POLICY Brief

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Reproductive Justice and Indigenous Women in Saskatchewan: Overview and Recommendations

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On January 26th, 2021 the Government of Saskatchewan announced it would be ending the use of birth alerts in the province, following the calls to justice from the National Inquiry into Missing and Murdered Indigenous Women and Girls.[1] Birth alerts, sometimes called hospital alerts, were a way that hospital and social service workers could "flag" a pregnant woman perceived to be at "high-risk", initiating investigation from child protection services when the woman entered the hospital to give birth. Birth alerts, which have overtly and specifically targeted Indigenous Peoples, were often issued without the woman's knowledge and have often led to the apprehension of children into state care. The end of birth alerts, in Saskatchewan and other jurisdictions,[2] is one step towards combating stigma against Indigenous parenthood and the policies that work to remove Indigenous children from their families, homes, and communities.

There is still much to be done to address ongoing harms and to advance reproductive justice for Indigenous Peoples in Saskatchewan. Reproductive justice refers to the "human right to maintain personal bodily autonomy, have children, not have children, and parent the children we have in safe and sustainable communities."[3] Developed by the SisterSong collective, reproductive justice draws attention to the need to understand reproductive rights in comprehensive terms, enabling meaningful decision-making about how, whether, when, and under what circumstances people have children.

For Indigenous Peoples in Saskatchewan, the struggle for reproductive justice occurs because of colonialism, assimilation, and the Euro-Canadian biomedical model, all of which limit already fraught choices.[4] Reproduction is, and has long been a part of colonial and neocolonial governance tools operated by the Canadian state with women's bodies being a primary target. The constitutionally-enabled exclusion of certain women and their children from obtaining status on the basis of who they married, the Indian Residential School system, the Sixties Scoop and Millennium Scoop, the over-incarceration of Indigenous women, and the coercive and forced sterilization of Indigenous women have all greatly affected Indigenous women's capacity to parent their children. These reproductive injustices work synergistically and often invisibly to ensure Indigenous Peoples are separated from each other.

Despite a long history of calls to action, change has been slow to occur. In this brief,[5] we draw attention to three interrelated issues concerning

reproductive justice for Indigenous women in Saskatchewan: 1) the recent and ongoing practices of coerced sterilization, 2) forced evacuation for maternity care services, and 3) child apprehension. In our conclusion, we draw together a few of the many still-to-be-realized calls for change and identify what the Government of Saskatchewan could do—now—to eliminate systemic, longstanding obstacles to achieving reproductive justice for Indigenous women in the province.

On Coerced Sterilization

Among the many concerns for Indigenous women having a child in Saskatchewan is the practice of forced and coerced sterilization. In 2015, media reports indicated Indigenous women who had given birth at the Royal University Hospital (RUH) in Saskatoon had been pressured and/or forced into undergoing tubal ligations. In some instances, healthcare and social workers told women that they could not leave the hospital or see their newborn baby until they had the procedure. The reports led to the Saskatchewan Health Region commissioning a report by Drs. Yvonne Boyer and Judith Bartlett who revealed that Indigenous women at the hospital experienced "both physical and psychological pressure to have a tubal ligation" from doctors, nurses, and social workers, including situations in which women were misinformed about the nature of the procedure and its outcomes, and intimidated into signing consent forms.[6] In some of these cases, women explicitly stated they did not want to undergo sterilization, but the procedure was carried out anyway.[7] There are reports that forced and coerced sterilizations have occurred in the province as recently as 2018.[8]

The forced and coerced sterilizations carried out at the RUH are part of a longer history of forced and coerced sterilization of Indigenous women in Saskatchewan and elsewhere in Canada. Wilfrid Laurier University Assistant Professor Karen Stote's research on the sterilization of Indigenous women in Canada in the 1970s documents that "up to 1,200 sterilizations were carried out from 1970 to 1976 on Aboriginal women from at least 52 northern settlements and in federally-operated Medical Service Hospitals."[9] And there is an even longer history of Indigenous people being sterilized as part of eugenics programs on the prairies,[10] in addition to other longstanding campaigns to reduce the birth rates of Indigenous Peoples in Canada,[11] including pressure to use long-term contraceptives, and to undergo sterilization and abortion procedures from health care and service providers.[12] The recent forced and coerced sterilizations that took place at the RUH are not isolated incidents, but are part of a violent system that has long sought to limit the reproductive capacity of Indigenous Peoples in Saskatchewan.

After its own investigation into the abuses of forced sterilization and violence against Indigenous women in Canada, the United Nations Special Rapporteur on Violence Against Women, released a report stating that "the practices of forced sterilization should be investigated and addressed in the context of systemic discrimination against Indigenous peoples, particularly Indigenous women, as well as comprehensive information on consent instituted while victims of such violence should receive full remedy including compensation."[13]

Boyer and Bartlett's report is critical, but does not serve as a full investigation or acknowledgement on the part of the Government of Saskatchewan. It also did not, and could not, address more recent allegations or cases of forced and coerced sterilization in other centres.[14] Although the Saskatoon Health Authority publicly apologized in 2017, the Government of Saskatchewan has not otherwise acknowledged other cases or the need for future action. Regarding reparations to those sterilized without knowledge or consent, no action has been taken. Instead, those who have experienced forced and coerced sterilization have had to launch a class-action lawsuit to hold governments, specific doctors, and the health region to account.

On Forced Evacuation

Another issue of reproductive coercion affecting decisions around birthing includes the practice of forced evacuation of women living in rural and remote regions of the province. For example, those who are pregnant and living north of La Ronge are sent out of their communities to await labour and birth in La Ronge, Prince Albert, Saskatoon, or Regina. Mandatory evacuation for maternity care is part of a Health Canada policy, which has its origins in attempts to establish "state sanctioned medical authority over First Nations women with the intention to end long-standing First Nations pregnancy and birthing practices in favour of a Euro-Canadian biomedical model of care" beginning in the 1900s.[15] Recently, with the closure of birthing units in smaller hospitals and the loss of community physicians, almost all of those living in rural and remote communities must leave their homes to access maternity care. Health Canada has required that women to be sent south in the name of reducing complications and improving survival rates for both mother and child. But the result has been poor maternal outcomes[16] and infant mortality rates more than twice as high as the non-Indigenous population.[17] There is no existing data suggesting that travelling for birth improves health outcomes for mother or child.[18]

The effects of the forced evacuation policy are many, including not only a loss of intergenerational knowledge related to labour and birth, but also the forceful removal of women out of their systems of support and care.[19] Because these evacuations make women leave their home communities for weeks or months at a time, women may have to leave other children at home, leading to the familial displacement. When evacuated, women find themselves in strange settings while they must "sit for weeks in southern cities waiting to go into labour, with strange food, little exercise and no family support."[20] Furthermore, reports also suggest women who have previously had involvement with child services and are forced to leave their communities to give birth in a hospital—again, without their communities and support systems present to help—are also more vulnerable to forced and coerced sterilization,[21] and are also at increased risk of having their child apprehended.[22]

In 2018, CBC Saskatchewan reported that women were "voting with their feet," by waiting too long in their pregnancies to leave their communities as a way of resisting pressure to leave home.[23] Examples of best practices, such as maternity clinics in remote areas in Northern Quebec, Nunavut, Manitoba, Ontario, and the Northwest Territories,[24] along with Indigenous midwifery programs have allowed more

women to avoid forced evacuations and enabled them to give birth in their communities on their own terms, and with the needed resources and supports.

On Child Apprehension

Reproductive justice is not only about the capacity to have or not have children, but also to parent the children one has in communities that are safe, sustainable, and support kinship relations. This is not possible for many Indigenous people in the province whose children have been apprehended, as a result of public policies that reinforce and perpetuate longstanding histories of colonialism and racism. Data from 2019 indicates Indigenous children represent 86% of children in state care,[25] a striking number given less than 20% of people in the province are Indigenous. Indeed, the Truth and Reconciliation Commission calls the child welfare system "the residential school system of our day."[26]

The consequences of widespread child apprehension are dire, with lifelong and intergenerational trauma not only for the child apprehended, but also for their parents, families, and communities from which children are taken. For women whose child has been apprehended, the trauma and grief associated with apprehension are tied to "an increase in parental substance abuse and mental distress; and internalized feelings of shame, failure, and self-hatred," and once an apprehension has occurred, it can be extraordinarily difficult for people to regain custody of their child, particularly given institutional barriers to engaging with the justice system.[27] Apprehension and the risk thereof can also make decision-making for Indigenous people parenting their children extremely difficult. Decisions related to when and how to engage with health and social service providers for what might otherwise be routine care or interventions can quickly become risky potential sites of apprehension.

The Canadian state's violence against Indigenous Peoples—including the violation of treaties, deliberate starvation, the Indian Residential School system, the Sixties Scoop, the creation of Indian hospitals, a lack of access to secure housing and drinking water, and continued over-policing, among others—have resulted in intergenerational trauma and with it, adverse health and social outcomes, and crises in alcohol and drug addiction that are then used to justify apprehension. It is often assumed that due to the obstacles put before Indigenous Peoples by the state, women and families are not willing or able to parent their children because of perceived neglect. There are extreme circumstances in which apprehension may be unavoidable, but most child welfare cases in the province occur under the auspices of neglect[28] as per *The Child and Family Services Act*.[29] These instances of neglect often stem from "structural issues such as poverty, poor housing, and parental or guardian substance misuse"[30] that are caused by colonialism, efforts to civilize and assimilate Indigenous Peoples, the Indian Residential School system, and other institutionalized systems of genocide. Researchers have also demonstrated that First Nations Families are penalized more than non-Indigenous families for substance use in child welfare cases.[31] In a twisted logic, the solution has long been that if families are not able to raise their children as a result of intergenerational trauma, their children are taken and put into the care of the very state that was the source of the trauma in the first place. Reproductive justice includes the human right to parent one's children, and reproductive justice for Indigenous women can never be realized so long as there is an overrepresentation of Indigenous children in state care.

Recommendations for Change

The policy environment in Saskatchewan has long undermined Indigenous women's potential to realize reproductive justice, although Indigenous women have always worked to find ways to contest these policies and to challenge unfair limitations on their capacity to make decisions about when, whether, and how to have children. Here we draw together key recommendations made by the United Nations Special Rapporteur on Violence Against Women, the Truth and Reconciliation Commission, the National Inquiry into Missing and Murdered Indigenous Women and Girls, the National Aboriginal Council of Midwives and others, to highlight a few recommendations that, if implemented, could rapidly enable greater reproductive justice for Indigenous women in Saskatchewan, although there are many more.

- **Enact justice for victims of forced and coerced sterilization.** The Government of Saskatchewan should immediately take action on the recommendations made by the United Nations Special Rapporteur on Violence Against Women. Dedicated personnel and financial resources must be committed to support the impartial investigation of allegations of forced and coerced sterilization. Simultaneously, procedures must be developed to hold relevant parties to account. Protocols and standards for relevant investigations should be developed, with full reporting about the impartiality of the process, as well recommendations for change. Further, the provincial government should work together with women who have experienced forced or coerced sterilization and their advocates to immediately provide, as the United Nations has recommended, adequate compensation.
- **Ensure the provision of culturally safe and local reproductive health care.** Culturally competent and safe care training for health care professionals were among the Truth and Reconciliation Commission's Calls to Action. Since 2019, the Saskatchewan Health Authority has made cultural responsiveness part of its orientation for new staff. For reproductive health care, culturally safe services must also include the expansion of birthing opportunities available to women to ensure women's cultures are respected and they have the space and supports they need to have safe birthing experiences. This must include improvements to prenatal and hospital-based care, as well as commitments to expanding access to care and relevant training so that women can give birth in their communities and at home. Funding and continued support for midwifery care,[32] including investment in the "growth and sustainability of Indigenous midwifery," is an important start.[33] This work should also include full funding for Indigenous doula care, particularly given the establishment for the Indigenous birth worker support program in Saskatoon.[34] For women from remote areas with pregnancies requiring more medical services that cannot be accommodated in home

communities, birthing opportunities should include trained staff and also financial and other supports to encourage family to attend the birth. Time away from home must be minimized in these situations.

- **Fund and support prenatal support including prenatal outreach teams.** One critique of birth alerts was that it focused on women in precarious situations too late—at the time of delivery—rather than earlier in pregnancy when support might have enabled and empowered them to parent safely. The Sanctum Care Group has been advocating for a prenatal case management team to support vulnerable women across the province and provide access to services as early in their pregnancies as possible.[35] As mobile prenatal teams—including one in Edmonton[36]—have shown, expanding prenatal interventions for women who might not otherwise have access to care would enable women to be connected to health and social services to improve outcomes for both mother and child. Expanding initiatives like Sanctum 1.5 in Saskatoon and into other centres will also work to address existing needs and enable more women, children, families, and communities to benefit from preventative, wraparound services including prenatal care and support after delivery.[37]
- **Prohibit child apprehension for substance abuse, poverty, and cultural bias.** Substance use is not a legitimate reason to remove children from their families. Substance dependence and substance misuse are medical and social issues that should be treated using a harm reduction approach. Further, the National Inquiry into Missing and Murdered Indigenous Women and Girls called "upon all governments to prohibit the apprehension of children on the basis of poverty and cultural bias," stating that "governments must resolve issues of poverty, inadequate and substandard housing, and lack of financial support for families, and increase food security to ensure that Indigenous families can succeed."[38] Those experiencing substance dependence and/or poverty are not inherently bad parents and deserve to have every opportunity to parent their child, including access to parenting, housing, and social service supports that will enable them to do so. The province should re-examine funding structures to prioritize providing support to parents and families experiencing challenges but who want to care for their children.
- **Support Indigenous self-determination and inherent jurisdiction in child and family welfare.**[39] Since the enactment of C-92 (*An Act Respecting First Nations, Inuit and Métis Children, Youth and Families*), there has been new capacity for Indigenous Nations to exercise jurisdiction over child welfare, including controlling the delivery of its own child and family services. The province has an obligation to notify a First Nation of an apprehension, and to follow a priority of placement model (as outlined in the legislation) that ensures culturally appropriate placement of any apprehended child. Support of inherent jurisdiction is in keeping with the calls for justice of the National Inquiry into Missing and Murdered Indigenous Women and Girls, which called for the transformation of "current child welfare systems fundamentally so that Indigenous communities have control over the design and delivery of services for their families and children."[40] As Nations develop plans to exercise jurisdiction,[41] the Government of Saskatchewan must continue to support and advocate for transformation to address the disproportionate number of Indigenous children in care, and to enable them to return and stay with their families and in community.

References

Please refer to the website for a detailed list of references.

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