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LISTENING, RECONCILIATION, PROGRESS?

BRIEF SUBMITTED TO

PUBLIC INQUIRY COMMISSION ON RELATIONS BETWEEN INDIGENOUS PEOPLES AND CERTAIN PUBLIC SERVICES IN QUÉBEC

Chaired by the Honourable Jacques Viens

BY

THE ASSEMBLY OF FIRST NATIONS QUÉBEC-LABRADOR (AFNQL)

ON

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IN

WENDAKE, QUÉBEC

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"The great aim of our legislation has been to do away with the tribal system and assimilate the Indian people in all respects with the other inhabitants of the Dominion as speedily as they are fit to change."

John A. MacDonald, 1885

"It is the opinion of the writer that… the Government will in time reach the end of its responsibility as the Indians progress into civilization and finally disappear as a separate and distinct people, not by race extinction but by gradual assimilation with their fellow citizens."

Duncan Campbell Scott, Deputy Superintendent General of Indian Affairs, 1931

"Education is the most powerful weapon which you can use to change the world."

Nelson Mandela

INTRODUCTION

The AFNQL[1] would like to begin this brief by commending the courage of the victims who shared their stories with the Commission. It would like to reiterate that the courage and determination shown by these victims were the main driving force behind the creation of this Commission.

The AFNQL would also like to thank all the stakeholders who made the Commission's work possible. This includes the Commissioner, attorneys, witnesses, interveners, and all those who, publicly or in the background, allowed for an attentive ear to be lent for the duration of the Commission, in order to hear the voluminous evidence presented. This evidence reconfirmed the extent of the violence and discriminatory practices that characterize the provision of certain public services to First Nations in Quebec.

Lastly, the AFNQL wishes to acknowledge the contribution of its committees to the work of the present Commission. They have, among other things, given testimony and submitted recommendation reports in their areas of expertise. The AFNQL has adopted these recommendations for the purposes of this Brief.

If there is one thing that this Commission has brought to light, it is the fact that a great deal of work must be done to change attitudes toward First Nations people. The systemic discrimination that persists in the provision of public services simply reflects the racism and sexism that persist in society in general. Even today, large segments of the population harbour prejudices and stereotypes toward First Nations people, and there is an urgent need to eradicate this scourge through education, among other means.

[1] Appendix A contains a presentation on the AFNQL and its commissions.

In this Brief, the AFNQL will first provide a historical overview of the facts that led to the creation of this Commission (Part I). This will be followed by a brief review of the evidence submitted to the Commission (Part II). Lastly, recommendations and insights will be presented. (Part III).

From the outset, the AFNQL noted that the scope of the Commission's mandate was vast, concerning the provision of no less than six (6) different public services offered to First Nations in Quebec; namely police, correctional, justice, youth protection, and health and social services. Upon completion of its work, the Commission should therefore be in a position to provide recommendations on how services are provided to Indigenous people, from police stations to prisons, from early childhood services to the CHSLD, and from Ivujivik to Pakuashipi.

Beginning with its resolution 29/2015 of December 7, 2015, the AFNQL has responded to cases of abuse of First Nations women in the Val-d'Or region perpetrated by Sûreté du Québec (hereinafter "SQ") police officers. The AFNQL pointed out that these cases were not isolated either in time or place and that cases of police abuse, from the perspective of victims or witnesses, have been met with inadequate response and investigation. Based on these findings, the AFNQL concluded its resolution by calling for the establishment of an independent and formal judicial inquiry focusing **exclusively** on the relationship between police services throughout Quebec and First Nations. It should be noted that the use of the term "police services" in this Brief refers to any police force or police officer likely to intervene in situations involving First Nations people in Quebec.

It's clear the resolution was born of appreciation and support for the courage and determination of the First Nations women in the Val-d'Or region, who denounced, against all odds, the police abuse they were victims of or witness to. The requested judicial inquiry was therefore intended to focus, first and foremost, on police abuse or misconduct against First Nations people. At the time, there was no thought that the abuses against women in Val-d'Or would lead to a commission with a mandate as broad as that described in Decree number 1095-2016 of December 21, 2016.

While the goal of inquiring into six (6) public services rather than just one is commendable, the AFNQL, while recognizing the efforts devoted to this task, does question the impact that this very broad mandate will have on the Commission's work.

Firstly, given the poor history of past commissions on a wide range of First Nations issues, both in Quebec and in Canada, the AFNQL is concerned that such a broad mandate could dilute the expected impact of the Commission's report and the recommendations it will make.

Secondly, the AFNQL has observed an unfortunate, albeit unintentional, consequence of this ambitious program: though it arose from the voices of the victims, it has had the effect of relegating them to the background. It is clear that what the victims are demanding—and what is most likely to satisfy them— is to complete these investigations, through which

systemic racism is emerging. Unfortunately, as the Commission's work is now wrapping up, a number of questions remain unanswered, such as the people involved, the hierarchy's knowledge of events, the disciplinary measures taken, the accountability mechanisms and the inquiries themselves. Are the same police officers still involved? Are they still active? Victims, witnesses, and First Nations people need to be reassured on these matters. It is therefore easy to imagine that some victims will remain unsatisfied at the close of the Commission's work. It is clearly not easy to balance between hopes and expectations, on one side, and the resources and limits dictated by the Commission's mandate on the other.

To avoid any ambiguity in this regard, the AFNQL recalls here the three main issues it has systematically hammered away at with the Government of Quebec for many years:

1) **Recognize, denounce, and fight the systemic racism prevails within institutions and the population;**
2) **Redress the wrongs suffered by [all] the victims [in particular those] of First Nations, whose courage the AFNQL wishes to emphasize, and to whom it wishes to offer its fullest cooperation, and the immediate adoption of concrete measures to reduce the risks to which these victims are exposed;**
3) **Recognize the right of First Nations to provide their own police services [or to receive police services that are culturally appropriate to the reality of each community], and the right to funding to ensure that these police services are provided as the essential services they are, rather than being treated as simply renewable programs [at the discretion of the federal and provincial governments]. This recognition must be accompanied by a consistent attitude toward possible negotiations on police services.**

The AFNQL will strongly support the implementation of any recommendation from the Commission that will lead to a positive resolution of these issues. As there would be no point in discussing the merits of the thousands of resolutions that might be adopted, the AFNQL proposes to focus on four concrete solutions aimed at improving the three issues mentioned above, namely:

1) First, that the Commission support the complainants who wish to file individual complaints against the Government of Canada before the *Committee on the Elimination of Discrimination against Women*;

2) Second, that the Commission clearly assert First Nations' right to provide their own police services or to receive police services that are culturally adapted to the reality of each community, and that the Commission take a stance on the issues that arise from this statement;

3) Third, that Quebec adopt and implement the *United Nations Declaration on the Rights of Indigenous Peoples* (UNDRIP); and

4) Fourth, that a permanent entity be created to ensure that provincial government activity is subject to existing laws and respects national and international standards on Indigenous rights.

These recommendations target each of the AFNQL's three main concerns relative to this Commission.

The first recommendation will support and facilitate access to international bodies for victims wanting to pursue that path, in order to claim the remedies they feel they have not yet received.

The second recommendation was the subject of a call to action by Commissioner Viens on March 23, 2018.[2] Offering First Nations a real choice about whether or not to offer police services in their own communities should be the goal of the many recommendations that will be made in this area. In other words, First Nations must no longer be put in the position of having to refuse to offer such services to their communities, due to unreasonable attitudes from the governments of Quebec and Canada during negotiations about the implementation, funding, and maintenance or renewal of these services.

The third recommendation is one of the many measures that can be taken by the Quebec government to set an example of the attitudes that must characterize relations between Quebec and First Nations people. Adopting and implementing one of the most thorough instruments of international law on the rights of Indigenous peoples, and trying to reconcile provincial laws with this instrument, would be an honourable gesture that could contribute to improving the quality of relations and to eliminating the systemic racism that exists in Quebec.

Finally, the fourth recommendation explores the creation of a permanent entity that could continue the work of this Commission and ensure the effective implementation of the recommendations it will adopt.

[2] CERP, Press Release: "Commissioner Viens Issues a 3rd Call to Action" [URL]: <https://www.cerp.gouv.qc.ca/fileadmin/Fichiers_clients/Communiques/Press_release_call_to_action__March_23.pdf>.

PART I: HISTORICAL OVERVIEW

The AFNQL stresses the unfortunate fact that the sample of events revealed to the Commission reflects the situation that generally prevails within First Nations. In the end, the many episodes reported demonstrate the significant qualitative and quantitative gap that characterizes the provision of public services to First Nations, as studied by the Commission.

It is undeniable that even today, First Nations people are still victims of persistent discrimination and deep-rooted prejudice. We can amend or add to the existing body of regulations as much as we want, but as long as mentalities and attitudes do not change, little concrete progress can be made.

Unfortunately, these mindsets and attitudes reflect those that also exist within the government system, which means they are ultimately tolerated rather than eradicated. Consequently, there is something arbitrary about the fact that the Commission's inquiry can only cover the fifteen (15) years preceding its creation, as per decree 1095-2016), given how difficult it has been for First Nations people who have been victims of police abuse to access effective remedies.

Indeed, the problems of discrimination, particularly against First Nations women, which have been extensively demonstrated before this Commission, began well before the events in Val-d'Or, and well before the 15-year period established by the Decree. These problems are far from over, if we judge by recent evidence. We have barely emerged from the residential schools issue and are now looking into police stations. Will it be necessary to create other commissions to deal specifically and thoroughly with hospitals and, more generally, with the health care that has been provided to First Nations over the years? In this regard, the AFNQL is profoundly disturbed by the January 2017 report from the Saskatoon Health Region revealing that women, notably from First Nations, had undergone fallopian tube ligation without their consent after childbirth.[3] The report recalls a shameful part of Canadian history, during which eugenic policies led to the forced sterilization of Indigenous women.

In her testimony of June 19, 2017, Professor Suzy Basile spoke eloquently about the issues faced by Indigenous women. Document P-035 submitted to the Commission presents a troubling history of the treatment of Indigenous women in Canada over the years: nutrition experiments in the 1940s, mistreatment in residential schools, the raids and selling of Indigenous children from the 1960s to the 1980s, the forced sterilization of at least 3,000 people between 1928 and 1973, the exclusion of and discrimination against women entrenched in the *Indian Act*. Today, no one can seriously dispute the extent and persistence of what Professor Basile rightly describes as “double discrimination”, racist and sexist.

[3] Saskatoon Health Region, Dr. Yvonne Boyer & Dr. Judith Bartlett, *External Review: Tubal Ligation in the Saskatoon Health Region: The Lived Experience of Aboriginal Women*, July 22, 2017, online [URL]:<https://www.saskatoonhealthregion.ca/DocumentsInternal/Tubal_Ligation_intheSaskatoonHealthRegion_the_Lived_Experience_of_Aboriginal_Women_BoyerandBartlett_July_22_2017.pdf>.

The treatment of First Nations women, firstly in Val-d'Or and secondly throughout Quebec, combined with the episodes of racism brought to light before the Commission, is therefore in keeping with the discriminatory practices that have been in place since the very beginning of colonization, and that simply take on a different aspect over time. Sadly, there is nothing surprising about the behaviours and attitudes of the SQ officers that were revealed before the Commission, when placed in the context of a dynamic that has actually existed since the very first contact with First Nations.

The situation is so severe and so persistent that international bodies have begun to examine the endemic phenomenon of discrimination and its impact on Indigenous women in Canada (the subject of the first recommendation).

It was against this backdrop that, in December 2015, the National Inquiry of Missing and Murdered Indigenous Women and Girls (hereinafter referred to as the "National Inquiry") was created in Canada. Then, the Public Inquiry Commission on Relations between Indigenous Peoples and Certain Public Services in Québec (hereinafter referred to as the "Viens Commission") was launched in Quebec. These two commissions of inquiry are part of a long line of commissions that have examined one aspect or another of the "relationship" between the Crown and First Nations.

The National Inquiry, which was launched in September 2016, will produce its final report by April 2019, after hearing from nearly 2,093 witnesses, whose testimony generated over 23,230 pages of transcripts, and after examining over 1,058 exhibits. As per its mandate, the National Inquiry must address the systemic causes of all forms of violence against Indigenous women and girls, and assess the policies and institutional practices put in place to respond to such violence, in order to reduce it and enhance safety.[4] This Commission was set up in December 2016, in the wake of events in Val-d'Or that revealed police misconduct and discriminatory practices against the Indigenous community. This Commission's mandate is to investigate and then recommend actions to be taken by the Government of Quebec and the Indigenous authorities, in order to eliminate all forms of violence and discriminatory practices against Indigenous peoples of Quebec.

Let us recall that, in 1991, the Royal Commission on Aboriginal Peoples (Erasmus-Dussault Commission) formulated no fewer than 400 recommendations to improve relations between the federal and provincial governments and the members of some 70 Indigenous nations in Canada.[5] In 2010, the Native Women's Association of Canada (NWAC) also published a hard-hitting report based on exhaustive research, presenting important findings that go well beyond simply quantifying the cases of missing and

[4] Government of Québec, December 21, 2016, *Décret concernant la constitution de la Commission d'enquête sur les relations entre les Autochtones et certains services publics au Québec : écoute, réconciliation et progrès*, Decree number 1095-2016.
[5] Royal Commission on Aboriginal Peoples, *Report of the Royal Commission on Aboriginal Peoples*, Canada, October 1996, Ottawa, online [URL]: <http://www.bac-lac.gc.ca/eng/discover/aboriginal-heritage/royal-commission-aboriginal-peoples/Pages/final-report.aspx>.

murdered Indigenous women.[6] Then again, in 2014, the Special Committee on Violence Against Indigenous Women released the report *Invisible Women: A Call to Action*, after holding several hearings. The report makes 16 key recommendations on how to better address the phenomenon of violence against Indigenous women and girls.[7] That same year, the Royal Canadian Mounted Police (RCMP) initiated a national review of police-reported cases involving missing or murdered Indigenous women in Canada. Its final report, published in 2014, analyzes information on 1,017 homicides and 164 disappearances of Indigenous women between 1980 and 2012. The report was intended to guide operational decision-making and to lead to more focused crime prevention, improved community mobilization, and greater accountability for criminal investigations.[8] Finally, in 2015, the Truth and Reconciliation Commission of Canada (TRC) was established following the implementation of the Indian Residential Schools Settlement Agreement. The TRC's final report contains 94 calls for action and recommendations.[9]

Provincial commissions have also multiplied in recent decades. In 1988, a major inquiry was launched in Manitoba following several dramatic events that led to the deaths of First Nations and Métis people.[10] In 1991, a committee was set up in Saskatchewan to issue recommendations on the criminal justice system as it relates to the province's Indigenous people.[11] In British Columbia, the Missing Women Commission of Inquiry was established in 2010 to assess law enforcement agencies' response to cases of missing and murdered women.[12] There has also been the Ipperwash Inquiry in Ontario, following the death of Dudley George, killed by an Ontario Provincial Police officer in 1995,[13] and the First

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[6] Native Women's Association of Canada, *What Their Stories Tell Us: Research Findings from the Sisters in Spirit Initiative*, 2010, online [URL]: <https://nwac.ca/wp-content/uploads/2015/07/2010-What-Their-Stories-Tell-Us-Research-Findings-SIS-Initiative.pdf>.

[7] House of Commons, Special Committee on Violence against Indigenous Women, *Invisible Women: A Call to Action: A Report on Missing and Murdered Indigenous Women in Canada*, March 2014, 41st Canadian Parliament, 2nd session, online [URL]: < https://www.ourcommons.ca/DocumentViewer/en/41-2/IWFA/report-1/>.

[8] Her Majesty the Queen in Right of Canada as represented by the Royal Canadian Mounted Police, *Missing and Murdered Aboriginal Women: National Operational Overview (2014)*, ISBN: 978-1-100-23789-3, online [URL]: <http://publications.gc.ca/collections/collection_2014/grc-rcmp/PS64-115-2014-fra.pdf >.

[9] Truth and Reconciliation Commission of Canada, *Honouring the Truth, Reconciling for the Future: Summary of the Final Report of the Truth and Reconciliation Commission of Canada*, 2015, online [URL]: <http://www.trc.ca/websites/trcinstitution/File/2015/Findings/Exec_Summary_2015_05_31_web_o.pdf>.

[10] *Report of the Aboriginal Justice Inquiry of Manitoba*, online [URL]: <http://www.ajic.mb.ca/volumel/chapter1.html>.

[11] Judge Patrician Linn and Representatives of the Federation of Saskatchewan Indian Nations, Government of Saskatchewan and Government of Canada *Report of the Saskatchewan Indian Justice Review Committee*, January 1992, online [URL]: <http://www.qp.gov.sk.ca/documents/misc-publications/Indian_Justice_Review_Comm.pdf>.

[12] British Columbia, Missing Women Commission of Inquiry, *Forsaken: The Report of the Missing Women Commission of Inquiry*, November 22, 2012, online [URL]: <https://www2.gov.bc.ca/gov/content/justice/about-bcs-justice-system/recent-inquiries>.

[13] Iperwash Inquiry, *The Ipperwash Inquiry Report: A Road Map to Better Relationships between Aboriginal People and the Ontario Government*, May 31, 2007, online [URL]: <https://www.ontario.ca/page/ipperwash-inquiry-report

Nations Regional Health Survey, which began in 1997 and whose results are to be used in decision-making processes at the local, regional and national levels.[14]

Despite all these commissions, relations between First Nations and the governments of Canada and Quebec have improved only marginally, and many of the recommendations made by these commissions have yet to be implemented. There is therefore a tangible fear among the Grand Chiefs and Chiefs of the First Nations of Quebec and Labrador that the recommendations that will be made by this Commission, like many of those from previous reports, will end up on Parliament's shelves. Historically, First Nations "problems" have been addressed through commissions that make recommendations, hang around for a while and then disappear. Clearly, this method has its limits.

The net result of all this turmoil is that there are currently two commissions of inquiry working simultaneously to address issues that overlap in many respects and have been extensively documented over the years. These two commissions ultimately address the same issue, racism and discrimination against First Nations people. The National Inquiry adopts a victim-focused point of view, while the Viens Commission focuses on public services. Given that their respective mandates cover common ground, it would certainly be appropriate that relevant evidence be shared between the two commissions.

Indeed, according to its reference framework, the National Inquiry must "look into and report on the systemic causes of all forms of violence against Indigenous women and girls, including sexual violence" in Canada. This includes "the underlying social, economic, cultural, institutional and historical causes that contribute to the ongoing violence and particular vulnerabilities of Indigenous women and girls in Canada." It must also make recommendations to identify concrete and effective measures that can be taken to eradicate the systemic causes of violence and to increase the safety of Indigenous women and girls in Canada.[15]

As for this Commission, it must, following its hearings, recommend concrete, effective and sustainable measures to be implemented by the Government of Quebec and Indigenous authorities to prevent and eliminate, regardless of their origin or cause, all forms of violence, discriminatory practices and differential treatment in the identified public services, including police services.

[14] First Nations of Quebec and Labrador Health and Social Services Commission, *First Nations Regional Health Survey*, online [URL]: <http://cssspnql.com/en/areas-of-intervention/research-sector/population-surveys/regional-health-survey>.

[15] National Inquiry into Missing and Murdered Indigenous Women and Girls, "Our Mandate, Our Vision, Our Mission" online [URL]: <http://www.mmiwg-ffada.ca/mandate/>.

PART II: EVIDENCE SUBMITTED TO THE COMMISSION

AFNQL Chief Ghislain Picard and many Grand Chiefs and Chiefs of the First Nations spoke before this Commission to address the problems experienced by their Nations or communities in terms of public service delivery. They were unanimous in denouncing the discrepancy between the police services offered to First Nations and the reality and needs of their communities.

As for the underlying causes of the problems identified, it is first and foremost important for the Commission to ask itself, as did the AFNQL Chief, "How did we get to this point?" *[our translation]*.[16]

Recalling the events that led to the establishment of this Commission, Chief Picard emphasized the importance of not losing sight of the issues relating to police abuse suffered by First Nations people. These issues include the inertia of the authorities and the normalization of systemic discrimination.[17]

In the same vein as Chief Picard, Dr. Matthew Coon-Come, former Grand Chief of the Grand Council of the Crees (Eeyou Istchee), also shares the sad observation that discrimination toward First Nations people is generalized and deeply rooted.[18] The Commission's mandate thus requires it to study the causes of this systemic discrimination in public services, in order to identify, prevent, and eliminate it. The manifestation of this discrimination is the marginalization and violence suffered, mainly by the most vulnerable members of First Nations communities. While the problems and their causes are widely known, we must now deploy the necessary will to provide concrete, effective and sustainable solutions.[19]

Any lasting solution must therefore involve the establishment of a Nation-to-Nation partnership, an egalitarian relationship based on mutual respect, breaking with the paternalistic approach used in the past. This was emphasized by Dr. Abel Bosum, Grand Chief of the Grand Council of the Crees (Eeyou Istchee).[20]

Indeed, according to Konrad Sioui, Grand Chief of the Huron-Wendat Nation, intolerance toward First Nations people and indifference toward the problems they face stem from a stereotyped vision, rooted in ignorance, which must be remedied.[21]

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[16] Testimony of Chief Ghislain Picard, Transcription of the hearing from June 6, 2017, p. 27.
[17] Testimony of Chief Ghislain Picard, Transcription of the hearing from June 6, 2017, pp. 28–35.
[18] Testimony of Grand Chief Matthew Coon-Come, Transcription of the hearing from June 14, 2017, pp. 13, 20.
[19] Testimony of Grand Chief Matthew Coon-Come, Transcription of the hearing from June 14, 2017, pp. 22–23, 67–68.
[20] Testimony of Grand Chief Abel Bosum, Hearing transcript from June 20, 2018, pp. 43–45.
[21] Testimony of Grand Chief Konrad Sioui, Hearing transcript from September 28, 2017, pp. 10, 91–93.

Although the reality of the Micmac Nation of Gespeg differs in several respects from that of other First Nations, considering that it does not have a "reserve territory" and its community members receive most of their public services directly from provincial authorities, the members of this community suffer the debilitating effects of discrimination all the more since they live in a legal void. This was emphasized by the Nation's Chief, Manon Jeannotte, who also reported that that the patterns of colonization are still very much alive and continue to this day.[22]

As stated by Constant Awashish, Grand Chief of the Atikamekw Nation, it is the Commission's duty to shed light on the sources of systemic discrimination in the delivery of public services, in order to reduce the problems experienced by First Nations people.[23]

More specifically, regarding police services, Verna Polson, Grand Chief of the Algonquin Anishinabeg Nation Tribal Council, pointed out that a recurring problem is the alarming underfunding of First Nations police services. Adding that not all the communities represented have a police force. First Nations police services are overwhelmed and ill-equipped to carry out their duties. Meanwhile, communities served by the SQ are essentially left to their own devices, since response times are too long, creating insecurity within the communities.[24]

On this subject, David Kistabish, Council Chief of the Abitibiwinni Nation, which has a police force in Pikogan, explained that underfunding creates precarious work conditions, high staff turnover and a lack of personnel, thus requiring the cooperation of the Amos SQ. Despite maintaining a harmonious relationship with the SQ, the community's need to rely on external assistance results in longer response times, even though the first few moments are often critical in crisis situations. The Chief also deplored the lack of thorough police investigation in several Abitibiwinnik deaths.[25]

The underfunding of First Nations police departments has very real repercussions on their ability to offer adequate services, as testified by Council Chief Adrienne Jérôme of the Lac Simon Anishnabe Nation, stating their own police services had to refuse, due to a lack of resources, to receive complaints from nine (9) women in their community after the Val-d'Or events.[26] Furthermore, the sustainability of community initiatives, like the Wigobisan project to address sexual abuse problems in the community, also requires that the community's police services be adequately funded.[27] This is all the more critical given the climate of mistrust toward the SQ, and given the fact that several community members who were victims of police abuse refuse to file complaints for fear of reprisals, as they feel

[22] Testimony of Chief Manon Jeannotte, Hearing transcript from September 15, 2017, pp. 9–11, 21, 40–42.
[23] Testimony of Grand Chief Constant Awashish, Hearing transcript from June 19, 2017, p. 62.
[24] Testimony of Grand Chief Verna Polson, Hearing transcript from June 6, 2017, pp. 57–60; Testimony of Grand Chief Verna Polson, Hearing transcript from April 20, 2018, pp. 112–113, 117–119.
[25] Testimony of Chief David Kistabish, Hearing transcript from June 6, 2017, pp. 119–120.
[26] Testimony of Chief Adrienne Jérôme, Hearing transcript from June 7, 2017, pp. 22–23.
[27] Testimony of Chief Adrienne Jérôme, Hearing transcript from April 13, 2018, pp. 132–133.

unsafe.[28] The community is better able to understand and address its members' needs, since community police services are sensitive to local problems and use a culturally appropriate approach.[29]

Dr. Matthew Coon-Come, former Grand Chief, and Dr. Abel Bosum, current Grand Chief, both of the Grand Council of the Crees (Eeyou Istchee), each pointed out that the mistrust First Nations people feel toward the police requires that officers receive better training about the realities of Indigenous people. In addition, "more Indigenous police officers need to be recruited, trained, and deployed in urban centres, without cannibalizing understaffed and underfunded police forces in Indigenous communities."[30]

Former Chief Adrienne Anichinapéo of the Anicinape community of Kitcisakik testified that the community, which does not have a police force, has a strained relationship with the SQ, sometimes tinged with discrimination.[31] The seclusion of the community means that police response times can be up to one hour.[32]

The Chief of the Innu community of Pakua Shipu, Denis Mesténapéo, outlined for the Commission the policing challenges faced by his community, which is made up of 382 members and is isolated, being located 500 km north of Sept-Îles.[33] The community has had its own police force since 2006, but it runs at a substantial deficit and has difficulty recruiting qualified staff who speak Innu. The cost of moving detained persons to Sept-Îles, in particular, is very expensive, but the resources available do not increase accordingly. The Chief therefore wonders whether or not Quebec's justice system genuinely wants to help them.[34] Given that his community faces significant drug and alcohol problems, the Chief denounced the fact that the SQ often refuses to assist the community's police department.[35]

Noah Swappie, Chief of the Naskapi Nation of Kawawachikamach, explained how the funding granted for his community's police force does not meet the needs of his community, since it is only enough to deploy four officers. The Naskapi Nation must therefore fill the shortfall to ensure that police services are adequate. This issue is presently in dispute with both the federal and provincial governments. Funding for police departments is necessary because the SQ is not always available, and its interventions are most of the time

[28] Testimony of Chief Adrienne Jérôme, Hearing transcript from June 7, 2017, pp. 24–26, 70; Testimony of Chief Adrienne Jérôme, Hearing transcript from April 13, 2018, pp. 132–133.
[29] Testimony of Chief Adrienne Jérôme, Hearing transcript from June 7, 2017, pp. 43–44, 56. Testimony of Chief Adrienne Jérôme, Hearing transcript from April 13, 2018, pp. 135–136.
[30] Testimony of Grand Chief Matthew Coon-Come, Hearing transcript from June 14, 2017, pp. 66–68; Testimony of Grand Chief Abel Bosum, Hearing transcript from June 20, 2018, pp. 55–63.
[31] Testimony of Chief Adrienne Anichinapéo, Hearing transcript from June 7, 2017, pp. 116–118.
[32] Testimony of Chief Adrienne Anichinapéo, Hearing transcript from June 7, 2017, pp. 140-141.
[33] Testimony of Chief Denis Mesténapéo, Hearing transcript from January 23, 2018, p. 10.
[34] Testimony of Chief Denis Mesténapéo, Hearing transcript from January 23, 2018, pp. 13–15, 29.
[35] Testimony of Chief Denis Mesténapéo, Hearing transcript from January 23, 2018, pp. 17–20.

inappropriate, due to a lack of training on the cultural reality and problems experienced by the members of the community.[36]

These concerns are in line with those expressed by Constant Awashish, Grand Chief of the Atikamekw Nation, who condemns the colonialistic and paternalistic attitude of the authorities, and the inequitable funding received by the police servicing First Nations communities. He calls for greater recognition of First Nations and respect for their right to self-government.[37]

The Chief Advisor on natural resources and territory of the Maliseet Viger First Nation gave an example of a positive relationship between a First Nation and the SQ, made possible by the presence of an SQ liaison officer. She explained how, to achieve this result, the agent makes a positive contribution to solve any problems that arise. This is most certainly facilitated by the fact that the agent knows everyone by name.[38]

The Chief of the Atikamekw Council of Manawan, Jean-Roch Ottawa, points to a double standard in the delivery of public services, particularly in the funding of First Nations police departments. This stems from the more fundamental problem of systemic discrimination against First Nations people.[39]

These issues of underfunding and discrimination were also raised by the Ekuanitshit Innu Chief, Jean-Charles Piétacho, whose testimony began by recalling the exodus and the residential schools that tore apart the community's social fabric.[40] He also shared his skepticism about the increasing number of commissions, pointing out that the solutions are well-known and inevitably require a better knowledge of, and greater respect for, First Nations. The Commissioner mentioned this in his opening statement and also expressed the hope that this would be the last commission.[41] Chief Piétacho finally recalled the Government of Quebec's historical reluctance to ensure that First Nations can establish their own police services, and he outlined the chronic underfunding problems that affect every effort to establish such police forces.[42]

For Joseph Tokwiro Norton, Grand Chief of the Mohawk Council of Kahnawá:ke, adequate and fully autonomous police services within First Nations are an essential component of their right to self-determination.[43]

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[36] Testimony of Chief Noah Swappie, Hearing transcript from June 16, 2017, pp. 23–26, 30-31.
[37] Testimony of Grand Chief Constant Awashish, Hearing transcript from June 19, 2017, pp. 39–43, 47–48.
[38] Testimony of Chief Advisor Amélie Larouche, Hearing transcript from September 14, 2018, pp. 186, 202–204.
[39] Testimony of Chief Jean-Roch Ottawa, Hearing transcript from 19 mars 2018, pp. 32–34.
[40] Testimony of Chief Jean-Charles Piétacho, Hearing transcript from June 16, 2017, pp. 90-92.
[41] Testimony of Chief Jean-Charles Piétacho, Hearing transcript from June 16, 2017, pp. 98–100, 135.
[42] Testimony of Chief Jean-Charles Piétacho, Hearing transcript from June 16, 2017, pp. 115–118.
[43] Testimony of Grand Chief Joseph Tokwiro Norton, Hearing transcript from September 28, 2017, pp. 204–206.

However, some communities had their police services withdrawn because they were unable to reach a new funding agreement after the end of the previous agreement period, testified Steeve Mathias, Chief of the Long Point First Nation. He explained that the operating conditions imposed by the allocated budgets would not have ensured the safety of police officers or the community. The SQ is now responsible for public security on his community's territory, at a considerably higher cost than what the community would have needed to maintain its own police force. Since the community's switch to the SQ, several incidents with officers have occurred. This is an ongoing problem. Chief Mathias would like to re-establish their police force, but only under conditions that would allow it to operate effectively, to ensure the safety of the community and police officers.[44]

The Chief of the Innu community of Unamen Shipu, Brian Mark, also discussed the relationship between his community and the SQ. His community of approximately 1,100 members is located 400 kilometres north of Sept-Îles, and has been served by the SQ since 2008.[45] He denounced the fact that, prior to that time, his community had its own police force but had to give it up because of funding problems. In the Chief's opinion, the language barrier is an important aspect of the problem with the SQ, as 97% of his community speak only Innu. And since the SQ officers are based in Blanc-Sablon and can only be called via a call centre in Baie-Comeau, the response times are very long. The number of patrols is also insufficient.[46] Chief Mark also mentioned two incidents involving the SQ that received a lot of media coverage and outraged the population. In 2002, Terry Lalo, an Innu youth from the community, was killed by an SQ officer in a patrol car. All the family's efforts to obtain justice have been in vain.[47] This well-known event was also mentioned by Chief Piétacho, who cited the coroner's report on the case, which concluded that the tragedy was avoidable.[48] The second incident mentioned by Chief Mark occurred in 2013. Two SQ officers were videotaped beating Norbert Mesténapéo, a young Innu from Unamen Shipu. The video spread over social media.[49] Chief Mark says this type of incident strengthens the community's desire to have its own police force.[50]

The Innu community of Nutashkuan also lost its police services in 2006, after being unable to renew the tripartite agreement. Since then it has been served by the SQ, according to Chief Rodrigue Wapistan. Given the community's isolation, it is left to its own devices, as the SQ is located nearly two (2) hours' drive away. The SQ refuses to intervene in crimes it considers of lesser importance. However, it is this type of crime that prevails in the community. This creates a lack of security that only a First Nations police force could curb effectively.[51]

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[44] Testimony of Chief Steeve Mathias, Hearing transcript from September 29, 2017, pp. 45–51; Testimony of Chief Steeve Mathias, Hearing transcript from March 22, 2018, pp. 114–120, 202–2014.
[45] Testimony of Chief Brian Mark, Hearing transcript from January 23, 2018, pp. 32–33, 38.
[46] Testimony of Chief Brian Mark, Hearing transcript from January 23, 2018, pp. 39–42, 47–519.
[47] Testimony of Chief Brian Mark, Hearing transcript from January 23, 2018, pp. 52–55.
[48] Testimony of Chief Jean-Charles Piétacho, Hearing transcript from June 16, 2017, pp. 118–120.
[49] Testimony of Chief Brian Mark, Hearing transcript from January 23, 2018, pp. 42–43.
[50] Testimony of Chief Brian Mark, Hearing transcript from January 23, 2018, p. 53.
[51] Testimony of Chief Rodrigue Wapistan, Hearing transcript from June 12, 2017, pp. 45–48

Mike Mckenzie, Innu Chief of Takuaikan Uashat mak Mani-Utenam, argued for a long-term vision based on self-determination, in which First Nations would have the capacity and means to develop their own institutions, including police services. At the same time, he pointed out that any solution must necessarily begin with genuine openness to discussion with the communities.[52]

On a similar note, Chief Clifford Moar of the Pekuakamiulnuatsh Takuhikan First Nation in Mashteuiatsh spoke of a fictitious freedom, of being shackled to funding agreements. He explained that this maintains a cycle of suffering and dependence that prevents First Nations from aspiring to self-determination and makes them believe that government authorities fear their success. Recalling that his community, like most First Nations, includes a majority of youth under the age of 35, he indicated that police services must be appropriately structured and monitored to ensure that the youth are not a time bomb, but can fully realize their potential for the benefit of the entire community.[53]

Chief Lance Haymond of the Kebaowek First Nation also denounced the recurrent underfunding of his community's police services. He explained that the allocated funds are only enough for two (2) officers, despite this being clearly insufficient to ensure security around the clock, over the whole territory, and especially given the extent of the needs of his community, which struggles with significant drug use and trafficking. The community must therefore go into debt in order to provide the required police services. The funding agreements, which must be renewed every five (5) years, do not provide for any increase to meet the community's growing needs, particularly with regard to infrastructure. The budgets are imposed without any real possibility of negotiation. With no budget to train its own police officers, the community must recruit young officers from outside the community, without having the means to train them in the community's realities. Furthermore, the government grants allocated for a First Nations police officer are half as high as those allocated for an SQ officer. Kebaowek is therefore not able to offer adequate working conditions to young police offers, so they do not stay long and must continually be replaced.[54]

Chief Haymond made some recommendations to address the inequities in the delivery of police services to First Nations and the latter's mistrust of the SQ. He mentioned the importance of First Nations police services being declared and considered an essential service, as the SQ is, and of them being funded equally, in order to give First Nations the means to keep their communities safe, since they are best placed to offer tailor-made and culturally appropriate solutions.[55]

[52] Testimony of Chief Mike Mckenzie, Hearing transcript from May 23, 2018, pp. 134–147.
[53] Testimony of Chief Clifford Moar, Hearing transcript from November 16, 2017, pp. 10, 21–28.
[54] Testimony of Chief Lance Haymond, Hearing transcript from September 22, 2017, pp. 22–30, 50-52; Testimony of Chief Lance Haymond, Hearing transcript from March 22, 2018, pp. 178–190; Testimony of Chief Lance Haymond, Hearing transcript from September 14, 2018, pp. 145–163.
[55] Testimony of Chief Lance Haymond, Hearing transcript from September 22, 2017, pp. 67–69.

It would seem that Chief Haymond's testimony before the Commission had a beneficial impact on the tripartite negotiations. In his address of September 14, 2018, he reported that his community's police force had received a grant increase.[56] Unfortunately, while the increase helps them offer better pay conditions for their officers, it does not solve many of the force's problems, including inadequate infrastructure, a financial deficit and low officer retention.[57]

Councillor Lloyd Alcon of the Listuguj Mi'gmaq Government, who is also the Public Safety spokesperson for the AFNQL, stated that discrimination toward First Nations police services is rooted in a lack of legal recognition. First Nations police forces seem to be considered a mere convenience, subject to ad hoc agreements at the discretion of provincial and federal authorities. This position in no way reflects First Nations' right to provide this essential service. Instead, it keeps them perpetually dependent. It also creates unsustainable operating conditions, where First Nations police services are doomed to failure, especially given the extremely difficult circumstances in these communities.[58]

Chief Picard, agreeing with the points made by Chief Haymond and Councillor Alcon, also stressed the importance of the following: ensuring that funding is continuous, updating training programs so they are adapted to the realities and culture of First Nations communities, allocating a budget package to meet the urgent infrastructure needs of First Nations police services, and ending the paternalistic approach taken by federal and provincial governments. He also called on Canada and Quebec to stop colluding to exclude First Nations from the decision-making process. A transparent and good faith process during tripartite "negotiations" is sorely needed to address First Nations' public security needs. At stake is not only First Nations police services' ability to do their work effectively, but ultimately, the safety of every person living on those communities territories.[59]

As Chief Picard rightly pointed out, the real question that remains, then, is whether there is a genuine political will to ensure that First Nations communities have the capacity to manage their own institutions, and to have their own First Nations police services with the same powers and resources as any other police force.[60]

The addresses made by the Grand Chiefs and Chiefs also highlighted the importance of listening to, and redressing the harm suffered by, victims in First Nations communities.

Following the revelations made by the program *Enquête* (2015 and 2016) concerning the events in Val-d'Or and elsewhere in Quebec, many victims, witnesses, and their families have reported cases of SQ police officer misconduct and abuse, and have participated in investigations conducted by the Service de Police de la Ville de Montréal (SPVM).

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[56] Testimony of Chief Lance Haymond, Hearing transcript from September 14, 2018, pp. 145–152.
[57] Testimony of Chief Lance Haymond, Hearing transcript from September 14, 2018, pp. 152–155, 160-161.
[58] Testimony of Advisor Lloyd Alcon, Hearing transcript from March 22, 2018, pp. 32–75, 121–139.
[59] Testimony of Chief Ghislain Picard, Hearing transcript from March 22, 2018, pp. 25–28. Testimony of Chief Ghislain Picard, Hearing transcript from September 14, 2018, pp. 134–144.
[60] Testimony of Chief Ghislain Picard, Hearing transcript from March 22, 2018, pp. 16, 22.

SPVM investigation files were examined by the Commission. An overwhelming majority of them did not lead to anything concrete, due to a lack of sufficient evidence regarding the identity of the police officers involved, according to the rules of evidence used in all criminal investigations. However, they nevertheless made it possible to document the scope and the seriousness of this endemic phenomenon, which cannot be reduced to a few isolated cases.

In fact, these files reveal the problematic relationship between First Nations people and Quebec's police services, particularly the SQ. The relationship is characterized by systemic discrimination, contempt, malice, exploitation, and too-frequent use of excessive force.

The SPVM investigation files examined several cases of "starlight tours", where the SQ officers involved intentionally drove First Nations people, who were often in a vulnerable state, outside town, or far away from the place where they were picked up. These people were left alone, disoriented, in unknown and often remote areas. Sadly, this practice is well-known to First Nations people, even though some police departments deny its existence.[61]

Several other cases of unacceptable behaviour have also been reported, all of them marked by a basic lack of respect. For instance, there was the case of an inebriated woman being brought into a police station with her hands cuffed behind her back. She fell face-first onto the cement floor, while SQ officers looked on in amusement and did not offer any

[61] SPVM Case File #39: Testimony of Carolyn Henry, Hearing transcript from August 13, 2018, pp. 152–201; Testimony of Martin Prud'homme, Hearing transcript from October 26, 2018, pp. 383–386; SPVM Case File #2: Testimony of Brigitte Dufresne and Robert Lebrun, from the hearing of August 14, 2018, pp. 71–87; SPVM Case File #12: Testimony of Jerry Anichipanéo, Hearing transcript from August 24, 2018, pp. 249–255; SPVM Case File #6: Testimony of Brigitte Dufresne and Robert Lebrun, transcription of the hearing from August 16, 2018, pp. 149–156; SPVM Case File #7: Testimony of Brigitte Dufresne and Robert Lebrun, transcription of the hearing from August 16, 2018, pp. 196–220; SPVM Case File #14: Testimony of Jacques Turcot and Robert Lebrun, transcription of the hearing from August 21, 2018, pp. 114, 117–118; SPVM Case File #64: Testimony of Peggy Paradis and Yannick Parent-Samuel, transcription of the hearing from September 28, 2018, pp. 164–172.

assistance.[62] Cases of physical abuse,[63] sexual exploitation,[64] profiling and harassment[65] are recurrent and appear to be sadly widespread.

As was heard from the collected statements and testimony, it appears that most victims are afraid of complaining, fearing reprisals. There is a flagrant lack of follow-up and accountability for the police's actions.

In light of this testimony, one cannot fail to see the unfathomable gulf of misunderstanding and the abject situations that arise from it, and understand the deep distrust that First Nations people have of police services, as well as their desire to free themselves from this pathological relationship characterized by prejudice, cultural insensitivity, and violence.

[62] SPVM Case File #65: Testimony of Patrick Parent, Hearing transcript from August 15, 2018, pp. 23–87; Testimony of Martin Prud'homme, Hearing transcript from October 26, 2018, pp. 379–382.

[63] SPVM Case File #4: Testimony of Jacques Turcot, Hearing transcript from June 8, 2018, pp. 17–101; Testimony of Martin Prud'homme, Hearing transcript from October 26, 2018, pp. 370-376; SPVM Case File #21: Testimony of Brigitte Dufresne and Robert Lebrun, Hearing transcript from August 14, 2018, pp. 102–150; SPVM Case File #12: Testimony of Jerry Anichipanéo, Hearing transcript from August 24, 2018, pp. 249–255; SPVM Case File #13: Testimony of Ann Ménard and Carl Thériault, Hearing transcript from August 21, 2018, pp. 25–26; SPVM Case File #51: Testimony of Ann Ménard and Carl Thériault, Hearing transcript from August 21, 2018, pp. 60-64; SPVM Case File #14: Testimony of Jacques Turcot and Robert Lebrun, Hearing transcript from August 21, 2018, pp. 113, 116, 127; SPVM Case File #69: Testimony of Carl Thériault, Hearing transcript from August 21, 2018, pp. 173–180.

[64] SPVM Case File #12: Testimony of Jerry Anichipanéo, Hearing transcript from August 24, 2018, pp. 230-235; SPVM Case File #17: Testimony of Robert Lebrun and Yannick Parent-Samuel, Hearing transcript from August 16, 2018, pp. 40-62; SPVM Case File #6: Testimony of Brigitte Dufresne and Robert Lebrun, Hearing transcript from August 16, 2018, pp. 149–161.

[65] SPVM Case File #4: Testimony of Jacques Turcot, Hearing transcript from June 8, 2018, pp. 17–101; Case file of Lesbeth Jérôme: Testimony of Martin Prud'homme, Hearing transcript from October 26, 2018, pp. 387–397; SPVM Case File #12: Testimony of Jerry Anichipanéo, Hearing transcript from August 24, 2018, pp. 235–252; SPVM Case File #13: Testimony of Ann Ménard and Carl Thériault, Hearing transcript from August 21, 2018, pp. 12–31.

PART III: RECOMMENDATIONS

Making recommendations at the close of this Commission's work is certainly not an easy task. The AFNQL could be tempted to make thousands of recommendations, or to make just one: **respect us!** Somewhere between those two extremes, the decision has been made to offer a few suggestions for recommendations and some ideas to improve dialogue.

One of the AFNQL's recommendations, which is the overarching recommendation for all the others, concerns the relationship between First Nations and the Government of Quebec. First of all, the AFNQL reiterates that First Nations governments should have only one negotiating partner in the government, and that this negotiating partner should be the Premier. This recommendation is in line with asserting First Nations' sovereignty and their right to self-governance. If Quebec follows this recommendation, it would contribute to ensuring that dialogue with First Nations is conducted on a healthier, more respectful, and more equitable basis.

To contribute to the improvement of the relationship between First Nations and Quebec, the Commission must recommend that the Premier increase and improve interministerial coordination within the Government of Quebec. For instance, at a minimum, the government apparatus must be designed to take into account the constitutional duty to consult and accommodate. All government officials must be made aware that they are called upon to interact with First Nations. We must therefore recommend that the Premier put in place mechanisms to improve coordination within and between all the various ministries of the Government of Quebec.

Such a recommendation would be in line with Premier Legault's words during his meeting with the Grand Chiefs and Chiefs on November 16. During that meeting, the Premier said he had called on his cabinet and the entire government administration to be attentive to the needs of First Nations.

However, the evidence submitted to the Commission reveals that prejudice and lack of understanding are still so overwhelming that the most urgent to work to be done is to change attitudes. Obviously, these will not change overnight! There is also an urgent need to create an effective communication channel between the different federal and provincial levels of government and First Nations governments. It is imperative that Canada and Quebec stop thinking of First Nations as a "problem" and set an example for the public, so that relations are cordial and collaborative, rather than hostile. It is high time that the cultural wealth of First Nations be acknowledged and valued, instead of trying to make Indigenous people disappear or assimilate. To do so, it is urgent to create a separate entity, a permanent forum for discussion, bringing together representatives of the First Nations governments and those of Quebec, where honourable and respectful negotiations can be held in good faith. We must end the gridlock caused by the interminable palavers that have been going on for decades and that fuel prejudice about First Nations. Indeed, denying them the full measure and enjoyment of their rights also contributes to maintaining prejudice and racism. By stubbornly refusing to recognize the just and full extent of First

Nations rights, by failing to respect those rights, and by being unwilling to honour their own commitments and obligations, the Federal and Provincial Crowns, by their actions or inaction, compromise their own honour and contribute to the maintenance of popular prejudices toward First Nations people.

If all the energy and resources that are invested in these endless legal battles could instead be put toward the service of communities and their people, there is no doubt that the living conditions of First Nations people would be infinitely better. The AFNQL cannot emphasize enough the importance of working to change attitudes toward Indigenous people. To do so—if we want to move forward on the road to reconciliation—it is imperative that history and education faithfully reflect the facts and positively reflect the essential contribution made by First Nations to the building of Canada.

Recommendation 1: That the Commission support victims wishing to submit individual complaints to the Committee on the Elimination of Discrimination against Women. or to other international bodies

This recommendation is in keeping with the AFNQL's strong desire to ensure that First Nations people who have been victims of abuse can receive the appropriate reparation. Neither the National Inquiry nor this Commission has the power to order individual reparation for victims. The Viens Commission's mandate specifically prohibits it from finding fault or concluding anything with regard to the civil, penal, or criminal liability of any person or organization. The same limitations are imposed on the National Inquiry, which states in its interim report that it cannot "resolve individual cases or declare who may be legally at fault."[66]

Therefore, even if this Commission and the National Inquiry were to succeed in making exemplary recommendations, and even if they were satisfactorily implemented, this exercise, which looks toward the future, and could ultimately be considered a form of collective reparation, may provide only limited relief to the victims of abuse and crimes reported to the Commission.

It must be noted that by the end of the Commission's and the National Inquiry's work, the victims will have been submerged, their individual circumstances obscured by the broader perspectives being examined, in accordance with the mandates defined for these bodies. This raises questions about the usefulness and impact of this work relative to the very real injuries and suffering the victims have experienced.

The *Committee on the Elimination of Discrimination against Women* has moreover noted the shortcomings and gaps left by the National Inquiry as regards the victims' cases.[67] To

[66] *Interim Report: Our Women and Girls Are Sacred*, The National Enquiry into Missing and Murdered Indigenous Women and Girls 2017, p. 21.
[67] *Report of the Inquiry Concerning Canada of the Committee on the Elimination of Discrimination against Women Under Article 8 of the Optional Protocol to the Convention on the Elimination of all Forms of*

prevent their shocking and tragic experiences from being used as a tool and ultimately forgotten, individual complaints made under the *Convention on the Elimination of all Forms of Discrimination Against Women* (CEDAW) would offer victims what the Commission and the Inquiry have to some extent failed to address, namely the resolution of individual cases.

Given the large number of victims and the fact that Canadian law offers them no effective redress, it would be appropriate to give victims access to a mechanism that can handle individual cases and decide on the reparations they are entitled to. With that in mind, the AFNQL proposes that the Commission, insofar as possible, support access to international means of redress. To keep from needlessly lengthening this content, a detailed memorandum on access to the various recourses available under *CEDAW* is included as an appendix.[68]

Recommendation 2: ***That the Commission clearly assert First Nations' right to provide their own police services or to receive police services that are culturally appropriate to the reality of each community, and that the Commission take a stance on the issues that arise from this statement***

The evidence presented to the Commission has revealed all the difficulties associated with providing police services to First Nations communities. It also revealed the trauma that First Nations people still feel when confronted with external police forces. This trauma is widespread and deeply rooted, and is continually renewed through all-too frequent incidents.

We are forced to recognize that, unfortunately, there is a double standard when it comes to public security in Quebec and that services are provided unequally, depending on identity and location of residence. However, First Nations people, men and women, wherever they may be, have the right to receive protection equal and equivalent to that of any other person in Quebec.

It is therefore crucial that this Commission remind Quebec, once again, that First Nations' right to provide their own police forces must not be compromised by issues of funding or funding renewal.

The SQ's accountability problems and its deficiencies in terms of cultural skills leave no doubt that, ideally, First Nations should provide their own public security services, at least on the territory targeted by each community. This is a standard expression of First Nations' right to self-determination, as recalled in the AFNQL's resolution 03/2018 of May 7, 2018.

Discrimination against Women, CEDAW/C/OP.8/CAN/1, March 30, 2015, par. 217 (a) and 220; and *Concluding Observations on the Combined Eighth and Ninth Periodic Reports of Canada*, CEDAW/C/Can/CO/8-9, November 25, 2016, paras 26–28 and 58.

[68] See Appendix C.

This resolution also recalls First Nations' right to have their own police services, and it states that the quality of these services should not suffer because of funding problems or inequitable agreement negotiations. Thus, the AFNQL reiterates that an entity for ongoing discussion must be created to address and resolve these issues.

Commissioner Viens accurately captured the urgency of the situation in his third call to action (cited above), when he called on Quebec to face its obligations and responsibilities in this regard. In doing so, he stated that:

> "Just like the Sûreté du Québec, the SPVM or any other municipal police force, it looks obvious for the Commission that the Aboriginal police forces are also an essential service in their communities...
>
> In order to assure the sustainability of these essential services, a real negotiation needs to take place. According to the testimonies given before the Commission, offers were only transmitted recently to the concerned First Nations and, therefore, there was an absence of genuine negotiations.
>
> **During the March 22 hearings, Commissioner Viens said to the audience that it was obvious that Aboriginal citizens in Québec felt they would be better served by police forces which are in the communities, who know the language, the culture and the people in order to create a better contact with them."**[69]

The AFNQL therefore calls upon the Commission to once again urge Quebec to make sure that First Nations in Quebec can effectively ensure the safety of their people, and of everyone on their communities' territories, particularly through their own police services. Much remains to be done in this area. First Nations are currently facing a difficult dilemma, a choice between the difficulties inherent in managing their own police forces or the risks associated with leaving this task to the SQ. The recommendations made by the Commission aim to make this choice less distressing. They must ensure that negotiations are conducted honestly and in good faith, and that appropriate funding is made available to First Nation police forces if that choice is made. However, it is not the role of the AFNQL or the Commission to propose a specific mechanism for each First Nation to achieve this goal, as the circumstances and reality of each Nation are unique.

Until this goal is fully achieved, if police services are entrusted to the SQ, stringent awareness and accountability measures must be implemented. We do not have to look far to find inspiration to formulate recommendations: the Poitras Commission proposed many valuable recommendations at the conclusion of its work in 1998. It must be noted that several of these recommendations must once again be made concerning the SQ. The Poitras Commission had focused on the SQ's operations, after revelations arising from what is commonly known as the *Matticks* Case. The case brought to light the existence of corrupt officers within the SQ and revealed that the force did not have effective internal

[69] *Supra*, note 2.

mechanisms to purge itself of such individuals. A number of recommendations targeted both the early identification of such individuals and the investigative processes that should apply to them. The evidence presented to this Commission has revealed that many of the failures found within the SQ at the time of the Poitras Commission still exist today.

The AFNQL attaches hereto a summary table of the recommendations made by some previous commissions and forums.[70] These recommendations are intended to improve relations between the Crown and First Nations.

The AFNQL will support the implementation of any recommendation that is in line with any of the five (5) main areas identified in its resolution 05/2018 of November 14, 2018.[71] It will also support any initiative aimed at improving education and awareness about First Nations realities and cultures, not only for the police but for the population at large. The five (5) main areas of focus are:

- Eradicating institutional culture that is resistant to change and accountability within non-First Nations police forces
- Recognizing the importance of First Nations having their own police forces, and recognizing First Nations police forces as essential services rather than renewable programs
- Requiring all police officers who work with First Nations people, in urban centres and in communities, to undergo mandatory and ongoing training to develop a thorough knowledge of First Nations and their cultures;
- Instituting greater accountability in police services and ways of facilitating complaints against non–First Nations police services;
- Re-establishing the First Nations police forces that have been abolished as a result of decisions made by the federal and provincial governments

Consequently, the AFNQL urges the Commission to convey to Quebec, in the clearest possible terms, the importance of helping and supporting First Nations to exercise their right to establish police services on parts of their territory.

Recommendation 3: ***That Quebec adopt and implement the*** **United Nations Declaration on the Rights of Indigenous Peoples *(UNDRIP)***

The AFNQL deems that Quebec must be encouraged to abide by this Declaration without further delay. There is an international consensus about UNDRIP and even Canada is proclaiming in all arenas that it is in the process of implementing the Declaration.

[70] See Appendix B. An exhaustive list of the recommendations contained in the various reports will be submitted later, on December 13, 2018, during the closing addresses.
[71] See Appendix C.

In fact, since May 2016, Canada has stated that it fully supports UNDRIP. In 2018, the federal government even published its *Principles Respecting the Government of Canada's Relationship with Indigenous Peoples*, in which it notably reiterates that it "will fulfil its commitment to implementing the UN Declaration through the review of laws and policies, as well as other collaborative initiatives and actions". We mention in passing that these Principles were published without prior consultation with First Nations. Regardless of the Crown's position in this regard, First Nations, for their part, are currently in the process of asserting their ancestral and territorial rights arising from their inherent sovereignty, as AFNQL Chief Ghislain Picard recently reaffirmed.[72]

Bill C-262, sponsored by NDP Member of Parliament Romeo Saganash is a commendable effort to implement UNDRIP. It is currently in its third reading before the Senate. Article 4 of the Bill states that Canada "must take all measures necessary to ensure that the laws of Canada are consistent with the United Nations Declaration on the Rights of Indigenous Peoples." But in reality, Canada's actions seem to run counter to its claims. Its refusal, to date, to harmonize its laws with UNDRIP could suggest it does not intend to actually implement it. We could speculate at length about the government's vacillation on this matter. The federal government's erratic legislative activity on UNDRIP makes it impossible to decipher in which direction it will take its dialogue with First Nations. Clearly, the concrete implementation of UNDRIP is long overdue, so the AFNQL must insist that it actually take place. In July 2017, British Columbia Premier John Horgan announced he would govern the province in accordance with UNDRIP principles.[73] In that province, there is now a Ministry of Indigenous Relations and Reconciliation heading efforts to collaborate respectfully with Indigenous people, based on UNDRIP and the 94 calls to action contained in the Truth and Reconciliation Commission's final report.

The AFNQL also cites its resolution 01/2010, which already, in 2010, called upon the governments of Quebec and Canada to recognize, implement and promote UNDRIP. Eight years (8) later, nothing has been done to recognize and implement UNDRIP. The close of this Commission's work is another opportunity to remind the Government of Quebec of the importance of adopting this Declaration and of actually implementing it.

Quebec does not need to emulate the federal government's ambiguity. It can implement UNDRIP immediately in its areas of jurisdiction. The Declaration is a universally accepted standard, as it has been adopted by all countries. There is no valid reason to oppose its implementation. While Canada is still pondering what will replace its "Indian" assimilation law, Quebec has the opportunity to really take advantage of UNDRIP, the most up-to-date and comprehensive means to ensuring the rights of Indigenous people. UNDRIP defines a

[72]Chief Ghislain Picard, *Le Devoir*, "Nations au programme du prochain gouvernement," September 26, 2018, online [URL]: <https://www.ledevoir.com/opinion/idees/537645/la-souverainete-des-premieres-nations-au-programme-du-prochain-gouvernement>.

[73] Vaughn Palmer, *Vancouver Sun*, "John Horgan Knows Making UN Pledge on Rights of Indigenous Peoples a Reality Isn't for Wimps," September 27, 2016, online [URL]: <https://vancouversun.com/opinion/columnists/vaughn-palmer-john-horgan-knows-making-un-pledge-on-rights-of-indigenous-peoples-a-reality-isnt-for-wimps>.

framework of minimum standards for the respect, survival, dignity, well-being and rights of all Indigenous people. This framework must be applied to Quebec.

There is widespread consensus on the implementation of UNDRIP and Quebec would benefit from joining this movement. In its April 19, 2018 brief, the Barreau du Québec made a recommendation to this effect.[74] One can, of course, share Professor Jean Leclair's skepticism about the weight that will ultimately be given to UNDRIP's provisions. Will they have mere interpretive value, or will they make it possible to declare inoperative any legal provisions judged irreconcilable? Despite his skepticism, Professor Leclair's message is ultimately positive because, as he says so well, we have to start somewhere, and if UNDRIP is initially only adopted for the purposes of interpretation, it will still be a first step on a road that may lead to the adoption of more specific and binding laws.[75]

Accepting UNDRIP now would be a gesture of good faith from Quebec. Even if it was implemented tomorrow, UNDRIP's effect would be limited, as its article 38 states that the measures needed to achieve UNDRIP's goals must be taken in consultation and cooperation with Indigenous peoples. Thus, it would be an ideal lever to build constructive dialogue with First Nations.

In this sense, by at last negotiating in good faith the implementation of rights recognized under UNDRIP, Quebec would be making a gesture of appeasement that would, among other things, strengthen the fight against systemic racism. Formally recognizing First Nations' rights, rather than fighting against their assertion— nothing less is expected from a government that claims to be "bold" and that should set an example.

Recommendation 4: ***That permanent entities be created and charged with 1) dialogue and negotiation, and 2) ensuring that the provincial government's activities be subject to and respect national and international justice standards relating to Indigenous peoples***

Dialogue and negotiation through a permanent forum or a round-table

We must face the facts: holding endless commissions and inquiries cannot replace genuine, constructive, and ongoing dialogue. Rather than wait for the next scandal on relations between First Nations and the Crown, we must, right now, consider creating an entity for ongoing discussion. This entity could take the shape of a permanent forum with the authority to deal with all topics affecting the relationship between First Nations and Quebec. Its first mandate could be to implement and follow up on the recommendations issuing from this Commission. The composition of the entity could vary according to the topic being discussed or negotiated. Examples of the entity's work could include negotiations on

[74] *Le système de justice et les peuples autochtones du Québec : des réformes urgentes et nécessaires*, brief from the Barreau du Québec presented to the Public Inquiry Commission on Relations between Indigenous Peoples and Certain Public Services in Québec, April 19, 2018.
[75] Testimony of Professor Jean Leclair, Transcription of the hearing from February 19, 2018, pp. 50–54.

issues arising out of First Nations' basic requirements for police services, or on the implementation of UNDRIP.

Monitoring of government activity via an Ombudsperson

In January 2018, the federal government established the Canadian Ombudsperson for Responsible Enterprise to verify, among other things, that the commercial activities carried out abroad by Canadian companies respect human rights. The AFNQL feels that one possibility worth exploring is the establishment of an ombudsperson who would look into a specific topic and be equipped with the required expertise and resources. Naturally, the ombudsperson's mandate, mission and means would have to be defined. But it would serve a useful purpose for such a person to closely monitor those activities of the Quebec government that are likely to impact the rights and interests of First Nations, in order to ensure that all the obligations resting on the Crown's shoulders are duly respected. Such an entity could also be charged with monitoring the implementation of the Commission's recommendations, in the interim of the dialogue and negotiation entity's creation.

At this stage, the AFNQL will not state a preference with regard to the entity that will be tasked with implementing this Commission's recommendations. However, what it fears above all is that the Commission's report will end up like so many others, languishing on parliamentary bookshelves. The AFNQL underscores that it ardently wants concrete and tangible efforts to be made to ensure that these recommendations are diligently implemented. To this end, the AFNQL demands to be actively involved—before, during and after—in defining and implementing the recommendations it deems satisfactory among those issued by the Commission. To be plain, the AFNQL will oppose any unilateral or imposed implementation of recommendations in which it is not a stakeholder.

CONCLUSION

This Commission advocates listening, reconciliation, and progress. On this point, we must draw attention to the attitude of the SQ leadership, which contrasts with those of police forces elsewhere in Canada, which have formally and publicly apologized to First Nations before the Commissioners of the National Inquiry. This difference perfectly illustrates the ground that must still be covered in terms of reconciliation in some spheres in Quebec. Unfortunately, the SQ's capacity for introspection appears rather limited, and its response to situations that normally would lead to change has instead been blind institutional loyalty, and even reprisals. In fact, the evidence before this Commission demonstrates the sheer magnitude of the required change in attitude, respect and cultural sensitivity at the SQ. Despite these obstacles, the AFNQL's brief aims to be a firm call to Quebec for dialogue, respect, and dignity. Indeed, the AFNQL is convinced that if Quebec sets the example and adopts an attitude of collaboration and readiness to listen, rather than one of confrontation, this is likely to bring about positive change in the population and in public officials, including the police.

The Supreme Court of Canada has, in a number of its decisions, addressed the strained and turbulent relationship between First Nations and the Crown.

For instance, in *Delgamuukw*, it states:

> *"Finally, this litigation has been both long and expensive, not only in economic but in human terms as well. By ordering a new trial, I do not necessarily encourage the parties to proceed to litigation and to settle their dispute through the courts. As was said in* Sparrow*, at p. 1105, s. 35(1) 'provides a solid constitutional base upon which subsequent negotiations can take place.' Those negotiations should also include other aboriginal nations which have a stake in the territory claimed. Moreover, the Crown is under a moral, if not a legal, duty to enter into and conduct those negotiations in good faith. Ultimately, it is through negotiated settlements, with good faith and give and take on all sides, reinforced by the judgments of this Court,* ***that we will achieve what I stated in* Van der Peet, supra*, at para. 31, to be a basic purpose of s. 35(1)—"the reconciliation of the pre-existence of aboriginal societies with the sovereignty of the Crown." Let us face it, we are all here to stay."***[76]

Similarly, it mentions in *Mikisew*:

> *"The fundamental objective of the modern law of aboriginal and treaty rights is the reconciliation of aboriginal peoples and non-*

[76] *Delgamuukw v. British Columbia*, [1997] 3 SCR 1010, para. 186.

aboriginal peoples and their respective claims, interests and ambitions. ***The management of these relationships takes place in the shadow of a long history of grievances and misunderstanding. The multitude of smaller grievances created by the indifference of some government officials to aboriginal people's concerns, and the lack of respect inherent in that indifference has been as destructive of the process of reconciliation as some of the larger and more explosive controversies."*** [77]

In *Daniels*, it observes:

> ***"As the curtain opens wider and wider on the history of Canada's relationship with its Indigenous peoples, inequities are increasingly revealed and remedies urgently sought.*** *Many revelations have resulted in good faith policy and legislative responses, but the list of disadvantages remains robust. This case represents another chapter in the pursuit of reconciliation and redress in that relationship."*[78]

Fundamentally, what First Nations demand is respect—a respect that begins with the recognition and implementation of their rights, without compromise. The disregard that has too long characterized the view of Indigenous people held by successive federal and provincial governments must end and give way to this respect. As it seems that the current Prime Minister's priority is education, let us hope that, as Nelson Mandela said, it will be the weapon that changes attitudes.

[77] *Mikisew Cree First Nation v. Canada*, [2005] 3 SCR 388, para. 1.
[78] *Daniels v. Canada*, [2016] 1 SCR 99, para. 1.

APPENDICES

APPENDIX A

APPENDIX A
INTRODUCTION: THE AFNQL AND ITS COMMISSIONS[1]

1. The AFNQL was founded in May of 1985. The Assembly of First Nations of Quebec-Labrador (AFNQL) is the place where the Chiefs of 43 First Nations communities in Quebec and Labrador periodically meet. The First Nations represented are: The Abenaki, Algonquin, Atikamekw, Cree, Hurons-Wendat, Malecite, Mi'kmaq, Mohawk, Innu and Naskapi. The Assembly holds meetings approximately four times a year to study joint concerns and make its collective decisions known. The assembled Chiefs elect a regional Chief for a three-year term. The position is currently held by Chief Ghislain Picard.

The Chiefs of each AFNQL member community also serve on the Assembly of First Nations (AFN) representing all of Canada. The AFN meets regularly meetings through various forums to decide on approaches to common issues at the national level. The AFNQL's regional Chief serves on the AFN's executive committee, which meets 8 to 10 times a year. The regional Chief therefore participates in all of the AFN's decisions, as well as serving on several sectoral committees.

The AFNQL tackles many Indigenous issues, such as the defence of our titles, ancestral rights and treaty rights; major court cases that can affect all our rights and titles; federal and provincial policies that affect our traditional customs and way of life, government policies and acts such as the *Indian Act*, levels of funding, decisions and relations with the governments; economic development and all social, economic and cultural matters; and generally, all matters affecting self-government, national relations with the government and international relations.

The Assembly is an active player that influences the First Nations' process for taking positions and policy approaches. Its representatives and participants are often called upon to represent Indigenous national interests and rights on various platforms. It also plays an active role in influencing international forums on the rights of Indigenous peoples around the world and by establishing an information network with these Peoples.

Through the combined efforts of its participants, the Chiefs and leaders of nations or tribal organizations, the Assembly has brought about positive change in the Government of Quebec's overall approach toward Indigenous people. It has also significantly influenced federal policies and actions.

In addition to the committees it has already formed, the Assembly has asked the AFNQL Secretariat to coordinate the matters it deems priorities, such as taxation, housing, and public safety. Without wishing to set up committees to deal with these issues, the AFNQL insists that these matters be coordinated at the regional level.

[1] Text taken from *Demande de l'Assemblée des Premières Nations Québec-Labrador (APNQL) pour que lui soit reconnu le statut de participant*, filed on April 27, 2017 before Commissionner Viens.

2. AFNQL OFFICE

The AFNQL office coordinates the regional Chief's representation activities and facilitates the meeting of the leaders through various political platforms. It implements the decisions that Chiefs in assembly pass by resolution to improve the living conditions of First Nations people. The AFNQL office provides the technical support required to meet the needs expressed by the Chiefs in assembly.

3. FIRST NATIONS EDUCATION COUNCIL

The First Nations Education Council (FNEC) was formed in 1985. It assesses, develops and runs educational programs for 21 Indigenous communities in Quebec: Gespeg, Gesgapegiag and Listuguj (Mi'kmaq); Kahnawake and Kanesatake (Mohawk); Kebaowek, Kitcisakik, Kitigan Zibi, Lac Simon, Pikogan, Rapid Lake, Timiskaming, Wolf Lake, and Winneway (Algonquin); Manawan, Opitciwan and Wemotaci (Atikamekw); Odanak and Wôlinak (Abenaki); Mashteuiatsh (Innu); and Wendake (Huron).

The FNEC's mission is to gather the strength and efforts of its members in the field of education to defend collective interests and thereby solve the educational problems experienced by all the communities.

The FNEC plays a representational and supporting role for its members. Its general mandates, as defined by the General Assembly, are to:

- Encourage discussion
- Disseminate information that is of interest to members
- Give members full control over the educational services they offer their student clientele (jurisdictions)
- Protect and advance their interests
- Help members make claims against the bodies concerned

The FNEC handles several matters: program management, national presence, information and communication technologies, Indigenous languages, and special education.

4. FIRST NATIONS OF QUEBEC AND LABRADOR HEALTH AND SOCIAL SERVICES COMMISSION

The First Nations of Quebec and Labrador Health and Social Services Commission (FNQLHSSC) was formed in 1994. Its mission is to promote the physical, mental, emotional, and spiritual well-being of our People, our families and our communities. It carries out this mission by promoting and providing holistic and culturally relevant health and social service programs.

The FNQLHSSC plays the role of technical advisor and defender of the rights of First Nations communities and the Assembly of First Nations of Quebec-Labrador (AFNQL) in matters of health and social services.

The FNQLHSSC has several goals:

- Ensure that First Nations exercise their inherent right to control the delivery of health and social services
- Promote community organization models and offer technical support in health and social service research, development and training
- Ensure that the delivery systems for these services meet the basic needs of Indigenous citizens
- Facilitate the free exchange of information and ideas between the members of the Commission
- Support First Nations in establishing an Indigenous jurisdiction in matters pertaining to health and social services
- Use all means to study, promote, protect and develop the material, cultural and social interests of Indigenous individuals, nations and communities

The FNQLHSSC is run by a board of directors with seven members, elected by General Assembly. The board has all the powers and duties granted to it by the Assembly. As its powers were ratified by the AFNQL, the Commission's board is accountable to the AFNQL Chiefs and the General Assembly.

5. FIRST NATIONS HUMAN RESOURCES DEVELOPMENT COMMISSION OF QUEBEC

The First Nations Human Resources Development Commission of Quebec (FNHRDCQ) was established and mandated by resolution by the member Chiefs of the Assembly of First Nations of Quebec-Labrador, to administer an agreement between Human Resources and Skills Development Canada and the AFNQL. The FNHRDCQ collectively manages hiring and training resources on the AFNQL's behalf.

To this end, the Commission has formed a secretariat, whose mandate is to support and implement its decisions.

The FNHRDCQ serves 22 Local First Nations Commissions (LFNC), including 30 communities and two urban service points. It supports, coordinates and liaises with the LFNCs, which mainly help unemployed Indigenous people re-enter the labour market.

LFNCs work to meet employment needs by implementing support, training and employability measures. Support measures involve guiding the clientele, by helping them write CVs and other documents. Training measures involve giving participants the opportunity to complete their high school education or obtain a vocational certificate, if it will help them find steady employment. Employability measures involve giving applicants an opportunity to gain work experience and improve their skills or acquire new ones.

6. FIRST NATIONS OF QUEBEC AND LABRADOR ECONOMIC DEVELOPMENT COMMISSION

In December of 1999, official delegates of the First Nations of Quebec-Labrador, representatives of economic development organizations and government departments, and several observers formed an association made up of community economic development organizations (CEDOs) and economic development representatives, called the First Nations of Quebec and Labrador Economic Development Commission (FNQLEDC).

On May 18, 2000, the Chiefs of the Assembly of First Nations of Quebec-Labrador passed a resolution accepting and supporting the official establishment of the FNQLEDC.

A consensus-building organization for CEDOs, the FNQLEDC helps them create and share economic development tools that respect First Nations and Inuit values.

The FNQLEDC aims to:

- Foster the exchange and sharing of expertise and information between the economic development officers and representatives of the First Nations FNQLEDC members
- Collect and disseminate the information the economic development officers and representatives need to offer quality services
- Encourage the development of skills to analyze clients' requests, assess their needs, help prepare business plans and other planning and supporting documents, and follow up on applications for funding
- Identify the economic development officers' and representatives' overall training needs
- Provide the officers and representatives with technical support to perform their duties
- Develop ways to support the coordination and exchange of information during regional projects
- Help connect officers and representatives via projects shared by several communities and ensure the sharing of information between the communities
- Keep a strategic watch on all programs and opportunities likely to be of interest for the economic development of the First Nations of Quebec-Labrador
- Develop networking and collaboration between all the organizations working on the economic development of First Nations communities
- Favour bridge-building with all organizations working on general economic development
- Carry out all research and development mandates given by the General Assembly, the board of directors or the AFNQL

First Nations and Inuit communities and community economic development organizations in Quebec and Labrador can be members of the FNQLEDC and have a seat at the General Assembly. The members, in assembly, appoint a representative for each nation to form the board of directors. Since its creation, the FNQLEDC has represented the economic interests of First Nations communities and Inuit villages in Quebec and Labrador, totalling more than 45,000 Indigenous people.

7. FIRST NATIONS OF QUEBEC AND LABRADOR SUSTAINABLE DEVELOPMENT INSTITUTE

The First Nations of Quebec and Labrador Sustainable Development Institute (FNQLSDI) was formed to implement the Sustainable Development Strategy adopted by the Chiefs in November of 1997. It is a non-profit organization whose mission is to support every First Nation in implementing the Strategy. This support involves, among other things, training and the facilitation of exchanges between First Nations to ensure that they can all enjoy the benefits of the Strategy's implementation and progress.

The Institute aims to support the development of strategies that:

- Develop the territory and its resources
- Train Indigenous labour and develop Indigenous expertise in all areas of activity concerning resource management and development
- Reconcile traditional and development activities
- Develop co-management and co-development strategies to provide the necessary access to the territory and its resources to ensure the development of the Indigenous communities
- Draw up integrated development strategies
- Form a First Nations of Quebec-Labrador forestry committee
- Implement an environmental assessment process
- Take the social aspect into consideration in the development approach
- Help develop an arbitration process to deal with overlapping territories and other disputes

The Institute consists of a technical committee made up of one representative from each First Nation, a representative of Quebec Native Women, a representative of the First Nations of Quebec and Labrador Youth Network and a representative of the AFNQL. The technical committee's role is to lead the Institute's activities.

8. FIRST NATIONS OF QUEBEC AND LABRADOR YOUTH NETWORK

The First Nations of Quebec and Labrador Youth Network (FNQLYN) is the main body representing First Nations youth in Quebec and Labrador. In this capacity, it can represent youth in local, regional, and national spheres of influence and decision-making. It is also a dialogue-promoting and mobilizing organization for Indigenous youth, encouraging greater participation in their own development by improving living conditions and ensuring the respect of First Nations rights.

The FNQLYN was created during the First Nations of Quebec-Labrador Youth and Elders Gathering, held on August 7, 8 and 9, 2011, in the Cree community of Waswanipi. More than 260 delegates gathered to discuss various subjects within two broad themes of social issues and political issues. They also decided that the FNQLYN's structure would be representation by nation, with one Quebec Native Women representative and one Regional Urban Indigenous Youth Council representative.

The main mandate given to the representatives appointed at this event was to iron out the FNQLYN's structure and operation.

In addition to structuring itself, the FNQLYN received the following specific missions and objectives:

- Represent First Nations youth living in Quebec and Labrador
- Defend First Nations youth's interests in provincial and federal policies
- Improve living conditions and the future of First Nations youth in urban areas and in communities by helping develop their full human potential, as individuals and members of the community
- Help strengthen and preserve the union between the First Nations of Quebec-Labrador and their cultural identity

Its specific objectives are to:

- Encourage First Nations youth in Quebec and Labrador to be more involved in governmental and political processes so as to shape our future leaders
- Develop, reinforce and promote our cultural identity as First Nations in the modern world
- Maintain close ties with First Nations youth
- Promote greater interaction between First Nations residing in Quebec and Labrador
- Stay up to date on the programs developed for First Nations youth in Quebec and Labrador
- Develop strategies to help solve the problems First Nations youth face
- Spread word of the FNQLYN to various Indigenous and non-Indigenous organizations

The FNQLYN can encourage Indigenous youth in their community involvement, whether they live in a community or urban area.

Each year, the FNQLYN organizes a Youth Summit, in which it offers training in various fields. It also presents consultation projects on various subjects and to various advisory boards.

APPENDIX B

APPENDIX B
COMPENDIUM OF RECOMMENDATIONS FROM PREVIOUS COMMISSIONS

The following table presents a selection of recommendations taken from investigation reports or from provincial, federal or international forums. Far from being exhaustive, this selection targets 14 reports on a variety of subjects directly concerning the members of First Nations in Canada and totals over 955 recommendations.

	Report name	Year	No. of recommendations	Total no. of recommendations (cumulative)
1.	Report of the Royal Commission on Aboriginal Peoples (Erasmus-Dussault Commission)	1996	400	400
2.	Invisible Women - A Call to Action: A Report on Missing and Murdered Indigenous Women in Canada, Canada	2014	16	416
3.	RCMP operational review: Missing and Murdered Aboriginal Women: A National Operational Overview, Canada	2014	4	420
4.	Truth and Reconciliation Commission of Canada, Canada	2015	94	514
5.	Poitras Commission. Pour une police au service de l'intégrité et de la justice : rapport de la Commission d'enquête chargée de faire enquête sur la Sûreté du Québec	1998	173	637
6.	Report of the inquiry concerning Canada of the Committee on the Elimination of Discrimination against Women under article 8 of the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination Against Women	2015	40	727
7.	Report of the Saskatchewan Indian Justice Review Committee, Saskatchewan	1991	92	819
8.	The Ipperwash Inquiry Report, Ontario	2017	19	838
9.	Report of the Missing Women Commission of Inquiry, British Columbia	2012	65	903

10.	Report of the Commission of Inquiry into Matters Relating of the Death of Neil Stonechild, Saskatchewan	2004	8	911
11.	Interim Report, National Inquiry into Missing and Murdered Indigenous Women and Girls	2017	15	926
12.	AFNQL and FNQLHSSC report on the legalization of cannabis, Quebec and Labrador	2017	10	936
13	AFNQL and FNQLHSSC report on bill 157 legalizing cannabis, Quebec and Labrador	2018	9	945
14.	FNQLHSSC, discussion paper, *Les premières nations et leurs relations avec le réseau québécois et ses services publics*	2017	10	955

APPENDIX C

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RESOLUTION NO. 05/2018

NATIONAL AND PROVINCIAL INQUIRY COMMISSIONS: AFNQL'S POSITION AND RECOMMENDATIONS

WHEREAS the Government of Quebec confirmed on December 21, 2016, the appointment of an inquiry commission (the "Viens Commission") "to identify the causes underlying all forms of violence, systemic discrimination and different treatment of Indigenous people" with regard to six Quebec public services, including police. The final report of this Commission is slated to be submitted on 30 September, 2019;

WHEREAS the National Inquiry into Missing and Murdered Indigenous Women and Girls (the "National Inquiry") was appointed in September 2016. The final report of this Commission is slated to be submitted by the Government of Canada on 30 April, 2019;

WHEREAS the Assembly of First Nations Quebec-Labrador (AFNQL) obtained party standing in the two inquiry commissions;

WHEREAS the work of the parties with standing in the two inquiry commissions will draw to a close in December 2018;

WHEREAS the AFNQL once again pays tribute to the First Nations women and victims in Quebec and Canada who have courageously come forward to publicly denounce unacceptable situations and to share their troubling and traumatic stories;

WHEREAS the Chief of the AFNQL, Ghislain Picard, appeared before the Viens Commission on June 6, 2017, March 22, 2018 and September 14, 2018, to state the AFNQL's position, concerns and recommendations, mainly regarding police services in Quebec, including on the territories of First Nations communities;

WHEREAS many of the AFNQL's Grand Chiefs and Chiefs also appeared before the Viens Commission to express their concerns and the challenges they experience with Quebec public services and to submit their recommendations;

WHEREAS several AFNQL commissions also contributed to the work of the two inquiry commissions;

WHEREAS the proof presented before the Viens Commission definitively revealed the breadth of the gap to be filled before First Nations members receive quality public services that are free from discrimination, prejudice and racism, and that are adequately and satisfactorily funded;

DETERMINED to fight what appears to be a persistent institutional culture resistant to change and accepting accountability within the Sûreté du Québec and to help instate mechanisms to eradicate this culture and thus allow First Nations members to build trusting and respectful relationships with the police;

WHEREAS Me Wina Sioui, the attorney mandated by the AFNQL to represent it before the two inquiry commissions, along with her team, consulted Dwayne Zacharie, Chief of the Kahnawake Peacekeepers, and Jean Vicaire, Chief of police in Lac Simon, to formulate recommendations regarding police forces on the territories of First Nations communities;

IT IS RESOLVED THAT the AFNQL's recommendations will include an explicit request to the governments of Québec and of Canada to adopt and implement the *United Nations Declaration on the Rights of Indigenous Peoples*, and that these governments develop, in partnership with the First Nations, an action plan, strategies and other tangible measures to implement the said *Declaration*;

IT IS RESOLVED THAT the AFNQL will offer to both Commissions an *Individual complaint* draft against Canada outlining the enduring violations of the *Convention on the Elimination of all Forms of Discrimination against Women* by that country;

IT IS RESOLVED THAT recommendations be made to the two inquiry commissions, primarily with a view to:

A. Eradicating the institutional culture that is resisting to change and accountability within the non-First Nations police forces;
B. Recognizing the importance for the First Nations to have their own police forces and to recognize First Nations police services as essential services and not just renewable programs;
C. Requiring for all police officers who work with First Nations people, in urban centres and in communities, mandatory and continuing training on in-depth knowledge of the First Nations and their cultures;

D. Instituting greater accountability in police services and ways of facilitating complaints against non–First Nations police services;
E. Re-establishing the First Nations police forces that have been abolished following decisions made by the federal and provincial government,

IT IS RESOLVED THAT the AFNQL recommend that a permanent structure of concertation, in which it will sit, be put in place to monitor, among other things, the application of the recommendations made to the two inquiry commissions and laid out in their final report.

PROPOSED BY: Chief Manon Jeannotte, Gespeg
SECONDED BY: Chief Régis Pénosway, Kitcisakik
ADOPTED BY CONSENSUS ON NOVEMBER 14, 2018 IN WENDAKE

Ghislain Picard
Chief of the AFNQL

APPENDIX D

APPENDIX D
MEMORANDUM ON INTERNATIONAL AVENUES OF RECOURSE

One solution that quickly gained traction with the AFNQL is the option of international recourse available to Canadians. Canada has ratified certain international conventions that contain additional protocols providing individual recourse against Canada, typically called a complaint or communication, to victims of the country's violation of these conventions. Since Canada ratified three treaties that allow this type of recourse, it is possible to file a complaint against Canada for its violations of the *International Covenant on Civil and Political Rights* (ICCPR), the *Convention on the Elimination of All Forms of Discrimination against Women* (CEDAW) and the *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* (CAT).

Given the severity and persistence of the discrimination and racism, the AFNQL believes that no option enabling it to remind Quebec and Canada of their obligations should be ignored, including international recourse.

In this memorandum, the AFNQL focuses particularly on the types of recourse available to women under the auspices of CEDAW. Although the avenues of international recourse are open to both men and women according to the provisions of the ICCPR, the actions in recent years of the Committee on the Elimination of Discrimination against Women (hereafter the "Committee") indicate that recourse before this body would have a strong chance of success. The actions and discussions between the Committee and Canada demonstrate that the Committee has manifestly already developed a certain sensitivity to the circumstances of Indigenous women, as it has issued several recommendations and a request for a follow-up to the recommendations. As we see it, the history of the case before CEDAW is already rife with criticisms of Canada, such that our complaints will fall on fertile soil.

Thus, the decision to work with CEDAW is a strategic choice dictated by circumstances and should not be interpreted as a form of abandonment or lack of encouragement for victims choosing, for example, to use the provisions of the ICCPR, particularly articles 1, 25, 26 and 27. In general, the AFNQL submits that female First Nations victims of racism and discrimination who would like to rely on international procedures should be encouraged and supported.

RECOURSE UNDER CEDAW

Canada agreed to the CEDAW on December 10, 1981, and ratified the Convention's *Optional Protocol* on October 18, 2002.[1] This protocol came into effect in Canada on January 18, 2003.

A- Investigation provided for in Article 8 of the Optional Protocol

Article 8 of the *Optional Protocol* establishes an inquiry procedure when the Committee receives credible information that a State Party has gravely or systematically violated the rights stated in CEDAW. Starting in 2011, the Committee began receiving such information and decided to begin the inquiry procedure established in article 8. The decision was also driven by Canada's lack of cooperation in the previous years and the existence of corroborating evidence from the Special Rapporteur on the Rights of Indigenous Peoples.[2]

The Committee tabled its report on March 30, 2015, which included recommendations that led to the creation of the National Inquiry a few months later.[3] This recommendation followed the report's long factual conclusions in paragraphs 93–193, which are still relevant and, in some cases, require immediate application in Quebec.

In paragraphs 214 and 215 of the 2015 investigatory report, the Committee found that Canada had violated articles 1, 2c), 2d), 2e), 3 and 5a), read in conjunction with articles 14(1) and 15(1) of CEDAW. Given the significance of the negative impacts of the violations of the right to life, personal safety, health, and physical and mental integrity of Indigenous women, the Committee also qualified the violations of the Convention as "grave", according to the characterization in article 8 of the *Optional Protocol* of CEDAW.[4] Below, we will see the impact that this characterization is likely to have on victims' recourse. In light of the results of its investigation and the characterization of the facts in international law, the Committee issued 38 recommendations for Canada in paragraphs 217-220.

B- Periodic reports established in article 18 of the CEDAW

On April 2, 2015, two days after the report was tabled, Canada presented its eighth and ninth period reports, which were due in 2014.[5] This combined report was followed by discussions in March and September of 2016, with the Committee tabling its final observations (hereafter "Observations") on November 25, 2016.[6]

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[1] *Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women,* A/RES/54/4, October 15, 1999.

[2] *Report of the Inquiry concerning Canada of the Committee on the Elimination of Discrimination against Women under Article 8 of the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women,* CEDAW/C/OP.8/CAN/1, March 30, 2015, par. 3–20.

[3] *Ibid.*, par. 220.

[4] *Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women,* A/RES/54/4, October 15, 1999.

[5] *Consideration of reports submitted by States parties under article 18 of the Convention,* CEDAW/C/Can/8-9, April, 2015, submitted on April 2, 2015.

In its 2016 Observations, the Committee explained its main concerns and recommendations regarding Canada's poor reception of CEDAW, and that women were not aware of it. Consequently, the Committee made recommendations to promote the enforceability of rights established in CEDAW and to bolster lawyers' capacities so CEDAW provisions could be asserted more widely in Canada.[7] The Committee also made recommendations in light of the discriminatory provisions in the *Indian Act*, access to justice, sexism, and violence.[8] The Committee devoted several lengthy paragraphs to Indigenous women, reporting on certain complaints regarding the National Inquiry,[9] asking that the recommendations from the 2015 investigatory report be implemented and asking that all cases of missing and murdered Indigenous women be duly investigated and prosecuted,[10] which, unfortunately, is not included in the mandates of the current Commission or the National Inquiry.

The Committee expressed deep concern about the discrimination faced by Indigenous women in the areas of employment, housing, education, and health care, and noted its apprehension with Canada's lack of a coherent strategy or plan.[11] It concluded its observations by asking Canada to provide written information, within two years, on specific recommendations, including that addressing the implementation of the recommendations made in the 2015 report.[12]

It appears that Canada has not yet submitted this written information, due November 25, 2018, thus continuing its avoidance of responsibility regarding the rights and procedures provided in CEDAW and its *Optional Protocol*.

C- The Communication Procedure

In Article 2, the *Optional Protocol* makes it possible for individuals to submit complaints against Canada. The petitions may be made by individuals or groups of individuals who are victims of a CEDAW violation by a particular State Party.

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6 *Concluding observations on the combined eighth and ninth periodic reports of Canada*, CEDAW/C/Can/CO/8-9, November 25, 2016.

7 *Ibid*. par. 8–9.

8 *Ibid*. par. 12, 13, 14, 15, 24 and 25.

9 *Ibid*. par. 26.

10 *Ibid*. par. 27.

11 *Ibid*. par. 28.

12 *Ibid*. par. 27a) and 58.

According to article 4(1) of the *Optional Protocol*, the Committee, in its role to eliminate discrimination against women, must ensure that all existing remedies have been exhausted before examining the merits of a complaint.[13] This rule thus sets out a required condition for a complaint to be eligible, and is confirmed in articles 67 and 72(4) of the *Rules of Procedure*.[14] The condition of exhausting existing remedies is a defence mechanism for the State Party and could constitute an explicit or implicit disavowal by the State.[15]

The AFNQL suggests that the Commission could provide victims substantial support by delivering a decision, through a declaration, stating that the victims of systemic racism and discrimination heard by the Commission do not have access to effective domestic remedies to receive the appropriate reparation for the harm suffered. Indeed, as the victims did not take their claims through the usual legal path, Canada will attempt to escape blame by arguing that the victims have not exhausted domestic remedies.

Exhausting internal remedies is a highly convenient concept in international law that allows the State Party to reject a complaint when the complainant has not attempted to use all the avenues of recourse available in the state's legal system. In effect, when the desired remedies can be obtained through internal legal processes, the Committee does not need to intervene. Logically, Canada should oppose victims' complaints on the grounds that the victims could have gone to court to stop the racism and discrimination, and to receive compensation for it. The Commission is in a prime position to reject this fallacy.

The Commission itself saw and heard the SQ's inexplicable attitude of denial (for example, the red bracelets, lack of apologies, questionable cooperation with SPVM investigators) in the face of the submitted testimonials and videos, and the victims' vulnerability.

Yet, the Committee does not stop its inquiry after exploring whether means of recourse exist in a country; it also examines the quality of the recourse. So even if the Committee concludes that the domestic means of recourse have not been exhausted, it must still decide whether one of the two exceptions to the requirement has been met, meaning whether it can be shown that the available means of existing remedies are in fact "**unreasonably prolonged or unlikely to bring effective relief**."[16]

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[13] *Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women*, AGNU 54/4, art. 4(1) [*Protocol*]; CEDAW Committee, Communication no. 11/2006, *Constance Ragan Salgado v UK*: "In accordance with [article 4(1)], the Committee shall not consider a communication unless it has ascertained that all available domestic remedies have been exhausted…."

[14] *Rules of Procedure of the Committee on the Elimination of Discrimination against Women*, HRI/GEN/3/Rev.2, art 67, 72(4) [*Rules*].

[15] Inter-American Commission of Human Rights, Report 98/06[1], Petition 45-99, *Rita Ortiz v Argentina* (October 21, 2006), par. 27, *quoting* Inter-American Court of Human Rights, *Viviana Gallardo et al*, Advisory Opinion, Decision of November 13, 1981 (Ser. A), No. G 101/81, par. 26: "[U]nder the generally recognized principles of international law and international practice, the rule which requires the prior exhaustion of domestic remedies is designed for the benefit of the State, for that rule seeks to excuse the State from having to respond to charges before an international body for acts imputed to it before it has had the opportunity to remedy them by internal means."

Yet, in this situation, both exceptions have been met. First, the remedies have been unreasonably prolonged. In fact, there is sufficient documentation of the discrimination faced by the victims, with police behaviour being just one aspect. The discrimination was denounced several times in Canada and in the provinces, as encouraged by the recommendations they received over the years. Canada and the provinces' last effort was creating the Commission and the National Inquiry. In truth, creating these two bodies, which purposely exclude restitution for victims, is nothing more than Canada and Quebec acknowledging that there are no effective existing internal remedies.

Second, the question of whether a remedy is effective depends on the type of restitution it includes and how it coincides with the nature of the needs stemming from the alleged violations. A remedy is not effective if it does not have the capacity to rectify specific types of violations, for reasons such as procedural complexity, the existence of generalized violations of human rights and the national justice system's overall failure regarding international standards, either in general or in protecting specific rights.[17]

As such, it is possible to prove that the country's internal justice systems do not respect international standards and that the existing remedies are ineffective, both globally and regarding specific categories of recourse.[18]

Given the circumstances before the Commission, it can be shown that all pretentions claiming the existence of *effective* remedies for victims are false.

In a series of cases against Turkey, the European Court of Human Rights (ECHR) declared that the rule of exhausting existing remedies is not applicable when the State's official tolerance of recurring violations is shown. In such circumstances, the dysfunction of the system of administration of justice exempts the victims from having to exhaust existing remedies.[19]

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16 CEDAW Committee, Communication No. 8/2005, *Kayhan v Turkey*: "Article 4 […] precludes the Committee from declaring a communication admissible unless it has ascertained that all available domestic remedies have been exhausted unless the application of such remedies is unreasonably prolonged or unlikely to bring effective relief." [our emphasis]; Communication No. 2/2003, *A.T. v Hungary*: the Committee was not "precluded" by article (1) from considering the communication.

17 Donna J. Sullivan, OP-CEDAW Technical Papers No. 1, *Overview of the Rule Requiring the Exhaustion of Domestic Remedies under the Optional Protocol to CEDAW*, IWRAW Asia Pacific, p. 14, online: <http://www.karat.org/wp-content/uploads/2012/01/IWRAW_Sullivan.pdf> [OP-CEDAW Technical Papers No. 1].

18 OP-CEDAW Technical Papers No. 1, *supra* note 6, p. 15.

19 ECHR, *Akdivar et al v Turkey*, Judgment of September 16, 1996, Reports of Judgments and Decisions 1996 IV p. 1210; *Aksoy v Turkey*, Judgment of December 18, 1996, Reports of Judgments and Decisions 1997 VIII, p. 2693. The Court considered these cases exception to the requirement to exhaust remedies based on special circumstances rather than exceptions based on the demonstration of administrative practices hindering access to justice.

This reasoning supports the argument that proof of flaws in the administration of justice regarding the fundamental rights of women—such as the police's widespread refusal to apply the existing legal protections to them—demonstrates the general ineffectiveness of the remedies available within the country's legal system. In this way, evidence corroborating the existence of generalized flaws in the administration of justice may make it possible to avoid having to prove ineffectiveness in the current case.[20]

For example, in cases where the State must take criminal measures to fulfill its obligation to respect and ensure a fundamental right, human rights bodies have clearly stated that civil remedies were not appropriate in the circumstances and could not be considered potentially effective in showing the exhaustion of remedies.[21] In the event of a violation of the right to life and personal integrity, effective recourse requires a police inquiry, criminal prosecutions and penalties (when applicable), over and above compensation.[22] In addition, in cases involving national crimes subject to prosecution, if the State does not proceed with the inquiry and prosecutions, complainants cannot be expected to first exhaust the existing remedies.[23]

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[20] OP-CEDAW Technical Papers No. 1, *supra*, note 6 p. 16.

[21] Inter-American Commission on Human Rights, Report No. 32/06, Petition 1175-03, *Paloma Angelica Escobar Ledezma et al v Mexico* (March 14, 2006), par. 30: "Once a publicly prosecutable crime has been committed, the State is obliged to pursue and promote the criminal proceedings to their final consequences. Consequently, in the instant case, that burden cannot be transferred to the petitioner."; Inter-American Commission on Human Rights, Report No. 14/06, Petition 617-01, *Raquel Natalia Lagunas and Sergio Antonio Sorbellini v Argentina* (March 1, 2006), par. 46: "The State claim that the petitioners did not bring a civil suit for damages and injuries carries no weight since a civil suit cannot remedy the irregularities in the criminal investigation and cannot guarantee that the facts of the case will be solved and criminal responsibilities assigned."; Committee on the Elimination of Racial Discrimination, Communication No. 34/2004, *Gelle v Denmark*, UN Doc. A/61/18 (2006), par. 6.6: "It follows that the institution of civil proceedings […] cannot be considered an effective remedy that needs to be exhausted […] in so far as the petitioner seeks a full criminal investigation."

[22] Human Rights Committee [HRC], *Chonwe v Zambia*, Communication No. 821/1998 (2000); HRC, *Atachahua v Peru*, Communication No. 540/1993 (1996); HRC, *Vicente et al v Colombia*, Communication No. 612/1995 (1997); HRC, *Bautista v Colombia*, Communication No. 563/1993 (1995); Inter-American Court of Human Rights [IACHR], *Paniagua Morales et al v Guatemala*, (the White Van Case) (Merits), Judgment of 8 March 1998 (Ser. C) No. 37; IACHR, *Genie Lacayo v Nicaragua* (Merits), Judgment of January 29, 1997 (Ser. C) No. 30; IACHR *Blake v Guatamala* (Merits), Judgment of January 24, 1998 (Ser. C) No. 36; IACHR, *Bámaca Velásquez Case*, Judgment of November 25, 2000 (Ser. C) No. 70; European Court of Human Rights [ECHR], *McCann et al v UK*, Judgment of September 27, 1995 (Ser. A) No. 324; ECHR, *Mentes et al v Turkey*, Judgment of November 28, 1997, Reports of Judgments and Decisions 1997-VIII; ECHR, *Aksoy v Turkey*, Judgment of December 18, 1996, Reports of Judgments and Decisions 1996-VI; ECHR, *Aydin v Turkey*, Judgment of September 25, 1997, Reports of Judgments and Decisions, 1997-VI.

[23] ACHPR, *Article 19 v Eritrea*, *supra* note 10, par. 72: "…whenever there is a crime that can be investigated and prosecuted by the State on its own initiative, the State has the obligation to move the criminal process forward to its ultimate conclusion. In such cases, one cannot demand that the Complainants, or the victims or their family members assume the task of exhausting domestic remedies when it is up to the State to investigate the facts and bring the accused persons to court in accordance with both domestic and international fair trial standards."

Lastly, the fact that grave or generalized violations exist means we can presume that the State is aware of such violations, if they are sufficiently widespread or have been made public. In such case, the State's inability to prevent the abuses and respond to them displays its inability or reticence to remedy the situation despite the notifications it has received and the possibilities for doing so. The main purpose for the rule to first exhaust existing remedies—enabling the State to correct the violations—does not apply to such circumstances. In these situations, the general ineffectiveness of the existing remedies exempts the complainant from having to show the ineffectiveness of specific remedies hypothetically available in the context of a particular case.[24]

The AFNQL reiterates that the very existence of the Commission testifies to the existing remedies' ineffectiveness for First Nations women who have been victims of discrimination.

It would not be easy for a female First Nations victim of discrimination to prove that the existing remedies have been exhausted or are not effective. Practically, this obstacle is likely to prevent victims from submitting an individual complaint to the Committee.

For the Commission, this can be done quite simply using the Committee's findings, which were confirmed by the evidence heard. In its conclusions of March 30, 2015, the Committee noted several elements that support the claim that there were no existing domestic remedies. The Committee concluded that the justice system was unable to respond adequately to the violence suffered by Indigenous women and provide them suitable protection.[25] It also concluded that several reports had highlighted the lack of responsiveness, communication, sensitivity, understanding of rights; the discriminatory treatment of Indigenous female victims and witnesses; a low rate of prosecutions of hate crimes and of proceedings for crimes committed against Indigenous women;[26] and, barriers resulting from mistrust, racism and discrimination in Canadian institutions.[27] The Committee came to the following conclusion:

Based on the information before it, the Committee considers that the State party has not taken sufficient measures to comprehensively address the challenges faced by aboriginal women in accessing justice and to combat discrimination against aboriginal women in the justice system. The State Party has not given sufficient focus to addressing the underlying causes that prevent aboriginal women

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[24] *Ibid.* pp.14–15.

[25] *Report of the Inquiry concerning Canada of the Committee on the Elimination of Discrimination against Women under Article 8 of the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women,* CEDAW/C/OP.8/CAN/1, March 30, 2015, par. 147.

[26] *Ibid.* par. 169.

[27] *Ibid.* par. 171.

from accessing justice on an equal basis to men and non-aboriginal women.[28]

And now, Canada is simply refusing to answer the Committee with an update on its progress (if applicable) of the past two years.

The Commission is meant to produce concrete, simple measures. We suggest it produce a short document, accessible online, in which it admits the ineffectiveness of existing remedies for the victims of discrimination it has heard. These victims, and many others, could then simply attach this document to their individual complaint to submit to the Committee, when they wish to turn to this body for recourse.

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28 *Ibid.* par. 172.