expertise it makes me feel comfortable to continue in that way. But also, you were able to teach Canada there's many things to change also or ratify or improve and so on, so thank you very much.

And to conclude I'll say this, we said to the federal government we will do our best when we got that call. We knew two years it was too short. We knew it, but we wanted to prove that building a canoe, well, we have to pagayer at the same time in that canoe was going to be a hard, hard journey. And I'm not afraid to say today, I'm not afraid -- I'll be a little bit free moccasin for a moment, that it is important the Inquiry gets the extension, for the families, for the survivor who share their truth to us, to Canada, to the governments, because the expectation is so high. But it's also important to
honour the 500 women and men who registered and still want
to share their truth in this process.
And right now it breaks my heart to see it's
not feasible if we don't have that extension. But we're
fighting inside to try and find solution to make sure that
we honour that, but it's in the heart, hand and brain of
the government right now. This is how I see it.
In 10 days we're in Calgary. In 20 days
after that we are in Toronto and then we will be in Regina.
All that in every two weeks. Back to back. We say en
français, back-à-back, I don't know in English. But I
think you understand that it's going very fast. The canoe
is in big, big rapide. I don't know how you say rapide en
anglais. Rapids.

(LAUGHTER/RIRES)

COMMISSIONER MICHÈLE AUDETTE: Et voilà.
It's too rapids those rapids. See. We want to do it right
because this is, for the first time for me, being involved
for the past 20 years on women issue, giving my love for
the Indigenous women's issue, that we have 13 government
who sign -- 14, sorry -- thank you Qayaq, my translator --
that agree to work with us or to sit here and respond to
our question. So we need to do it right. And right now
for me four inquiries or hearings, it's not enough so mon
message est clair. So we can do it together.
I wish you a beautiful, beautiful, beautiful journée, fin de journée. Now to switch in French just for that part. And we will not going to give up. We will continue and we will make sure that in 10 days we will hug you again, welcome you and receive your objection, question, comment because for me this is democracy. C'est important. Vraiment important. So je vous aime et je vous souhaite une belle fin de journée. Thank you so much. Parfait.

M. MARCEL GODBOUT: Alors, je vous disais quelques mots dans ma langue, je me nommais encore une fois, c’est la façon de faire chez nous. On parlait de la culture, que c’était important pour nous de faire partie de ce monde-là, que notre culture soit présente, même à travers les (problèmes de son) de qui nous sommes puis de parler à travers notre façon de voir l’univers, notre culture, notre propre culture. Donc, pour nous, dans notre (problème de son 18:20:50 à 18:21:03) chez les Wendats, que la femme est au centre de notre société et nous en sommes fiers. Et c’est par ma mère que j’ai mon clan, donc mon nom de famille traditionnel.

Donc, on parle souvent de l’importance des femmes; c’est une façon de leur rendre honneur aussi, en parlant de notre… en exerçant notre culture et aussi en mettant la femme au centre de notre société.
Donc, le chant que je vais vous interpréter,
le chant de notre communauté, c'est une danse ronde.
Pourquoi j'ai choisi ce chant-là? C'est parce que comme
dans ce processus-là, qui est une forme de processus de
guérison pour nous tous, on a besoin de tout le monde.
Donc, une danse ronde, c'est que tout le monde se donne la
main dans cette danse-là et les hommes, les femmes, peu
importe l'âge que nous avons, même les gens plus âgés, les
plus jeunes participent à cette danse-là et nous ne formons
qu'un. On dit souvent, dans notre langue, (Langue
autochtone parlée), c'est qu'on forme un seul esprit.
Alors, c'est un peu... c'est ce que... c'est la
raison pour laquelle je souhaite vous partager ce chant-là
de mes ancêtres et de notre nation, qu'on se joigne au
grand cercle pour les femmes qui sont disparues et pour ces
jeunes filles aussi qui vivent toutes sortes de choses
difficiles. Mais aussi de penser à un meilleur avenir ;
c'est sûr que pour bâtir, il faut parler du passé, il faut
parler du présent, mais il faut penser aussi à qu'est-ce
qu'on doit faire pour avoir un meilleur monde. Donc, cette
danse ronde là se veut être un encouragement pour nous tous
tà participer à ce grand cercle-là, pour faire en sorte que
ce que l'on fasse ensemble, on a besoin de tout le monde.
Il n'y a personne de plus important qu'un autre dans un
cercle, tout le monde doit apporter sa part, apporter son
essence, qui il est et apporter du mieux qu’il peut ce qu’il est, aux autres.

Donc, c’est la raison de ce chant-là, donc une danse ronde. (Langue autochtone parlée)

(DANSE / Langue autochtone parlée.)

Alors, je vous souhaite une bonne journée à tous puis à ceux... je sais que ce n’est pas terminé, mais à ceux qui doivent quitter, que les Créateurs sont (langue autochtone parlée) vous protègent dans votre retour, pour retourner dans un monde que nous avons à construire pour nos enfants, pas juste les femmes, mais les filles, mais pour tous ceux qui ont besoin de paix, d’amour et de mieux-être, surtout, pour toute notre société. (Langue autochtone parlée)

**COMMISSAIRE MICHÈLE AUDETTE :** Merci beaucoup, merci. Micro numéro 8? Veux-tu faire la prière? (Langue autochtone parlée)

**MS REBECCA VEVEE:** Comme tu veux. (Langue autochtone parlée) Merci beaucoup tout le monde. J’aime ça, moi, travailler avec mes collègues et (inaudible), merci. Merci mon amie, merci tout le monde.

Aujourd’hui, on a pleuré ; lundi, on a beaucoup pleuré, toujours, because my cœur cassé, because my cousins, my deux cousins sont partis, Mary and Louis. Encore, encore, my cousin and (inaudible). Si la vie
(inaudible)... merci beaucoup, merci beaucoup tout le monde.

And fini! [Rires] Merci! Oh, j’ai compris

(inaudible)... si la vie? Okay, merci!

**MS PÉNÉLOPE GUAY** : Je suis attristée
d’apprendre la nouvelle pour cette jeune fille. Ça nous
rappelle qu’il faut faire encore beaucoup d’efforts,
beaucoup de rassemblements, beaucoup de guérisons. Ce que
j’ai entendu pendant ces quatre jours, ça donne de
l’espérance, de l’espoir.

Puis j’aimais aussi quand... je ne me souviens
plus du nom, mais qu’il faut agir maintenant, parce que
c’est important. J’ai des petits-enfants... je n’aimerai pas
cça que ça lui arrive. Je prie à tous les jours pour que...
puis je lui embrasse ses petits pieds en lui disant qu’il
va avoir un bon chemin.

Je vous remercie beaucoup d’avoir écouté,
d’avoir senti, d’avoir ouvert votre cœur. Je remercie les
commissaires, les experts. Je vous remercie parce que ça
m’a donné le goût de retourner à l’université en droit.
J’ai appelé mon prof, Renée Brassard, puis je lui ai dit :
« Là, il faut que tu m’apprennes autre chose. » Elle est
prête! Je pense qu’il ne faut pas lâcher ; l’éducation,
c’est très important, parce qu’un peuple éduqué, c’est un
peuple qui sort de ses oppressions.

Je vous remercie de me laisser prendre la
parole comme grand-mère. Merci. Bon retour à la maison en
toute sécurité et que le Créateur vous accompagne.

COMMISSAIRE MICHÈLE AUDETTE : Merci beaucoup
Penelope. Merci beaucoup Rebecca.

Now I would like to ask our beautiful
Barbara, she's a mentor and also a member of the NFAC, so
the National Family Advisory Circle. Very important to me
-- to us.

MS. BARBARA MANITOWABI: Thank you. I'm
going to put that down for a second.

Okay. My name is Barb Manitowabi. I'm a
survivor and I have anxiety, so public speaking is --
you're all naked right now.

(LAUGHTER/RIRES)

MS. BARBARA MANITOWABI: I'm a survivor of
family violence, sexual violence, sexual abuse. And four
years ago I started to stand up. Before that I was leading
a very colonized life.

I didn't have my culture. I didn’t -- I had
no culture and I was dying inside.

A traumatic event happened and it led me to
become homeless with my three beautiful adopt -- adopt
children and it ripped us apart. And I met Gladys Radek
who is my mother of the heart now and she took me under her
wing and we started working together and she encouraged me
to craft.

The grassroots level doesn't have a lot of money to throw around. We have no money. So any gifts, any banners, we have to make it by hand and you can't buy this stuff at Walmart and these women, this movement has encouraged and nurtured this to come out of me. I didn't know it was there before.

Our drums are our voice and it's that that I'm trying to protect. It's that I'm trying to elevate. It's those women I'm trying to help their voice. I'm trying to raise that voice of Gladys Radek. I'm trying to raise that voice and protect that drum.

In doing that, we started gifting families that were sharing their stories. I'm just going to grab one. Very elaborate now but they were just a simple fabric and part of our culture, Ojibway culture that I started to relearn and try to put back in my family. This was part of it.

So our guests and our panel, our Elders, this is what I've been creating for them. It's a little baby smudge kit. Everything you need to do a smudge is in there, seven matches, a shell, our medicines, and I made this for everyone. And we're going to ask you not to open it right away because there might be someone in your circle that needs it more than you. People keep them in the dash
of their car but it's meant as a beacon of hope or to help
in that healing.

And what we're doing in these last four
days, I'm blown away by how hard everyone is working and
how we're looking and working together and talking, trying
to find solutions and trying to get Canadians to listen and
connect those dots for yourself too.

So I think I'm okay. I'm done now but we're
going to sing and I want to thank you really. We need to
bring it back to its simple -- the problem is simple. We
need to love. We need Canada to love its Indigenous
people. We need to make them fall in love with us and we
need to start working together. Okay.

Oh, yes, we're making these and sending them
out to April's family and if I haven't made enough, write
your name down and your address and I'll get it to you.

Are we ready?

**MS. AUDREY:** Some of us will be wearing
beautiful drum bags that Barb also makes. So if anybody is
interested in ordering anything to support not just a
frontline worker but a rising woman warrior, check out the
bags and please feel free to, if Barb is comfortable, to
talk to her or we could get her contact info to you.

Maybe we'll do more than one song but we're
going to start with something -- the song that we started
with yesterday to finish with something soft and gentle and beautiful so that you leave gently, so that you leave hopefully with lighter hearts than you came, and that you remember to tread gently because everywhere you go across this land known as Canada which is Turtle Island, you're walking on someone's ancestors. You're walking on someone's home. You're walking on lives and people that mattered without which Canada could not have existed.

So we sing this for all, especially the women warriors. We sing this for the mothers and daughters and grandmothers. We sing this for April and all who love her. She is loved, she matters and she is missed. No more stolen sisters.

We sing this because we have pain and anger that need to come out and we won't rage against the machine that's still killing us. Instead, like Barb said, we will make them love us. We have our songs. We have each other. We have still this land. It's not all destroyed yet.

So we are here to share a song that is from my lands, from the West Coast. It's called the Prayer Song by Chief Dan George. It's an anthem some will call it but when I close -- I have close my eyes when I sing it because I see -- I see land forming and feel how much that man loves his land.

And I'm lucky I have the privilege of
knowing what land I come from. I know where my ancestors are. I get to put my feet on the earth where they are. I call on them and they come through me. How many people don’t have that? How many people who call themselves a Canadian don’t know where their people come from? Not just ground people, people who crossed oceans like my dad's family for a better life. So we sing this for the land too, for the mother, for all of the mothers.

So I raise my hands and I say estzaka (phon.) to each of you for being here, for sharing your medicine, for staying. They've been long days and thank you for letting us make sure that you lead in a good way.

(CLOSING SONGS)

--- Upon adjourning at 6:46 p.m.

La séance est adjournée à 18h46
LEGAL DICTA-TYPIST'S CERTIFICATE

I, Nadia Rainville, 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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Nadia Rainville

Nadia Rainville
May 17, 2018