

Poverty and the Overrepresentation of First Nations Children in the Quebec Youth Protection System

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There is growing evidence of a relationship between colonialism, the exclusion and social, economic and cultural vulnerability of First Nations in Quebec and the high rate of children in youth protection. This paper will explore the relationship and outline some ways in which First Nations have attempted to alter this pattern. Based on our work, we see cultural safety and governance by and for First Nations as powerful factors for fighting neglect and poverty. There is a

need not only to adapt child and family services to the First Nations cultural context, but also to provide First Nations with the authority they need to legislate on issues affecting children and youth in their communities.

This paper treats the neglect of First Nations children in Quebec as a consequence of the poverty and historical and intergenerational trauma caused by colonialism (Trocmé et al., 2004; Assembly of First Nations Quebec–Labrador [AFNQL] & Nations of Quebec and Labrador Health and Social Services Commission [FNQLHSSC], 2020). Several inquiry commissions at both the Canadian and Quebec level, such as the Royal Commission on Aboriginal Peoples (1996), the National Inquiry into Missing and Murdered Indigenous Women and Girls (2019), the Public Inquiry Commission on relations between Indigenous Peoples and certain public services in Quebec (2019), and the Special Commission on the Rights of the Child and Youth Protection (2021) amply have demonstrated that colonial policies, laws, and structures have led to the breakdown of the social organization and self-determination of First Nations. This breakdown has had consequences in many different areas, including the protection of children and the meeting of their basic needs. The article was written with the help of a “snowball method” review of literature from previous projects of the FNQLHSSC. In the snowball method, one begins with a relevant source, uses the references of said source, and so on (Lebrun-Paré, 2019).

The FNQLHSSC is responsible for supporting the efforts of the First Nations of Quebec and Labrador in order to, among other things, plan and deliver culturally appropriate and preventive health and social services programs. Its service offering is particularly focused on nations that have not ceded their territory through an agreement with the provincial government, are still governed by the Indian Act¹ and therefore face more jurisdictional conflicts between federal and provincial

1 In 1876, the Indian Act established a legal framework that facilitated unprecedented dispossession and caused an economic rift between First Nations and the rest of Canada's population, the repercussions of which are still visible to this day. It is a discriminatory law from start to finish (Royal Commission on Aboriginal Peoples, 1996). The Indian Act is perhaps the only legislation in the world that rules and manages a people based on their race and has remained relatively unchanged for 135 years. It is outdated and continues to be criticized for being discriminatory and paternalistic (Canadian Human Rights Commission, 2011).

governments.² In 2007, the Assembly of First Nations (AFN) and the First Nations Child & Family Caring Society of Canada filed a complaint with the Canadian Human Rights Commission (CHRC) alleging that Canada was engaging in racial discrimination toward First Nations children because it provided less funding to youth protection on reserves. In 2016, the Canadian Human Rights Tribunal (CHRT) recognized that the federal government was discriminating against First Nations children, leading to the application of Jordan's Principle (Government of Canada, 2021 CHRT, 2016). Jordan's Principle is a human rights principle grounded in substantive equality and focuses on the specific needs of First Nations children, which include experiences of intergenerational trauma and other disadvantages resulting from the discrimination (CHRT, 2020).

Poverty and cases of maltreatment where provincial youth protection services take over responsibility for a child occur in unique community contexts. The focus of this paper will be the situation experienced by First Nations of Quebec.³ Before neglect and poverty in the First Nations context is explored further, the following information will provide a brief overview of the situation of First Nations in Quebec as it relates to geography, politics, and service provision.

2 Constitutional overlaps between exclusive federal jurisdiction concerning "Indians" and the lands reserved to them and exclusive provincial jurisdiction over healthcare and social services have been known for nearly two centuries and have been the subject of litigation in the courts. Still today, these overlaps have not been resolved. This situation creates legal and administrative gaps that directly affect the provision and funding of First Nations youth services (Barreau du Québec, 2019).

3 Excluding the Naskapi and Cree nations and Inuit communities, as they have special legal status and their own regional entities—that is, the Cree Board of Health and Social Services of James Bay, the CLSC Naskapi, and the Nunavik Regional Board of Health and Social Services. The spelling used in this document is in accordance with the Inuktitut language: Lacharité, C. (2021). Une perspective écosystémique et développementale de la négligence envers les jeunes enfants. In C. Zaouche Gaudron, C. Mennesson, M. Kelly-Irving and A. Dupuy (Eds.), *Espaces de socialisation extrafamiliale dans la petite enfance*. Éditions Érès. pp. 237–248. For more information regarding the James Bay and Northern Quebec Agreement of 1975, refer to the Makivik Corporation: <https://www.makivik.org/corporate/history/jbnqa/>. For more information regarding the Northeastern Quebec Agreement of 1978, refer to the Government of Quebec: <http://www3.publicationsduquebec.gouv.qc.ca/produits/conventions/lois/loi3.fr.html>.

Brief Overview of First Nations in Quebec

Diversity is a key aspect to keep in mind when discussing First Nations and the Inuit. Every nation and community is unique, with its own territories and distinctive aspects of governance and specific historical, social, economic, and cultural features. In Canada, the term “Indigenous” refers to populations recognized by the Canadian Constitution of 1982—that is, First Nations, the Métis, and the Inuit. The Powley ruling, a 2003 Supreme Court of Canada ruling, identified the criteria that determine whether an individual belongs to a Métis community.⁴ However, the provinces have taken a different position on this definition (Dialog, 2021), and in Quebec, Métis status is not legally recognized. Therefore, while the term “Indigenous” is used throughout Canada, in Quebec, the term “First Nations and Inuit” is preferred. It is important to note that the Inuit are not governed by the *Indian Act* and are not included in the term “First Nations.” Instead, they are considered to be a distinct nation.

There are 56 First Nations and Inuit communities in Quebec. Of these, 14 are Inuit communities (NRBHSS, 2021) and 42 are First Nations communities (AFNQL, 2021). These communities belong to 10 distinct nations. On the political front, the First Nations established the Assembly of First Nations Quebec-Labrador (AFNQL) in 1985. Over the years, it has created regional commissions and organizations (RCOs), including the First Nations of Quebec and Labrador Health and Social Services Commission (FNQLHSSC).

The contents of this paper focus specifically on 27 communities belonging to the following nations: Abenaki ($n = 2$), Algonquin ($n = 8$), Atikamekw ($n = 3$), Innu ($n = 9$), Mi'gmaq ($n = 2$), Mohawk ($n = 2$) and Huron-Wendat ($n = 1$), as their social services and health care is primarily funded by the federal government. Until 2009, due

4 The term “Métis” does not encompass all individuals with mixed Indian and European heritage; rather, it refers to distinctive peoples who, in addition to their mixed ancestry, developed their own customs and recognizable group identity separate from their Indian or Inuit and European forebears. See Supreme Court of Canada Judgment (2003): <https://scc-csc.lexum.com/scc-csc/scc-csc/en/item/2076/index.do>.

According to the 2016 census, 63.8% of First Nations in Quebec live in a community, while 36.2% live in an urban setting (Statistics Canada, 2018).

The primary reasons for moving to a city are education, work and housing. The reasons reported for returning to one's community are primarily cultural and family-related (FNQLHSSC, 2013)

According to the Regional Early Childhood, Education and Employment Survey (REEES), nearly one in two children living in a community uses a First Nations language as their main language in daily life (FNQLHSSC, 2017a).

In First Nations communities in Quebec (FNQLHSSC, 2017b; 2017c; 2017d):

- Over one-third of children between 0 and 11 (36.3%) live in a household with an annual income of less than \$20,000.
- 23.8% of children and 14.4% of teens live in an overcrowded home.
- The percentage of people without a high school diploma increases in relation to a community's remoteness, with 75.8% of adults in Zone 4 (area that is difficult to access*) lacking a diploma.
- 43.7% of adults are unemployed. This percentage is highest among youth aged 18–24, 59.8% of whom are unemployed.
- Food insecurity increases with distance from urban centres, and 53.1% of people unemployed in Zone 4 (area that is difficult to access) experience moderate or serious food insecurity.

* According to the system of geographic zones used by Indigenous Services Canada.

to insufficient funding, first-line social services within these communities were basically nonexistent, and youth protection services were the only way to access social services (FNQLHSSC, 2011a; 2017e). Today, all of these communities offer preventive social services that were developed by the communities themselves. Through provincial delegation agreements and funding agreements with Indigenous Services Canada (ISC), 15 Indigenous child and family services agencies provide some degree of youth protection services to 19 communities. The provincial youth protection system provides services to

the remaining eight communities, although they continue to raise significant concerns regarding the Quebec network's lack of culturally adapted tools, approaches and methods.

In 2020, the Conseil de la Nation Atikamekw is so far the only council to have signed an agreement with the Quebec government under section 37.5 of the Youth Protection Act, allowing them to establish a special youth protection program. A handful of other communities are on track to sign such an agreement or have undertaken steps under An Act respecting First Nations, Inuit and Métis Children, Youth and Families (C-92), which will be discussed later in this paper.

This background is useful for placing the analysis and findings in context and for identifying the key players affected by the conclusions contained herein. This paper aims to draw attention to certain factors that explain the high rates of poverty in many First Nations communities in Quebec and demonstrate how economic, social, and cultural vulnerability contribute to the high rates of children reported to and placed within the youth protection system. The article also will look at how certain laws promoting Indigenous takeover of services, such as Bill C-92, can help address the situation. Based on these objectives, we are able to identify two questions:

- What explains the high rates of poverty and cases of child neglect in many First Nations communities?
- Is there a relationship between poverty and the overrepresentation of First Nations children in the youth protection system, especially when it comes to issues of neglect?

The following section will attempt to answer this first question.

Colonialism, Poverty, Child Neglect, and First Nations' Overrepresentation in the Quebec Youth Protection System

Studies from the United States have shown that there is a relationship between poverty, high rates of maltreated children placed in youth

Figure 1

Les Nations/The Nations



Source: Indigenous and Northern Affairs Canada (n.d.). See <https://tinyurl.com/vjt5n7px>.

protection, and a child’s racial identity (Kim & Drake, 2018). This relationship grows increasingly complex when dealing with First Nations, and little research has been conducted in this matter until now.

It has been established that high rates of poverty among First Nations and Inuit are related to colonial laws and policies—something that does not impact other ethnic groups (Brittain & Blackstock, 2015)

The loss (psychological, social, economic and cultural) and trauma suffered by First Nations people has been widely documented in, among others, reports from inquiry commissions such as the Royal Commission on Aboriginal Peoples, the National Inquiry into Missing and Murdered Indigenous Women and Girls, and the Truth and Reconciliation Commission (TRC). The TRC described the establishment and operation of residential schools as a “cultural genocide” (TRC, 2015). The age-old destructive effects of this painful heritage have been felt by many generations. It is hard to break the cycle of this intergenerational transmission in a context where colonization has created economic, social and political conditions that have marginalized First Nations, and where racist, ethnocentric ideas continue to breed violence (Duran, 2006; NIMMIWG, 2019).

The Legacy of Colonialism or Historical Trauma

In Canada, just like around the world, colonialism has impacted the history of First Nations. Three laws have contributed the most to dispossessing and subjugating First Nations: (a) An Act for the Gradual Enfranchisement of Indians, the Better Management of Indian Affairs, and to Extend the Provisions of the Act 31st Victoria, Chapter 42, in 1869; (b) the Indian Act, in 1876; and (c) the requirement, as of 1920, for all children to attend a residential school (Sioui et al., in press). The effects of these laws have produced what is often referred to as historical trauma⁵ associated with intergenerational transmission⁶ of suffering

5 Today among First Nations, historical trauma is closely tied to the Residential School period and the destruction of the structure, cohesion and quality of family life, the loss of identity, diminished parenting skills, and problems caused by low self-esteem and self-concept (LaFrance & Collins, 2003; Rice & Snyder, 2008, in Aguiar & Halseth, 2015). “One of the most profound manifestations of Historic Trauma for Aboriginal families is the high rates of family violence and abuse in the home” (NWAC, 2009; Scrim, 2013, in Aguiar & Halseth, 2015, p. 10).

6 It is broadly understood that everyone copes with trauma differently and that some people are more likely than others to develop personality traits and patterns of family interactions that can affect a child’s development and contribute to the transmission of trauma from one generation to the next (Fossum & Masson, 1986, in Aguiar & Halseth, 2015).

on the personal, family and community level (Ross, 1996; Aboriginal Healing Foundation, 2006; Yellow Horse Brave Heart et al., 2011; Aguiar & Halseth, 2015).

Colonialism is considered to be the most wide-ranging and fundamental determinant impacting the health and well-being of First Nations (de Leeuw et al., 2015, in Gerlach, 2018). It is widely accepted that health is directly impacted by multiple social factors. Research has clearly established a link between the social inequality generated by colonial policies and various health problems experienced by First Nations (Reading & Wien, 2009; Gracey & King, 2009; Greenwood & de Leeuw, 2012, in Sioui et al., in press). Three levels of social determinants of health have been identified: distal determinants (e.g., residential schools, self-determination, and racism), intermediate determinants (e.g., social services, justice and cultural approaches), and proximal determinants (lifestyles and physical environments). Health determinants are considered to be underlying causes of health inequalities between First Nations and the rest of the population. Indigenous children are among the individuals who suffer the most from the conditions of vulnerability created by the colonial hegemony that continues to characterize Canadian society (NCCIH, 2017).

First Nations Poverty in Canada

The most recent data show that 51% First Nations children in Canada live in poverty, with the rate rising to 60% for those who live on reservations (MacDonald & Wilson, 2016). In Quebec, the First Nations Regional Early Childhood, Education and Employment Survey (FNRECEES) shows that in 2015, nearly half of the adult First Nations population in communities were jobless (FNQLHSSC, 2017b) and over one third of children (36%) lived in a household with an annual income of under \$20,000 (FNQLHSSC, 2017c). According to data from ISC–Quebec region, in fall 2018, rates of welfare dependency had reached 21%. At the community level, this figure varies significantly,

between 1% and 53%. Of the communities that offer the ISC Income Assistance Program, only five had a welfare dependency rate below 5%, eight had a rate above 10%, eight more had a rate higher than 20%, and seven had a rate that exceeded 30% (FNQLHSSC, 2019). These high rates of income assistance dependency and poverty among First Nations are directly attributable to colonial laws and policies, and particularly to the provisions of the Indian Act (Report of the Royal Commission on Aboriginal Peoples, 1996; Lévesque, 2017).

This law led to the centuries-long exclusion of First Nations from economic development in Quebec. Starting in the 1970s, First Nations leaders began to conceive of economic development as one of the main ways First Nations could free themselves from government control (NCFNG, 2007, in FNQLHSSC, 2018). In 1985, the Quebec government passed a resolution recognizing that First Nations have the right to participate in and benefit from economic development in Quebec (FNQLEDC, 2013, in FNQLHSSC, 2018). Yet to this day, under the Indian Act, First Nations living in a non-treaty community (which means, as mentioned previously, all communities other than the Cree, Inuit, and Naskapi communities) do not own their land.⁷ Instead, it is the property of the Government of Canada, which holds it in trust for First Nations. The property of First Nations cannot be seized, which means it is impossible for them to sign a commercial mortgage or use assets as collateral. This significantly limits First Nations' potential for economic development (FNQLHSSC, 2018).

Politically, the Indian Act established band councils to govern First Nations. These councils are highly dependent on federal and provincial government programs and on funding formulae based on specific criteria that are detrimental to economic development within communities.

The next section of this paper attempts to answer our second question: Is there a relationship between poverty and the overrepresentation

7 The James Bay and Northern Quebec Agreement and Northeastern Quebec Agreement provide for a different regime for lands occupied by the Cree, Inuit, and Naskapi Nations.

of First Nations children in the youth protection system, especially when it comes to issues of neglect?

Child Neglect

In Canada and Quebec, neglect is generally the most often reported form of maltreatment, as well as the one that could most jeopardize long-term child development. Research has shown that neglect is closely related to several socioeconomic risk factors, including poverty (Lacharité et al., 2006; FNQLHSSC, 2016; Dubowitz & Poole, 2019). For example, research done by Esposito and colleagues (2017) found that children aged zero to four living in areas with heavy demand for health and social services and a high percentage of the population living in extreme poverty were more likely to be placed with a foster family. Geographic remoteness and difficulty accessing preventive social services can also lead to increased youth protection interventions in cases of neglect (Esposito et al., 2021).

Child neglect, initially thought of as an issue with roots in parental failures (especially the failures of mothers), is the least understood form of maltreatment, even though it is the most common form in Western societies (Dubowitz & Poole, 2019). Over the course of the past 20 years, the idea that neglect is based on parental behavior and failure has generated a great deal of criticism, which has led to an ecosystemic understanding that focuses on children and the shared responsibility of caring for them (Dubowitz et al., 2005). Lacharité (2011) describes this framework by saying that what we call *neglect* refers to a situation where the *collective* response to a child's developmental needs has faltered or completely broken down (p. 181). As such, studies that describe a relationship between rates of child neglect and rates of socioeconomic poverty in a community are actually depicting the ramifications of the collapse of the social organization on which are founded the child's development, the performance of parental roles, and the responsibilities shared between parents and everyone concerned with the child's well-being (Lacharité, 2014; Ruiz-Casares et al., 2020).

“As for children, the most recent study on youth protection determined that the reporting rate—the starting point of any youth protection intervention—is three-and-a-half-times higher for Indigenous children than non-Indigenous children. The management rate, that is, the number of times a reported case is deemed justified and leads to actions, is four times higher than in the general population. Indigenous children are also four times more likely to be considered as being in a dangerous situation and five and a half times more likely to be placed in foster care than non-Indigenous children. These are all reasons why the overrepresentation of Indigenous children in Québec’s youth protection service is a recognized fact.” (CERP, 2019: 121).

Overrepresentation of First Nations Children in Youth Protection

In 1998, when the first Canadian Incidence Study of Reported Child Abuse and Neglect (CIS) was conducted, the overrepresentation of Indigenous children immediately raised concerns. It was found, among other points, that while First Nations children made up only 5% of the Canadian child population, they accounted for 16% of cases assessed for maltreatment (Blackstock et al., 2004). Initial analysis in the CIS also demonstrated that among Indigenous peoples, there were more families living in poverty and without stable housing, younger parents, more parents who were maltreated as children, and higher rates of parent alcohol and drug abuse (Trocmé et al., 2004).

Ten years later, the First Nations component of the CIS-2008 (FNCIS-2008) found that First Nations incidence rates are much higher than those of non-Indigenous populations in almost all investigation subcategories. For example, the rate of investigations concerning First Nations children was 4.2 times higher than the rate for non-Indigenous children (Sinha et al., 2011). It has also been demonstrated that neglect, the main cause of this overrepresentation of First Nations

children, is closely associated with the structural factors of home and family (e.g., poverty, addiction or mental health issues) and limited access to resources such as first-line social services (Sinha et al., 2011).

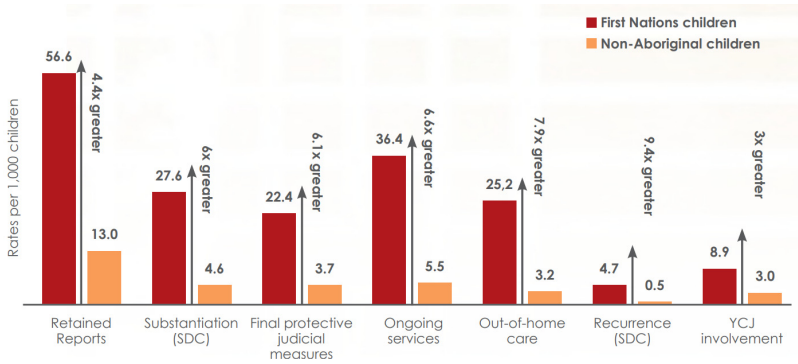
Considering variations in the definition of neglect across Canadian provinces and territories (Esposito et al., 2020), the overrepresentation of Indigenous children in Quebec parallels national patterns of overrepresentation (Caldwell & Sinha, 2020); however, it does not accurately represent national rates of disparities across Canadian jurisdictions. The absence of research systematically examining interjurisdictional variations in the overrepresentation of Indigenous children in child welfare continues to be a major shortcoming in the existing literature (Caldwell & Sinha, 2020).

The Analysis of the trajectories of First Nations youth subject to the Youth Protection Act—Component 3 (FNQLHSSC, 2016), showed that in Quebec, one of the key initial findings of this research is that “First Nations children experience all child protection services and interventions ... at a greater rate than non-Aboriginal children. This disparity starts from the point of entry into child protection services ... and increases as children moved through Quebec’s child protection system” (FNQLHSSC, 2016: 14). The research also showed that nearly half of First Nations children were five years of age or younger at the time of a retained report,⁸ and that 18% of First Nations children in Quebec whose case was closed experienced a recurrence of maltreatment, compared to 9% of non-Indigenous children. This disparity was the highest of all indicators in the study (a rate 9.4 times higher per 1,000 children) and tended to increase over time (FNQLHSSC, 2016).

8 In the youth protection system in Quebec, when the Director of Youth Protection (DYP) receives a report, they conduct a summary analysis, decide whether the report must be evaluated further, and determine the degree of urgency of the intervention. The analysis can yield two possible decisions: (a) the report is not accepted and requires no intervention by the DYP; or (b) the report is accepted and the DYP must carry out an assessment of the situation (Gouvernement du Québec, 2020, pp. 17–18).

Figure 2

Average Rate Per 1,000 by Indicator (2002–2010)



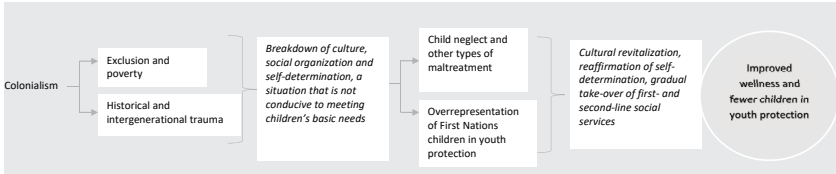
Source: FNQLHSSC, 2016, p. 15.

For First Nations, this situation is viewed as an effect of colonialism (Bennett & Blackstock, 2002; Sinha et al., 2011). Issues with parenting abilities resulting from the residential school system and the difficult socioeconomic conditions of many First Nations communities are concrete examples of situations that were non-existent before colonization (Ball, 2008; Sinha et al., 2011).

In the context of First Nations in Quebec (see Figure 2), child neglect is interpreted as a consequence of the poverty and trauma caused by a breakdown of the culture, social organization, and self-determination that is needed to adequately meet a child’s basic needs—all of which is a consequence of colonialism (Guay & Ellington, 2019; Newton, 2019). Considering these structural challenges and in the light of our work (see Figure 3) as well as the report of the Special Commission on the Rights of the Child and Youth Protection (2021), which builds on the conclusions of previous commissions of inquiry, it is increasingly clear to First Nations that for their well-being to improve and the number of children apprehended by youth protection to decrease as a result, their culture must be revitalized, their self-determination must be reaffirmed, and they must take control of first-line and second-line social services within a culturally safe model.

Figure 3

Structural Risk Factors and Protective Factors for Neglect of First Nations Children



Protective Factors

From our perspective, cultural safety and governance by and for First Nations are the primary protective factors against poverty and child neglect.

Cultural Safety

The concept of cultural safety emerged in the nursing field in New Zealand in the 1980s. Over the years, the definition of cultural safety has become more sophisticated and has led to a radical, and much more politicized, paradigm shift. It is no longer simply a matter of non-Indigenous service providers being culturally competent, but of First Nations reclaiming individual and community power in service provision (Brascoupé & Waters, 2009). For this to be the case, government bodies and service providers must acknowledge the effects of colonization and the historical repercussions and intergenerational trauma that has resulted from it (FNQLHSSC, 2017). Cultural safety, therefore, involves combatting persistent inequality and giving First Nations control over the development of a service offering that does not reflect the dominant culture, but instead takes their identity into account (Ramsden, 2003, in Koptie, 2009). Taking the example of First Nations control of youth protection services, the concept of cultural safety leads to the conclusion that this self-determination will only

have a real impact on situations of neglect if inequities in financial, human, and other resources are also addressed. Conducting systemic awareness-raising will help pave the way for decolonization, self-determination, and the revitalization of culture, thus allowing the principle of cultural safety to be fully applied. This means the creation of new structures by and for First Nations that promote the transmission of cultures, values, history and knowledge, thereby ensuring better economic, cultural and social stability for First Nations (Melançon, n.d.). Cultural and traditional practices have been found to have positive effects on First Nations' wellness and are seen as protective factors against child neglect (FNQLHSSC, 2017e). They are oriented toward culture, values, and the vision of childhood among First Nations. These practices can include holding ceremonies; spending time on and appreciating the land; passing down knowledge; making objects or crafts in a multigenerational context; and participating in customs like hunting, fishing, and gathering that take place according to a cultural calendar.

With the action plans of child and family services, FNQLHSSC observed that all First Nations communities have identified support measures and community services that are comprehensive, relevant, culturally safe, and wellness-based. For example, positions for community health workers and cultural support workers have been created to assist community members who have experienced past trauma and still feel its effects. These key measures help individuals, families, and communities improve education, employment, and housing opportunities, as well as other major determinants of health.

Governance by and for First Nations

In the 1990s and 2000s, multiple reports described the limitations of the Youth Protection Act (YPA) and its effects on Indigenous communities and recommended that services be decentralized to grant Indigenous people greater authority and power in this matter (Public Inquiry Commission on relations between Indigenous people and certain public services in Québec, 2019). The differences between the principles of

the YPA and Indigenous values, such as the definition of the interest of the child, attest to the necessity of focusing on approaches (know-how) and intervention and decision-making methods that ensure cultural safety in the context of youth protection (Public Inquiry Commission on relations between Indigenous people and certain public services in Québec, 2019).

Over the years, First Nations demands have led to significant progress on the issue of autonomy. In June 2001, the Quebec government introduced a new YPA provision, section 37.5. This provision allows a nation, community, group of communities or other Indigenous group to sign an agreement establishing a special youth protection program. An agreement under section 37.5 allows for the total or partial takeover of youth protection services and for the YPA to be applied in different ways based on cultural realities and specific conditions. This program also promotes the autonomy of Indigenous communities in youth protection.

In recent years, several First Nations regional commissions and organizations (RCOs) in Quebec have begun a process of strengthening their governance in their respective fields of expertise. First Nations in Quebec collectively started work in 2013 on a health and social services governance process. This process aims to provide a new governance model adapted to the realities and needs of First Nations in Quebec and has the goal of improving the delivery of health and social services, along with local and regional accessibility (FNQLHSSC, 2015). As part of this process, governance was defined as:

The traditions (norms, values, culture and language) and institutions (formal structures, organization and practices) that a community uses to make decisions and accomplish its goals. At the heart of the concept of governance is the creation of effective, accountable and legitimate systems and processes where citizens articulate their interests, exercise their rights and responsibilities and reconcile their differences. (FNQLHSSC, 2019b, p. 2)

The objectives are to (a) strengthen decision-making capacities in terms of health and social services governance at the local and regional level, in communities and in First Nations organizations with regard to existing programs, initiatives, and services; and (b) renew partnerships between First Nations and government institutions in accordance with an effective governance model adapted to the realities and needs of First Nations in order to improve the offering of services locally and regionally and increase access to these services.

In 2020, *An Act Respecting First Nations, Inuit and Métis Children, Youth and Families (C-92)* upheld Indigenous rights and jurisdiction regarding childhood and family services. First Nations and Inuit communities and organizations now have the power to create their own youth protection laws. Bill C-92 defines children's interest more broadly than the YPA and highlights the importance of access to first-line preventive services. With regard to the health determinants presented above, it also provides that, to the extent that it is consistent with the best interests of the child, the child must not be apprehended solely on the basis of their socioeconomic conditions, including poverty, lack of adequate housing or infrastructure, or the state of health of his or her parent or care provider.⁹ The principles of this bill have been in force since January 1, 2020, and take precedence over the provincial principles in the Youth Protection Act regarding child and family services. This means that any youth protection decision (voluntary or legal) made about an Indigenous child in a Canadian province or territory must consider the national principles set out in Bill C-92. However, if the child's community (or organization) has established its own youth protection law under Bill C-92, it is this latter legislation that applies (FNQLHSSC, 2020).

Quebec is the only province in Canada to challenge the constitutionality of this law. Court proceedings are currently underway, based on arguments to the effect that youth protection is the exclusive

⁹ *An Act Respecting First Nations, Inuit and Métis Children, Youth and Families (C-92)*. See <https://www.parl.ca/DocumentViewer/en/42-1/bill/C-92/royal-assent>.

jurisdiction of the provinces. However, the principles of Bill C-92 still apply, despite Quebec's challenge.

Discussion and Conclusion

In 2012, the Truth and Reconciliation Commission of Canada, and more recently in Quebec, the Public Inquiry Commission on relations between Indigenous Peoples and certain public services in Quebec and the Special Commission on the Rights of the Child and Youth Protection, all condemned the overrepresentation of First Nations children in youth protection and proposed ways to alleviate this phenomenon. It is clear that practices take a long time to change. For example, there is currently no public study in Quebec that can say whether the number of First Nations children in youth protection has gone down since 2014.¹⁰ So, the question remains of how to ensure that the number of First Nations children apprehended by the youth protection system decreases. Special attention must be paid to the following realities:

- Poverty in many First Nations communities is a direct result of structural factors, including colonial laws and policies, and is itself a risk factor for child neglect.
- Cultural safety and governance by and for First Nations are protective factors against poverty and neglect but are not easy to implement.
- An Act Respecting First Nations, Inuit and Métis Children, Youth and Families (C-92) upholds Indigenous rights and jurisdiction over childhood and family services, but it is currently being challenged in court by the Quebec government.

Preliminary results from the research conducted by the FNQLHSSC, entitled *Better understanding the Phenomenon of Child Neglect in the*

10 The clinical and administrative data used to carry out Component 3 of the Analysis of the Trajectories of First Nations Youth Subject to the Youth Protection Act (FNQLHSSC, 2016) cover the period from April 1, 2002, to March 31, 2014.

Context of First Nations in Quebec, show that locally, First Nations would like to establish mechanisms to ensure child safety and development that still allow children to remain with their extended family. Priority must be given to collaboration between services, the strengthening of first-line preventive services, and reconciliation and non-judicial approaches. Several testimonials show that traditional healing methods and cultural teachings and activities help parents to heal from their trauma, which is often passed down from one generation to the next. By making progress on their own journey to wellness, parents and other family members become more receptive to a child's needs and well-being.

It is increasingly obvious that First Nations are best positioned to make decisions about their children's future, determine the needs of their community, and identify the best ways to meet those needs. Establishing governance structures developed and managed by and for First Nations will help empower and support families and provide them with high-quality services that are built on and respect traditional knowledge, cultures, and practices. It is not enough to simply draw inspiration from First Nations cultures or integrate them into health and social services programs. It is crucial to recognize, promote, and use approaches (know-how), intervention methods, and decision-making methods that ensure cultural safety and respect the traditions and expertise of First Nations (Truth and Reconciliation Commission, 2015; FNQLHSSC, 2017).

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