

# Honouring the Strength of Our Sisters: Increasing Access to Human Rights Justice For Indigenous Women and Girls



## Summary Report of the 2013 and 2014 Aboriginal Women's Roundtable Process

### ARCHIVED

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***“People who have the power to put laws in place need to be aware of the challenges we are discussing.***

***Canadians need to care about things that are fundamentally wrong.”***

***~ Roundtable Participant***

## Acknowledgements

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- Aboriginal Front Door Society
- Aboriginal Mother Centre Society
- Aboriginal Physical Activity and Cultural Circle
- Advocate on behalf of First Nations Persons with Disabilities
- Agvvik Nunavut and Qimaavik Transition House
- Alberta Community Advocate
- Algonquin Anishinabeg Nation Tribal Council
- Alison McAteer House
- Alternatives North
- Anishinabek Nation (Union of Ontario Indians)
- Arctic Children and Youth Foundation
- Assembly of First Nations
- Assembly of Manitoba Chiefs
- Assembly of Manitoba Chiefs Women's Committee
- Atlantic Policy Congress of First Nations Chiefs Secretariat
- Berens River First Nation
- Birdtail Sioux Dakota Nation
- British Columbia Aboriginal Human Rights Project, Mediate B.C.
- British Columbia Human Rights Coalition
- Burchells LLP
- Canadian Association of Elizabeth Fry Societies
- Carcross Tagish First Nation
- Champagne and Aishihik First Nations
- Civil Rights Advocate
- Coalition for Missing and Murdered Women
- Coalition of English Speaking First Nations Communities of Québec
- Commission des droits de la personne et des droits de la jeunesse
- Community Advocates (from communities in the Northwest Territories)
- Confederacy of Mainland Mi'kmaq
- Council of Yukon First Nations

- Cree Women of Eeyou Istchee Association
- Dionne Schulze Law Firm
- Downtown Eastside Women's Centre
- Elizabeth Fry Society of Manitoba
- Elizabeth Fry Society of the Yukon
- First Nations Child and Family Caring Society of Canada
- First Nation of Na-Cho Nyak Dun
- First Nations of Québec and Labrador Health and Social Services Commission
- Human Rights Legal Support Centre of Ontario
- Ikwe-Widdjiitiwin Shelter Inc.
- Indigenous Bar Association
- Institut national de la recherche scientifique - Université du Québec
- International Centre for the Prevention of Crime
- Initsiaq Inuit Women's Shelter
- Iqaluit Elder's Home
- Ka Ni Kanichihk
- Maaj Consulting Group Inc.
- Many Rivers Counselling and Support Services
- Mi'kmaq Legal Support Network
- Mohawk Council of Akwesasne
- Mohawk Council of Kahnawa:ke Sken:nen A'onsonton
- Nakasuk School
- National Aboriginal Circle Against Family Violence
- National Aboriginal Law Section of the Canadian Bar Association
- National Association of Friendship Centres
- Native Council of Nova Scotia
- Native Council of Prince Edward Island
- Native Women's Association of Canada
- Native Women's Association of the NWT
- Native Women's Shelter of Montreal
- Native Women's Transition Centre Inc.
- New Brunswick Aboriginal Peoples Council
- New Brunswick Human Rights Commission
- Northern Territories Federation of Labour
- Northwest Territories Human Rights Commission
- Nova Scotia Native Women's Association
- Nunavik Regional Board of Health and Social Services
- Nunavut Human Rights Tribunal
- Ontario Human Rights Commission
- Pauktuutit Inuit Women of Canada
- Québec Native Women Inc. /Femmes Autochtones du Québec Inc.
- Qullit Nunavut Status of Women Council
- Royal Canadian Mounted Police (Nunavut) – Community Outreach

- Sally & Sisters
- Skookum Jim Friendship Centre
- Samson Cree Nation
- Squamish First Nation
- Status of Women Council of the Northwest Territories
- Tawaak Housing Association
- The Canadian Network for Prevention of Elder Abuse, Yukon
- The Tree of Peace Friendship Centre
- Tsleil-Waututh First Nation
- Union of B.C. Indian Chiefs
- Union of Nova Scotia Indians
- University of Winnipeg
- Vancouver Aboriginal Community Policing Centre Society
- Victoria Faulkner Women's Centre
- Wapikoni Mobile
- War Lake First Nation
- Warriors Against Violence
- Whitehorse Aboriginal Women's Circle
- Yellowknife Women's Society/Centre for Northern Families
- Yukon Aboriginal Women's Council
- Yukon Government Women's Directorate
- Yukon Human Rights Commission
- Yukon Status of Women Council
- Yukon Women in Trades and Technology
- Yukon Women's Transition Home Society/Kaushee's Place
- YWCA Agvvik Nunavut
- YWCA Yellowknife

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## Executive Summary

*“By us coming together, we are already strengthening our ability to help...*

*...to do better.”*

*~ Roundtable Participant*

In 2013 and 2014, the Canadian Human Rights Commission (the Commission) held a series of roundtable meetings across the country with Indigenous women, representative Indigenous women’s organizations, and other organizations that provide services to First Nations, Métis and Inuit women.

This report provides an overview of what the Commission heard from the women about access to human rights justice and access to justice in general. The report also engages the reader in an important discussion about how to take action to improve access to human rights justice for Indigenous women and girls, and others in vulnerable circumstances.

There were a total of 21 barriers identified through the roundtable process (see page 13) as well as a number of ideas for how to overcome those barriers. The barriers identified by the women ranged from barriers like lack of awareness and education of individuals, to larger systemic barriers like the limited scope of the *Canadian Human Rights Act*, and historical and ongoing colonization.

Participants had many suggestions for strategies to reduce or remove some of the identified barriers. The majority of these strategies related to increasing human rights awareness and education among Indigenous peoples and communities in Canada. Community-based dispute resolution processes and research related to Indigenous women’s issues were also discussed.

The experiences the women shared point to a much larger need for “access to justice” in general. It is also likely that the barriers identified impact many people in vulnerable circumstances and should be viewed as part of a larger social picture. Many of the issues raised by participants are being experienced while accessing Canadian systems and processes, and should not be considered to be solely “Indigenous women’s issues.”

The Commission recognizes that it must act on what it heard from the women and believes that partnerships will be instrumental in taking effective action. The Commission believes that by inviting others to reflect collectively on how to eliminate the barriers identified, it will unite various stakeholders around a common objective: to improve access to justice at the local, provincial/territorial and federal levels.

# Part 1

## Listening to the Voices of Indigenous Women

*“Thank you for coming.*

*It isn’t very often that an instrument of justice comes looking for the people it is meant to serve...usually we are trying to claw our way in.”*

*~ Roundtable Participant*



## 1.1 Introduction to the Aboriginal Women's Roundtables

*“It is difficult for the average Canadian to know what it was like to have their identity stolen.”*

*~ Roundtable Participant*

Since 2007, the Canadian Human Rights Commission (the Commission) has worked to strengthen relations with First Nations, Métis and Inuit stakeholders.<sup>1</sup> These efforts were further advanced by a major change<sup>2</sup> to the *Canadian Human Rights Act*, which has had a particular impact on First Nations peoples.

In November 2010, the Commission met with representatives from a wide range of women's advocacy organizations. The purpose of the meeting was to ask for their perspectives and input on a number of human rights issues.

A key issue raised during this meeting was that Aboriginal women have experienced retaliation for trying to access their rights. Participants specifically identified that the referral of their complaints to community-based dispute resolution processes could have a detrimental impact on their ability to advance and protect their rights; particularly if access to the Commission's complaint process was limited as a result. During the meeting, Commission staff committed to follow up on these concerns.

The most effective way for the Commission to promote and advance the human rights of Indigenous women was to support them by speaking directly with those who are impacted. In 2013 and 2014, the Commission held a series of roundtable meetings across the country with Indigenous women, representative Indigenous women's organizations, and other organizations that provide services to First Nations, Métis and Inuit women.

The purpose of the roundtables was to discuss barriers that Indigenous women and girls may encounter when trying to access justice system processes, including the Commission's, and to develop strategies to overcome them. A detailed report for each roundtable is available by request from the Commission.

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<sup>1</sup> Throughout this report, the terms 'Aboriginal,' 'Indigenous,' 'First Nations,' 'Métis,' and 'Inuit' are used. This is because these were the terms that were used by the women who participated in the roundtables and are reflective of how they self-identify. The term 'Aboriginal' is used to refer to the Métis, Inuit and First Nations peoples of Canada collectively. The term 'Indigenous' is used internationally to refer to the world's first peoples, including Métis, Inuit and First Nations peoples. The terms 'Aboriginal' and 'Indigenous' are used interchangeably in this report.

<sup>2</sup> *An Act to Amend the Canadian Human Rights Act*, Second Session, Thirty-ninth Parliament, 56-57 Elizabeth II, 2007-2008.

What the Commission learned is that the barriers that Aboriginal women and girls may experience when trying to access their rights extend far beyond the issue of retaliation. There is also general support for the development of community-based dispute resolution processes, based on Indigenous legal traditions and customary laws. For many women, however, it is more important to have a choice of how to access their rights in a fair and effective manner.

The main objectives of these roundtable sessions were:

1. To identify barriers to Aboriginal women's access to human rights justice;
2. To identify strategies or measures to improve or overcome the identified barriers; and
3. To discuss next steps in order to better understand the barriers or implement the identified strategies.

Roundtable sessions were held in:

- Winnipeg, Manitoba;
- Halifax, Nova Scotia;
- Ottawa, Ontario;
- Vancouver, British Columbia;
- Montreal, Quebec;
- Whitehorse, Yukon Territory;
- Yellowknife, Northwest Territories; and
- Iqaluit, Nunavut.

***"We created a safe place here today to share what is in our hearts.***

***There is power in numbers and we have to stand together."***

***~ Roundtable Participant***

There was also an online questionnaire available for women who could not attend in person. In total, over 100 primarily First Nations, Métis, and Inuit women participated in the roundtable sessions. The Commission is extremely grateful for their time and contributions. It is because of these women that the Commission has learned about the challenges faced by Indigenous women in vulnerable circumstances. Consequently, it will endeavour to improve its systems and raise awareness about the challenges these women face. The reality shared could not have been known without these women's willingness to open up about their experiences.

The Commission team who participated in the roundtables have been honored to carry the stories that the women shared and now can use their own voices to support Indigenous women in Canada. Listening to the stories has not only raised their awareness, it has allowed them to grow and be motivated to affect change.

The Commission appreciates that the roundtable participants have placed their trust in the Commission and its commitment to protecting the human rights of all people in Canada. The Commission has taken great care to protect the names of the women who participated in the roundtables. For some of the women the promise of anonymity was the only way that they would participate. As a result, the women are only ever identified as “participants,” or “women” in all of the reports that have been produced related to the roundtables. The Commission has also accepted the responsibility to raise its voice in support of Indigenous women and girls, and others in vulnerable circumstances who may experience barriers to equality of opportunity, and to access to justice in general.

This report has two purposes. The first is to provide an overview of what the Commission heard from the people who participated in the roundtables. The second is to engage the reader in an important discussion about how to take action to improve access to human rights justice for Indigenous women and girls, and others in vulnerable circumstances.

It is the Commission’s hope that this report will help encourage others to get involved in taking action to address the barriers identified by the participants. This report is part of a larger initiative which aims to establish coalitions and bring organizations, people and governments together to work toward eliminating barriers to accessing human rights justice at the local, provincial/territorial and federal levels.

Some of the content in this report may be difficult for some people to read. The stories and experiences that were shared by the women paint a picture of what hardship and mistreatment look like. Many of the women who participated in the roundtables have experienced difficulties that many others in Canada believe only exist in other parts of the world.

Their stories also illustrate what strength, hope and determination look like. It has been the ability of these women to survive and lead for change that brought them to speak to the Commission. In spite of their difficulties and pain, they believe that change is possible.

## **Part 2**

# **Raising the Voices of Indigenous Women: What We Heard**

*“A woman is not recognized through the sound of her own voice.*

*It has to be someone else validating her voice before she is heard.*

*It’s not enough to just assert your own rights;*

*You need support before action is taken.”*

*~ Roundtable Participant*

## 2.1 Barriers to Accessing Human Rights Justice

*“How do we know what snow looks like, if we’ve never seen it?  
How do we know what human rights look like, if we don’t know what they are or  
haven’t experienced them?”*

*~ Roundtable Participant*

This section summarizes what the Commission heard about barriers to accessing federal, provincial and territorial human rights dispute resolution processes at all eight roundtable meetings. It also features suggestions from participants to reduce or remove the identified barriers.

Overall, a total of 21 barriers were identified during the roundtable process:

Awareness	Education
Leadership	Linguistic Barriers
Accessibility of Human Rights Information	Mental Health
Re-Victimization	Confidentiality
Fear of Retaliation	Economic Barriers
Intercultural Understanding	Trust
Human and Financial Resources	Advocacy and Legal Supports
Accessibility of Justice System Processes	Jurisdictional Confusion
The Scope of the <i>Canadian Human Rights Act</i>	Normalization of Discrimination
Power Imbalances	Systemic Discrimination
Historical and Ongoing Colonization	

Many of the barriers are interrelated, which further underlines their complexity, and the need for a unified approach to overcome them. It is likely that these barriers impact many people in vulnerable circumstances and should be viewed as part of a larger societal reality. In other words, while this report is about Indigenous women and girls, these issues should not be considered to be solely “Indigenous women’s issues.” These are issues being experienced while accessing Canadian systems and processes, and may also impact other groups in vulnerable circumstances.

## □ Awareness

Many of the women who participated in the roundtable process shared that some people in Aboriginal communities do not know enough about human rights laws in Canada. This includes understanding their basic human rights, the Commission's role and dispute resolution process, as well as the potential outcomes of filing a discrimination complaint. The women said this is particularly true for those who may be most susceptible to discrimination, such as women, youth, those involved in the sex trade, street involved individuals, people with Fetal Alcohol Spectrum Disorder / Fetal Alcohol Effects, those with mental health issues or physical disabilities, and seniors.

Many participants suggested strategies that could be used to increase people's awareness of human rights:

- Add a link to the Commission's website from the websites of Indigenous peoples' organizations.
- Use multimedia (e.g. short videos) in schools, health centres, band offices, offices of Métis locals, and other community buildings to raise awareness about human rights in Indigenous communities.
- Use "natural" networks to spread human rights information. For example, provide training to teachers, community leaders and advocates to create human rights support networks at the community-level.
- Use giant billboards that are located at the entrance to many First Nations communities to advertise about human rights laws and processes.
- Have a strategic advertising campaign about human rights, using social media like YouTube, Facebook and Twitter.
- Engage Indigenous youth to strengthen human rights awareness in their communities. The women said that involving youth will have a two-fold impact: youth will begin to advocate for their own human rights; and, they will "bring the message home" to their families.
- Go door-to-door to speak to community members about human rights and the Commission's dispute resolution process.
- Leave pamphlets and other informational tools behind when visiting a community.

***"Stop trying to fix  
Aboriginal women and  
address the problem."***

***~ Roundtable Participant***

- Include mention of human rights within standards or values that are posted around various community organizations and government offices.
- Partner with anti-bullying initiatives to help raise people’s awareness of human rights.
- Develop a campaign to reduce both the negative perception that some non-Aboriginal people have of First Nations, Métis or Inuit people and the stigma that this causes. For example, the campaign could teach both Aboriginal and non-Aboriginal people about the *Indian Act*, land claims agreements, scrip, and the historical and contemporary relationship between Aboriginal peoples and the Government of Canada, as well as how this relationship has been shaped and impacted by overt and subtle forms of colonially influenced thinking and actions.

#### □ **Education**

Many participants said that people in Indigenous communities need more human rights education materials. The women were clear that the Commission and others must also find creative ways to engage and educate people at the grassroots or community-level, because it is not enough to use “traditional and official forms of communication” to educate Aboriginal people.

In this case, “traditional and official forms of communication” means sharing information with the national Aboriginal organizations (e.g. Assembly of First Nations, Congress of Aboriginal Peoples, Native Women’s Association of Canada, the Métis National Council, Inuit Tapiriit Kanatami, etc.) and First Nations governments, with the expectation that it will be passed on to grassroots community members. Many women indicated that messages do not always filter down to the community-level when they are sent through a community’s leadership. To be clear, “community leadership” is broadly defined and encompasses Indigenous governments, federal, provincial and territorial governments, municipalities in urban centres and other community leaders.

Participants had many ideas for how to educate people about human rights. The education strategies identified include:

- Use radio stations and local newspapers to advertise about human rights. This could include information about specific human rights tools or products that are available, or a radio segment where people can call-in to ask questions.

- Feature stories about “community successes” (e.g. “X community” has a human rights strategy or community-based dispute resolution process in place, etc.) Stories could also highlight discrimination complaints that have gone through the system and have had positive outcomes. Essentially, the idea is to highlight best practices or illustrate what discrimination looks like, using models or other practical examples to help build linkages between communities.
- Feature stories about urban areas where educational tools and workshops have increased human rights awareness and decreased discrimination against Indigenous peoples seeking government services.
- Educate youth about human rights in Canada through school curriculums or by conducting school presentations about human rights.
- Create visually appealing fact sheets that could help dispel myths about human rights and discrimination.
- Develop a toolkit about how to access different types of services (e.g. social services, human rights, education, health care, etc.).
- Educate business owners in Indigenous communities about their rights and responsibilities as employers.
- Send information to umbrella organizations (e.g. housing organizations, women’s organizations, Aboriginal peoples’ organizations, etc.), requesting that representatives from these organizations distribute human rights information when they are out in communities.
- Provide training, tools and funding related to human rights for Indigenous communities and Indigenous community organizations, including those that represent seniors, women and youth. (The participants recognized that the Commission is not in a position to provide funding to Indigenous communities. However, it was still felt that funding should be provided by “someone.”)
- Develop information guides for children about the Commission’s and the Canadian Human Rights Tribunal’s processes, or the *Canadian Human Rights Act*.
- Develop education materials that outline the difference between labour laws and human rights laws. This would include identifying which process is the best avenue for resolving a particular issue and the forms of redress available to people in each process.



- Develop a “toolkit” for advocates to assist potential complainants. It was thought that including real case examples as part of the “toolkit” would be helpful, so people have an idea of what to expect throughout the Commission’s dispute resolution process.

### □ **Leadership**

The women said that there is a need in many Indigenous communities to educate the leadership about what human rights, discrimination and harassment are. They said that more importantly, leaders need to know that they have an obligation to deal with discrimination and harassment situations when they occur. Participants said that community leaders need to “walk the walk, and talk the talk.” In other words, people want their leaders to lead by example and to promote, encourage and demonstrate respect for human rights every day. It has also generally been found that leadership commitment is a foundational necessity for successfully integrating human rights principles and practices into organizational governance structures.

According to participants, another “huge barrier” relating to leadership is the lack of consequences for one’s actions, if that person is a leader within the community. The women said that sometimes political leaders are not held accountable for their actions. This can cause apathy among community members, particularly youth who are observing the situation. Youth then believe that there is “no point” in reporting abuses they witness because they believe nothing will be done to deal with the situation.

### □ **Linguistic Barriers**

The women shared that not having services or information available in local Indigenous languages can be detrimental for people whose first language is neither English nor French.

Some women also talked about the difficulty that many English-speaking Aboriginal women have when accessing services in the province of Quebec. It was explained that the majority of Aboriginal communities speak English, which is not an official language at the provincial level in Quebec. The women shared stories of being denied services or passed around to different agencies because service providers did not understand what the women were seeking. For example, in one situation an Aboriginal woman was applying for social services and was referred to immigration services instead. Such stories illustrate the frustration that people can experience when information or services are not easily accessible.

Roundtable participants identified the following potential strategies to address linguistic barriers:

- Provide human rights information materials and training in both official languages and Indigenous languages.
- Contact the Office of the Commissioner of Official Languages to help raise awareness that some Aboriginal communities are linguistic minorities and as a result may have difficulty accessing services, which has a detrimental impact on their day-to-day well-being.

#### □ **Accessibility of Human Rights Information**

The kind of language used by human rights agencies was identified as a potential barrier to understanding human rights laws. The women all agreed that the “language of human rights” can be too difficult for some people to understand, because human rights dispute resolution processes and other justice system processes use legal jargon. It was pointed out that some Aboriginal women have low literacy levels, further compounding the challenges related to understanding this legal jargon.

The Commission was also reminded that some people, particularly in remote areas, may not have access to technology, including the Internet. In other cases, people may not have the technological skills that would be needed to access forms and other information online. It is important to have information available both electronically and in print to meet different people’s needs. Braille may also be required for people with visual disabilities.

Participants felt that the following strategies could help increase the accessibility of human rights information:

- Ensure all public information is written at a grade three level.
- Use various kinds of disabilities (e.g. mobility, sensory, intellectual, etc.) in examples that are created for publications or other information materials.

## □ **Mental Health**

Participants identified that some Aboriginal women may have mental health issues that could act as a potential barrier to accessing justice system processes, including the Commission's. The women talked about the direct impacts of the residential school era, as well as the ongoing intergenerational impacts that have had a very negative effect on some Aboriginal women's mental health. The participants said that because of their past experiences, some women have a great deal of anger and/or challenges communicating in a healthy way. The women also said that many Aboriginal people suffer from Post-Traumatic Stress Disorder in relation to past abuses, which could also limit a person's ability to file a discrimination complaint.

The women talked about the challenge that women with mental health issues can have when trying to access services generally. It was said that "passive women," or those who are quiet and do not question the way the current system operates, get services.

Conversely, women with mental health issues (e.g. schizophrenia) or who try to speak out or question the system, are labelled as having "behavioural issues" and left on the street. It was thought that this happens in many cases, because the person's behaviour is not taken seriously by mainstream social services providers.

***"We need to get honest. We are not a full generation away from IRS [Indian Residential School]. My school wasn't recognized. That's like raping me and then deciding whether or not it's rape."***

***~ Roundtable Participant***

Participants believe that the following strategy could help address mental health challenges:

- Get to the "roots of the problems" by working on community healing to help people deal with the past. One way to do this could be to hold healing circles and other spiritual ceremonies.

## □ **Re-Victimization**

Participants talked about how the length and repetitive nature of a dispute resolution process can cause people to feel re-victimized throughout the process. Having to retell one's story multiple times throughout the process can be traumatizing and exhausting. It was also pointed out that many unrepresented complainants do not realize that they may have to face the respondent directly during the dispute resolution process. This re-victimization can cause serious harm to a person's mental health. It was said that this can be made worse when there is no support or mental health resources offered in a mainstream justice system process.

A person's tone of voice and language choices can also have a negative impact, as some women may feel re-victimized because of the manner in which they are spoken to by frontline staff.

### □ **Confidentiality**

The women said that in some cases people may be afraid that confidentiality will not be respected within a community, causing the details of a person's discrimination complaint to become public knowledge. This may be of particular concern in smaller communities where "everyone knows each other." As a result, wherever a woman goes, there's a good chance people have already heard of her. In other words, people's history follows them and there is no "fresh start" unless the woman moves out of the region. A woman may fear that filing a discrimination complaint will negatively impact her publicly, professionally and personally.

### □ **Fear of Retaliation**

Some roundtable participants said that Aboriginal women may fear retaliation for speaking out about any contentious issues in their community. This includes filing complaints when they experience discrimination or other forms of mistreatment.

The women said this fear can be exceptionally debilitating when a person is dependent on the service they want to complain about, such as housing or social assistance. It was further explained that sometimes retaliation can spill over into one's personal life, particularly if they live in a small or remote community.

The women were also very clear that retaliation, or the fear of it, is not just a problem in First Nations communities. It is also experienced in urban, northern communities, where participants raised the concern of retaliation by police officers and municipal, provincial and territorial government officials. Retaliation can and does occur in a multitude of settings, including in both employment and service-related situations. This is consistent with findings in the Commission's broader caseload.

***"This human rights stuff is great, but do you just think that you could get the police to stop breaking the fingers of our women [when arresting them]?"***

***~ Roundtable Participant***

Many of the women said that this fear stems from retaliation that they, or other people they know, have experienced in the past. Some participants shared that sometimes those who are meant to protect people are actually perpetrators of retaliation themselves. The women talked about situations where community leaders, the police and others in positions of authority have been known to retaliate against people who have tried to speak out or make a complaint.

The women also discussed other forms of retaliation such as name-calling, victim-blaming and lateral violence that has become deeply embedded in some communities. It was said that in some cases, women have been labeled as “troublemakers” for making any kind of complaint. It was felt that women are expected to be passive and if a woman asserts herself, she or the organization she works for will be penalized.

It was further explained that retaliation is not always in the form of violence. It may be more subtle and harder to pinpoint, such as service or funding cuts to an organization. The idea that chronic underfunding of service organizations is a form of violence was also discussed in relation to some of the women’s ideas about retaliation.

***“Women may perceive that they are putting themselves at risk by speaking up.”***

***~ Roundtable Participant***

The women said that organizations are being “muzzled” and forced to keep quiet, because there is fear that government funding will be taken away for advocating or speaking up. There was a strong perception that service providers will be “punished” if they challenge the federal government.

These factors have created a climate where many Aboriginal women are afraid to speak out or advocate for themselves. Participants made it clear that the current justice system does not do enough to protect people from retaliation and suggested several strategies to address this issue:

- Strengthen current laws about retaliation (i.e. give them “more teeth”) and provide better enforcement mechanisms. This suggestion included the idea of giving the Commission the ability to order interim remedies when a complainant files a retaliation complaint.
- Develop an education campaign to raise awareness at the community-level that retaliation is against the law.
- Use the *Access to Information Act* and the *Privacy Act* as resources to protect people from retaliation when filing a complaint against the federal government. These laws can give a person access to all the records they might need to refer to, if action is ever taken against them.

- Talk openly about retaliation experiences in order to help spread awareness about the issue and encourage others to file complaints if they believe they have experienced retaliation. Essentially, participants thought that people talking about it takes some of the power back from the individual(s), government(s) or organization(s) that retaliated against them.

*"I can tell you that a complaint dealing with systemic discrimination in the education of First Nations children is already written, but no organization has taken it on, for fear of further funding cuts."*

*~ Roundtable Participant*

### □ **Economic Barriers**

Participants said that a woman's socio-economic situation may cause her to feel that she does not have options or choices, or may indeed limit her choices. This feeling creates a "forced willingness" to tolerate human rights abuses or to "live in a state of denial" for the sake of survival. It was said that some Aboriginal women may be so focused on meeting their basic needs (i.e. employment, food, housing, clean water, child and/or senior care, etc.), that they do not have the time, money or energy to "spend years" dealing with a discrimination complaint.

The women talked about the difficulty that single mothers might have in accessing the Commission's process. A woman might continue to tolerate being sexually harassed at work to ensure she can put food on the table and make ends meet for her family.

Some participants also mentioned a recent ruling by the Supreme Court of Canada,<sup>3</sup> which said that the Canadian Human Rights Tribunal does not have the power to award legal fees. They felt that this ruling creates a disincentive for lawyers to represent complainants who do not have the money to cover legal fees upfront.

*"Everything is a struggle."*

*~ Roundtable Participant*

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<sup>3</sup> Canada (Canadian Human Rights Commission) v. Canada (Attorney General), 2011 SCC 53, [2011] 3 S.C.R. 471

## □ Intercultural Understanding

Cultural difference and intercultural miscommunication were identified as barriers to human rights justice in several ways.

It was said that Aboriginal people do not “see” themselves reflected in justice system processes, and that these processes do not feel culturally sensitive or safe. Participants discussed that many Indigenous cultures have a different view of how to deal with conflict than Western cultures and that as a result, some Aboriginal women may be reluctant to file a discrimination complaint.

*“It’s as if it is someone else’s system – we feel we are outside the process, even in the cities.”*

*~ Roundtable Participant*

Participants talked about the fact that some Aboriginal women have been raised not to ask “probing questions” and have been told to accept things the way they are. In these cases, even if the woman does not understand or agree with the reasons for being turned away she may not push to have her complaint examined further. It was also said that the way in which frontline staff speak to a potential complainant can impact whether that person takes a complaint forward.

Participants said that a woman may choose not to file a complaint for fear that it will lead to an erosion of her Nation’s collective rights. There was strong agreement that a woman’s decision should be respected by the Commission and others, if she chooses not to file a discrimination complaint for this reason.

*“Mainstream [non-Indigenous] services do not meet off reserve needs — there are cultural barriers and racism which impact services provided.”*

*~ Roundtable Participant*

It was further explained that Canadian justice system processes need to recognize and understand that in many Indigenous cultures there are times when the rights of the collective are more important than the rights of an individual.

The participants came up with the following strategies to address intercultural understanding:

- Develop cross cultural workshops to help build relationships between Aboriginal and non-Aboriginal people.
- Allow people who believe they have experienced discrimination to tell their whole story, before asking questions.

- Hire more Aboriginal people to offer complainants the choice to work on their complaint with an Aboriginal person or a non-Aboriginal person.
- Provide cultural awareness and sensitivity training on an ongoing basis to Commission employees, Commission members, as well as to employees and members of the Canadian Human Rights Tribunal.
- Implement Indigenous language programs in schools to help build intercultural understanding and respect.
- Broaden the justice system’s definition of family to recognize that in some cultures, nieces, nephews, aunts, uncles, cousins, grandparents and close family friends may all be considered “immediate family.”

#### □ **Trust**

Many participants expressed a very strong distrust of governments and related institutions (e.g. police, welfare/social assistance agencies, child and family services, etc.) The women said that this distrust stems from many sources, including the intercultural barriers previously mentioned, ongoing and past colonization attempts, violations to lands and resource rights, inequitable distribution of resources, other past mistreatment (e.g. residential schools) and current negative experiences with mainstream systems and services.

These wrongdoings have often affected Aboriginal women’s view of, and relationships with, governments and authority figures, like the police. The women said that in some cases, oppression and discrimination are still present within institutions.

The women also talked about how people who are, or have been, involved with the criminal justice system are not likely to turn to the justice system or another authority figure, if they become a victim of a crime. A person’s experience—good or bad—will directly impact their trust in the broader justice system, and whether they believe the system can help them.

***"We have been burned by so many organizations. Why jump out again?"***  
***~ Roundtable Participant***



The women shared many stories about negative experiences they and others they know have had with various policing agencies, including different municipal and provincial or territorial police, and the Royal Canadian Mounted Police (RCMP). Participants also said that there is no truly independent review process to investigate complaints against the RCMP. It was said that the current process provides little confidentiality, and that independent oversight mechanisms are lacking as the RCMP are asked to investigate themselves. As a result, people do not feel safe to make a complaint against the RCMP when they have a negative experience. Similar stories were shared by other women who had experience with urban policing agencies, such as city police.

People may not trust that justice and fairness will be experienced, or they may believe that nothing is going to happen or change by accessing “the system.” Participants said that there is a belief among many Aboriginal people that “more harm than good” comes from engaging external systems. There is also a sense that if a woman does report abuse or file a complaint with an external agency, that agency will not be able to exact any kind of positive change “on the ground.”

Participants shared that, in some communities, there may be social pressure not to go to external systems, because it is viewed as a betrayal of the community as a whole.

It was also explained that although most human rights agencies are arm’s-length and independent from governments, they are not seen that way. They are viewed instead as being a part of the government, so people may believe that the human rights agency will not be impartial. Many women also said that not having a regional office in their area contributes to this lack of trust, because there is nowhere to go to talk to a person face-to-face. Other participants said that insufficient follow up on the part of human rights agencies after a complaint is filed also contributes to mistrust.

Participants had the following suggestions for strategies related to increasing trust:

- Have Commission staff and members attend Indigenous community events to build relationships and trust with Indigenous peoples.
- Create partnerships between provincial and territorial human rights agencies and Indigenous peoples trained in alternative dispute resolution.

## □ Human and Financial Resources

Participants talked about the fact that many Aboriginal communities do not have stable human or financial resources to provide adequate housing, health care, education and other social services to their people. It was pointed out that First Nations governments are often responsible for providing services and supports that in any other context are split between municipal, provincial or territorial and federal jurisdictions. This, coupled with funding cuts, has left many First Nations governments, and Indigenous representative organizations, with limited human or financial resources to dedicate to human rights or dispute resolution issues.

*"We are pitted against each other for scarce resources."*

*~ Roundtable Participant*

Scarce resources have created a competitive and silo-based environment. As one woman said, "We have to fight for every dollar that we get." In some communities, organizations see one another as direct competition for funding, rather than allies who could be working together to meet their community's needs. It was also pointed out that organizations may be limited from advocating on behalf of marginalized groups because they must make issues fit within their specific mandate or risk losing their funding.

In other cases, participants noted that organizations that would normally act as advocates on behalf of Aboriginal women and girls have had their funding cut, resulting in less people to do more work. The women saw this as having an impact on the ability of Aboriginal peoples' organizations to file systemic discrimination complaints, to help people understand what their rights are, and to assist people in navigating justice system processes, including the Commission's. As mentioned, these organizations are often dealing with a range of issues, including housing, employment, health and social assistance. These limited resources are often prioritized to ensure that people are safe, healthy and economically secure, ahead of informing and possibly assisting them with discrimination complaints.

Roundtable participants thought the following strategies could help increase human and financial resources for Aboriginal communities:

- Provide equality of funding and services for all Canadians, regardless of the community they live in. This means that organizations would have adequate and continuous funding to meet the needs of people in every community.
- Pool together the resources of Aboriginal organizations and communities. For example, it was said that community organizations should focus on coordinating services wherever possible.

- Develop partnerships between the Commission and universities to create a program where students earn academic credit for working with community organizations on human rights issues.
- Train people who work in human resources to set up dispute resolution processes. The women were clear that this would require more than just human rights education and advice; it would also require actual hands-on help.
- Maintaining a “resource role,” for communities interested in developing their own dispute resolution processes. This includes going to the people to provide increased access to the Commission’s process, and being honest about what the Commission and other organizations can (and cannot) provide.

#### □ **Advocacy and Legal Supports**

Participants identified a need for community-level advocates and legal supports for Aboriginal women and others who experience discrimination. The Commission was told many times that Aboriginal people need face-to-face contact, and that it is the best way to help people understand their rights and responsibilities.

***“No matter how plain language, our people cannot go through this process alone.”***  
~ ***Roundtable Participant***

It was pointed out that in many places, particularly in remote communities, Aboriginal women must leave their communities in order to access services, such as women’s shelters and legal supports. The women shared that in some cases, even frontline community support workers may not know about human rights or the resources that are available to people who experience discrimination or harassment.

Participants made the following suggestions for strategies relating to advocacy and legal support:

- Change the federal human rights dispute resolution process so that it provides human rights legal support to complainants, similar to the support provided in the Ontario system.
- Develop a discreet mobile unit to go out to communities and meet with potential complainants.
- Develop a travelling human rights tribunal to go to people for hearings.

- Make advocates available to people throughout the Commission’s dispute resolution process. It was felt that these advocates would be particularly important for complainants in potentially vulnerable circumstances (e.g. women, youth, those involved in the sex trade, street involved individuals, people with Fetal Alcohol Spectrum Disorder / Fetal Alcohol Effects, those with mental health issues or physical disabilities, and seniors).
- Other types of advocates suggested by the participants included: Aboriginal liaison(s); legal and community advocates; Elders who are familiar with human rights laws and dispute resolution processes; peer support networks for complainants; Indigenous advocates to provide community training about human rights; and, counsellors to accompany people to mediations or hearings.

□ **Accessibility of Justice System Processes**

Many women said that the accessibility of justice system processes, like the Commission’s, is a barrier. Canada’s justice system processes are complex and often difficult to navigate. Participants said this is particularly true for people who do not have any legal training/experience or limited education.

Participants talked about the “bureaucratic nature” of justice system processes, including the Commission’s. This “bureaucracy” includes things like extensive reporting requirements, strict deadlines and other expectations that are put on people who may have no legal training/experience. The amount of time it takes to resolve a discrimination complaint was also said to be a barrier for some people—particularly those in immediate crisis.

The challenges the women identified were about more than just the time it takes to go through justice system processes like the Commission’s. The women were clear that if a person is not familiar with the Commission’s process, it can be very difficult to navigate or understand how to proceed through the system. If a person is in distress or already vulnerable in some way, this can be overwhelming.

*“Dispute resolution processes must be short. Time is often a luxury and a privilege.”*  
 ~ Roundtable Participant

The deadlines for filing a discrimination complaint (one year at the federal level and 6 to 18 months at provincial and territorial levels) were identified as a barrier. The women said that these deadlines act as an even larger barrier for people who may not know their rights initially, or who may blame themselves for the mistreatment they experience. It was also pointed out that different challenges exist for people living in remote areas. For example, it can sometimes take weeks to receive mail, which means that the current time restrictions may negatively impact a person's complaint through no fault of their own.

***“When I think about barriers, I think about the lost women, who have no First Nation community, and who suffer trauma, but they don’t know where to go.***

***They are homeless in our homeland.”***

***~ Roundtable Participant***

There was some concern about having to call a 1-800 number to make an inquiry with the Commission's National Call Centre before receiving a complaint form or being contacted by a Commission intake officer. Many participants at the roundtables talked about the importance of having a person with human rights expertise to talk to when first inquiring about a discrimination complaint. It was also emphasized that this person must not display biases against Indigenous peoples. Many times, participants reminded the Commission that these kinds of biases can be demonstrated in very subtle ways, such as a condescending tone of voice or negative body language (e.g. crossed arms, frowning, etc.).

Participants thought the following strategies could help make the Commission's dispute resolution process more accessible:

- Simplify the Commission's process by making it more user-friendly, with greater flexibility and a focus on avoiding delays whenever possible.
- Develop a guide on how to write a discrimination complaint.
- Create separate information kits for filing individual and systemic complaints. The information kits could include booklets, flow charts, best practices, links to resources and other relevant information for how to file and follow through with a discrimination complaint.
- Provide ways for people to file a discrimination complaint orally and/or in person.

***“[We] need this service to come to the people, locally, within communities. See people in their homes.”***

***~ Roundtable Participant***

- Provide interpreters for Aboriginal people whose first language is neither English nor French.
- Open a “store front” where people could talk to someone without an appointment. Alternatively, the Commission could work with local organizations to use their space on a set day each week or month to meet with people face-to-face.
- Develop a data collection mechanism to track cases as they go through the dispute resolution process. For example, information about cases that go before the Canadian Human Rights Tribunal could be used to let people “know what they can expect” and provide helpful learning opportunities for potential complainants.
- Make complaints relating to Aboriginal children a priority, because of their potential vulnerability.

#### □ **Jurisdictional Confusion**

Jurisdictional challenges were raised in a broad context. Some participants said that jurisdiction needs to be clarified generally, whether dealing with human rights, health care, education or other government services. For example, having both provincial and federal jurisdictions overlapping with a First Nation’s customary and/or self-governing laws in a community can be problematic. The women said that it means that everyone involved has to be familiar with three sets of laws. This can create confusion, particularly for community members.

There was a sense that many Aboriginal women are caught between federal and provincial or territorial jurisdictions, particularly if the discrimination occurred on reserve. Participants said that it can be especially difficult when jurisdiction is unclear, because a person may have to wait and address the jurisdictional questions, before the actual discrimination complaint can be dealt with. Worse still, some women shared stories of never having had their complaint dealt with because they ran out of time in one jurisdiction, while waiting for the other jurisdiction to decide whether they would deal with the complaint.

Participants thought the following strategies could help address jurisdictional confusion:

- Allow for greater cooperation between jurisdictions at the organizational level, so that potential complainants do not bear the burden of determining where to go to deal with a discrimination complaint.

- Expand Jordan’s Principle<sup>4</sup> so that it formally covers all potential services, not just health care.

□ **The Scope of the *Canadian Human Rights Act***

The women said that some Aboriginal women experience discrimination that does not “fit into the box.” In other words, it may not be tied to a prohibited ground under the *Canadian Human Rights Act*. As a result, women are left with no recourse. The women identified that they, or women they know, have experienced discrimination for things like being impoverished, their perceived social status, political affiliation, Aboriginal residency, or the language they speak.

The women said that there is a lack of education, language, protection, and support around gender identity and gender expression. For example, there was a perception that there are no federal human rights protections for a person who does not identify with the gender they were born with, but is not gay or lesbian. The Commission clarified that it can in fact accept complaints related to gender expression.

The issue of Aboriginal residency and the need for it to be a ground under the *Canadian Human Rights Act* was also discussed in multiple contexts. One woman explained that when an Indigenous woman experiences discrimination for living outside of her Nation, it can impact her sense of identity. It may make her feel as though she is not a part of either the Indigenous community or the non-Indigenous community.

**Regarding the grounds of discrimination:**

**"All that, and more, are the challenges Aboriginal women face."**

**~ Roundtable Participant**

The other way that Aboriginal residency could be a barrier is if a band member living outside of the community tries to access community dispute resolution services, for example, and is denied access because they do not live on the reserve.

It was also identified that there are challenges to being a woman *and* of Indigenous descent. Although the women did not use the terms “complex or intersectional discrimination,”<sup>5</sup> many of them described it in the stories they shared.

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<sup>4</sup> Jordan’s Principle is a child first principle named in memory of Jordan River Anderson, a young First Nations boy from Manitoba. Jordan’s Principle calls on the government of first contact to pay for health care services and seek reimbursement from other jurisdictions later, so children do not get caught in the middle of government technicalities.

<sup>5</sup> “Complex or intersectional discrimination” refers to situations where there are multiple grounds (e.g. race, gender, sexual orientation, disability, etc.) that interact in such a way that their impacts are inseparable. In cases like this, it is

Participants suggested the following strategies related to the scope of the *Canadian Human Rights Act*:

- Expand current human rights laws to provide for more rights. Participants suggested that political affiliation, Aboriginal residency, social condition and gender identity should be added as grounds under the *Canadian Human Rights Act*.
- Broaden the interpretation of the grounds under the *Canadian Human Rights Act*, so that it operates more like the *Canadian Charter of Rights and Freedoms*, which allows for a broader interpretation of discrimination.

*"Sometimes, the boxes are not there that reflect the Aboriginal reality (e.g. political affiliation)."*

*~ Roundtable Participant*

#### □ **The Normalization of Discrimination**

It was said that some Aboriginal women accept violence and discrimination as a part of their life. Participants also discussed discrimination and how it has become “normal and acceptable” in Canadian society to use derogatory language when referring to Aboriginal people. The women explained that this language has become internalized by some Aboriginal people, so that they see themselves through the negative stereotypes of others. Participants explained that many Aboriginal women carry hardships that have been internalized to the point that the women do not recognize them as human rights abuses. These abuses have become accepted as “the way things are.” Essentially, some women may believe that there are no other options.

#### □ **Power Imbalances**

This issue of power imbalances was raised in a number of contexts including bringing complaints against the federal government, facing Chief and Council in a First Nations community, and dealing with other service providers, such as the police or child and family services.

Many of the women believe that an Aboriginal woman in vulnerable circumstances may feel that she has no power to exact any kind of change because power imbalances exist at a systemic level in relation to knowledge, economics, safety and many other issues. This can cause a woman to feel that there is no point in filing a complaint.

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important to acknowledge that discrimination on multiple grounds can have a greater impact than discrimination based on a single ground.



The women believe that the lack of action on the part of those in power to address the systemic mistreatment of and disrespect for Aboriginal women indicates their support of the discrimination and violence that too many Aboriginal women have experienced. In effect, their silence makes them complicit.

The women talked about a broader idea of violence and/or harassment, and how governments and others in positions of power use that power to exert a type of psychological violence through systemic discrimination.

The women suggested the following actions for addressing power imbalances:

- Create resources to help prepare people to have difficult conversations in a constructive way.
- Bring “all of the players to the table,” to talk about why things are the way they are and what needs to change. The women felt that even if people do not agree on everything at the start, there would likely be some points that could form a foundation for moving forward, together.

#### □ **Systemic Discrimination**

Participants said that many of the institutions developed over the last 500 years (i.e. since colonization) may be inherently discriminatory. However, discrimination is more subtle today than in the past, making it more difficult to pinpoint.

Participants also discussed the need for changes to be made to the *Indian Act*, as well as the system that has been developed around it. Many participants said that much of the systemic discrimination they experience stems from legislation like the *Indian Act*, as it often treats First Nations people, particularly First Nations women, differently and more negatively than others in Canada. Some of the women expressed the feeling that a person governed under the *Indian Act*, while born in Canada, is not considered to be Canadian. All of this creates divisions and exclusions between both Aboriginal and non-Aboriginal people.

The *Indian Act* has played a large part in Canada’s colonial history over the last 150 years, and the women identified that there is still a lot of discrimination that flows directly from that piece of legislation. The question “What is an Aboriginal woman?” was asked by one participant. She wondered whether Aboriginal women have to be visual (i.e. look a certain way), in order to have their identity as Aboriginal women recognized by others.

***“Inclusion for all.  
Except this one population  
– they’re governed under  
different legislation –  
separate mind frame.  
You’re not included.”  
~ Roundtable Participant***

She went on to point out that Inuit are Inuit forever, but that many First Nations women have lost their rights and a part of their identities through marriage (whether theirs or a female ancestor), and their children can or do lose their rights, because of the status provisions in the *Indian Act*.

It was said that women have been particularly negatively impacted by these colonial impositions and when a woman does not have a strong sense of identity—for example, because the government does not recognize her “status” as an Indigenous person—she may also lose self-esteem. The women implied that examples like this can directly impact a woman’s sense of dignity and belonging. It was further explained that women who have low self-esteem may feel powerless and the idea of “putting themselves out there is daunting.” It creates a cyclical situation of continued mistreatment and inaction for fear of further mistreatment from others in perceived positions of power.

Some participants went further saying that the larger system itself is problematic, because discrimination is built into the organizational structures that make up “the system.” It was thought that this makes things more difficult to change because the people who control those organizations may not want to acknowledge that their organization is part of the problem. The women talked about how the main goal of an organization is to exist, so it can be difficult to start examining systemic discrimination issues that may threaten that existence.

***“It is important to know  
that there is justice,  
fairness, and equality at the  
end of the road.***

***It is disappointing to see  
unfairness in the process  
itself.”***

***~ Roundtable Participant***

The women said that violence and discrimination against Aboriginal women is broadly accepted in Canadian society and nothing is being done to change this perspective. It was felt that this is illustrated by the fact that violence against Aboriginal women has become “institutionalized” and “visible at all levels.” For example, local, provincial, territorial, and national policies and laws that impact Aboriginal women are developed and enacted without respect or mutual dialogue. Participants cited Bill C-45, *A second Act to implement certain provisions of the budget tabled in Parliament on March 29, 2012 and other measures*,<sup>6</sup> explaining that the lack of consultation about that law directly inspired the development of the Idle No More<sup>7</sup> movement.

<sup>6</sup> <http://www.parl.gc.ca/HousePublications/Publication.aspx?DocId=5942521>

<sup>7</sup> <http://www.idlenomore.ca/>

The women's suggested actions for addressing systemic discrimination were:

- Educate non-Aboriginal people in Canada about where Aboriginal peoples have come from, their history and how the country's development continues to negatively impact many Aboriginal communities today.
- Create two streams within the Commission's dispute resolution process: one for systemic complaints and one for individual complaints.
- Create an external Aboriginal advisory committee to help the Commission examine systemic discrimination issues affecting Aboriginal peoples and determine ways to address those issues.
- Encourage Indigenous service and advocacy organizations to lobby for funding for systemic discrimination challenges, including court cases.
- Develop a mandatory learning component for Canadian school curriculums relating to Canada's colonialism, the residential school era, and the current situation of Aboriginal peoples in Canada.

***"Things that are being litigated right now are important to every Aboriginal person in Canada."***

***~ Roundtable Participant***

#### □ **Historical and Ongoing Colonization**

Some women focused on the ongoing impact of colonization and how it affects their identities as Indigenous women. It was said that there is a "colonial style" that is still inherent in the current justice system. The women said that it has shaped the justice system in such a way that it tells people what to do and how to behave, with little consideration of the individual. It is a system that does not allow people to assert their Aboriginal rights or their Aboriginal identity and has a negative impact on their whole being.

Some participants shared that "foreign approaches" are being imposed in their communities and that those in mainstream power structures are not listening to Indigenous peoples. It was said that, in many instances, those in power "don't even think to ask" Indigenous peoples' opinions. It makes the women feel as though there is no openness from those in power to seek advice or input from Indigenous communities.

Participants also discussed how this approach continues to conflict with Aboriginal peoples' outlooks and worldviews. For example, it was expressed that even the term "*human rights*" is influenced by colonial thinking. It was further explained that colonial thinking is not holistic in comparison to an Indigenous worldview, which considers the rights of animals, the environment or other aspects of the universe.

It was pointed out that even if information or a service is delivered by another Aboriginal woman, it does not always mean it is delivered in a decolonized way. This is because the woman still has to follow the rules of the organization she works for, and the organization itself was likely structured by colonial influences.

Some of the women explained that identity and the politics of erasure were also tied to colonization and its impacts. The idea of erasure is that the dominant (i.e. colonial) system has set out to erase the past, altering the truth so that the system continues to benefit those in charge. The women said that this is played out in some communities so that Aboriginal women forget how they have come to be in the current situation. Similarly, it was said that erasure has negatively impacted the Treaty relationship between the Crown and Indigenous peoples. This has impacted some Aboriginal people's understanding of human rights, because they view the provisions in the Treaties as being inherently tied to their human rights.

## 2.2 Community-based Dispute Resolution

*"Empower Aboriginal people to do it ourselves."*

*~ Roundtable Participant*

The discussions about community-based dispute resolution generally focused on what would be needed to prepare many communities to have the capacity to develop their own processes. The Commission asked participants if using a community-based dispute resolution process would remove or reduce any of the barriers to access they identified, or if new barriers could exist in using such a system.

The general consensus among participants seemed to be that the vast majority of Indigenous communities are so focused on addressing urgent needs, they cannot currently focus on developing their own community-based dispute resolution processes. It was pointed out that many communities need more resources to develop a successful dispute resolution process. Some participants went further, expressing that promoting the development of community-based dispute resolution processes when there are no funds to do so, creates a false sense of hope for Indigenous communities.

It was emphasized that when developing a process, community-wide discussions would be needed in order to get "community buy-in." It was pointed out that this communication could help build a community's trust for a dispute resolution process, which would be absolutely necessary for success. It could also be positive for community development and generally encourage "human rights as a part of life." This is consistent with article 34 of the United Nations *Declaration on the Rights of Indigenous Peoples*.<sup>8</sup>

Some participants felt that community-based dispute resolution could work very well to resolve individual disputes between community members; but not systemic issues or other decisions (e.g. band membership) that are made by a First Nation's leadership.

*"Someday, respecting human rights will be something we do naturally, without even thinking about it.*

*It will be second nature. And I think we need to go back to our peoples' teachings to help us get there."*

*~ Roundtable Participant*

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<sup>8</sup> Article 34 states: "Indigenous peoples have the right to promote, develop and maintain their institutional structures and their distinctive customs, spirituality, traditions, procedures, practices and, in the cases where they exist, juridical systems or customs, in accordance with international human rights standards."

The women mentioned that confidentiality could be a barrier to accessing a community-based dispute resolution process because people might fear that their issues would be “talked about over lunch.” However, participants agreed that if the system was arm’s-length from the community’s government, it might help increase trust that there would be confidentiality in the process.

Some of the women felt that it would be important for decision-makers to have an understanding of the distinct Indigenous peoples (e.g. First Nations, Métis, and Inuit) and cultures that exist in Canada, including distinctions among these peoples. It was thought that an Indigenous decision-maker would be beneficial, as they would likely already have this kind of understanding. Others thought that the decision-maker could be an Indigenous or non-Indigenous person, as long as they had all of the skills and experience required to do the job.

Participants also felt that, even if a community-based dispute resolution process existed, it would be very important for people to still have the choice of going to an external human rights agency, like the Commission. Community-based dispute resolution could work for some people and some situations, but not all, which is why it is important to have both an internal and external process available to people.

***“...the solutions won’t come from the top down.***

***Change happens from the bottom up.***

***You don’t plant seeds in the clouds; you plant them in the ground.”***

***~ Roundtable Participant***

## 2.3 Research and Access to Justice

*“You don't need a research project to know that scarcity of resources, lack of advocacy, and low literacy are barriers to accessing human rights justice.”*

*~ Roundtable Participant*

The Commission asked participants if they felt research related to the issues that have been raised at the roundtable meetings would be helpful in increasing Indigenous people's access to human rights justice. Overall, participants had mixed feelings about whether research would be helpful. Many of the women expressed the feeling that Aboriginal women have been “researched to death,” and that action would be far more helpful.

Many women also expressed the sentiment that they are tired of things being “done to them” and would like for any actions going forward to be “done with them” instead.

There was support at many of the roundtable meetings for a literature review to see what, if any, research exists about access to human rights justice. Participants recommended that a research action plan be developed based on the literature review.

In spite of the mixed feelings about research, some participants at each roundtable did have suggestions about possible research questions, as well as the type of methodology that should be used.

Some women felt that a combination of quantitative and qualitative research would produce the most powerful and interesting results. They also said that it would be important for any research to be done in both small and large communities to ensure a variety of perspectives.

Some participants felt that if research is undertaken, it should be done by a group of Aboriginal women. They also said that “how” the research is done is just as important as “what” comes out of the research. Similarly, participants had a number of suggestions about things the Commission should consider before any research is done. This included considering how the research would be used and who would “own” the results.

One participant suggested that research into the different “layers of discrimination” experienced by Aboriginal women would be helpful. She explained that very little, if any, research has been done on the issue of complex or intersectional discrimination, and how it impacts Aboriginal women.

Another participant raised the idea of doing research on socio-cultural issues such as: poverty; overcrowding; food-nutrition; and money. This individual felt that all of these issues are relevant and can directly and negatively impact a person's entire life.

Some of the questions that participants thought research could examine included:

- To what degree is fear of retaliation a deterrent to filing a discrimination complaint?
- How have people overcome their fear of engaging the justice system?
- What have other human rights commissions, in other jurisdictions, done to protect people from retaliation?
- Are there models or best practices from other complaint or regulatory systems related to increasing access to justice for people in vulnerable circumstances?
- What impact does complex or intersectional discrimination have on Aboriginal women and girls?
- We hear that restorative justice is happening – but where? Is it working?
- How fair is the Civilian Review and Complaints Commission for the RCMP's dispute resolution process?
- What is lost (including certain nuances) when translating between French, English or another language and an Indigenous language?
- How do Indigenous laws and traditions support respect for human rights in daily practice?

***“Our community has been researched to death!***

***We don't want something to be done to us, but with us.***

***I love the action component [of the action research concept].”***

***~ Roundtable Participant***



## **Part 3**

# **Seizing the Opportunity and Taking Action: Responding to What We Heard**

*“I urge you to hear the voices that were shared today – understand the pain, the tears and that you are in a position of power to take that back.”*

*~ Roundtable Participant*

### 3.1 A Coalition-based Approach to Increasing Access to Human Rights Justice

*“Go back with our stories and then try to create the support that will lead to action and access to justice.”*

*~ Roundtable Participant*

In most of the roundtables, when the women were asked, “Who needs to be involved?” the short answer was “everyone.” The women know that many of the barriers that they have identified are not up to the Commission or any other single organization, government, or person to tackle. In these roundtables, from coast to coast to coast, there was a strong feeling that many people, governments, organizations and institutions will need to be involved, in order to start to change the current reality of so many Aboriginal women in Canada.

The Commission believes that partnerships are instrumental to improving access to justice for Indigenous peoples, particularly Indigenous women and girls. Throughout the course of the roundtable process, the Commission sought feedback and advice from grassroots Indigenous women’s organizations to plan and successfully hold each meeting. It was recognized that success could only come by acknowledging the expertise that they have to offer and including these organizations from the outset. Their work is invaluable and many organizations have found ways to achieve positive results despite very constrained resources.

The Commission is actively reaching out to a range of Indigenous peoples’ organizations, governments and related organizations, civil societies, legal associations, and others, to identify potential partnership opportunities that could increase access to human rights justice for Indigenous women and girls.

This is intended to encourage discussion, leading to commitment and action. The objective is to raise awareness about what the women shared with us, and work with interested partners (established and new) to take action, with the goal of reducing barriers to human rights justice for Indigenous women and girls.

**More information about how the Commission is acting on the barriers that are within its mandate, control and resources can be found in Appendix 1 at the end of this report.**

The Commission recognizes that it must take action in response to what it heard from the women. The insight shared by participants points to a much larger need for “access to justice” in general. There were barriers identified through the roundtables that indicate the need for conscious effort from all sectors of Canadian society. There is a need to critically examine the dominant discourse around these issues in a similar way to what was done by the Truth and Reconciliation Commission of Canada<sup>9</sup>, using the lens that these women and others in vulnerable circumstances have provided by sharing their stories and life experiences, .

There are different kinds of expertise everywhere. The value and beauty in partnering is that the level of expertise among everyone involved grows. The strategies featured in this section illustrate the kinds of activities that are needed to increase access to human rights justice for Indigenous women and girls, and others in vulnerable circumstances. These kinds of strategies can result in real, lasting and positive change, but they will take work from many people and organizations.

The Commission believes that working with others to increase access to human rights justice will create a better country for everyone in Canada. Non-traditional alliances and partnerships are needed to encourage lasting improvements related to many of the barriers identified at the roundtables. For example, the Commission, the RCMP, the Indigenous Bar Association, and the Native Women’s Association of Canada could develop and implement a human rights awareness campaign together. Partnership opportunities like this could also help advance reconciliation and support the Truth and Reconciliation Commission of Canada’s Calls to Action.

*“I continue to pray and hope for justice for Aboriginal women.”*

*~ Roundtable Participant*

In thinking about what the women who participated in the roundtable process shared, people inside and outside the Commission have developed some ideas of potential strategies that could be realized if organizations joined together. These strategies include:

- Developing a network of legal advocacy groups.
- Finding ways and means to resolve disputes at the community level.
- Developing human rights information kits or guides for advocates.

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<sup>9</sup> Truth and Reconciliation Commission of Canada: Calls to Action, available at: [http://www.trc.ca/websites/trcinstitution/File/2015/Findings/Calls\\_to\\_Action\\_English2.pdf](http://www.trc.ca/websites/trcinstitution/File/2015/Findings/Calls_to_Action_English2.pdf)

- Creating a support system for people with disabilities, to assist in accommodating individual needs.
- Creating a mental health support system for people accessing justice system processes.
- Developing and jointly delivering human rights webinars and other presentations.
- Having human rights kiosks or information centres in partners' offices.
- Creating spaces for intercultural learning opportunities.
- Developing a human rights "exchange program" to learn and build on the expertise of partners.
- Developing educational programs for students to earn academic credit for working with community organizations on human rights issues.
- Finding ways to coordinate services and create greater clarity about jurisdictions in Canada.
- Developing human rights curricula for schools, including First Nations schools on reserve.
- Finding opportunities to bring young people together to talk about and promote human rights.
- Provide human rights education and training to youth.
- Developing a "train the trainer" program about human rights and discrimination.
- Creating a promotional campaign featuring partners talking about human rights.
- Supporting young Indigenous leaders who have been in vulnerable circumstances, to speak before community leaders in urban and remote areas, and share their experiences.

In one of the meetings, the women shared the concept of the "burden of knowledge." Essentially, this is the idea that once a person knows about a situation, good or bad, a person must carry the burden of that knowledge with them. Ideally, it spurs them to act.

Everyone in Canada carries the “burden of knowledge” that there are inequalities facing Indigenous peoples based on our collective histories, and that there is a need to repair the relationship between Indigenous and non-Indigenous people in Canada. It is clear that access to human rights justice is still elusive for many people in this country. There are basic human rights that some have the luxury of taking for granted, while others have never known what asserting those rights feels like. By taking steps to address the barriers highlighted in this report, human rights justice could be more accessible for those in vulnerable circumstances in Canada. By acknowledging the source of these challenges, it allows us to move forward with a full understanding of the work that will be required for success.

In light of everything that has been shared in this report and others, like the Truth and Reconciliation Commission’s findings, the Commission challenges other organizations, communities and governments to consider:

- *What two or three barriers identified in this report do you think impact Indigenous women, particularly those in vulnerable circumstances the most? Why?*
- *Thinking about the two or three barriers you have identified, what are two to three constructive strategies or ideas for action that could help overcome these barriers?*
- *How can you help turn these strategies and ideas into action?*

The Commission is committed to doing all that it can to help improve access to human rights justice for Indigenous women and girls, and others in vulnerable circumstances. It hopes that by posing these strategies and questions, organizations, Indigenous leaders and others across Canada will come together to generate creative solutions and take action to eliminate the barriers that have been raised by the women who participated in the roundtables.

## Appendix 1: Increasing Access to Human Rights Justice

*“Sometimes you have to listen to learn.”*

*~ Roundtable Participant*

This Appendix outlines what the Commission has done or is doing, either on its own or with partners, to address some of the barriers identified by the women at the roundtable meetings. The Commission has been aware of some of the barriers, such as awareness for some time, which is why some of the work outlined was undertaken long before the roundtables. Generally, only activities undertaken since 2010 have been included.

### □ Awareness

A key part of the Commission’s mandate includes promoting human rights laws and related information. Increasing awareness of human rights laws and processes among Indigenous peoples in particular has been a priority for the Commission since the repeal of section 67 of the *Canadian Human Rights Act*. The Commission worked closely with the Native Women’s Association of Canada, the Assembly of First Nations, and the Congress of Aboriginal Peoples in the early years following the repeal of section 67. The repeal had a particular impact on Indigenous peoples affected by the *Indian Act* and the expertise of these national Aboriginal organizations was key in helping to raise awareness about the change to the *Canadian Human Rights Act*.

For example, all three organizations suggested that the Commission’s information resources needed to be more plain language. The Native Women’s Association and the Commission then worked together to develop a guide to understanding the *Canadian Human Rights Act*, which continues to be shared. Using plain language, the Guide explains federal human rights law and the Commission’s complaint process from a potential complainant’s perspective.

The Native Women’s Association also provides its expertise in culturally-relevant gender-based analysis on many of the Commission’s initiatives and knowledge products. For example, the Native Women’s Association provided a culturally-relevant gender-based analysis of the interpretive provision that was added to the *Canadian Human Rights Act* when section 67 was repealed, as well as the *Toolkit for Developing Community-based Dispute Resolution Processes in First Nations Communities*.

Another example is the Indigenous Bar Association, which has taken a leadership role in promoting the development of Indigenous law and supporting Indigenous legal practitioners over the past three decades. Most recently, the organization has been involved in a major project entitled: Accessing Justice and Reconciliation. The goal of the project "...was to better recognize how Indigenous societies used their own legal traditions to successfully deal with harms and conflicts between and within groups, and to identify and articulate legal principles that could be accessed and applied today to work toward healthy and strong futures for communities."<sup>10</sup> Through some of this work, the Indigenous Bar Association and the Commission have had the opportunity to work together.

One of the Commission's roles is to deliver special reports to Parliament and provide insight into the human rights implications of issues being studied by Parliamentary and Senate Committees. Most recently the Commission published a *Special Report to Parliament on the impacts of Bill C-21*. As mentioned, Bill C-21 repealed section 67 of the *Canadian Human Rights Act*, and intended to allow Indigenous people in Canada to enjoy full protection under the *Canadian Human Rights Act* for the first time. This report included a section calling attention to various human rights issues currently impacting Aboriginal peoples and communities.

As the national voice on human rights in Canada, the Commission also makes written submissions and public speeches on human rights issues both in Canada and before international bodies such as the United Nations. The Commission also uses various forms of media (e.g. social media, traditional print media, etc.) to help raise awareness nationally and internationally about human rights issues in Canada. For example, in October 2015, Chief Commissioner Marie-Claude Landry issued a statement calling on Canada's newly elected government to "repair the erosion of human rights in Canada."<sup>11</sup>

#### □ Education

The Commission offers in-person and web-based human rights training sessions and develops human rights knowledge products intended to appeal to a wide variety of audiences, including Indigenous peoples. Between 2010 and 2015, over 110 in-person training sessions were held with Indigenous audiences. As web-based technology has become increasingly available, in-person training is now complemented by webinars on various human rights topics.

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<sup>10</sup> To learn more about the *Accessing Justice and Reconciliation* Project go to: <http://www.indigenousbar.ca/indigenoulaw/>

<sup>11</sup> To see the full statement, go to: <http://news.gc.ca/web/article-en.do?mthd=tp&ctr.page=1&nid=1018479&ctr.tp1D=1>

The Commission recently released a series of videos featuring actors depicting ‘real life’ situations to show people what harassment ‘looks like,’ and additionally, has released videos in several Indigenous languages. Videos like these are something that many of the roundtable participants suggested would help make human rights information more accessible to Indigenous people.

The Commission has also launched discussions and workshops with Indigenous youth who have provided similar feedback about the kinds of knowledge products they would find useful and effective. The Commission is currently piloting a series of Human Rights Defenders Workshops and an interactive game of the same name with youth at various events. A Youth Engagement Strategy is also being developed in collaboration with Indigenous youth to further support this work.

#### □ **Linguistic Barriers**

Recently, the Commission released seven video vignettes about the *Canadian Human Rights Act* in three Indigenous languages. There is also a version in American Sign Language. These videos are all available to the public on the Commission’s YouTube Channel.<sup>12</sup>

The Commission also provides interpreters for parties to a complaint whenever they are needed.

#### □ **Accessibility of Human Rights Information**

The Commission acknowledges that laws, and legal language and jargon can be complex and, at times, difficult to understand. It has been working to improve its use of plainer language to explain human rights laws and concepts in all communications. Commission staff are encouraged to explain case law, rather than quote it, whenever possible in their reports and other case-related documents. The hope is to make human rights laws more accessible to the public, including Indigenous peoples.

#### □ **Mental Health**

The Commission has provided training to its staff on how to sensitively deal with callers who may have mental health issues. Staff also try to be very clear with potential complainants about the stages and timelines within the Commission’s process. Oral statements and submissions are also accepted when a person may not be in a position to file written documents, because of literacy issues or other challenges.

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<sup>12</sup> [https://www.youtube.com/channel/UCBIUe4PtXTH\\_ZBOvClwvmHA](https://www.youtube.com/channel/UCBIUe4PtXTH_ZBOvClwvmHA)



### □ **Confidentiality**

The Commission is very careful about protecting people's personal information, including not speaking publicly about specific cases that might be brought to the media's attention by someone involved in the complaint. However, the Commission recognizes that some of the women's concerns related to confidentiality may stem more from living in a small community.

Commission intake officers and other staff also explain the details of the communication process with complainants and ask if there are any concerns with where and how they are contacted (e.g. by mail at work/home, by phone at work/home, etc.). If receiving mail with the Commission's logo is a concern, staff will send communications in unmarked envelopes and handwrite the complainant's name on the envelope. In mediation situations, the Commission asks parties to sign a mediation agreement. As part of that agreement, the parties agree to keep all things that are written or discussed during the mediation confidential. In fact, the law says that people involved in settlement discussions cannot tell anyone who is not involved with those discussions.

### □ **Fear of Retaliation**

The Commission has publically discouraged retaliation and works to raise awareness that it is illegal to retaliate against someone for making a discrimination complaint whenever possible. For example, the law and penalties related to retaliation were included in the Commission's 2014 Annual Report, various news releases and other knowledge products. However, it is clear that more needs to be done in this area, as fear of retaliation was a common concern for many participants across the country and has been raised in many other contexts as well.

### □ **Intercultural Understanding**

The Commission seeks to build relationships and encourage improved intercultural understanding between Indigenous and non-Indigenous people. The Commission provides training internally to ensure that staff are sensitive to issues such as access to human rights justice for Indigenous women and girls. Over the last several years, staff have been encouraged to participate in Truth and Reconciliation Commission of Canada events, federal Public Service Aboriginal Awareness Week activities, and National Aboriginal Day festivities. The Commission has also provided information and training to its staff about the history of residential schools and Canada's policy of assimilation, as well as other learning events intended to enhance staff's understanding of Indigenous peoples and cultures.

The Commission has hosted conferences and symposiums focused on building bridges between Indigenous and non-Indigenous peoples. For example, in 2010, the Commission hosted the Discrimination Prevention Forum in Winnipeg, which had a focus on Indigenous issues.

The Commission has also worked with the Indigenous Bar Association to facilitate an Elders' Gathering and a series of discussions with Indigenous lawyers. The purpose of these discussions was to better understand how respect for First Nations legal traditions and customary laws could be incorporated into the Commission's dispute resolution process, in practice. The Commission has also been working with its provincial and territorial partners, through the Canadian Association of Statutory Human Rights Agencies (CASHRA), to find ways to implement the United Nations *Declaration on the Rights of Indigenous Peoples* in Canada.

#### □ **Trust**

The Commission recognizes that building trust requires sustained effort, particularly given Indigenous peoples' tenuous relationship with the Government of Canada and related institutions. In many communities, the Commission has had to work to overcome the misperception that it is not independent from the federal government. As a result, the process of relationship building (and therefore trust building) with Indigenous communities has been challenging at times.

The Commission's outreach work, and events like the Symposium on the Role of Human Rights Commissions in Implementing the United Nations *Declaration on the Rights of Indigenous Peoples* in Canada, and the Aboriginal women's roundtables, have helped to increase some Indigenous people's trust in the Commission. However, the Commission recognizes that there is more work to be done, and is committed to continuing to find ways to build trust and improve its relationship with Indigenous peoples and Indigenous peoples' representative organizations.

The Commission plans to continue working with Indigenous peoples, communities, individuals, and leadership to provide training, tools and information about people's rights and responsibilities under the *Canadian Human Rights Act*. The Commission plans to be more vocal about when the Act is not meeting people's needs, and the fact that the Commission is impartial, independent and arm's-length from the federal government. It is hoped that these kinds of activities will help continue building trust and strong relationships with Indigenous peoples, Indigenous peoples' representative organizations and governments.

#### □ **Human and Financial Resources**

The Commission does not have statutory authority for grants and contributions. As a result, it is not in a position to provide funding for human rights-related activities or programs. This has proven to be a point of contention in many settings, as many Indigenous communities have repeatedly said that they do not have the human or financial resources to meet the expectations set out in the *Canadian Human Rights Act*.

To offset this, the Commission has offered human rights information, training, tools and resources to Indigenous peoples, individuals and communities whenever possible. For example, in 2014, the Commission partnered with the Indigenous Bar Association and Level (formerly Canadian Lawyers Abroad) to pilot an Indigenous law student internship with a human rights focus.

The Commission provided human rights information and training to two Indigenous law student interns for summer positions with Indigenous governance organizations in the Yukon and Ontario. These two law students spent their summer working on human rights issues within those organizations and their communities. The Commission believes that more programs like this could be one step in resolving some of the human and financial resources-related pressures that many Indigenous communities experience.

#### □ **Advocacy and Legal Supports**

As Canada's national human rights institution, the Commission can take "advocacy" positions on important human rights issues, such as supporting the call for a national inquiry and action plan into murdered and missing Indigenous women.

When it comes to discrimination complaints, the Commission does not advocate on behalf of the complainant or the respondent. However, there are times when the Commission's public interest work may cause it to pursue positions or issues that are in line with the interest of one party.

One case in which the Commission represented the public interest is known commonly as the "Child Welfare Case," launched by the First Nations Child and Family Caring Society and the Assembly of First Nations against the Government of Canada. The complaint alleged that child welfare services on reserve are severely underfunded in comparison to those same services offered off-reserve. The Commission has also referred similar complaints relating to adequacy of policing services, access to special education and disability supports on reserve to the Tribunal for further inquiry.

#### □ **Accessibility of the Commission's Process**

The Commission continuously examines its internal systems, exploring whether those systems are accessible to Indigenous peoples and others in vulnerable circumstances. Over the past few years, the Commission has been focused on revitalizing its presence on the Internet. This has included redesigning its website with user-friendly tools and resources. As has been noted, online access is not a cure-all for increasing access to the Commission's process, but it will add another level of accessibility and confidence.

Once a complaint is in the system, Commission staff will often take direct calls if a complainant has difficulty with the process. For example, there is someone on duty every day to take calls and work with people who do not have easy access to a phone of their own or the Internet. If there appears to be a need, Commission staff will also provide complainants with referrals to Indigenous advocacy and service organizations in their area.

The Commission is also developing a 'Complaints and Compliments process' to allow people to provide feedback on their experience in accessing the Commission's services. It is hoped that this new process will help ensure that people's needs are being met when dealing with the Commission, as well as provide ideas for ways to improve the process when necessary.

#### □ **Jurisdictional Confusion**

The Commission has been aware of the jurisdictional challenges created by the unique position of Indigenous peoples in Canada for some time. The Commission continues to raise this issue in its reports and other publications, and to keep up to date on legal changes stemming from this issue. The Commission also tries to intervene in cases impacted by jurisdictional confusion to explain the unnecessary barriers it can create for people seeking human rights justice.

Through the CASHRA Lawyers Network, the Commission regularly talks about jurisdictional issues with its provincial and territorial counterparts. This includes trying to take a "Jordan's Principle approach" to discrimination complaints when jurisdiction is unclear. This means that the complaint will be accepted by the Commission of first contact and then jurisdiction will be sorted out after the fact. This is intended to ensure that people do not lose out on their opportunity to file a discrimination complaint on the basis that they have run out of time.

#### □ **The Scope of the *Canadian Human Rights Act***

As mentioned earlier, it is the Commission's responsibility to administer the *Canadian Human Rights Act*. However, the Commission cannot adapt, change or expand the Act. Such changes can only be made by Parliament.

In situations where the Act does not appear to be meeting the public interest, the Commission can use its position to raise those concerns with Parliament. For example, for several years before section 67 of the Act was repealed in 2008, the Commission had spoken out publicly about the need to provide true equality of opportunity for those people negatively impacted by section 67.

#### □ **The Normalization of Discrimination**

It is very troubling that, for some people, discrimination is so much a part of their daily life that they are not able to identify when it is occurring. Yet, the Commission knows that this is a reality in some cases. Much of the outreach, education and prevention work that the Commission does is intended to help people recognize what discrimination looks like when it happens.

The Aboriginal women's roundtable meetings have also acted as another vehicle to improve people's understanding of discrimination. There were many women who participated in the meetings who left at the end of the day with a clearer understanding of what discrimination is and what can be done about it under the *Canadian Human Rights Act*.

#### □ **Power Imbalances**

The Commission acknowledges that power imbalances can exist at various stages throughout its process. Commission staff make specific effort to deal with any perceived power imbalances that might exist between parties in a discrimination complaint.

#### □ **Systemic Discrimination**

The Commission represents the public interest in all discrimination complaints that are brought to its attention. Sometimes, the Commission will represent the public interest before the Canadian Human Rights Tribunal and the courts in "systemic cases" that could be seen to influence, clarify or define human rights law.

In one such case, a Band Council and several First Nations communities filed a complaint regarding the provision of police services and facilities. Similar complaints have been filed related to issues such as adequacy of child welfare services, access to special education and disability supports on reserves. Taking on these types of complaints helps with systemic discrimination because one complaint can change how things are done and improve opportunities for many people, not just the individual who filed the complaint.

The Commission uses its voice to make calls for inquiries and investigations into issues that might appear to be systemic in nature. For example in 2013, CASHRA members, including the Commission, issued the CASHRA Motion on Missing and Murdered Aboriginal Women and Girls. It is a statement in support of a national inquiry and action plan into murdered and missing Indigenous women.<sup>13</sup> Two more statements were released in 2014. The Motion to Increase Awareness of Residential Schools encourages educators across the country to develop mandatory curriculum related to the history of the residential school system, and Aboriginal and Treaty rights.<sup>14</sup> The other was the Motion to Support Redress Mechanisms related to Residential and Day Schools and Métis, Inuit and First Nations students excluded from the Indian Residential Schools Settlement Agreement. It encourages redress for Indigenous students that were excluded from the original Indian Residential Schools Settlement Agreement.<sup>15</sup>

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<sup>13</sup> CASHRA Motion on Missing and Murdered Aboriginal Women and Girls <http://cashra.ca/documents/CASHRA-ltr-Motion-to-Govt-of-Cda-English.pdf>

<sup>14</sup> CASHRA Motion to Increase Awareness of Residential Schools <http://www.cashra.ca/documents/OTTAWAITI7-1267283-v23-NAI - CASHRA MOTION ON THE RESIDENTIAL SCHOOL SYSTEM - APRIL 2014.pdf>

<sup>15</sup> CASHRA Motion to Support Redress Mechanisms related to Residential and Day Schools and Métis, Inuit and First Nations students excluded from the Indian Residential Schools Settlement Agreement <http://www.cashra.ca/documents/OTTAWAITI7-1414310-v12-NAI - CASHRA MOTION TO RECOGNIZE INDIGENOUS STUDENTS EXCLUDED FROM INDIAN RESIDENTIAL SCHOOL SETTLEMENT - JULY 2014.pdf>