

BARRIERS TO ACCESS TO HEALTH AND SOCIAL SERVICES FOR ENGLISH-SPEAKING FIRST NATIONS COMMUNITIES IN QUEBEC

PRESENTED BY:

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

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OUTLINE

- I. The special status of Indigenous peoples in Canada and recent developments in the recognition of Indigenous rights
- II. Access to Quebec's health and social services and proposed approaches
- III. Quebec's obligations and applicable standards
- IV. Recommendations

THE SPECIAL STATUS OF INDIGENOUS PEOPLES IN CANADA AND RECENT DEVELOPMENTS IN THE RECOGNITION OF INDIGENOUS RIGHTS

- Indigenous peoples have a **special historical, legal, and cultural position** in this country;
- Indigenous peoples' **health, dignity and security** should not be impeded by intra-provincial administrative arrangements, provincial borders or the lack of cooperation between provinces;
- Quebec must respect its **constitutional obligations** towards Indigenous peoples;
 - Quebec must therefore **consult** and involve them in government decisions and measures affecting their health;
 - respect their **language and cultural rights**;
 - and respect their **right to assume control** over their communities' health through their own institutions.

THE SPECIAL STATUS OF INDIGENOUS PEOPLES IN CANADA AND RECENT DEVELOPMENTS IN THE RECOGNITION OF INDIGENOUS RIGHTS

- Quebec has taken important steps in the right direction with its *Action Plan for the Social and Cultural Development of First Nations and Inuit* and by recognizing its history of systemic discrimination, as well as, with the work of this Commission.
- Recent shifts in the federal legislative landscape:
 - The Recognition and Implementation of Indigenous Rights Framework: this would facilitate self-determination for Indigenous peoples, including control over education or child welfare.
 - Bill C-262, *An Act to ensure that the laws of Canada are in harmony with the United Nations Declaration on the Rights of Indigenous Peoples*, passed second reading in the House of Commons.
- Greater recognition of Indigenous Peoples' rights: may have repercussions on the role of the provinces in delivering health and social services.

THE SPECIAL STATUS OF INDIGENOUS PEOPLES IN CANADA AND RECENT DEVELOPMENTS IN THE RECOGNITION OF INDIGENOUS RIGHTS

Concrete actions must follow to implement those promises:

Truth and Reconciliation Commission (TRC) calls to action:

The TRC called “upon the federal, provincial, territorial, and Aboriginal governments to acknowledge that the current state of Aboriginal health in Canada is a direct result of previous Canadian government policies, including residential schools, and **to recognize and implement the health-care rights of Aboriginal peoples** as identified in international law, constitutional law, and under the Treaties.”

The TRC added that “in order **to address the jurisdictional disputes** concerning Aboriginal people who do not reside on reserves, we call upon the federal government to recognize, respect, and address the distinct health needs of the Métis, Inuit, and off-reserve Aboriginal peoples.”

The TRC also recommended all levels of government **increase the number of Aboriginal professionals working in health care** and to ensure the retention of Aboriginal health-care providers in Aboriginal communities.

THE SPECIAL STATUS OF INDIGENOUS PEOPLES IN CANADA AND RECENT DEVELOPMENTS IN THE RECOGNITION OF INDIGENOUS RIGHTS

- **Serious gaps** exist in the provision of health and social services to English-speaking First Nations communities in Quebec,
 - Where a lack of culturally appropriate access to services that meet their actual needs may not only threaten Indigenous rights but also threaten the right to security of the person under s. 7 of the *Canadian Charter* and minority language rights protected by the *Constitution Act, 1867*.
- **Guiding principles:** full participation of First Nations in decision-making that is susceptible to affect their rights and interests and First Nations control of the delivery of health services in their communities.

ACCESS TO QUEBEC'S HEALTH AND SOCIAL SERVICES AND PROPOSED APPROACHES

- The means of resolving issues of access may differ **depending on the region** in question;
- **Closer collaboration** between the Quebec government, its institutions and First Nations communities is essential in order to identify solutions to improve the gaps in health and social services that English-speaking First Nations experience.

ACCESS TO QUEBEC'S HEALTH AND SOCIAL SERVICES AND PROPOSED APPROACHES

Corridors of service

Act Respecting Health Services and Social Services, ss. 6 & 13

- English-speaking First Nations people residing in Quebec are entitled to choose the professional or institution from whom or which they wish to receive health and social services (within the limits of the human, material and financial resources at that institution's disposal).

ACCESS TO QUEBEC'S HEALTH AND SOCIAL SERVICES AND PROPOSED APPROACHES

Corridors of service

- Generally, a person's right to choose the professional or institution from whom or which they wish to receive health and social services is curtailed by the access rules set by the regional agency;
- The access rules set by each regional agency are called corridors of service. These corridors can present obstacles for individuals seeking services in English.

ACCESS TO QUEBEC'S HEALTH AND SOCIAL SERVICES AND PROPOSED APPROACHES

Access programs

An Act Respecting Health Services and Social Services, s. 15

- While the *Act Respecting Health Services and Social Services* recognizes that English-speaking persons are entitled to receive health and social services in English, access to English services is only guaranteed to the extent that:
 - it is in keeping with the organizational structure and human, material and financial resources of the institutions providing such services; and
 - it is provided for in an Access Program developed by the health and social services agency of the region in question. (s. 348)

ACCESS TO QUEBEC'S HEALTH AND SOCIAL SERVICES AND PROPOSED APPROACHES

Access programs

- As a result, the true extent of the right to access English health services is determined by each regions' Access Program;
 - Each Access Program evaluates the need for English language services in the region and the services required, determines the providers of those services and the means by which they can be accessed by users;
 - The program must be approved by the Government and revised at least every 3 years.
- Access Programs are developed by the regional agency in consultation with a regional committee, and approved by the Minister in consultation with a provincial committee;
- Despite Access Programs, many of the problems identified in Amy Chamberlin's 2013 report relate to lack of access to health and social services for First Nations in English;
- This could be the result of the Access Programs' failure to take into account the distinct needs of First Nations

ACCESS TO QUEBEC'S HEALTH AND SOCIAL SERVICES AND PROPOSED APPROACHES

Access programs

- Other problems identified in the Report that could be addressed in regional Access Programs include:
 - Lack of access to health and social services in English
 - Limited access to mental health services in English
 - Limited detoxification services and treatment services in English
 - Emergency Services – general access issues and obstacles because of language and culture
 - Calling provincial institutions is difficult because of language barriers
 - Documentation from the province is mainly in French
 - Tracking clients' information is difficult because of language barriers
 - Translation services are limited: lack of funding and treatment can be delayed while waiting for translations
 - Lack of client escort services
 - Lack of appropriate transportation and lodging

PROPOSED APPROACHES – PARTICIPATION OF ENGLISH-SPEAKING FIRST NATIONS PEOPLE IN THE DEVELOPMENT OF ACCESS PROGRAMS

- Since access to English health services in each region is determined by an Access Program, address First Nations' views, concerns, and challenges regarding access to English health services in Access Programs;
- Ensure meaningful participation by First Nations in the development of their region's Access Program
 - This would help address other problems, such as lack of consultation and engagement with First Nations in planning and lack of communication between First Nations and provincial institutions
- Ensure First Nations representation on the provincial and regional committees
 - Approximately 7% of the English-speaking population in Quebec is Indigenous. We recommend that regulations and bylaws be amended to ensure Indigenous representation on these committees, in keeping with the UNDRIP's recognition of First Nations' right to be actively involved in developing and determining the health programs affecting them;
 - Long-term: in each health region in Quebec, the development of an independent Access Program specifically designed for English-speaking First Nations' communities and with their active participation, to ensure that all Indigenous peoples in the region have equitable access to health care.

PROPOSED APPROACHES – REDUCING BARRIERS TO OUT-OF-PROVINCE SERVICES

- On the topic of the impact of borders on Indigenous peoples, Peter W Hutchins remarked in 2005:

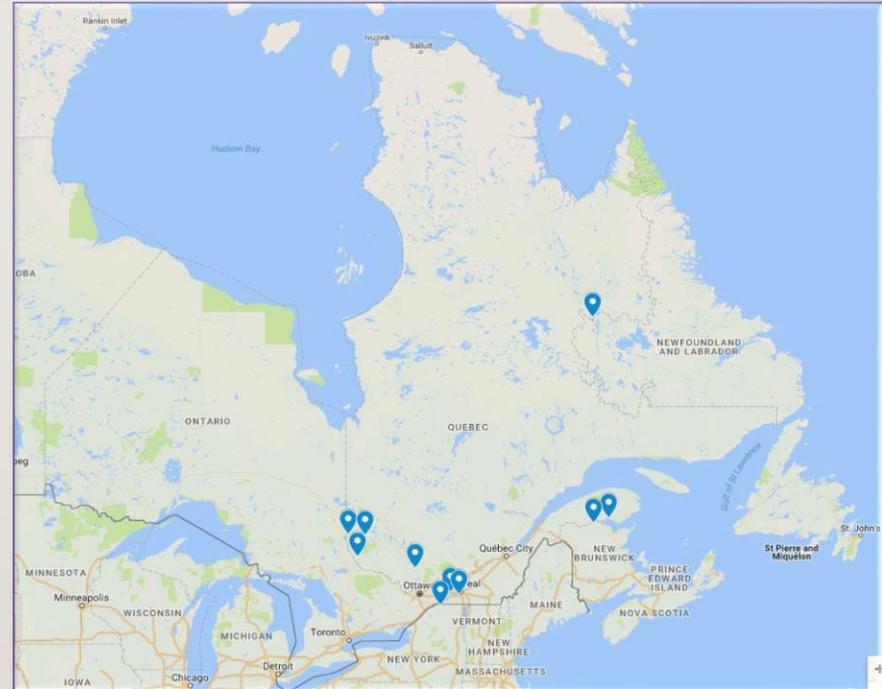
“In the post-colonial state, borders often dissect economic, cultural and social spheres, which, in turn, transcend the imposition of an arbitrary demarcation. Political lines were drawn to divide up territory and groups of people among the competing colonial powers.

Peter Nugent argues that the colonialist objective was to classify groups of people into manageable units. In this sense, borders function as instruments for the enforcement of colonial policy.”

- Provincial borders continue to operate as effective barriers to essential services for English-speaking First Nations communities, and the impacts are significant;

PROPOSED APPROACHES – REDUCING BARRIERS TO OUT-OF-PROVINCE SERVICES

- Several English-speaking First Nations communities in Quebec are border communities and could benefit from greater cooperation between provinces in the provision of health and social services;
- These include **Listuguj** and **Gesgapegiag**, which are situated near the New Brunswick border,
- As well as **Kebaowek First Nation**, **Kitigan Zibi**, **Timiskaming**, **Long Point First Nation/Winneway** and **Akwesasne**, which are situated near the Ontario border;



PROPOSED APPROACHES – REDUCING BARRIERS TO OUT-OF-PROVINCE SERVICES

- **Possible solution** to the dearth of English-language services in Quebec: crossing the border to seek medical services out-of-province in English (All Canadian provinces and territories, including Quebec, have signed interprovincial agreements to cover **in-hospital and emergency care**);
- **Barriers to non-urgent care:**
 - Lack of interprovincial agreements to cover non-urgent care;
 - Quebec is the only Canadian province or territory that refuses to sign bilateral reciprocal billing agreements
 - Without bilateral agreements, the patient (or sometimes physician) must pay the bill upfront and then apply to the RAMQ
 - RAMQ will partially reimburse the person who bore the cost of the service, often only covering half of the amount paid
 - RAMQ recommends purchasing insurance when traveling in the rest of Canada to avoid the problem of the difference in costs.
 - This reality poses significant barriers to access, especially to youth and economically disadvantaged

PROPOSED APPROACHES – REDUCING BARRIERS TO OUT-OF-PROVINCE SERVICES

- Quebec's refusal to sign the reciprocal billing agreement violates the *Canada Health Act's* principles of portability and universality
- **Strategies** to improve access to out-of-province medical services despite the lack of bilateral billing agreements:
 - Specific arrangements made with health care providers in neighbouring cross-border communities
 - Out-of-province pharmacists may enter into agreements with RAMQ if there is no pharmacy within a 32-kilometre radius
 - Physicians in border communities may register with RAMQ, thus removing billing difficulties
- **Quebec should propose and facilitate the process** for doctors in border communities to sign up with RAMQ;
 - Quebec requires that these physicians make union contributions of 5 per cent for each service rendered up until the full contribution amount is covered.
 - If these arrangements could provide greater access for First Nations communities, Quebec should provide funding or leniency regarding these requirements in order to help overcome access issues for English-speaking First Nations

PROPOSED APPROACHES – REDUCING BARRIERS TO OUT-OF-PROVINCE SERVICES

- **Special inter-provincial arrangements** between Ontario and Quebec
 - 1989: special agreement allows Outaouais residents to seek medical care across the provincial border for services not available in their area in Ottawa
 - 1990: similar agreement between Timiskaming and North Bay
 - October 2017: president of the Centre intégré de santé et de service sociaux (CISSS) of Abitibi-Témiscamingue announces that a new Corridor of Service may be opened soon between that municipality and Ontario
- These **examples show willingness** on the part of provincial government to recognize a shortage of access to health care services and to come up with appropriate solutions. Such arrangements should not be the exception if the result is better health care, dignity and security for Indigenous peoples.

PROPOSED APPROACHES – REDUCING BARRIERS TO OUT-OF-PROVINCE SERVICES

- In order for **Quebec** to fulfil its obligation under s. 15 of the *Act Respecting Health Services and Social Services* - English- speaking Quebec residents are entitled to English services, within the available human, material and financial resources - it **must reassess** whether negotiating agreements with border communities in Ontario and New Brunswick is the most resource-efficient option to provide and support access to health services to some of the English-speaking First Nations;
- That we have **existing precedents** in Outaouais and Timiskaming, whose agreements allow for Quebec residents to seek medical services in Ontario when they are not available in their region, further bolsters this argument.

PROPOSED APPROACHES – EXCEPTIONS TO THE FRENCH LANGUAGE REQUIREMENT FOR PROFESSIONAL LICENSING

- Quebec is responsible for professional licensing requirements. Of the 46 professional orders in Quebec, 26 are related to health care;
- Pursuant to section 35 of the *Charter of the French Language*: “professional orders shall not issue permits except to persons whose knowledge of the official language is appropriate to the practice of their profession”;
- The French language requirement for admittance into Quebec’s professional orders is a significant barrier for Anglophones generally;
 - Limited access to English training in Quebec (one solution to this problem is to seek training out-of-province)
 - Mobility issues for professionals into and out of Quebec; most constrained of any Canadian province or territory

PROPOSED APPROACHES – EXCEPTIONS TO THE FRENCH LANGUAGE REQUIREMENT FOR PROFESSIONAL LICENSING

- **Exemptions** under the *Regulation to authorize professional orders to make an exception to the application of section 35 of the Charter of the French language*:
 - Some professional orders, such as **nurses**, have made an exception to the French language requirement for the licensing of individuals working in and for Indigenous communities.
 - According to s. 40 of the *Charter of the French Language*, however, a professional order “may issue a **restricted permit** to a person already authorized under the laws of another province or another country to practise his profession” if it is in the *public interest* and with the prior authorization of the Office québécois de la langue française.
 - Given the **crisis** surrounding access to English health services in First Nations’ communities, Quebec should ensure that other professional orders that have not made an exception to the French language requirement for the licensing to do so for individuals working in and for English-speaking First Nations communities.

OBLIGATIONS AND APPLICABLE STANDARDS FOR THE PROVISION AND FUNDING OF HEALTH AND SOCIAL SERVICES

- Our positions are supported by legal arguments based on provincial, federal and international laws and human rights treaties and instruments that include:
 - International law, including the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP);
 - Aboriginal Peoples' constitutional rights protected by s. 35 of the *Constitution Act, 1982*,
 - Rights to self-determination and self-governance
 - Section 15 of the *Canadian Charter* (non-discrimination clause);
 - For standard of substantive equality see *Caring Society 2016*
 - Section 10 of the *Quebec Charter* (non-discrimination clause).

IMPORTANCE OF INTERNATIONAL LAW FOR INTERPRETING CANADIAN LAW

- International framework
 - Universal Declaration of Human Rights
 - Convention on the Rights of the Child
 - International Covenant on Civil and Political Rights
 - Convention for the Elimination of all Forms of Racial Discrimination
 - United Nations Declaration on the Rights of Indigenous Peoples

THE UNITED NATIONS DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLES

- February 7, 2018: Bill C-262 passes second reading in the House of Commons;
- UNDRIP recognizes that Indigenous peoples have a number of rights relating to health:
- UNDRIP provides that Indigenous peoples and individuals are free and equal to all other peoples and individuals and have the **right to be free from any kind of discrimination**, in the exercise of their rights, including the **right to access social and health services** and the **right to the improvement of their economic and social conditions in the area of health**;
- UNDRIP also provides that Indigenous peoples have the **right to participate in decision-making in matters which would affect their rights**, including the **right to be actively involved in developing and determining health and social programs** affecting them and to administer such programs through their own institutions;

THE *ACT RESPECTING HEALTH SERVICES AND SOCIAL SERVICES (ARHSSS)*

- Principal piece of legislation that governs agencies and private and public institutions who provide health and social services in Quebec;
- The ARHSSS aims, inter alia, “to ensure that services are accessible on a continuous basis to respond to the physical, mental and social needs of individuals, families and groups” and “to take account of the distinctive geographical, linguistic, sociocultural, ethnocultural and socioeconomic characteristics of each region.”
- The guidelines that guide the management of health and social services include:
 - Respect for the user and recognition of his rights and freedoms must inspire every act performed in his regard;
 - The user must be treated, in every intervention, with courtesy, fairness and understanding, and with respect for his dignity, autonomy, needs and safety;
 - The user must be encouraged, through the provision of adequate information, to use judicious manner.

THE *ACT RESPECTING HEALTH SERVICES AND SOCIAL SERVICES (ARHSSS)*

- Under s. 15 of the *ARHSSS*, English-speaking persons are entitled to receive health and social services in English, in keeping with the resources of the institutions providing these services and to the extent provided by Access Programs described under s. 348 of the *ARHSSS*;
- Prohibitions on discrimination pursuant to s. 15 of the *Canadian Charter* and s. 10 of the *Quebec Charter* both apply as limits to the Quebec government's decisions with respect to access to health services in English in Quebec (*Lachine General Hospital Corporation c Québec (Procureur général)*).

QUEBEC'S OBLIGATIONS UNDER THE *CANADIAN CHARTER* – S. 15: SUBSTANTIVE EQUALITY

- In providing or funding health or social services to First Nations, Quebec must uphold the standard of substantive equality, pursuant to s. 15 of the *Canadian Charter*,
- What does substantive equality mean?
 - Different from formal equality
 - **Formal equality:** applying the same standard to everyone
 - **Substantive equality:** making distinctions to account for differences and historical disadvantages (“identical treatment may frequently produce serious inequality” (*Andrews*))
- What does substantive equality require?
 - Being attentive to the social and political context and the needs, circumstances and historical disadvantages suffered by a particular group of people.

WHAT DOES THIS STANDARD MEAN FOR ENGLISH-SPEAKING FIRST NATIONS COMMUNITIES IN QUEBEC?

- The unique needs resulting from being both First Nation and English-speaking in a predominantly francophone province have to be taken into account;
 - “One-size fits all” approach is not substantive equality;
 - Funding and services need to be tailored, regardless of whether provided as part of a modern treaty or not.

QUEBEC'S OBLIGATIONS UNDER THE *CANADIAN CHARTER* – S. 15: SUBSTANTIVE EQUALITY

- *Caring Society 2016*: The Canadian Human Rights Tribunal ruled that inequitable federal funding for First Nations child welfare amounted to discrimination based on the substantive equality analysis used in the equality jurisprudence developed under s. 15 of the *Canadian Charter*.
- “[f]or Aboriginal peoples in Canada this context includes a legacy of stereotyping and prejudice through colonialism, displacement and residential schools.” The substantive equality analysis obliges the courts to consider these circumstances and may require differential treatment tailored to the specific needs of individuals and communities.”
- The *Canadian Charter* applies “to the legislature and government of each province in respect of all matters within the authority of the legislature of each province” and so does the jurisprudence developed under s. 15, which affirms the application of the equality standard to the provinces.

QUEBEC'S OBLIGATIONS UNDER THE *CANADIAN CHARTER* – S. 15: SUBSTANTIVE EQUALITY

Ensuring substantive equality entails (*Caring Society 2016*):

1. Taking specific measures including the full span of **legislative, executive, administrative, budgetary and regulatory instruments** at every level in the State apparatus (paras. 445, 453);
2. Providing **culturally appropriate services** (paras. 424, 425). What is culturally appropriate depends on the specific culture of each First Nation community (para. 423);
3. Meeting the actual needs of specific First Nation communities (paras. 425, 455);
4. Not perpetuating historical disadvantages endured by Aboriginal peoples (paras. 403, 455);

QUEBEC'S OBLIGATIONS UNDER THE *CANADIAN CHARTER* – S. 15: SUBSTANTIVE EQUALITY

Ensuring substantive equality entails (continued):

5. Addressing the intergenerational trauma caused by residential schools (para. 422);
6. Narrowing the gap between First Nations and the rest of Canadian society (para. 403);
7. Improving outcomes for Indigenous peoples in the provision of social services (para. 427).
8. Providing comparable quality and accessibility of services to those provided to Canadians off-reserve (para. 455);
9. Breaking the cycle of outside control that outside forces have exerted over Aboriginal culture and identity (paras. 425, 426)

QUEBEC'S OBLIGATIONS UNDER THE *CONSTITUTION*: PROTECTION OF MINORITIES

- One of the fundamental underlying principles of the Canadian Constitution;
- This principle protects minority official language communities and Indigenous peoples; English-speaking First Nations in Quebec are both;
- Changes in Corridors of Service or Access Programs that restrict English-speaking First Nations' members access to English services or to culturally appropriate services that they formerly had access to are vulnerable to a constitutional challenge;

QUEBEC'S OBLIGATIONS UNDER THE *CANADIAN CHARTER* – S. 15: PROTECTION OF MINORITIES

- Amy Chamberlin's 2013 Report suggests that these types of changes have been made in recent years:
- "The corridors of service have been changed for people living on the South Shore. Access to hospitals in Montreal is restricted, clients being referred back to South Shore. More and more we are being delegated to the South Shore for services, which are almost all French. The "State of the Art" medical services are on the island and we are being shut out because of our postal code address."

QUEBEC'S OBLIGATIONS UNDER THE *CANADIAN CHARTER*

– S. 7: RIGHT TO LIFE, LIBERTY AND SECURITY OF THE PERSON

- Every individual has a constitutionally protected right to life and the security of the person and the right not to be deprived thereof except in accordance with the principles of fundamental justice;
- Enshrined in s. 7 of the *Canadian Charter* and s. 1 of the *Quebec Charter*;
- Legislation respecting the provision of health services is limited by every individual's constitutional right to life and the security of the person;
- Corridors of service or an Access Program that makes access to mental health services in English significantly more difficult in a way that endangers individuals' lives or that could result in serious psychological or physical suffering may violate the right to life, liberty and security.

QUEBEC'S OBLIGATIONS UNDER THE *QUEBEC CHARTER*

- Quebec laws must respect the fundamental, political and judicial rights enumerated under sections 1 to 38 of the Quebec Charter;
- Quebec statutes can only derogate from these rights if the legislation in question expressly states that it applies despite the *Quebec Charter*.

QUEBEC'S OBLIGATIONS UNDER THE *QUEBEC CHARTER* – S. 10: SUBSTANTIVE EQUALITY

- The courts have interpreted the right to equality provided in s. 10 of the *Quebec Charter* to also require substantive equality and not merely formal equality;
- The norm is not to provide exact same treatment but requires the taking into account the context and making distinctions to understand how a certain measure can indirectly affect a person or a group of persons;
- The Supreme Court of Canada also recognized that “although the [Quebec] Charter’s provisions need not necessarily mirror those of the Canadian Charter of Rights and Freedoms, they must be interpreted in light of the latter.”

QUEBEC'S OBLIGATIONS UNDER THE *QUEBEC CHARTER* – S. 4: DIGNITY

- English-speaking First Nations peoples have the right to the safeguard of their dignity under s. 4 of the Quebec Charter;
- The Quebec government must uphold the substantive equality standard accordingly when providing or funding health and social services, pursuant to both the Quebec and Canadian Charters;
- Corridors of service determined based on administrative limitations that prevent or substantively delay access to appropriate care may infringe on a person's right to dignity.

QUEBEC'S OBLIGATIONS UNDER THE *QUEBEC CHARTER* – BEYOND QUEBEC'S OBLIGATIONS

- Important to analyze beyond provincial public services and to look at the interaction between services for Indigenous peoples provided and funded by both the federal and provincial governments;
- A complete understanding of the situation of English-speaking First Nations communities will require an analysis of federal-provincial dynamics, without which the true scope and complexity of issues (of access, discrimination) cannot be fully captured.

QUEBEC'S OBLIGATIONS UNDER THE *QUEBEC CHARTER* – BEYOND QUEBEC'S OBLIGATIONS

- “It seems impossible to me to analyze the scope of these public services, to analyze the benefits that Indigenous peoples they derive from them without asking the question of the interaction with services provided and funded by the federal government, and without asking the question of Jordan’s Principle, and without asking if there is by the combination of all of these factors discrimination against Indigenous peoples.” [our translation]
- Sebastien Grammond, testimony before this Inquiry, September 22, 2017

RECOMMENDATIONS

Quebec must respect its constitutional obligations towards Indigenous peoples

- Constitutional obligations underlie all following recommendations;
- Quebec must consult and involve First Nations in government decisions and measures affecting their health;
- Quebec must respect First Nations' language and cultural rights;
- Quebec must respect First Nations right to assume control over their communities' health through their own institutions;
- We urge Quebec to enact the TRC's calls to action (recommendations 18 to 24)

RECOMMENDATIONS

First Nations participation in Access Programs development

- Ensuring that First Nations meaningfully participate in the development of their regional Access Programs:
 - Making information about Access Programs publicly available so that First Nations can develop suggested changes to respond to English-speaking First Nations' needs;
 - Ensuring and facilitating English-speaking First Nations' participation in the development of Access Programs;
 - Establishing effective mechanisms to track access issues and challenges for English-speaking First Nations;

RECOMMENDATIONS

First Nations participation in Access Programs development

- Ensuring that First Nations meaningfully participate in the development of their regional Access Programs:
 - Ensuring that English-speaking First Nations communities participate in the determination of corridors of services and adapting corridors to remove barriers to seeking services in English;
 - Amending regulations and bylaws to ensure First Nations' representation on the provincial and regional committees;
 - Appointing English-speaking First Nations' representatives to the provincial and regional committees;
 - Developing independent Access Programs specifically designed for English-speaking First Nations' communities and with their active participation.

RECOMMENDATIONS

Removing barriers to access Ontario and New Brunswick health services

- Facilitating access to health services in English for English-speaking First Nations living in border communities by:
 - Complying with the portability and universality criteria under s. 11 of the *Canada Health Act*;
 - Concluding bilateral reciprocal billing agreements with Ontario and New Brunswick;
 - Making special arrangements with institutions in neighbouring provinces to facilitate First Nations' access to health and social services.

RECOMMENDATIONS

Cultural sensitivity trainings and campaigns

- Developing training and awareness-raising campaigns to address discrimination and improve
- cultural sensitivity towards Indigenous peoples:
 - For health and social work professionals working at First Nations and provincial institutions;
 - To learn about colonial legacy and to enhance respect for culture, traditional ways, and First Nations' languages in the delivery of health and social services;
 - To increase visibility of Indigenous culture/practices and languages at provincial institutions.
- Providing support for Indigenous peoples receiving services from provincial social services institutions (e.g., Indigenous liaison person).

RECOMMENDATIONS

Improve access to information in English for health and social services

- Improving access to information concerning health and social services such as government documents, which are often only in French, by:
 - Identifying and prioritizing which documents are a priority to translate into English and make available for First Nations communities;
 - Ensuring funding required for translation;
 - Ensuring language support for Indigenous clientele (e.g., for crisis/critical situations or specialized care);
 - Promoting bilingualism in provincial institutions (e.g., through training opportunities for staff

RECOMMENDATIONS

Professional licensing, training and employment

- Allowing for exceptions to the French language requirement for health professionals' licensing working in and for English-speaking First Nations;
- Ensuring that more training opportunities (health and social services related) are available in English;
- Recruiting and providing incentives for Indigenous professionals to work in the communities in the areas of health and social services (including in related areas such as lodging, vehicle rentals, outing allowance, especially in remote communities).

RECOMMENDATIONS

Agreements and protocols

- Developing formal engagements and protocols between provincial and First Nations' health and social institutions:
 - To establish partnerships and strengthen continuity of care;
 - To enhance access to English services in remote areas, especially emergency and intensive care services;
 - To enhance access to English services in crisis situations (e.g., violence, sexual abuse);
 - To enhance access to English services in priority areas for First Nations (i.e., detoxification, mental health services, developmental needs for youth, care for Elders);
 - To enhance escort/liaison and language services for the elderly;

RECOMMENDATIONS

Agreements and protocols

- Ensuring that all agreements between the provincial government and First Nations respect the provision and funding of health and social services, self-government agreements respect the constitutional principles and the substantive equality criteria established in *Caring Society 2016*;
- Supporting First Nations in assuming control over the health of their communities:
 - Concluding tripartite agreements;
 - Facilitating the exchange of expertise between provincial institutions and First Nations institutions;
 - Bringing health and social services' resources (e.g., specialized services, clinics, training) into First Nations communities/organizations.

THANK YOU

- For more information, visit our website at www.hutchinslegal.ca and feel free to contact us:

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