

Beverley Jacobs and Andrea J. Williams

Beverly Jacobs is the president of the Native Women's Association of Canada (NWAC). She is a Mohawk citizen of the Haudenosaunee Confederacy and a member of the Bear Clan. A lawyer by trade, Beverly also holds a Master's Degree in Law from the University of Saskatchewan. She has taught at several institutions including the University of Windsor, University of Toronto, University of Saskatchewan, and Ryerson University and practised law at Six Nations of the Grand River Territory in southern Ontario.

Beverly worked with Amnesty International as the lead researcher and consultant for their *Stolen Sisters* report on missing and murdered Aboriginal women in Canada. Since her election to the NWAC presidency in 2004, she has secured funding for *Sisters in Spirit*, a research, education, and policy initiative aimed at raising public awareness about Canada's missing and murdered Aboriginal women. In this role, she has travelled to countless communities to raise awareness, rally citizens, and inspire young Aboriginal women.

Andrea J. Williams, a member of Sandy Lake First Nation, has more than twenty years experience working with Aboriginal communities in Ontario. She has also worked with government departments and Aboriginal organizations on issues ranging from public health planning and health research to human rights, community development, and governance. Her experience delivering programs to Aboriginal communities and negotiating self-government is recognized internationally, and she is working with community groups, the government, and academics in Ireland to facilitate government engagement of marginalized groups.

Beverly and Andrea have been interviewing the families of missing and murdered Aboriginal women as part of NWAC's *Sisters in Spirit* initiative. Their contribution to this collection reveals how the legacy of colonization, including the residential school system, is gendered in the way it impacts Aboriginal women. The continued marginalization of Aboriginal women and their displacement from communities result in "a series of negative outcomes, including overexposure to violence and abuse, poverty, inadequate housing, homelessness, addictions, and poor health." Historical and contemporary realities are presented as a backdrop to understanding some of the challenges in the lives of Aboriginal women today, including the lives of the Aboriginal women who have been murdered or gone missing. The authors urge the Truth and Reconciliation Commission to consider the special needs of Aboriginal women and how to effectively engage them in the process.

Legacy of Residential Schools: Missing and Murdered Aboriginal Women

The legacy of the residential school system has had a profoundly negative impact on Aboriginal people that will be experienced for generations to come. It is indisputable that Aboriginal peoples have suffered as a result of the residential school system imposed to eradicate their cultures and rights. This paper seeks to share the harsh reality that the current vulnerability of Aboriginal women and youth is linked directly to the impacts of colonization, including the residential school system and the social environment that created it. One of the outcomes of this history is that many Aboriginal women today continue to be challenged by fundamental issues of safety and survival. This paper begins with an overview of the historical, social, and economic factors that have contributed to increased risk to the safety and security of Aboriginal women. It presents preliminary findings of the *Sisters in Spirit* initiative research and the approach undertaken by the Native Women's Association of Canada (NWAC) in its work with grieving families. The paper concludes with suggestions about how this information might inform the Truth and Reconciliation Commission process.

Overview of the Historical, Social, and Economic Environment: Increased Risk for Aboriginal Women

Since the introduction of colonial policies, Aboriginal women have endured countless attacks on their culture, their way of life, and their persons. As a result, their traditional roles have been undermined in that they “have had to deal with dispossession of their traditional territories, disassociation with their traditional roles and responsibilities, disassociation with participation in political and social decisions in their communities ... disorientation of culture and tradition,”¹ and a total disrespect of their roles within their communities. This paper argues that the historic notions underlying these genocidal policies have a direct link to the disappearance and murder of hundreds of Aboriginal women in Canada.

Colonization and the *Indian Act*

Governmental control over the lives of Aboriginal people in Canada began in the 1850s with a series of laws and regulations “intended to enforce the patriarchy and coerce Aboriginal women to conform to the regiments and edicts demanded by local missionaries and Indian agents in present-day eastern Canada.”² This process began before Confederation with legislation

in Lower Canada that, for the first time, set out a definition of who was to be considered an “Indian.”³ While initially inclusive of men and women, along with their marriage partners and children, the legislation was quickly amended to exclude non-Indian men who married Indian women but *not* non-Indian women who married Indian men. The *Report of the Royal Commission on Aboriginal Peoples* (RCAP) noted: “For the first time, Indian status began to be associated with the male line of descent.”⁴ The 1857 *Gradual Civilization Act* furthered the distinction between the standing of men and women by providing a route for Indian men, but not women, to renounce their status “in order to join non-Aboriginal colonial society.”⁵ The legal means, referred to as “enfranchisement,” to voluntarily give up Indian status was granted only to men who met a specific set of criteria: for example, over the age of 21; able to read and write English or French; educated; free of debt; and of good moral character.⁶ The wives and children of enfranchised men automatically lost their status.

With confederation and the 1867 *British North America Act*, the federal government, under section 91(24), gained the exclusive jurisdiction to legislate with respect to “Indians and Lands reserved for the Indians.” Two years later, in 1869, the government passed *An Act for the Gradual Enfranchisement of Indians*, which contained a number of features designed to hasten assimilation of Aboriginal people. This *Act*, in particular, would have drastic and lasting negative impacts on Aboriginal women. The RCAP report commented on some of the implications for women:

This act went further than previous legislation in its ‘civilizing’ and assimilative purposes and in marginalizing Indian women: for the first time, Indian women were accorded fewer legal rights than Indian men in their home communities.⁷

Discrimination against women introduced in earlier legislation was entrenched in the 1876 *Indian Act*, which defined an Indian as “Any male person of Indian blood reputed to belong to a particular band.”⁸ The wife and children of an Indian man also had Indian status. In an article entitled “Colonialism and First Nations Women in Canada,” Winona Stevenson writes about the impact of the *Indian Act* on women: “From then on, the process of statutory female subjugation was intensified as regulations were passed which discriminately undermined the traditional roles, authority, and autonomy of Aboriginal women. Almost every aspect of women’s lives was directly impacted by the *Indian Act*.”⁹

Indian status was thereby defined solely on the basis of the male head of the household. A First Nation woman married to a man who was not a status Indian was struck from the registry and was no longer allowed to be an Indian. If she married a man from another First Nation community, she was automatically registered under his band and lost all rights to her own First

Nation. The *RCAP Report* pointed out that at the time of contact “the position and role of women varied among the diverse nations... What was observed by European settlers was the power Aboriginal women enjoyed in the areas of family life and marriage, politics and decision making, and the ceremonial life of their people.”¹⁰ In many nations, a person’s identity traditionally followed his or her mother’s line (i.e., matrilineal descent). Stevenson describes the widespread effects of enforcing rules of patrilineal descent:

The immediate and long-term effect of this provision was to reduce the number of status Indians the government was responsible for, impose the European patrilineage system, and elevate the power and authority of men at the expense of women... The result was a major disruption of traditional kinship systems, matrilineal descent patterns, and matrilocal, post-marital residency patterns. Furthermore, it embodied and imposed the principle that Indian women and their children, like European women and their children, would be subject to their fathers and husbands.¹¹

There are many other provisions of the *Indian Act* that reduced the strength of Aboriginal women and matriarchal systems. The enfranchisement provisions mentioned above had originally allowed status Indians to voluntarily sell their status. Then, the federal government amended the policy to allow for involuntary enfranchisement, which meant that status was lost through such activities as volunteering to fight in either of the World Wars, attending university, becoming a doctor or lawyer, or joining the clergy. As noted by Stevenson, women were increasingly losing control over legal dimensions of their Indian identity:

Women’s legal status as First Nation citizens could be unilaterally and irrevocably stolen by federal legislation that allowed their fathers or husbands to make decisions on their behalf. This regulation was a major affront to women’s autonomy—women had no recourse if their fathers or husbands ‘sold’ them out of status. It also seriously undermined the matrilineal descent rule of many tribes by giving men authority to decide whether or not their families would retain First Nation membership. The voluntary enfranchisement provisions remained in effect until 1985.¹²

RCAP noted that the “*Indian Act* has created a legal fiction as to cultural identity.”¹³ Other patriarchal notions embedded in the *Act* were provisions whereby First Nations women lost their treaty annuities if they divorced, and widows only had access to their husband’s property under specific circumstances, including a determination that they were “of good moral character.”¹⁴ Also, the children of women who were not married were considered “illegitimate” and were not entitled to status “in their mothers’ First Nation unless the Chief and Council accepted them and agreed to give them equal share in Band revenues.”¹⁵ However, even if accepted by the community, the superintendent general of Indian Affairs had

absolute power to accept or refuse membership to illegitimate children and, as Stevenson notes, this clearly “demonstrates the government’s assimilationist agenda as well as its intent to impose Victorian moral standards on First Nations women.”¹⁶

Bill C-31: Displacement Continues

When the 1982 *Constitution Act* came into effect, the federal government had five years to amend all legislation that violated any provisions of the *Canadian Charter of Rights and Freedoms*; the *Indian Act* was one of those pieces of legislation. The old marriage provisions in section 12(1)(b) of the *Act* violated the equality provisions under section 15 of the *Charter*. In 1985, the federal government passed Bill C-31 and thereby amended the *Indian Act* in order to bring it in line with the *Canadian Charter of Rights and Freedoms*.

Bill C-31 abolished the concept of enfranchisement. It was no longer possible to enfranchise and sell Indian status or to lose status through marriage. Bill C-31 called for the reinstatement of status to people who had lost their status plus one generation. It gave bands the right to set up their own membership codes, although they had to be approved by the minister of Indian Affairs. Bands had until mid-1987 to set up their codes; otherwise, they had to accept anyone entitled to status and having a historical tie to the community. Many leaders and people in the community were upset because they had not been adequately consulted and were worried about the implications in light of inadequate land bases, inadequate resources, and a lack of housing.

Bill C-31 introduced new registry provisions that replaced the old section 12(1)(b) of the *Indian Act*. It did not, however, end the discrimination. For example, children of reinstated women who had married non-status men fall under the new section 6(2) category, and they can only pass status to their own children if the father also has status; on the other hand, the children of Indian men who married out are registered under section 6(1) and can pass down their status regardless of the status of the child’s mother. The new provisions have also been critiqued for problems with the registration process, including rigidity surrounding the registration of children when the father’s name has not been reported or his signature is missing from the registration form. In some cases, unstated paternity has also affected a child’s eligibility for membership in a First Nation.¹⁷

In cases where the father is unreported or not recognized as an Indian and the mother is registered under section 6(1), the child would be registered under section 6(2). Where a child’s mother is registered under section 6(2) and the father is unreported or not recognized, the child is not entitled to be registered at all. A paper on unstated paternity prepared for Indian and Northern Affairs

Canada states: “Under the current rules, failure to report a registered Indian father results in either inappropriate registration of the child (that is, under section 6(2) as opposed to 6(1)), or denial of registration and loss of associated entitlements, benefits and privileges.”¹⁸ Moreover, the report states: “Although direct measures of unstated paternity can not be developed for children born to women registered under Section 6(2), indirect estimates for the 1985–1999 period, suggest that as many as 13,000 of these children may have unstated fathers and do not qualify for Indian registration.”¹⁹

If the mother does not provide the name of the father for registration purposes, it is then assumed that the father is non-Native. There may be many reasons why the mother might not identify the father, including if the pregnancy is the result of abuse, incest, or rape.²⁰ Other reasons include:

- if the mother does not wish the father to be named;
- if the mother was living through an abusive relationship with the father, and it is no longer safe for her and her children to be near the father; or
- if the father is not able to provide the authorization due to difficulties encountered with the registration process (e.g., fathers in remote areas may not have access to the paperwork if the mother gives birth outside of her community²¹) or does not wish to take responsibility for the child.

Unstated paternity appears to be more common among young mothers, as Clatworthy notes: “Previous research has also identified that unstated paternity is highly correlated with the age of mothers at the time of birth... During the 1985 to 1999 period, about 30 percent of all children with unstated fathers were born to mothers under 20 years of age.”²² Within this group of teenage mothers, the estimated prevalence of unstated paternity among children of mothers under fifteen years of age was 46.6 per cent.²³

Bill C-31’s original purpose was to eliminate gender discrimination; however, it now has created further discrimination against future generations. Geographical dislocation and loss of connection to community in the past, continuing in the present, have been especially devastating as generations of women were forced from their home communities due to out-marriage. Connections to family, culture, and community were further eroded by negative impacts of the residential school system.

Residential Schools: An Ongoing Legacy

Broadly speaking, the residential school system attempted to eradicate the culture of generations of Aboriginal people, a practice identified in the *United*

Nations Declaration on the Rights of Indigenous Peoples as cultural genocide.²⁴ Other articles in this publication address the personal, cultural, and social impacts of the federal government's oppressive policy of assimilation, including the residential school system. This paper looks specifically at the consequences for women.

The detrimental effects of abuse in residential schools were compounded by a long series of losses experienced by students as a result of being removed from their families and communities: loss of culture, language, traditional values, family bonding, life skills, parenting skills, self-respect, and, for many, respect for others. Residential school attendance, particularly when accompanied by physical and sexual abuse, has been linked to problems of alcoholism, drug abuse, powerlessness, dependency, low self-esteem, suicide, prostitution, gambling, homelessness, sexual abuse, violence, and, as this paper argues, missing and murdered women. Some Survivors and/or their descendants have been in conflict with the legal system, including the criminal justice system and the child welfare system.²⁵

It should be noted that, beginning in 1920, it was illegal for parents to keep their children out of residential schools, and most parents were totally unaware that their children were at risk of physical, mental, emotional, spiritual, sexual, cultural, and verbal abuse while attending these institutions. In other words, parents did not have the power to protect their children from the residential schools or from the abusive treatment many students experienced in the schools. In addition, the removal of children from their families altered relationships between everyone and everything. Family bonds normally created as a result of nurturing and loving relationships were not a part of the residential school experience.

The loss of language affected the ability of children to communicate with parents and grandparents, and it reduced their access to cultural and spiritual teachings. Aboriginal women whose children and grandchildren attended residential schools were deprived of their traditional roles as mothers, grandmothers, caregivers, nurturers, teachers, and family decision-makers. These roles were similarly stolen from the generations of girls who were unable to learn through observation and interaction with their own mothers and grandmothers. The emotional bond between mothers and children was loosened. This disconnection was compounded for women who lost their Indian status and were no longer allowed to live among their people on traditional territories.

The residential school system also detrimentally impacted the traditional and experiential education of Aboriginal peoples. For example, in teaching

the young, Elders and parents were responsible for teaching the children their way of life. Children learned from watching their Elders. As a result of children being taken away from their families and their communities, this cultural and spiritual aspect of their lives was stolen from them.

Child Welfare

Near the end of the residential school era, families were subjected to another set of discriminatory practices and policies known as the “Sixties Scoop.” As a result of policies of various child welfare systems, large numbers of Aboriginal children were removed from their families and taken into care by child welfare agencies. Many children were put through various adoption processes mainly with white families. As a result, many of these children, who are now adults, lost connection with their birth family. It has also resulted in “a large residue of distrust and resistance to child welfare intrusions.”²⁶

In fact, there has been an increase in the number of Aboriginal children taken into care in recent years as well as an increase in the percentage of Aboriginal children under the care of child welfare agencies.²⁷ According to a review by the Assembly of First Nations in 2007, an estimated twenty-seven thousand Aboriginal children on and off reserve are in the care of child welfare agencies.²⁸ Mothers and their children are victimized in child welfare processes, as demonstrated in the “modern day tragedy”²⁹ of the point-blank shooting of Connie and Tyundinaikah (Ty) Jacobs by the Royal Canadian Mounted Police (RCMP). Both Connie and Ty were from the Tsuu T’ina First Nation community in Alberta. Connie and her husband Hardy had five children, and Ty was the oldest. Both Connie and Hardy “had a record of complying or trying to comply with the requests and requirements of the Child and Family Services, because they wanted what was best for their children.”³⁰

Connie refused to allow two Child and Family Services workers to intervene and take her children out of her home. On 22 March 1998, Connie was shot in the heart by an RCMP officer. Ty was standing beside his mother when the shot was fired, and he too was killed. A public inquiry into the deaths, reporting to Alberta’s Attorney General, included recommendations about the jurisdiction of family and child welfare services and what the responsibilities of their services should be. It also included the recommendation that “more be done to assist women, in particular, mothers, to be able to feel some power and control over their lives and feel a sense of independence.”³¹ It was a tragedy that it took the deaths of Connie and Ty Jacobs to bring to public attention the lack of power and control of Aboriginal women who come to the attention of the child welfare system.

In its submission to the inquiry, the Native Women's Association of Canada noted the strong correlation between poverty and children in care. The extent of poverty among Aboriginal women and children is discussed briefly in the next section of this paper.

Aboriginal Women and Children: Poorest of the Poor

It is well documented that First Nations people, both on and off reserve, are now among the poorest in Canada. Indigenous women, living both on and off reserve are the poorest among Aboriginal peoples:

In Canada, 42.7% of Aboriginal women live in poverty, double the percentage of non-Aboriginal women and significantly more than the number of Aboriginal men. The average annual income of an Aboriginal woman is \$13,300, compared to \$19,350 for a non-Aboriginal woman... As well as being overrepresented among the poor, the economic contributions Aboriginal women do make are often minimized and ignored.³²

In 2000, the Ontario Federation of Indian Friendship Centres (OFIFC) issued a report on child poverty among urban Aboriginal families.³³ The research included fifteen interviews with parents and front-line workers in seven Ontario cities as well as four focus groups. In one hundred per cent of the interviews, psychological effects were mentioned: "Words such as low-self esteem, depression, anger, self-doubt, intimidation, frustration, shame and hopelessness were used to describe some of the crushing feelings of Aboriginal children and parents living in poverty. Families are feeling despair as they cannot see any way to 'rise above' their situations."³⁴ The report also brought together a number of startling statistics from a variety of sources. For example, a national study of sixteen thousand people (excluding on-reserve populations) found that families of hungry children were thirteen times more likely to be on social assistance or welfare, eight times more likely to be headed by a single parent, and four times more likely to represent people of Aboriginal ancestry living off-reserve.³⁵ Data cited from the 1996 Census show that over half (52.1%) of Aboriginal children are poor.³⁶ Proportionately, more Aboriginal children live in lone-parent families, and single-parent families headed by women are more likely than two-parent families to be poor. The OFIFC report also raised concerns about the number of Aboriginal children and youth driven by poverty into participation in the sex trade.³⁷

These statistics highlight the economic vulnerability of Aboriginal women and children. It was reiterated in a report on Aboriginal women and the economy that "Aboriginal peoples' marginalization within today's economy is tied to their displacement from their land... This displacement destroyed a traditional way of life and undermined Aboriginal peoples' ability to provide for themselves, a right which is guaranteed in international laws such as

the International Covenant on Economic, Social and Cultural Rights.”³⁸ This report also reflected on the multiple barriers that Aboriginal women must endure to be economically viable. Many women are forced to leave their home communities—and often their children—in order to find employment or pursue training or education. In doing so, they also leave behind a part of their culture as they struggle to fit into a non-Aboriginal work environment. The report also pointed out that Aboriginal people often have lower levels of education than the general population, and this restricts them to lower-wage jobs. A related barrier is the lack of work experience, especially for people migrating to an urban centre from economically depressed areas. Other barriers include systemic racism and lack of affordable child care.

Justice Issues

In Canada, Aboriginal women also suffer discrimination on the basis of race, gender, and class within the justice system. The Manitoba Justice Inquiry states:

Aboriginal women and their children suffer tremendously as victims in contemporary Canadian society. They are the victims of racism, of sexism and of unconscionable levels of domestic violence. The justice system has done little to protect them from any of these assaults.³⁹

The element of systemic racism runs very deep within some police forces. This issue was examined by RCAP and numerous provincial justice inquiries and federal task forces, the most recent being the Ipperwash Inquiry in Ontario. One of the reasons behind the distrust of police expressed by so many Aboriginal people is the experience of being both over-policed and under-policed. The RCAP *Report* stated that “when compared to non-Aboriginal communities, Aboriginal communities received proportionately greater law enforcement attention and proportionately less peace-keeping and other services.”⁴⁰ With respect to under-policing and violence against Inuit women, a report by Pauktuutit Inuit Women’s Association found that under-policing was a serious issue for women in communities without community-based police services:

In order to serve all parts of the communities, the police have to know our communities, they must be a part of our communities. They must also understand what the life of a woman who has been beaten can be like in a community along the Labrador coast where there are no police, or where the police are not very supportive. Without this knowledge and understanding, the RCMP will not be able to respond to the needs of the victims of violence. Until we have the necessary resources in our communities to provide for protection to women on a permanent basis (for example: police based in the community) and to provide a safe place where women can receive counselling, support and protection, many women will not leave and can’t leave the violent home.⁴¹

Another aspect to consider is the treatment of Aboriginal people by the police. A prime example is the case of Donald Marshall, who was unjustly convicted of murder in Nova Scotia following a biased police investigation. Aboriginal people, including Aboriginal women, are vastly overrepresented in federal and provincial jails and have frequently been subject to violent police actions:

In April 1990 the *Globe and Mail* ran a three-part analysis of policing in the provinces of Manitoba, Saskatchewan, and Alberta, looking at the municipal police and the RCMP, and reported that Native persons have come to expect police bias. Moreover, there is good evidence that alleged police misconduct rarely results in satisfactory enquiry or sanction. In the five years of its operation, the Law Enforcement Review Agency in Manitoba, for example, upheld only two of a hundred complaints, one of which was later overturned. Similarly, in Alberta there are few successful complaints to the Law Enforcement Appeal Board; nor are complaints apt to bring consequences from the Board of Commissioners in Saskatchewan.⁴²

The Manitoba Justice Inquiry found that police officers treat First Nations and non-Native people differently:

Complaints over over-policing focus on the perception that Aboriginal people are singled out for enforcement action and subjected to stereotyping by police forces. Many who appeared before us complained about being stopped on the street or on a country road and questioned about their activities. We heard complaints that Aboriginal people are charged with offences more often than their white counterparts. They may also be charged with a multiplicity of offences arising out of the same incident. Many such charges are never proceeded with, and appear to be harassment. We believe that many Aboriginal people are arrested and held in custody when a white person in the same circumstances either might not be arrested at all, or might not be held.⁴³

The above quotes provide examples of some of the reasons for the high levels of distrust of police among Aboriginal peoples. This distrust has been reiterated by members of families of the missing and murdered Aboriginal women who participated in interviews with representatives of NWAC. More task forces and inquiries are not required to determine that the relationship of the police with Aboriginal peoples in Canada is not a good one.

With the history of colonization and its effects on Aboriginal women, the institutions and systems that exist in Canada are still causing grave human rights abuses. This paper has outlined some of the underlying factors that impact and influence the lives of Aboriginal women today, including the lives of the Aboriginal women who have been murdered or gone missing. In the next section, we discuss the *Sisters in Spirit* initiative and what we have learned to date.

Overview of the *Sisters in Spirit* Initiative

As of December 2007, 487 Aboriginal women across Canada have been confirmed through the *Sisters in Spirit* initiative as missing or murdered. The earliest known case in NWAC's database occurred in 1957. Fifteen per cent of the known cases took place in the 1980s, thirty-four per cent in the 1990s, and forty-seven per cent in this decade. This might indicate either a growing pattern of violence resulting in disappearance/death of Aboriginal women or simply increased reporting of the issue. The lives of these women were taken at a very young age. Slightly more than fifty per cent of the women were under the age of twenty-five years. A further twenty-two per cent of the women were between the ages of twenty-five and thirty-four years. The remaining twenty-six per cent of the Aboriginal women whose lives have been taken were over thirty-five years of age. There is a grave concern that young Aboriginal women are at great risk.⁴⁴

NWAC raised the issue of violence against Aboriginal women with the federal government in 2004. NWAC estimated that over the past twenty years, hundreds of Aboriginal women have gone missing in communities across Canada, yet government, the media, and Canadian society continue to remain silent. In October 2004, Amnesty International released its report *Stolen Sisters: A Human Rights Response to Discrimination and Violence against Indigenous Women in Canada*. The report included stories about Canada's missing and murdered Aboriginal women and recognized that "In every instance, it is Amnesty International's view that Canadian authorities could and should have done more to ensure the safety of these women and girls."⁴⁵

The *Sisters in Spirit* initiative undertaken by NWAC is a long-term research, education, and policy initiative designed to increase public knowledge and understanding of the impact of the racialized, sexualized violence against Aboriginal women that often leads to their disappearance or death. The initiative has been formally funded since 2005 by Status of Women Canada. Academic literature has tended to focus on domestic violence rather than violence rooted in the systemic, gendered racism facing Aboriginal women. The *Sisters in Spirit* initiative is dedicated to increasing the personal safety and security of all Aboriginal women and girls in Canada by implementing a research initiative aimed at policy change and education. The culturally relevant community-based research plan examines gendered racism experienced by Aboriginal women resulting in their disappearance or death by exploring the following questions through quantitative and qualitative methodologies:

- 1) What are the circumstances, root causes, and trends leading to racialized, sexualized violence against Aboriginal women in Canada?

- 2) How has the justice system responded to family and community reports of missing/murdered Aboriginal women in Canada? What issues, challenges, and gaps exist?
- 3) What changes need to be implemented in order to improve the safety and well-being of Aboriginal women in Canada, particularly with respect to this issue?
- 4) How can these changes be implemented in order to reduce or prevent the racialized, sexualized violence against Aboriginal women, particularly when it results in their disappearance or murder?

In meetings with grieving families, it is heart-wrenching to listen as family members share their grief with regard to their missing and/or murdered daughter, mother, grandmother, sister, or aunt. It is even more emotional when it is the loss of a young daughter or sister. Parents do not expect to live longer than their children, and it is devastating when a child is taken in a violent manner such as in these situations. Where we have been able to document cause of death, stabbing (27%) and strangulation (27%) are leading causes, followed by trauma (19%) and gunshot wounds (12%).⁴⁶

Presently, one-third of the women are classified as missing, and two-thirds are confirmed as murdered. It is obviously difficult to deal with the loss of a loved one, but the grief is even more difficult to cope with when the institutions designed to serve you let you down. It is unacceptable that one-third of the young Aboriginal women who have gone missing have not been found. Families express continued frustration and anger that more resources are not poured into finding their loved ones. When families are expected to attend murder trials involving their loved ones, there is even more frustration and anger that financial support from public institutions is not forthcoming and that moral support from their own community is not always available.

In the interviews NWAC has conducted to date with families of missing or murdered Aboriginal women, there is often confirmation that the systemic inequalities and Canada's genocidal policies, such as those introduced earlier in this article, have played a key role in the lives of these stolen sisters. In most cases, parents or grandparents of the women had attended residential school. Many spoke of the resulting family dysfunction or disconnect as impacting their lives and placing the women in a vulnerable situation. Many of the Aboriginal women had been displaced from their community due to the impacts of the genocidal policies of the *Indian Act*. Many of the missing or murdered women were forced into the child welfare system and adopted out. Many were included in the high statistics as an offender in a federal or

provincial jail. Some of the young women found themselves in the city with inadequate income to support themselves and their families. Many were victims of poverty and powerlessness living in unsafe neighbourhoods in inadequate housing. The women often had unresolved personal, emotional, or health issues like those documented through the work of the Aboriginal Healing Foundation. Our interviews with families confirmed that in some cases these issues led to addictions and/or risk-oriented behaviours.

Other young women were simply in the wrong place at the wrong time in a society that poses a risk to their safety. They were targeted because they were Aboriginal, and it was assumed that either they would not fight back or they would not be missed. Aboriginal families do care about their children, sisters, and aunts, but many would echo the sentiment that their cries for help received no response. All too often families or the victims themselves were blamed for the circumstances which led to the Aboriginal woman's death, rather than focusing attention on the crime and the perpetrator. The families we work with describe an ongoing mistrust of those meant to protect them or those meant to pursue justice. Their concerns would seem to be validated with the research we have conducted to date, which indicates that approximately seventy per cent of the murder cases have not been resolved.⁴⁷

The *Sisters in Spirit* initiative is beginning to identify “clusters of activities” across the country where Aboriginal women are at extremely high risk of violence, disappearance, and death. These include Regina, Saskatoon, Edmonton, Winnipeg, Vancouver, and communities in northern British Columbia on Highway 16, centring on Prince George. Other clusters have been identified in northern Ontario, the Northwest Territories, New Brunswick, Newfoundland, and Quebec.

NWAC has developed a comprehensive policy strategy for implementation with the federal government, provincial/territorial governments, First Nations communities, and the international community on issues relating to the personal safety, security, and human rights of Aboriginal women. This framework is intended to strategically and holistically address the underlying factors that contribute to gendered racism against Aboriginal women resulting in their disappearance or death. Four key policy areas have been identified as the primary focus of the NWAC strategic policy plan:

1. Reduced violence
2. Improved education and employment outcomes
3. Safe housing
4. Access to justice

This framework is intended to be a guide for future work that leads to the achievement of the vision and objectives of this initiative. NWAC will be working with federal government departments and provincial/territorial governments to encourage them to use this framework to develop and implement strategic actions aimed at reducing violence against Aboriginal women, improving education and employment opportunities, and increasing access to safe housing and justice. Community-based organizations are encouraged to use the framework as a resource to support their policy platforms.

Implications for the Truth and Reconciliation Commission

Canada has often failed to provide an adequate standard of protection to Aboriginal women. This has become readily apparent as more Aboriginal women go missing, more are found murdered, missing women are not found, and murders are not solved. Article 6 of the *International Covenant on Civil and Political Rights* provides, in part, that “Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.”⁴⁸ The failure to respond quickly and appropriately to threats to Aboriginal women’s lives means that Canadian officials have failed to live up to their responsibility to prevent violations of Aboriginal women’s fundamental human rights.

In Canada, extensive research has documented how Aboriginal women experience acute marginalization in the areas of social engagement, education and economic opportunities, cultural practices, political action, and civil/human rights. A review of regular statistical measures, such as the Census of Canada, demonstrates that although some small gains have been made, Aboriginal women continue to experience much lower educational attainment, employment, income, health, and wellness outcomes than other Canadian women.

As noted, government policies have forcibly displaced Aboriginal women from their communities. The marginalization they experience results in a series of negative outcomes, including overexposure to violence and abuse, poverty, inadequate housing, homelessness, addictions, and poor health. Aboriginal women are overrepresented in the justice system and experience limited life opportunities in both their public and private lives.

NWAC has learned that many of the resulting issues that have affected families of the missing and murdered Aboriginal women are the result of the detrimental effects of the residential school system. The grief, blame, and shame that many Aboriginal people experience are emotions that many families of the missing and murdered are feeling. Many families have not

come forward for many reasons, whether it is based on shame and grief or whether the negative effect of addictions has also had an impact.

NWAC has also recognized that the disclosures of the stories of the missing and murdered Aboriginal women are just beginning. We have only scratched the surface. This can be equated to the initial disclosures of abuse by the Survivors of the residential school system. It took a long time for people to be comfortable enough to be able to talk about these issues. And many are still feeling the shame and guilt, both as Survivors of residential schools and as family members of the missing and the murdered.

The Truth and Reconciliation Commission should take into consideration the special needs of Aboriginal women and consider how to effectively engage them in the process. They must recognize that many Aboriginal women have been marginalized and displaced from their communities. It will take special efforts to gain their participation and voice in the reconciliation process. Families who are grieving murdered and disappeared members may be reluctant to even consider reconciling with a society whose institutions have failed them so profoundly.

Participating families have made it very clear to us that they will share their stories and help us unravel root causes, circumstances, and trends in order to influence positive change. We have been instructed to do so in a good way. As a result, NWAC has developed an approach that embodies principles of caring, sharing, trust, and strength. We have developed respectful ways of reaching out to grieving families. We go to them when they are ready and as often as they request. We are only a vehicle for their voices; we do not claim to represent them. They want their voices to be their own. We have learned that when people come together in a caring and sharing way and when they have trust, they will then begin to gain strength and become well as they continue on the grieving and, ultimately, on their healing journey. The overall intent is to move toward a better understanding of the challenges faced by Aboriginal women and the gaps within the current system so that improvements will be made and the vision of these families and stakeholders is realized.

NWAC has built within its processes of working with grieving families a process of building trust. In building this trust, family members are comfortable in sharing their grief, thus allowing this process to assist in their healing journey. In describing the purpose of the *Sisters in Spirit* initiative, many families who have volunteered to participate have reiterated that they do not want any more families to have to go through what they go through.

Notes

- 1 Native Women's Association of Canada (2002). Violations of Indigenous Human Rights. A submission to the United Nations Special Rapporteur investigating the violations of Indigenous human rights. Retrieved 14 January 2008 from: <http://www.nwac-hq.org/documents/ViolationsofIndigenousHumanRights.pdf>
- 2 Stevenson, Winona (1999:65). Colonialism and First Nations Women in Canada In Enakshi Dua and Angela Robertson (eds.), *scratching the surface. Canadian anti-racist feminist thought*. Toronto, ON: Women's Press.
- 3 *An Act for the better protection of the Lands and Property of the Indians in Lower Canada*, passed in 1850. Royal Commission on Aboriginal Peoples [RCAP] (1996). *Report of the Royal Commission on Aboriginal Peoples, Volume 4: Perspectives and Realities*. Ottawa, ON: Minister of Supply and Services Canada. See footnote 15, page 97, which cites the relevant section of the *Act*.
- 4 RCAP (1996:25).
- 5 RCAP (1996:25)
- 6 RCAP (1996).
- 7 RCAP (1996:27).
- 8 Under section 3 of the *Indian Act, 1876 - An Act to amend and consolidate the laws respecting Indians*. Retrieved 29 January 2008 from: <http://epe.lac-bac.gc.ca/100/205/301/ic/cdc/aboriginaldocs/m-stat.htm>
- 9 Stevenson (1999:66).
- 10 RCAP (1996:18).
- 11 Stevenson (1999:68) [endnote removed].
- 12 Stevenson (1999:69).
- 13 RCAP (1996:23).
- 14 RCAP (1996:28).
- 15 Stevenson (1999:71).
- 16 Stevenson (1999:71).
- 17 For details see Clatworthy, S. (2003). Factors Contributing to Unstated Paternity. Ottawa, ON: Minister of Public Works and Government Services Canada. Retrieved 26 January 2008 from: http://www.canadiancrc.com/PDFs/Unstated_Paternity_1st_Nations_en.pdf
- 18 Clatworthy (2003:2) [emphasis removed].
- 19 Clatworthy (2003:3).
- 20 Mann, Michelle M. (2005). Indian Registration: Unrecognized and Unstated Paternity. Ottawa, ON: Status of Women Canada. This article contains an excellent discussion of the administrative and substantive reasons behind unstated and unrecognized paternity. Retrieved 26 January 2008 from: http://www.swc-cfc.gc.ca/pubs/pubspr/066240842X/200506_066240842X_11_e.html
- 21 Clatworthy (2003).
- 22 Clatworthy (2003:4).
- 23 Clatworthy (2003).
- 24 Article 7 of the *United Nations Declaration on the Rights of Indigenous Peoples*, adopted in 2007 without the support of the Government of Canada, states the following: "Indigenous peoples have the collective and individual right not to be subjected to ethnocide and cultural genocide." Retrieved 18 January 2008 from: <http://www.treatycouncil.org/UNITED%20NATIONS%20DRAFT%20DECLARATION%20ON%20THE%20RIGHTS%20OF%20INDIGENOUS%20PEOPLES.pdf>
- 25 Jacobs, Beverley (2000). International Law/The Great Law of Peace. Master's degree in law thesis (University of Saskatchewan).

- 26 Eberts, Mary (2000:4). Submissions of the Native Women's Association of Canada to the Inquiry into the deaths of Connie and Ty Jacobs. His Honour Judge T. Goodson. March, 2000 - references omitted.
- 27 In another article in this volume (Reconciliation Means Not Saying Sorry Twice: Lessons from Child Welfare in Canada), Cindy Blackstock states "In February 2007, Minister of Indian Affairs Jim Prentice indicated that over nine thousand children from the on-reserve population were under the care of child welfare agencies, and the numbers had increased sixty-five per cent over the past decade." The statistics were derived from the following sources: Curry, B. (2007). Cash not solution to natives' plight: Prentice. *Globe & Mail*, Thursday, 6 February 2007, A4; and CBC News (2007). Foster care system needs improvement: Prentice. CBC News, February 6, 2007. Retrieved 29 November 2007 from: <http://www.cbc.ca/canada/north/story/2007/02/06/foster-care.html>
- 28 Assembly of First Nations (2007). Leadership Action Plan on First Nations child welfare. Ottawa, ON: Assembly of First Nations. Retrieved 8 January 2008 from: <http://www.afn.ca/misc/afn-child.pdf>
- 29 Canada. Province of Alberta (2000:para. 1). Report to the Attorney General. Public Inquiry. Inquiry into the deaths of Constance Brenda Jacobs and Tyundanaikah Jacobs, May 15, 2000. Retrieved 14 January 2008 from: <http://www.assembly.ab.ca/lao/library/egovdocs/aljag/2000/132290.pdf>
- 30 Eberts, Mary (2000:3).
- 31 Canada. Province of Alberta (2000:17).
- 32 UN Platform for Action Committee Manitoba (no date:para. 2). *Aboriginal Women and the Economy*. Retrieved 16 January 2008 from: www.unpac.ca/economy/awe.html [endnotes omitted].
- 33 Ontario Federation of Indian Friendship Centres (2000). *Urban Aboriginal Child Poverty: A Status Report on Aboriginal Children and Their Families in Ontario*. Retrieved 16 January 2008 from: <http://www.ofifc.org/page/AborChilPov.htm>
- 34 Ontario Federation of Indian Friendship Centres (2000:7).
- 35 Ontario Federation of Indian Friendship Centres (2000). The numbers cited are from the 1994 Longitudinal Study of Children and Youth in Canada.
- 36 Ontario Federation of Indian Friendship Centres (2000); Canadian Council on Social Development (2003). *Aboriginal Children in Poverty in Urban Communities: Social exclusion and the growing racialization of poverty in Canada*. Presentation to Subcommittee on Children and Youth at Risk of the *Standing Committee on Human Resources Development and the Status of Persons with Disabilities*.
- 37 Ontario Federation of Indian Friendship Centres (2000); and Urban Aboriginal Child Poverty Background (retrieved 16 January 2008 from: <http://www.ofifc.org/page/notes.htm>). The study referred to was conducted by the National Aboriginal Project Save the Children Canada and based on focus groups of commercially sexually exploited Aboriginal children and youth in twenty-two communities across Canada.
- 38 UN Platform for Action Committee Manitoba (no date:para. 3, 5). *Aboriginal Women and the Economy*. Retrieved January 2008 from: <http://www.unpac.ca/economy/awe.html#4>
- 39 Aboriginal Justice Inquiry of Manitoba (1991:c. 13, para. 1). *Report of the Aboriginal Justice Inquiry of Manitoba, Volume 1: The Justice System and Aboriginal People*. Retrieved 17 January 2008 from: <http://www.ajic.mb.ca/volume1>
- 40 Royal Commission on Aboriginal Peoples (1993). *Bridging the Cultural Divide: A Report on Aboriginal People and Criminal Justice in Canada*. From CD-ROM: *For Seven Generations: An Information Legacy of the Royal Commission on Aboriginal Peoples*. Ottawa, ON: Libraxus Inc.

- 41 Pauktuutit Inuit Women's Association of Canada (no date:39). Inuit Women and Justice: Progress Report Number One, "Violence Against Women and Children: The Concerns of Labrador Women." Presentation to the RCMP Voices of Change Conference, March 23, 1994, Happy Valley-Goose Bay, Labrador.
- 42 Forcese, Dennis (2000:186). Police and the Public [reprinted by permission of Prentice Hall Canada Inc. 1999]. In Neugebauer, Robynne, *Criminal Injustice: Racism in the Criminal Justice System*. Toronto, ON: Canadian Scholars' Press Inc.: 161-207.
- 43 Aboriginal Justice Inquiry of Manitoba (1991:c. 16, para. 23).
- 44 Native Women's Association of Canada (unpublished). Sisters in Spirit Initiative Strategic Policy Priorities Framework. Authored by Andrea J. Williams. Data presented in this section is based on the ongoing *Sisters in Spirit* initiative. Data collection consists primarily of secondary research; that is, collecting information that has already been published and in the public domain. It is confirmed with police forces and corroborating evidence such as coroner reports and court documents. An internal Community-Based Research Plan developed by Andrea J. Williams guides the work. The methodology has been verified by an international panel of academics.
- 45 Amnesty International (2004:2). *Stolen Sisters: A Human Rights Response to Discrimination and Violence against Indigenous Women in Canada*. Amnesty International, October 2004. Retrieved 26 January 2008 from: <http://www.amnesty.ca/stolensisters/amr2000304.pdf>
- 46 Native Women's Association of Canada (research in progress).
- 47 Native Women's Association of Canada (research in progress).
- 48 United Nations (1976:article 6:1). International Covenant on Civil and Political Rights. Retrieved 17 January 2008 from: <http://www1.umn.edu/humanrts/instreetree/b3ccpr.htm>

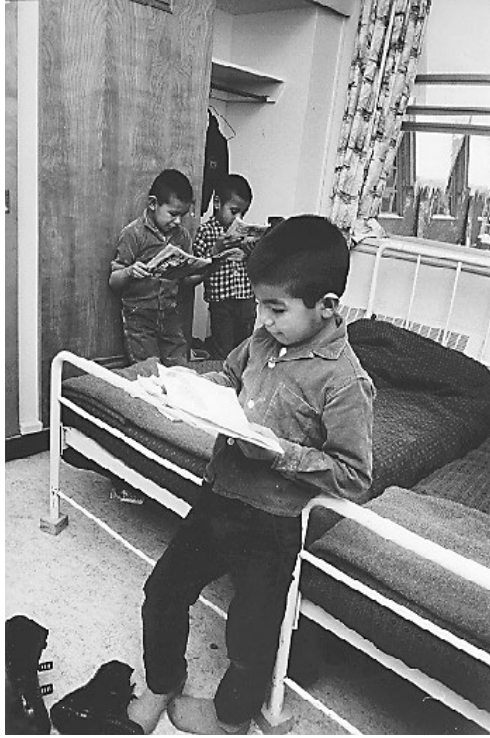


Photo: Courtesy of Janice Longboat

