

Conclusion and Recommendations

Excerpts from :

Rapport, conclusion d'enquête
et recommandations

sur les services de protection
offerts aux enfants algonquins
dans les communautés du Lac Simon, de Pikogan (Abitiwinni)
et du Grand Lac Victoria (Kitcisakik)

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CONCLUSION AND RECOMMENDATIONS

From a historical perspective, children have always had a special place in Native families. Their protection was assured. Today, the social imbalance that characterizes some communities has led to the collapse of the traditional family network, and some adults are no longer able to meet their duties and responsibilities towards their children. Most Native communities face a range of social problems, including alcohol and drug abuse, family violence, sexual abuse and suicide, which are all part of the daily lives of many families.

It is impossible to comprehend the general situation today without referring to certain events in the past. Many young Native people were sent to residential boarding schools as part of an assimilation policy, and the experience has had a devastating effect on several generations of people. For many adults, their life at boarding school was a mixture of mistreatment, abuse and injury, and has left deep scars. They were isolated from their community. The boarding school system harmed children, families and whole communities. The violence suffered by these children was a tragedy, and the withdrawal of responsibility created by the "tutorship" of the *Indians Act* has also had serious consequences. It is important to recognize this situation and find solutions, not only to repair the damage done in the past but also to ensure that it does not happen again in the future, and to heal the communities once and for all.

Clearly, the Native world varies widely from one community and Nation to another. However, they all share a desire and a willingness to take control of their lives and improve their situation. To begin to take charge, though, Native society will have to deal with many challenges and difficulties. In their progress towards autonomy, Native people encounter political and economic obstacles and also, in many cases, problems caused by incoherent government policies that are poorly adapted to Native realities.

The establishment of adequate, ongoing social services for children is clearly not the only solution needed to deal with the social problems facing the Native communities, but the services are an essential element in the child protection system. It is fair to say that responsibility for the well-being of children lies primarily with their parents, but it is also important to add that society has a duty to ensure that the children are protected rather than victimized.

Today, we must spare no effort to give these Native children a chance to develop and reach their full potential because, as we must remember, previous investigations by the Commission have already concluded that children living in Native communities are often the victims of mistreatment, sexual abuse and parental neglect, that drug and alcohol abuse are widespread, and that the situation had been ongoing for many years.

When it began its investigation, the Commission had grounds to believe that depriving children of the specialized services they required and that, in addition, had been ordered by the Youth Division of the Court of Québec, infringed on their rights and especially the rights guaranteed by the *Youth Protection Act* and the *Charter of Human Rights and Freedoms*. In addition, the situation was a factor in the deterioration of the living conditions of those children in the three Native communities concerned.

After completing its investigation, the Commission observes that:

- a) almost 40% of the total population living in the three communities are children;

- b) on March 28, 2002, Minokin social services closed its premises and, among other actions, terminated the contracts of its psychologists and educators;
- c) in early April 2002, the Abitibi-Témiscamingue youth centre took charge of "service delivery" for the population, and maintained the positions of 13 social workers and two supervisors;
- d) on April 17, 2002, at a follow-up meeting concerning the inquiry into social services in the Abitibi-Témiscamingue region, the general director of the youth centre and the director of youth protection, as well as the supervisor appointed by the Ministère de la Santé et des Services sociaux, admitted that the interruption in the services provided by educators and psychologists constituted an infringement of rights;
- e) various players (Indian and Northern Affairs Canada, the health and social services board, the Abitibi-Témiscamingue youth centre) also admit that the budgets allocated are insufficient and do not match the actual needs in each community;
- f) the funding formula for "service delivery" is a simple *per capita* calculation, meaning that the specialized services provided by psychologists and educators are paid for directly out of the contribution budget;
- g) before the closure, the team of psychologists had identified, in the case files of the children concerned, many major traumatizations caused by problems of violence, physical and sexual abuse and drug and alcohol abuse that required long-term treatment, and the educators had worked directly with family units on neglect, parenting ability, supervision and parental modelling in order to provide services that were adequate within the meaning of the law;
- h) the desperate needs of Native children facing major problems of alcohol abuse, drug abuse and multiple substance abuse pointed to the urgent need to set up a regional residential resource within the community, adapted to their needs;
- i) the difficulties experienced within Minokin social services, connected with the use and insufficiency of the budget granted when Minokin was established in 1997, placed the administrators in a deficit situation; the situation was known by all to continue, year after year, because of the inflexibility of the funding formula used by the federal government;
- j) the project to build a group residence for children aged 9 to 12, prepared for Minokin social services in collaboration with the three communities, was seen to meet a need, but was never implemented;
- k) during the investigation, working conditions were described by social workers as follows: excessive workloads, double responsibility – evaluation and support, lack of "dynamic management of heavy cases", low proportion of time allocated to intervention, excessive red tape and poor coordination, lack of supervision, and a climate of uncertainty; all of which contributed to the exhaustion and demotivation of the staff, who lacked the time to deal with young people in difficulty;
- l) the situation is currently an emergency, given the interruption in services and the effects on the children concerned.

The Commission has taken note of the comments received from all parties.

Considering the responsibility of the federal and provincial governments to provide social and medical services to Native in Québec;

Considering that as part of their respective responsibilities, the regional health and social services board, the youth centre and the director of youth protection must ensure that all children, including Native children, have full enjoyment of the rights guaranteed, in particular, by the *Youth Protection Act* and the *Charter of Human Rights and Freedoms*;

Considering that the Chiefs representing the three communities wish to provide social services to the population in an autonomous way;

Considering the particular situation of the Native communities and the need to involve them in the process to implement an agreement to establish a special youth protection framework applicable to the three Algonquin communities;

Considering the provisions of section 37.5 of the *Youth Protection Act*, passed recently (2001);

Considering that the temporary structure set up by the Abitibi-Témiscamingue youth centre does not offer the required services in a way that will correct the infringement of rights;

Considering the lack of compliance with orders made by the Youth Division of the Court of Québec, and the fact that several orders still have not been complied with;

Considering that the *Rapport d'enquête sur les services de protection de la jeunesse en Abitibi-Témiscamingue*¹ ("report on the investigation into youth protection services in the Abitibi-Témiscamingue region") reports shortcomings in the organization of services, in many areas, that the Ministère has appointed a supervisor, and that the case is still being monitored by the Commission,

Considering that it is necessary to note and recognize the efforts made by the region and the aspirations of the Nations concerned in connection with the drafting of a framework policy on assistance and protection for children, young people and families, and accept that there will be transitional phase;

Changes must be implemented on an urgent basis to ensure that children in the communities concerned receive the services required by their situation.

7.1 CONCLUSION

The Commission observes that the closure of Minokin social services led to an interruption in the dispensation of services to children, and concludes that in the 90 cases under investigation, the rights of the children were infringed, in particular their right to receive adequate and continuous social services within the meaning of sections 2.4 (5)(c), 3, 7, 8 and 93 of the *Youth*

¹ Commission des droits de la personne et des droits de la jeunesse, *Rapport d'enquête sur les services de protection de la jeunesse en Abitibi-Témiscamingue*, octobre 2001, 65 pages.

Protection Act and that, for some of the children, the infringement continues to this day. In the opinion of the Commission, the situation has also infringed their fundamental rights, in particular their rights to inviolability, assistance, dignity, protection, personal security and care from parents or persons acting in their stead, as recognized in sections 1, 2, 4 and 39 of the *Charter of Human Rights and Freedoms*.

7.2 RECOMMENDATIONS

Considering that the Commission has observed an infringement of rights, and on the basis of its mandate as defined in the *Youth Protection Act*, specifically section 23(e) of that Act, the Commission recommends that the Abitibi-Témiscamingue youth centre, the director of youth protection, the Minister of Health and Social Services of Québec, the Department of Indian and Northern Affairs (INAC) Canada and the Chiefs of the three Band Councils, ensure specifically that the following measures are implemented:

7.2.1 Immediate correction of infringements of rights, and compliance with court orders

That the **Minister of Health and Social Services** take steps, immediately, to ensure that the youth centre and the director of youth protection are able to correct the infringements of rights affecting Native children in the communities of Abitiwinni, Kitcisakik and Lac Simon, and comply with the orders made by the courts concerning the rights recognized by the *Youth Protection Act* and the *Charter*.

7.2.2 Creation of a *Transitional accompanying committee*

That the **Minister of Health and Social Services** set up a TRANSITIONAL ACCOMPANYING COMMITTEE, with representatives from the three Native communities and all the establishments concerned, as well as INAC, with responsibility, first, for providing support to the communities that wish to maintain their current agreements with the youth centre or, second, for taking the necessary steps to prepare an agreement establishing a special youth protection program that will apply within the meaning of section 37.5 of the *Youth Protection Act*.

The accompanying committee will also ensure that the necessary work is done to identify needs and updated before the agreement is signed.

That the **Minister** ensure, before signing the agreement, that operational and applicable guarantees have been provided that the children covered by the agreement will have genuine access to the services to which they are entitled.

7.2.3 Preparation of a Regional service organization plan (RSOP) for young Native people

For several years, First Nations communities have expressed the desire to manage their own services. The Commission recommends that the **Minister of Health and Social Services** ensure that a *Regional service organization program* for young Native people and their families is completed by defining a service organization plan, including the objectives and steps leading to the preparation and implementation of services in the Native community.

7.2.4 Establishment of specialized services in the communities

The investigation has revealed that residential and specialized services, especially for drug abuse, alcohol abuse, mental health, rehabilitation for children aged 9 to 12, psychology and re-education are inexistent and/or insufficient to meet the specific needs of Native children.

In addition, the provincial and federal governments must reach an agreement on the establishment of such services.

For this purpose, the Commission requests that the **Minister of Health and Social Services** organize, implement and deliver, within the region, all the specialized services and resources required by the situation of the Native children in the communities to allow them to remain in those communities.

7.2.5 Allocation of funding to provide adequate services for children

Considering that Canada, with the assent of Québec, has ratified the *Convention on the Rights of the Child*;

Considering that the notion of the superior interests of the child must be the primary consideration in any decisions affecting the child and that, consequently, the child should not become the object of a sterile jurisdictional debate between the provincial and federal governments that harm those superior interests and the respect of the child's rights;

Considering that all the parties admit that the current funding formula is insufficient, and that the Commission has observed that changes are necessary to allow the implementation of a new approach;

The Commission requests, urgently, that the **Department of Indian and Northern Affairs Canada**:

- provide the necessary funding to allow the children who need protection in the three Native communities to receive the social services required by their situation, by adjusting the funding formula;
- ensure adequate funding for specialized services from psychologists or educators as required by the children's situation, whether or not a judicial process has been launched;
- until the funding formula is adjusted, grant an additional budget to allow the provision of adequate services within the meaning of section 8 of the *Youth Protection Act*, taking into account the specific and urgent needs of the young Native people concerned.

7.2.6 Personnel management and work organization

Several major deficiencies have been observed in the way files are managed and kept, in particular the lack of intervention plans (*plan d'intervention* or P.I.), individualized service plans (*plan de services individualisés* or P.S.I.) and foster family intervention plans (*plan d'intervention destiné à la famille d'accueil* or P.I.F.A.) in several cases.

The inadequate nature of the provincial standards of practice in the Native context, which result in high caseloads for social workers, combined with a lack of training, support and supervision, and especially a lack of experience, make their working conditions more difficult.

The Commission recommends that the **director of youth protection and the director general of the Abitibi-Témiscamingue youth centre** :

- apply and ensure compliance with a policy concerning the keeping of files on Native cases, that includes the following elements:
- the establishment of a standardized, coherent system for keeping files, including regular monitoring of the measures taken by the establishment;
- the inclusion in each file of an intervention plan (*plan d'intervention* or P.I.), and if applicable an individualized service plan (*plan de services individualisés* or P.S.I.) and foster family intervention plan (*plan d'intervention destiné à la famille d'accueil* or P.I.F.A.), duly presented to the parents and the child, where required;
- a review of all the files on young Native people whose cases are currently taken in charge;
- establish a range of training programs for social workers including, among other things, the foundation and principles of the *Youth Protection Act* and its practical applications, and intervention methods and techniques in cases of family violence or sexual abuse, taking Native realities into account together with a joint approach intended to engage the responsibility of the families and the community;
- set up a supervision program for social workers, covering clinical supervision and accepted practices in their professional duties.

7.2.7 Respect for children's rights by community leaders

Taking into account the provisions of sections 2.2 and 2.4 (5) (c) of the *Youth Protection Act* and the multiple problems faced by the children in the three communities, including vulnerability, the recurrent nature of drug abuse, alcohol abuse, physical and sexual abuse, the high rate of school absenteeism, and delinquency and suicidal behaviour, it is clear that the three Chiefs in the community must be included in the process.

The communities have expressed the wish that the Native family, in its broadest sense, be the central institution in the community, since it has always been the basis for sharing, mutual assistance and the transmission of cultural, spiritual and social values, including identity.

Given the wish expressed by the Native communities to manage their social services and protect their children in an autonomous way under the *Youth Protection Act*, which is an Act that applies only in exceptional circumstances, the Commission recommends that the **three Chiefs of Lac Simon, Abitwinni and Kitcisakik, and their respective band councils**:

- assume their responsibilities and leadership concerning the well-being of children and respect for their right to dignity, assistance, integrity and protection, and ensure that they meet with social workers and the population on a regular basis to discuss the problems experienced by the children;

- take the necessary steps to promote respect for children's rights in their communities, and to ensure that high-quality social services are made available to them;
- see to the establishment of support and assistance measures for social workers, to promote the dispensation of specialized training programs, and ensure that the necessary funding is obtained;
- make adequate, secure premises available for social workers;
- see to the development of codes of conduct, ethics and professional responsibility to ensure that staff, the social services organization, officers and members of the board of directors perform their duties effectively in a climate of trust;
- see that concrete measures and local rules concerning violence and the abuse of women and children are adopted by each band council, to make the population more aware of its collective responsibilities;
- ensure that professionals working in the community, other than those working under the *Youth Protection Act*, such as police officers, nurses, etc., receive training in the area of youth protection;
- understand that in the better interests of the children concerned, more services must be provided for parents and tutors with problems of alcohol or drug abuse.

To promote respect for the rights of children in the community, the Commission agrees to make staff, namely education and cooperation officers, available for the completion of specific projects, where requested by the communities concerned.

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