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OUVERTURE DE LA SÉANCE

L'HONORABLE JACQUES VIENS (LE COMMISSAIRE) :

So, good morning. I understand Maitre Denis-Boileau represents the Commission this morning?

Me MARIE-ANDRÉE DENIS-BOILEAU,

PROCUREURE :

Yes.

LE COMMISSAIRE :

And Maitre Boucher the Attorney General for Quebec?

Me MARIE-PAULE BOUCHER,

PROCUREURE GÉNÉRALE DU QUÉBEC :

Bon matin.

LE COMMISSAIRE :

Welcome, both of you. And welcome, Doctor Napoleon and Doctor Friedland. I understand that we will continue to listen to your presentation, and this morning, you're going to help us concerning the implementation, how can Indigenous laws be applied in cases of violent crimes, and in other matters also, I'm interested to hear you about that.

1 Valerie Napoleon
2 Law Professor
3 University of Victoria
4 Under same oath

5 -----

6 Hadley Friedland
7 Assistant Professor
8 University of Alberta Faculty of Law
9 Under same oath

10 -----

11 **PROFESSOR VALERIE NAPOLEON:**

12 Okay. We're going to begin this morning with a
13 short video, "*Tough Questions*" video. It's very
14 short.

15 (Lecture de la vidéo "*Indigenous Law: Tough Questions*")

16 **PROFESSOR VALERIE NAPOLEON:**

17 All right. There are many parts to that short
18 video, including the needs to create spaces between
19 all kinds of people, young and old, to talk about
20 these very things at the community level, in
21 universities and beyond.

22 So, on this last day, we wanted to begin by
23 just doing a brief overview of what we've covered
24 so far, and what we want to cover today, which is
25 part V up there. But we've looked at Indigenous

1 legal traditions, and some of the definitions and
2 challenges and the reframing of law and
3 responsibilities, and then, we have also looked at
4 what does it mean to move from a "why" with
5 Indigenous law, to looking at a "how" with
6 Indigenous law, and particularly looking at
7 methods, and Wahkohtowin, and other legal
8 constructs from legal orders.

9 We've looked at issues of legitimacy,
10 legality, lawfulness, as well as lawlessness, what
11 happens in spaces of lawlessness. And we looked at
12 the different kinds of initiatives going on across
13 Canada, some of them with just highlights, and
14 then, we looked at several different educational
15 initiatives that are taking place at McGill and
16 UVic, and other places.

17 So, today, we want to get down and talk
18 specifically about how -- what do we do with the
19 concept of reconciliation. And then, we want to
20 look at what are the continual issues, the kinds of
21 struggles that people have in doing this work.
22 They're very real, they're very hard issues. And
23 then: Where do we go from here? Because it's
24 really important that the work not get stuck in the
25 difficult places, but that we find ways through

1 those questions and keep on working.

2 So, we just wanted to set out, again, restate
3 the thinking around reconciliation and speak to it
4 a little bit more.

5 So, again, the Truth and Reconciliation
6 Commission calls to action in the final report talk
7 about recovering, learning and practising distinct
8 legal traditions by Indigenous peoples. But it
9 also takes up this relationship between Indigenous
10 peoples in Canada, and talks about the importance
11 of respectful relations. But those respectful
12 relations rely and must be founded on recovery and
13 a rebuilding of Indigenous law.

14 So, the way that we have talked about
15 respectful legal relations is that they require
16 symmetry, that as much work has to go on on the
17 Indigenous law side insofar as substantive law,
18 procedural law, the structure of the law, the legal
19 institutions, and all that is possible for
20 Indigenous law. Like that law then -- the work is
21 to figure out how does it relate -- or how does
22 Canadian law relate to Indigenous law.

23 So, it's creating -- we have to build the
24 symmetry. All of us have to do that. Because,
25 right now, it doesn't exist. And so, that's part

1 of the work that we have to take into the future.

2 So, what this building of symmetry requires is
3 active listening, which means hearing law. Like
4 one of the things that is the case is that whatever
5 legal education we have, whether it's, in my case,
6 Canadian common law, as well as a number of
7 different legal traditions, or civil law, or common
8 law or Cree, is that that legal education, one way
9 to think about it is as a grid of intelligibility.
10 That is the legal education operates to make
11 visible law according to the grid. And what that
12 can mean is that you'll miss that which isn't a
13 part of the grid of our legal education. And we
14 may not see law beyond our grid of imagination
15 created by our education. We may miss it, and it
16 will be invisible.

17 So, that requires active listening, and also
18 self-reflection, but it also requires critical
19 engagement between legal orders. And that means
20 starting from logical premises, the logical
21 premises about Indigenous peoples being lawful
22 peoples, that Indigenous peoples have existed
23 through time and would not have existed through
24 time without being lawful according legitimate
25 legal ordering of their societies.

1 **Me MARIE-ANDRÉE DENIS-BOILEAU :**

2 Can you just explain what you mean by "*a grid of*
3 visibility"? That might be a French/English
4 moment.

5 **PROFESSOR VALERIE NAPOLEON:**

6 So, you think about it as a whole bunch of windows,
7 and the windows are created by how we're -- the
8 legal education we have. We have a way of
9 understanding constitutional law, we have a way of
10 understanding legal process. We have a way of
11 understanding personal injury, or -- and all the
12 other areas of law. So, that's what we recognize
13 as law, but that grid can also mean that we don't
14 see anything that doesn't fit. And so, we have to
15 be self-reflective enough to understand what our
16 intellectual limitations are, created by our
17 education, to see beyond it, to see that which is
18 invisible. We have to learn and see that which is
19 invisible. We have to listen while we're being
20 reflective.

21 So, the other part here that is really
22 important is that the work, this building symmetry
23 and rebuilding Indigenous law means making space
24 for Indigenous legal thinking. So, it's not --
25 it's not a matter of just accepting everything that

1 Indigenous people say is law, because Indigenous
2 peoples are not homogenous. We have a whole range
3 of political orientations and different positions
4 and different experiences, and so on. And so, you
5 know, we've said more than once that law is never
6 what one person says it is. It's a societal
7 enterprise. It's one that is collaborative. But
8 this idea, just accepting declarations or
9 explanations about Indigenous law without that
10 respectful engagement that is required can also
11 mean missing the fact that there's Indigenous
12 thought, that there's Indigenous legal or
13 intellectual traditions, and law is fundamentally
14 an intellectual enterprise. And so, when we hear
15 Indigenous law, we also have to understand it's an
16 intellectual enterprise, the same as any other
17 system of law.

18 **PROFESSOR HADLEY FRIEDLAND:**

19 And one of the ways I have sometimes approached
20 this is telling people to think about this idea, in
21 the common law, there is always a reasonable
22 person, and to think about what it would mean if we
23 approached this saying, "Well, who is a Cree
24 reasonable person? What can we imagine having an
25 Algonquin reasonable person navigating through the

1 *system as it is and figuring out a way to solve*
2 *these human issues,"* again, just re-looking at it.
3 And that's something Doctor Napoleon has talked
4 about, and we talked about that with Murdered and
5 Missing Indigenous Women, saying, "*What would it*
6 *mean to start from the starting place of imagining*
7 *all these women as citizen's and legal agents, and*
8 *what would it mean to start imagining each lost*
9 *woman as a reasonable person? What would it tell*
10 *us and teach us about the present system and what*
11 *might need to happen to have safer spaces and less*
12 *vulnerability if we started from that premise?"*

13 **PROFESSOR VALERIE NAPOLEON:**

14 And where the Indigenous male is the automatic
15 stand-in for Indigenous people, we also need to
16 push ourselves to ask what is the reasonable Cree
17 woman, what is the reasonable Algonquin woman. And
18 we can take that further, with some care, of
19 course, but we can take it further and look at
20 standpoint thinking. So, from the standpoint of an
21 Algonquin woman, what does this policy look like,
22 what does this practice look like, or this program?
23 And so, it allows us to very consciously think
24 about the circumstances of someone else, and to put
25 ourselves in those circumstances and ask questions

1 from that place. And it will move us away from
2 assumption. It'll help to move us away from
3 assumptions.

4 **PROFESSOR HADLEY FRIEDLAND:**

5 So, we wanted to emphasize this sentence in the TRC
6 final report. Because it was something we both
7 found very striking, to say, what does this mean?
8 What does it mean that there is 91 recommendations
9 in the -- not recommendations, calls to action, in
10 the final report? And then, you have the
11 Commissioner saying that to establish respectful
12 relationships, it requires a revitalisation of
13 Indigenous laws and legal traditions. So, we
14 wanted to pose that as a question that we hope a
15 lot of our testimony over the last two days helps
16 answer.

17 Those fundamental premises that switch to that
18 symmetrical relationship underlying all of these
19 things, it is striking how asymmetry grows. The
20 more people don't understand and don't resource,
21 and don't enforce, or delegitimize Indigenous laws,
22 the smaller its sphere of influence can become.
23 And the smaller the sphere of influence becomes,
24 the more you hear -- it would be impossible -- how
25 could Indigenous law handle anything, you know?

1 Again and again, we have justice projects that will
2 say, "*Well, summary offences only. We'll start*
3 *with very small offences, and then, we'll see where*
4 *it goes, and*" -- and looking at, not a complete
5 survey, but looking at justice programs across
6 Canada, they don't seem to go further.

7 There was this imagination they would get
8 bigger, they would go further, and yet, somehow, we
9 seem stuck without going beyond those first
10 parameters that were supposed to be temporary. And
11 then, you start to have this feedback loop. And
12 we've written about that in *Roots to Renaissance*,
13 where we say, "*Well, there's this very tiny space,*
14 *and what is allowed is basically restorative*
15 *justice or healing,*" and then, the minute something
16 requires more than that, the narrative goes back to
17 saying, "*Well, there is just no way Indigenous law*
18 *can handle that. There's no way Aboriginal justice*
19 *can handle that.*"

20 So, we start to have a self-fulfilling cycle,
21 where the lack of resources and the lack of space
22 starts to reinforce the beliefs, again, often
23 starting from very illogical premises, but then,
24 based on what people are seeing, and they're not
25 seeing it as a state-created problem, saying,

1 *"Well, this is what's allowed,"* they start to see
2 it as something inherent in Indigenous communities,
3 inherent in Indigenous law.

4 So, thinking about why -- why did the
5 commissioners see this as a cornerstone, really, of
6 reconciliation and respectful relationships, I
7 think it just makes sense to go back to that
8 thinking, that humanization, because there is
9 something deeply dehumanizing about the erasure of
10 thought.

11 **PROFESSOR VALERIE NAPOLEON:**

12 And I'll give two examples of that. One of the
13 things that I wrote about in my dissertation quite
14 some time ago now, is that there was a case in
15 South Africa about the bat. And what happened in
16 this case was that a man murdered his neighbour.
17 And his defence, when he went to court, was that he
18 thought his neighbour had become a bat, or had been
19 transformed by witchcraft.

20 And it was a case that was very troubling to
21 the court, which was trying to be respectful, and
22 the case wound its way through different levels of
23 court, and, in the end, the issue never got dealt
24 with adequately at all. And one of the -- this has
25 been looked at by several legal anthropologists,

1 and they -- in looking at the case, what they wrote
2 was that this is why Indigenous or customary law
3 was so difficult. Look what happened. It couldn't
4 be dealt with in court. It was a mess, you know,
5 the serious issues weren't properly dealt with
6 because they were trying to deal with customary law
7 and cultural defences.

8 So, if you set that perspective aside and look
9 at another perspective, which is that if you're
10 going to bring customary law into that kind of
11 process with that offence, then, you have to do so
12 in its entirety, or at least be able to appreciate
13 it in its entirety.

14 So, had the full legal process gone through
15 with a question about guilt in a violent death,
16 chances are he would have been found guilty. You
17 don't just go around killing people. It's not
18 acceptable for customary law or any other, you
19 know, legitimate system of law. So -- but what
20 happened was just a small part of that was just
21 accepted without any question, without any
22 critical, you know, engagement, and people couldn't
23 deal with it because it was incomplete. It was an
24 incomplete engagement with Indigenous legal
25 traditions in that case.

1 There is another -- so, I had a question
2 recently -- very recently -- about wanting to do a
3 comparison with Australia. And Australia, right
4 now, is -- you know, we're now working with
5 scholars there in supporting a lot of the work and
6 training and so on that is going on. But there
7 have been different commissions on Indigenous or
8 Aboriginal law there, but they're focussed on
9 practices, not on the Indigenous or Aboriginal
10 legal traditions in their fullness.

11 And so, by focussing just on practices, as
12 opposed to the reason or the goals or the legal
13 processes or institutions or legitimacy or those
14 other kinds of questions, it's ended up being a
15 focus on punishment, and violent punishment in some
16 cases. And so, what people focus on when they hear
17 about Aboriginal law is the spearing of, in some
18 offences, through the thigh. And so, the questions
19 that I got is, *"Is that the kind of thing that*
20 *we're talking about with Indigenous law in Canada?"*
21 And it's like, "No." Because we've been talking
22 about legitimacy and accountability and thought and
23 changing normative orders and the full complexity,
24 not just what happens at the end of the day, and
25 the punishment or sentencing level. That's not a

1 complete understanding of law. It's, again, that
2 very impoverished view of what law is.

3 **PROFESSOR HADLEY FRIEDLAND:**

4 And maybe, before we go to this, I -- just I -- I'm
5 just -- just to introduce, what we want to turn to
6 is talk about -- we're going to talk about some of
7 the recurring issues in Aboriginal justice
8 initiatives, and then also in the justice system.
9 But before we do, I think it's important to talk
10 about -- when we're talking about Aboriginal
11 justice system, so, to build on what Doctor
12 Napoleon just said about this idea that people are
13 often really drawn or obsessing about this story of
14 a bat, like these singular seemingly very odd
15 events, spearing, and then, people say, "*This just*
16 *isn't possible.*"

17 We did put into the materials *Mikomosis and*
18 *the Wetiko* and the teaching guide that goes with
19 this. And before we talk about some of the
20 problems and challenges, I think we should address
21 the idea of whether Aboriginal justice processes or
22 Indigenous law can handle serious and violent
23 offences, because the reality is people are facing
24 serious and violent offences.

25 Sometimes, the summary offences, certainly for

1 overincarceration, those are issues. Sometimes,
2 summary offences can cause issues and have
3 reverberating effects within communities,
4 obviously, but let's not kid ourselves, the
5 offences that are causing unbelievable trauma and
6 pain, destroying families, leaving people
7 completely devastated are serious and violent
8 offences. And I think one of the things that's
9 quite important is to look at that idea that,
10 somehow, Indigenous law or Aboriginal justice
11 programs simply cannot handle these, or that there
12 is no resources.

13 With the example that Doctor Napoleon -- the
14 examples Doctor Napoleon was talking about, one
15 thing that seems to happen too is there is an
16 assumption that if there is a historic response,
17 again, a practice, a focus is on the practice from
18 the Indigenous end, to any sort of harm or
19 violence, that must be the only practice that
20 people are wanting today. We don't do that in
21 Canadian law.

22 In fact, with Wetiko cases looking at somebody
23 becoming extremely harmful and being very dangerous
24 to people around them, I come from Alberta, and the
25 first case of a public hanging in the Province of

1 Alberta was a Cree man named Swift Runner. And in
2 this case, you could look at it as a case of, in
3 the context of 1896, the Cree group and the RCMP
4 and the Euro-Canadian group that was there,
5 harmonized their responses.

6 There was a man named Swift Runner who was
7 suspected of committing terrible crime and
8 murdering his entire family. The Cree group was
9 suspicious, the European group was suspicious, and
10 the RCMP and the Cree leaders went together,
11 investigated, looked at the evidence, concluded
12 there was a great deal of evidence that this man
13 Swift Runner had committed this terrible crime that
14 was seen as a terrible within Cree society, and
15 within Euro-Canadian society. And, at that point,
16 both groups reached the conclusion that Swift
17 Runner needed to be executed.

18 There was a very brief trial. He was held in
19 jail. A Canadian judge passed the sentence, and
20 Swift Runner was hung according to Canadian law.

21 Now, we never take that case and say, "*We*
22 *can't apply Canadian law to serious and violent*
23 *offences, because look at this case in 1896, this*
24 *practice of execution.*" We know that law develops
25 and -- and now, we would still apply -- we might

1 draw that case as precedent. We might still apply
2 important principles from that case today, but
3 nobody is questioning whether or not there would be
4 capital punishment today.

5 So, acknowledging that law does develop, but
6 also, I think, one thing that's really important to
7 acknowledge is, first of all, we know that serious
8 violent offences are notoriously underreported.

9 There is a Department of Justice report
10 talking about sexual assaults saying that 78% of
11 sexual assaults are not reported. And that's
12 entire Canadian population. And one of the things
13 that is important to look at with that is, on top
14 of that, we have study after study, starting with a
15 Manitoba Justice Inquiry, probably before then, the
16 Stonechild Inquiry out of Saskatchewan, saying,
17 often, when asked, "*Why didn't you go to the*
18 *police? Why didn't you report this?*" again and
19 again, particularly Indigenous women, say, "*Because*
20 *of the response. Because of what happened when I*
21 *went,*" or "*Because of what happened when my sister*
22 *went, or when my cousin went, or when my friend*
23 *went.*" The response is not a response that leads
24 them to feel safe or to resolve their issue.

25 So, we can't ignore that reality, and I think

1 that reality means, whether we're going to
2 acknowledge it or not, Indigenous people living in
3 communities today are dealing with serious and
4 violent crimes, they are having to make decisions,
5 they're just not doing it in a public, explicit,
6 and adequately supported and resourced way.
7 Instead, they're often completely disconnected from
8 the checks and the balances and the resources of
9 the justice system.

10 So, I think that that has to be our starting
11 point that this is happening. The difference is
12 it's not -- the vast majority of cases are not
13 necessarily being connected to those resources.

14 And that fits with the feedback when I did the
15 research with the justice program for developing
16 those Cree legal traditions, the feedback that we
17 had from elders and others in the community was
18 saying, "*We can apply -- we want the resources. We*
19 *want the resources of police in serious and violent*
20 *crimes. We would like a judge there as a check and*
21 *a balance. We want to have probation officers, but*
22 *we want them to understand certain things. We want*
23 *to have supports, and resources and training, and*
24 *programs for follow-up. Because this is what is*
25 *necessary to fulfill Cree legal principles for*

1 *healing, for preventing future harms."*

2 So, there is a really nuanced and
3 sophisticated understanding of what would be useful
4 to implement Cree law, and it wasn't an all-or-
5 nothing approach. Where it, again, hits, is when
6 the rubber hits a road, as the expression goes, of
7 how that would actually be resourced in a
8 sustainable way, is that commitment of saying --
9 again, I often say, if the Canadian justice system,
10 if we -- just criminal justice, if we judged it the
11 way Aboriginal justice programs are judged for
12 recidivism and for many other things, cost-
13 effectiveness, it would likely not be refunded for
14 the next cycle.

15 So, taking the space to actually make those
16 connections and have the space to work those
17 through in a public and transparent and accountable
18 way is a powerful approach.

19 **PROFESSOR VALERIE NAPOLEON:**

20 So, there are a number of issues that have arisen
21 over the years, from looking at justice
22 initiatives, questions about the safety and
23 effectiveness of Aboriginal justice or healing
24 initiatives, and so, we just -- there's -- there's
25 a number of them that we want to just highlight

1 here for this conversation. And the first is that
2 there's going to be political and family
3 influencing or interference with what happens in a
4 justice initiative. And this is sometimes raised
5 by the size of the community, and it is the case in
6 some situations that this has occurred.

7 But, I mean, I talked a little bit about how
8 there are requirements for neutral members of the
9 Gitxsan society to be involved with any serious
10 disputes or crimes or injuries, and that there are
11 processes in pretty well every legal order that we
12 looked at that require critical investigations to
13 make sure that, in fact, the processes were lawful
14 and legitimate. And so, it is important to look at
15 the scale of the legal order. And there are
16 realities of tiny communities, not -- there are
17 questions about viability that have be taken into
18 account in order to deal with these kinds of
19 things. And so, for instance, when my brother was
20 charged with a serious crime, I'm his sister, and
21 I'm going to do everything within my power to try
22 and protect him. So, any legal order has to be
23 able to withstand me and my love for him.

24 So, it doesn't mean that I shouldn't be
25 involved with saying who he is and who his family

1 is, and so on, but there needs to be -- there needs
2 to be a way to insulate the processes and the
3 legitimate processes from -- because part of --
4 it's not always negative corruption, it's because
5 people care very deeply for one another.

6 So, there are a number -- so, this is an
7 issue, it is a reality, and it needs to be a part
8 of any future conversation about, "*Does this*
9 *happen? What do you do about it?*" You know, like,
10 "*What was legitimate in the past, and how can we*
11 *bring some of that into the future?*" It just needs
12 to be a part of the conversation. It needs to be
13 taken head on and dealt with.

14 **Me MARIE-ANDRÉE DENIS-BOILEAU :**

15 Did you already have conversations about this?
16 Because it comes up a lot when you talk about small
17 communities. So, I'm just wondering what type of
18 conversations you could have had in the past about
19 this -- Indigenous laws and, well, legal order and
20 systems.

21 **PROFESSOR HADLEY FRIEDLAND:**

22 I mean, an example of that would be community with
23 AWN justice process when -- with those interviews,
24 saying, "*For some crimes, we would like a judge*
25 *involved.*" Some of it was having -- and I have

1 heard, with Child Welfare in Saskatchewan, there is
2 a group of Cree nations that do this, where there's
3 three Cree nations who are working on child welfare
4 together, and they have an elders' panel. And so,
5 they have a group of elders to draw from, who are
6 willing to make decisions, and if the issue is in
7 community 1, let's say, they would draw elders from
8 community 2 and 3 to listen to the case.

9 So, I think there is -- within communities,
10 one of the things about putting these up here is
11 they're recurrent. You see them through all
12 Aboriginal justice and healing programs, but also,
13 people are saying this within communities. They're
14 saying, "*Here are our issues. They should be*
15 *addressed.*"

16 We're not advocating for continuing things
17 that people within communities are saying are
18 serious issues and should be addressed. What we
19 believe is they can be addressed using more
20 rigorous Indigenous law as law, thinking, nuanced,
21 a range of responses, and some of those creative
22 ways to address it.

23 **PROFESSOR VALERIE NAPOLEON:**

24 The second item is inappropriate pressure within
25 community Aboriginal justice programs. Just before

1 getting into that, I have been approached by
2 provincial court judges and other judges who say
3 what they're -- explain that what they're very
4 concerned about is when they're presiding over a
5 court and what they see is the woman, a victim of
6 violence, sitting by herself with no support, and
7 around the offender, the perpetrator of the
8 violence, is the whole community, to support him.

9 So, there are those unhealthy community
10 dynamics that are a part of the reality.
11 Sometimes, it's a matter of wanting to make sure
12 that the, usually, man, is not removed from the
13 community, for a lot of different reasons, but
14 however, whatever the reasoning, there is a power
15 imbalance, and no support for the woman. And this
16 is something that's come up not just -- so, that's
17 provincial court processes, and it also comes up in
18 Aboriginal justice initiatives.

19 So, there are different things that are at
20 play. It can work to force victims to forgive,
21 through some inappropriate, you know, restorative
22 justice initiatives, the emphasis is sometimes on
23 straight forgiveness without any acknowledgement of
24 history or continued reality of people's lives, or
25 just safety. So, there's sometimes a lot of

1 pressure for people to just forgive and get over
2 it.

3 There is also pressure on offenders to either
4 plead guilty or to give up rights. Again, some of
5 this is with restorative justice or similar
6 programs, because there is usually a requirement to
7 accept responsibility before obtaining any help,
8 and there are critical questions that need to be
9 asked about that process, insofar as whether it's
10 actually going to be useful to the offender and to
11 the community if processes, legal, legitimate
12 processes are short-circuited.

13 So, again, it's a recurring problem. It's
14 something that has come up in a number of reports,
15 say on the -- you know, there's different reports
16 that have been done evaluating community justice
17 initiatives in B.C. and elsewhere. So, it's about
18 paying attention to them and trying to deal with
19 them in a way that's proactive, and also, paying
20 attention that in the development of new programs,
21 that it just doesn't fall back into old patterns.

22 **PROFESSOR HADLEY FRIEDLAND:**

23 And closely related to that is a lack of
24 appropriate legal advice and procedural safeguards
25 for offenders. This comes up. A caution with both

1 of these is when you interview Indigenous offenders
2 going through the system again and again, you often
3 hear about exhausted duty counsel who have
4 encouraged them to plead guilty, even at times
5 where the offenders or the convicted offender,
6 somebody convicted as an offender, now is saying,
7 *"I didn't do this. I actually am saying I didn't*
8 *do this."*

9 And they'll get legal advice that is the best
10 advice that that lawyers feels they can give at the
11 time, saying, *"Well, maybe you didn't, but it's*
12 *going to cost this much, it's going to take this*
13 *many years. You're going to sit in remand while*
14 *this is decided. If you plead guilty right now,*
15 *you can probably get this sentence. If you're*
16 *going to fight this, you know, you're looking at*
17 *this sentence."* And, overwhelmingly, you do hear
18 that within the mainstream justice system today,
19 that people are pleading guilty, giving up legal
20 rights because they don't have the money, don't
21 have the wherewithal to fight it.

22 So, just, the caution with this is as we're
23 naming these as issues within Aboriginal justice,
24 we don't want to set the bar for Aboriginal justice
25 programs much higher than where we set the bar

1 within the criminal justice system. So, that's a
2 caution there.

3 There is also -- we've talked about this quite
4 a bit over the last two days, but that
5 vulnerability related to gender sexuality or
6 disabilities. Again, the reality is we can think
7 of many examples of that within the criminal
8 justice system as well, but we don't -- that
9 doesn't mean we ignore it. That doesn't mean we
10 say, "*Oh, Aboriginal justice will just magically*
11 *take care of this.*"

12 **PROFESSOR VALERIE NAPOLEON:**

13 One of the things that has come up right across
14 Canada in a lot of different restorative justice
15 initiatives, Indigenous and non-Indigenous
16 restorative justice programs, is this conflation of
17 violence with conflict. And the authors are
18 actually Alan Edwards and Jennifer Haslett. I've
19 made a mistake.

20 So, what this means for -- and what they
21 identify in their paper is that when there is an
22 issue of domestic or intimate violence, that the
23 program people will focus just on the conflict, and
24 not deal with the violence. Not all conflict
25 results in violence. And when violence is ignored,

1 like it's -- violence is another response to
2 conflict, but it's not a necessary response,
3 obviously. And when violence is ignored and the
4 focus is on the conflict, the person who is
5 vulnerable in that relationship will continue to be
6 probably unsafe. And that's the concern that is
7 addressed by the authors here, is that in looking
8 at different ways of dealing with these
9 experiences, these kinds of issues at the community
10 level, that we take special care to understand that
11 violence has to be dealt with on its own, it can't
12 be just added to other kinds of issues, because it
13 can slip, and then, be ignored through the actual
14 process.

15 **PROFESSOR HADLEY FRIEDLAND:**

16 The other reality is people bring up, within
17 communities, issues of privacy and power dynamics
18 in small communities. Already, when people live in
19 small communities, and I have lived in a small
20 little Cree community that I love and still live
21 there part-time, you live in a fishbowl, is the way
22 people say that.

23 It can be great. One time, we got locked out
24 of our house, and so, my partner went and got a
25 bolt cutter and was figuring out how to get in, and

1 immediately, we each got a phone call from somebody
2 living in the community saying they saw a
3 flashlight, they saw -- we had gotten there late at
4 night, they saw a flashlight, they saw movement
5 going on on our porch, so they were checking what
6 was going on.

7 So, it can be really powerful and wonderful to
8 have eyes on you, and when -- we know, again and
9 again, especially in intimate violence situations,
10 often, people that are experiencing those don't
11 want a public, don't necessarily want everyone to
12 know their business. So, the issue of privacy is a
13 real one. The issue of power dynamics is also a
14 real one. And finding some way to address those
15 and take those seriously is imperative to make sure
16 that -- to make sure that things are effective and
17 people use them.

18 **PROFESSOR VALERIE NAPOLEON:**

19 Lack of transparency in evaluation. We've spoken
20 about this, the transparency issue and its
21 importance in doing the work with Indigenous law.
22 And the question of evaluation is one of the things
23 we're going to pick up in looking at implementation
24 and what's important in implementation for any of
25 these programs. And that's building that critical

1 evaluative process. Throughout anything that's
2 done, there has to be a way for people to change
3 what is not working, to identify problems, and so
4 on.

5 And, you know, this gets into another whole
6 area which we look at here, which it can often be
7 the case that people can evaluate programs and see
8 faults and issues, like, for instance, where only
9 the men in community justice programs are dealt
10 with when they're looking at violence, and the
11 women are not supported. And so, people know it's
12 a problem. They get that it's a problem. They
13 don't have any support for the women. There is no
14 money to support the women.

15 So, the evaluative processes can identify
16 problems, but then, we have to -- then, there's
17 resources, and what do you do with resources, which
18 is another question.

19 This ties into the devolution of government
20 responsibilities. So, sometimes, it can be the
21 case of just too much responsibility and with
22 inadequate resources for people to actually fulfill
23 those responsibilities to any extent at all.

24 **PROFESSOR HADLEY FRIEDLAND:**

25 And, in fact, I would say this is the biggest

1 recurrent issue we hear across Canada, perpetually,
2 whether it's Aboriginal justice, whether it's child
3 welfare, whether it's social services, whether it's
4 whatever program in service the community takes on,
5 a huge amount of responsibility is placed, with
6 inadequate resources.

7 We talked about symmetry. The resources are
8 not symmetrical. They do not match what the
9 funding would be for that in any other instance.
10 And so, you -- and you have huge reporting
11 requirements, you have people spending a huge
12 amount of their time reporting about small amounts
13 of money. You have funding for two years, you have
14 funding for five years, and there is challenges of
15 hiring people who are competent, who are
16 experienced, to come work for a year, to come work
17 for two years, and then, have an uncertain future.

18 You have amazing stuff happening within two
19 years. Again and again, we would talk to
20 communities and say, "*And what happened? This*
21 *sounds promising. This is best practices. We're*
22 *going to write this up in the ILRU and tell other*
23 *communities.*" And they'll say, "*Yes, it was great.*
24 *And then, we lost all our funding. Because of a*
25 *change in government, because of the vagaries of*

1 *something going on that had nothing to do with our*
2 *program which the government had held upon a*
3 *pedestal and we did all these presentations and did*
4 *everything right and had been held up like that,*
5 *but then, something happened in over somewhere*
6 *completely else, and we found out our funding was*
7 *cut in half on the third year, or we had no*
8 *funding, or we started scrambling because our*
9 *funding got cut from this pocket of money, so we*
10 *applied for this pocket of money, we got this, but*
11 *it meant that we had to focus on "X" instead of*
12 *"Y", even though "Y" was what we had identified as*
13 *a problem within our community."*

14 This is a constant refrain. The issue of
15 sustainable and sustained resources hits us like a
16 brick wall when we work with people, because we
17 talk about all the importance of doing things in a
18 rigorous and transparent way, holding each other
19 accountable, and, again and again, we hit this
20 wall, or we hear about this wall that people hit,
21 where it's just...

22 So -- and that leads to the next one, which is
23 just saying this means there are unrealistic and
24 unhealthy time and energy demands. So, you have
25 leadership that burn out. We work with leadership,

1 amazing human beings, work incredibly hard, long
2 hours, work incredibly smart, but they can't put in
3 enough hours. Same with employees, same with
4 executive directors.

5 And the other issue is, often, again related
6 to resources, these programs rely on volunteers.
7 So, you have stress, fatigue and burnout -- very,
8 very often, you hear, "*We need an elders' panel.*"
9 And, you know, my 76-year-old mother-in-law, who is
10 an amazing elder and has a lot to bring, is being
11 asked to volunteer her time. So, she comes and
12 sits with judges and lawyers who are being paid a
13 salary to be there, and she comes and sits, and for
14 the same amount of time, and then shares her
15 knowledge, and walks away having volunteered a day.
16 And I think about -- I think, "*Well, maybe she*
17 *would have preferred to do something else. Maybe*
18 *she would have wanted to enjoy her retirement, go*
19 *spend some time with friends, go down to the creek*
20 *and work on hides,*" which is what she also loves to
21 do. But she puts in this time, and there just
22 isn't that stable compensation.

23 **Me MARIE-ANDRÉE DENIS-BOILEAU :**

24 It seems that, the way you talk, the funding for a
25 lot of justice programs with Native people are put

1 in the same categories that you would put funding
2 for a lot of social work that face the same type of
3 challenge, if you want to have -- for people who
4 have alcoholism problem, it's a small organisation
5 trying to get funding, but it seems like legal
6 Indigenous law programs would be put in the same
7 categories of any social program.

8 **PROFESSOR VALERIE NAPOLEON:**

9 Yes. Even though the funds often come federally,
10 from the Department of Justice, a small part of the
11 Federal Government, there are some provinces that
12 are making funds available, but they're usually on
13 the same kind of model, the social-services kind of
14 model, and there's limitations to that.

15 This is an issue that was identified as a
16 problem right across North America. So, looking at
17 all of the programs in the United States, looking
18 at Canadian programs, with restorative justice,
19 with other kinds of justice programs, the single
20 most determinative factor as to their success was
21 fatigue. Because people could create and work hard
22 because they care about their cities, whether it's
23 in Minnesota or wherever, but they can't keep doing
24 it year after year after year. And they -- they
25 burn out. And that's -- so, that's been identified

1 more than once as being one of the key factors.

2 **PROFESSOR HADLEY FRIEDLAND:**

3 So, we're not going to go into the specific details
4 of the common and recurrent critical issues within
5 the Canadian justice system, because they have been
6 documented exhaustively since the early nineteen
7 seventies, but we thought we would just comment,
8 because -- to put it a bit in perspective of those
9 common and critical issues within Aboriginal
10 justice initiatives, that, of course, when we turn
11 to the alternative, we have report after report
12 after report, 1991, Justice Murray Sinclair, now
13 Senator Murray Sinclair, wrote in his opening
14 statement of the Manitoba Justice Inquiry, "*The*
15 *justice system has failed Aboriginal people on a*
16 *massive scale,*" and documented it exhaustively.

17 **PROFESSOR VALERIE NAPOLEON:**

18 1996, this is the Royal Commission of Canada, again
19 looked at the failure of the Canadian legal justice
20 system, and it looked at not just Indigenous people
21 on reserve, but looked at Inuit, and looked at
22 Metis, looked at both rural and urban settings, and
23 looked in the territories as well as within -- in
24 the other government jurisdictions.

25 So, despite the hundreds of recommendations

1 made, the justice system, in 1996, was still
2 failing them. There is another report which offers
3 similar sentiments. And the title of that report,
4 and I don't have the reference for it, but -- is
5 called, "*Studied to Death*," and it's looking at the
6 conditions for Indigenous women in the numbers of
7 studies that have taken place, looking into the
8 violence that are part of Indigenous women's lives.

9 **PROFESSOR HADLEY FRIEDLAND:**

10 So, 2015, Justice Murray Sinclair is Chief
11 Commissioner of the Truth and Reconciliation
12 Commission, came back to the same conclusion. I
13 always wonder how he feels when he, so many years
14 later, is writing the same thing.

15 So, there is a powerful statement in the TRC
16 final report, talking about Aboriginal people's
17 deep and abiding distrust of the Canadian political
18 and legal systems, because of the damage these
19 systems have caused.

20 Now, in reports from the nineteen seventies,
21 people identify trust as an issue. We think we
22 need to start talking about this as "*reasonable*
23 *distrust*." How many reports do we need to talk
24 about the damage? When we talk about trust without
25 talking about reasonable distrust, it sounds like

1 something that can be solved in a therapy office.
2 And I'm not against therapy, but that's not the
3 issue here. The issue is they have good -- the
4 reasonable Indigenous person has reasonable reasons
5 to distrust the justice system.

6 **PROFESSOR VALERIE NAPOLEON:**

7 So, law itself, Canadian law, and sometimes
8 Indigenous law, where it's seen as being abused or
9 distorted in the name of, you know, maintaining
10 sexualised power imbalances at the community level,
11 that law continues to be seen as the problem, and
12 seen as the continued face of colonisation. And
13 there are questions about, you know, how long is
14 this going continue?

15 So, looking at ideas of law, understandings of
16 law, experiences with law, those are realities out
17 there, and any -- now, they become the kind of
18 thing that community engagement, community
19 initiatives, have to deal with. And so, it's one
20 of the reasons in the work that we do with
21 communities, is that we spend a lot of time talking
22 about what law is, and what is the promise of law,
23 and what happens when law fails the promise. And
24 so, those are community conversations, I think that
25 are not just important for Indigenous peoples.

1 They're important for non-Indigenous peoples as
2 well, when fear or power replace the legitimacy of
3 law in the lives of a lot of people.

4 **PROFESSOR HADLEY FRIEDLAND:**

5 So, we want to talk about our recommendations. We
6 wanted to say what do we see as helpful here. And
7 there is really two parts that I think are two
8 pieces of this puzzle that often don't get given
9 equal weight. And one is that resources for
10 Indigenous peoples to learn, develop and practice
11 Indigenous laws, not assuming that Indigenous laws
12 can be completely intact, avoiding this primitivist
13 discourse of looking either for perfection or there
14 is nothing there, and saying we have 300, 400 years
15 of history of ignoring these laws, deriding these
16 laws, sometimes criminalizing them.

17 That TRC recommendation number 50 says it all.
18 We need space to work on this. And the flip side,
19 I think, goes back to my little stories that I want
20 to say, of course, are not little to the people
21 that live them, goes back to, it doesn't matter how
22 reasonable you are, it doesn't matter what
23 legitimate process you learn and teach and
24 implement if the decisions are not going to be
25 heard, if there is not going to be that receptive

1 and respectful engagement with Indigenous peoples
2 and Indigenous laws.

3 I talked about a band councillor phoning a
4 social worker after about 20 hours over a month of
5 really careful, principled deliberation within the
6 community, and having four minutes and nine seconds
7 to be told that she has nothing to say, and no
8 grounds to say it on.

9 That, it is one example of thousands. So,
10 finding that way to listen better, as non-
11 Indigenous people, as public services, as legal
12 actors, is equally important.

13 **PROFESSOR VALERIE NAPOLEON:**

14 So, on the first column, about supporting and
15 resourcing Indigenous peoples' learning and
16 developing and practising of Indigenous laws, there
17 is the development of standards for reconciliation.
18 They have to be measurable, people have to know
19 what they are, they have to be achievable, and
20 those standards themselves, like human rights,
21 reconciliation, they have to be developed
22 collaboratively between Indigenous communities and
23 relevant government partners.

24 There has to be, again, that symmetry in the
25 development as well as the content, the substance

1 of those kinds of arrangements.

2 There is also the need for regular and ongoing
3 review of what people are trying to achieve, and
4 ensuring that the outcomes and measures are really
5 reflective of what is going on in the name of the
6 work.

7 We have seen situations where fabulous
8 programs, child welfare programs, and so on, have
9 been completely distorted with -- because they were
10 imposed on top of an already rigid system which
11 didn't consider the perspectives of Indigenous
12 peoples at all, and weren't developed
13 collaboratively.

14 Mechanisms for accountability and
15 transparency. What can happen in the name of
16 social services, what can happen in the name of
17 justice, are spaces of impunity. Power can be
18 distorted and misused, and so, anybody who is
19 working within these initiatives, we have to be
20 accountable. And the way that we work and why we
21 work, and so on, has to be transparent. So, this
22 is for every level of the initiatives.

23 The kind of content for Indigenous law, it
24 needs to be a part of any legal education that goes
25 on, including judicial education, but, you know,

1 we -- there's resources that can be used in a lot
2 of different fields for Indigenous building,
3 rebuilding Indigenous law.

4 **Me MARIE-ANDRÉE DENIS-BOILEAU :**

5 Just a question: In the ones that you already saw
6 or worked on, when you say we need to have a
7 regular and ongoing review of the standards, people
8 need to be accountable, of course, how -- like what
9 type of reviews have been done, what type of ways?
10 I am asking the question because we hear a lot from
11 communities that when they're trying to make
12 projects, they are -- I can't find a good
13 translation for that, but like they have so many
14 reports to file all the time and it takes all their
15 time, so I'm just wondering what type of ways were
16 found for this.

17 **PROFESSOR VALERIE NAPOLEON:**

18 Yes. And this requires people, everybody involved,
19 determining what is it that's important to record.
20 Like not everything is going to be important. And
21 people can be completely overwhelmed with
22 administrivia, with demands that no one is going to
23 look at, that aren't going to find their way up the
24 chain and aren't going to be used in any
25 determinative way.

1 So, part of -- you know, again, it's about the
2 collaboration in the development of the substance
3 and the standards. And so, I gave one example of a
4 human rights indicator. That's a fairly basic,
5 straightforward way of looking at what's done in
6 the name of human rights. And it's not onerous in
7 terms of people being able to think about what's
8 going on, and then recording that, and then being
9 able to think about that again, about, "*What else*
10 *don't we know? Is there more that we need to learn*
11 *about?*" Okay?

12 **PROFESSOR HADLEY FRIEDLAND:**

13 Maybe I'll just add quickly, the other issue
14 that -- I mean, because we also acknowledge that,
15 being drowned in paperwork, these reporting
16 requirements, not only are they not developed
17 collaboratively, but they're one-way reports. So,
18 you can have programs that are drowning in
19 paperwork of having to respond to government
20 demands from the provincial government or the
21 Federal Government, and meanwhile, there is
22 absolutely no accountability or transparency to the
23 community they're serving. So, part of that, part
24 of the number 2 is that importance of number 1,
25 again, of saying, "*Okay, let's develop something*

1 *that is -- where we're talking about accountability*
2 *and transparency to the people being served too,*
3 *not..."*

4 **PROFESSOR VALERIE NAPOLEON:**

5 One way to think about this and to create a frame
6 which ensures, or can help to ensure that it's not
7 reduced to just administrivia is to think about
8 them as a public conversation. And public
9 conversations are a necessary part of building
10 public trust, which is a necessary part of healthy
11 societies, a necessary part of having citizens be
12 able to imagine and draw on a repertoire of
13 experience of resolving problems and conflicts in a
14 way that draws on the civility of their own legal
15 orders.

16 And so, law enables us, in its best form,
17 enables civility in dealing with the worst kind of
18 human problems. And so, the civility that is made
19 possible through law is a part of rebuilding
20 communities and a part of building public trust,
21 public conversations, and public imagination in
22 which people can see themselves dealing with
23 issues, because they have a repertoire, and they
24 can continue in the future.

25 So, it's an iterative process of -- that

1 doesn't have an arrival. This is work that has to
2 be done as a part of all our community's life.

3 So, continuing with the resourcing for
4 Indigenous people's learning and development and
5 practising of laws, TRC recommendation number 50,
6 call to action number 50, we can look at what would
7 a Quebec Indigenous legal lodge look like, or a
8 Quebec Indigenous legal institute look like.

9 We would suggest that one way to imagine this
10 is interdisciplinary, and that is we can think
11 about the work of law in it and the work of legal
12 research as part of symmetry, but we also --
13 there's other disciplines that are involved,
14 whether it's social work or whether it's education
15 or whatever. So, any part, any discipline which is
16 a part of an institute or a lodge, we need to think
17 about what would make that symmetrical, what are
18 Cree social services, or Cree educational
19 principles, alongside any Canadian principles of
20 social work or education.

21 We also have spoken to the problem of
22 resourcing with short periods of time and imagine
23 this being funded for ten years, and that over that
24 ten-year period, there was rigorous Indigenous
25 legal research, and that that research was about

1 communities' goals for justice and for governance
2 about building supportive working relationships,
3 horizontal relationships within and between
4 communities, creating tools and resources that are
5 capable of addressing Indigenous human rights,
6 gendered violence, abuses of power and dispute
7 resolution.

8 **PROFESSOR HADLEY FRIEDLAND:**

9 With this one, one of the things we were talking
10 about earlier, actually, to each other, was the
11 gender toolkit that we submitted. That was an
12 example of a project where it's a very sensitive
13 issue. It's possible that we wouldn't have one
14 community partner that would come forward and say,
15 *"Yes, like we want to address gendered issues and*
16 *violence, intimate violence within our community."*
17 And I think a lot of that, I think it comes back to
18 those stereotypes, that primitivist discourse where
19 people have that fear as well, and there can be --
20 and there can be other reasons, like shielding
21 offenders for other reasons.

22 But what became clear to us as we had worked
23 with many communities at that point, we didn't have
24 one community that was going to say, *"Let's take on*
25 *this issue,"* but in every community we worked in,

1 these issues came up. And people were speaking to
2 us on the side or in groups, saying, "*This is a*
3 *really important issue that we need to address.*"

4 So, because we had the staff and the ability
5 within the Indigenous Law Research Unit at UVic, we
6 were able to have a project that didn't -- we very
7 carefully used stories, not from just -- not even
8 just from one people, we didn't want it to only be
9 Cree, or only Dane-zaa, or only Dene, because we
10 didn't want it to single out a specific society or
11 a specific community, but worked on tools and
12 resources that we hoped could be used in many
13 communities in these really -- in these issues that
14 are so hard to talk about. So, it's been quite
15 important to have that piece.

16 **PROFESSOR VALERIE NAPOLEON:**

17 And it's used everywhere. The last part of this
18 legal imaginary is to think about the ongoing
19 process of making sure that there is adequate,
20 appropriate information. There's those evaluation
21 processes, and looking at best practices, and
22 changing when things aren't working. So,
23 there's -- you know, we're looking at this
24 imaginary which is entirely possible. It's one way
25 forward.

1 **PROFESSOR HADLEY FRIEDLAND:**

2 So, on the other side, the listening side, that
3 receptiveness and respectful engagement, some are
4 the same. Developing standards for reconciliation
5 and collaboratively with Indigenous groups,
6 identifying measurable and achievable outcomes, and
7 having regular and ongoing review of these
8 standards and outcomes, how are these partnerships
9 working, how are public services working, how is
10 justice working, being able to have that regular
11 and collaborative development and review, having
12 mechanisms for accountability and transparency,
13 which may include having advocates and observers.

14 That's something out of the United States, in
15 child welfare cases, where they have observers that
16 go into even court cases on child welfare, and they
17 have the same group of observers that go in and
18 record and take notes and keep track, so they're
19 able to sometimes identify trends or themes or
20 issues, or solutions that wouldn't be obvious if
21 you didn't have that continual eyes on what was
22 going on.

23 **PROFESSOR VALERIE NAPOLEON:**

24 One of the -- again, some of this is just enabling
25 critical conversations that support learning, in a

1 way, so that people's difficulties in dealing with
2 them can be dealt with. So, I've talked with
3 members of different law societies across Canada
4 and in some rural areas, you know, I've been told
5 the reality is that many of our lawyers are racist.
6 How do we deal with those realities? And so, it's
7 looking at that as an issue, and then, you know,
8 people haven't yet figured out how to approach it,
9 but at least naming it, and then, you know,
10 figuring out what are the consequences of that, and
11 what are the different ways forward.

12 So, you know, it's early days for some of that
13 work, but some of the law societies are taking that
14 up in different ways across Canada.

15 In continuing with the second column, the
16 receptiveness for respectful engagement, one of the
17 things here that James Tully talks about in his
18 work is that we all live and work in relations of
19 power. None of us are outside the existing
20 relations of power in our world. And those of us
21 that are in places of power have the same
22 responsibility to end oppression as those who are
23 being oppressed. And so, whether it's prison
24 guards or social workers or probation officers or
25 whoever else, including lawyers and so on, that

1 there is that consciousness that all of us have a
2 civil responsibility, and all of us have a need to
3 be able to figure out ways to end oppression, as
4 opposed to just maintaining oppressive-power
5 relations.

6 So, here is one suggestion for creating safe
7 places in the relations of power in situations and
8 communities and so on, where it's dangerous for
9 some people. So, Louise Otis and Eric Reiter talk
10 about an initiative initially conceived for
11 countries that are surviving from war, and
12 institutions of civility and so on and government
13 have broken down. And so -- but, still, people in
14 those situations of war-torn countries have needs
15 to -- legal needs to be dealt with, and, you know,
16 they need protection. So, they've developed and
17 instituted this idea of justice shelters. And
18 they're temporary spaces with legal resources, and
19 the intention is to rebuild the confidence that
20 people have in the justice of their country. It's
21 a way to look at what are the justice needs of a
22 whole population.

23 And so, we've taken this idea and have thought
24 about it being made available to Indigenous women,
25 where either their communities or larger

1 communities or regions are unsafe for them to talk
2 about the kinds of experiences that they may well
3 be experiencing, and it's also a place where people
4 can begin to imagine different alternative ways of
5 being, they can talk about justice and
6 reconciliation matters and Indigenous law. So,
7 there's a number of things that can go on with the
8 idea of the justice shelter.

9 **PROFESSOR HADLEY FRIEDLAND:**

10 Yes. And I think there's been times we've talked
11 about this and people will say, "*You know, this is*
12 *for post-conflict societies, this is -- this is*
13 *really inappropriate to talk about within Canada or*
14 *within Quebec, or within Alberta or B.C.*" And
15 we're not suggesting that there has been a
16 shattering of all justice or all law or legality in
17 Canada in the same way, but what we're suggesting
18 is we have 50 years of reports saying the justice
19 system has failed Indigenous people. In this
20 massive way, we have -- we know we have this
21 absence of Indigenous law, and we keep having these
22 reports and recommendations saying, "*Rebuild trust,*
23 *rebuild trust.*" And we thought, you know, this
24 could be adapted. Maybe we need to take a more
25 direct approach of saying, "*Well, how do you*

1 *rebuild trust in the administration of justice?"*

2 One of the -- and Louise Otis sat in the Court
3 of Appeal in Quebec here, and now does this other
4 work, I believe, but one of the things that she
5 said about this is that she said, "*You know, the*
6 *other thing is when you do post-conflict work is*
7 *people are talking about truth and reconciliation.*
8 *They're talking about these kind of huge justice*
9 *issues at this very high level, but at the same*
10 *time, somebody could be upset about an argument*
11 *they're having over who gets a bread."* And the
12 reality is when there is no way to deal with these
13 day-to-day mundane issues of justice, it escalates.
14 You go from something that may have started as a
15 very small thing, and then, resentment and an
16 interpersonal conflict, to a bigger conflict, to
17 more people involved, to a terribly violent
18 incident, and this lawlessness grows in these
19 spaces.

20 So, the innovation that I haven't seen
21 elsewhere that they talked about was saying, "*Let's*
22 *not just look at the grand idea of reconciliation*
23 *or reparations. We'll look at that too, but let's*
24 *look at that day-to-day and find a way for people*
25 *to work through these smaller issues so they don't*

1 *become so big all the time.*"

2 And this may involve -- we can see this in
3 urban settings. We think -- we've talked about
4 McGill's transsystemic approach, where you say,
5 *"Well, here is a universal problem, different legal*
6 *traditions have different resources to solve a*
7 *problem like this."* A beautiful part about Quebec
8 is people are doing this, and imperfectly, and I
9 know there is lots of discussion on that, but it's
10 not just the common law -- we're in common law
11 provinces -- but in the Quebec here too, there is a
12 civil law to draw on, there is a common law to draw
13 on, and there are Indigenous legal traditions to
14 draw on to look at some of these issues and say,
15 *"Well, we can -- we can do this in this conscience*
16 *(sic) way."* And it may involve helping people
17 navigate a justice system that they don't feel safe
18 in, and indeed may have really good reason not to
19 feel safe in as well.

20 **PROFESSOR VALERIE NAPOLEON:**

21 Sometimes, this work can seem overwhelming and
22 impossible, and there are some examples from
23 elsewhere in the world where people have managed to
24 substantially change unsafe communities or cities
25 to safe, peaceful places.

1 One is in Colombia, Medellin, in Colombia, and
2 there is an article written by Fona Foreman (ph).
3 And she draws on James Tully's work of practices of
4 citizenship. And so, there is more than one place
5 that this is taking place in Colombia, and there is
6 some work going on in Mexico with the same work.

7 And so, "*Medejin*", or Medellin -- the
8 pronunciation is not so good -- it was classified
9 as the most dangerous place on the planet. It was
10 the most violent, it was the most murders, it was
11 the most drugs -- everything. It was -- people
12 were afraid all the time. And, over several years
13 of instituting this way of thinking about
14 communities and rebuilding public trust and so on,
15 and the practices of citizenship, it's not perfect,
16 but people can walk on the streets for the first
17 time in years.

18 And so, there is some other work in Bogota
19 doing similar kinds of approaches. And so, one of
20 the areas of research that we have not yet been
21 able to raise funds for, but it's one to look at,
22 is what would it take to undertake an approach
23 based on this work, the practices of citizenship,
24 in small, fragmented communities like we have in
25 Canada. The places where this initiative, where

1 this process has worked have been with several
2 million people in cities. And so, there's some
3 reframing that would have to go on with the inquiry
4 to look at -- you know, a research inquiry to look
5 at: What can we learn? What is transportable?
6 What wouldn't be transportable? And so, there is
7 just -- there's other things in the world that are
8 going on that are very helpful and useful for
9 thinking about these issues in Canada.

10 Another issue is there's some amazing work
11 going on in South Africa with the constitutional
12 courts and scholars there, and there is several
13 scholars, including Chuma Himonga at the University
14 of Cape Town, and -- so, they're proceeding with
15 community research and rebuilding similar to what
16 we've talked about here. And they received
17 criticism about the way that the work was being
18 done, because it wasn't pure or authentic, and so
19 on, as retrospectively based.

20 And the response was: In today's world, with
21 all of the problems that are happening, the
22 customary law is already being distorted. So, it's
23 not a matter of having some never-achievable
24 standard for customary law or Indigenous law,
25 it's -- you know, it's not something that's

1 authentic or not authentic, that's not a useful way
2 to talk about law. It's dealing with a reality for
3 contemporary problems in the way that we've set out
4 over this last couple of days.

5 **PROFESSOR HADLEY FRIEDLAND:**

6 So, we thought we would go back to sort of the
7 beginning, to end. Thank you for your patience and
8 listening to us. And we just wanted to go back to
9 that starting place.

10 There is Michael Asch, who is an
11 anthropologist out of the University of Victoria,
12 talks about listening to Ted Chamberlin talk about
13 a Gitxsan feast, where people were reciting Gitxsan
14 legal history. And he said, "*I sat there, and I*
15 *was waiting to hear the chapter of when Europeans*
16 *came.*" And he said, "*We were the fifteenth*
17 *chapter.*" And let's not forget that, that we are
18 the fifteenth chapter in Gitxsan legal history.

19 So, as important as it is, as we can't ignore
20 the failure of the justice system and the present
21 circumstances that are causing so much hurt and
22 pain and loss to Indigenous people, that's not the
23 right starting place. The right starting place is
24 saying, "*Logically, there has been a history of*
25 *successful or adequate social ordering for*

1 *Indigenous peoples within Canada for thousands of*
2 *years."*

3 We heard this again and again, and when we did
4 the justice process research, people weren't saying
5 -- some -- I mean, it's not that people didn't say
6 this, I don't want to -- you know, they weren't
7 saying, "*Well, we want something more culturally*
8 *appropriate,"* they said, "*We want something more*
9 *effective."* Everybody wants something more
10 effective.

11 And it makes sense that we could be drawing on
12 Indigenous legal traditions that are more effective
13 to the people who develop them within the spaces
14 where they made sense. It doesn't mean they don't
15 need to change, it doesn't mean that doesn't need
16 to be addressed and we can't ignore what's
17 happening within the justice system, but there are
18 effective legal resources out there that we have
19 not yet accessed in a serious way in Canada,
20 despite 50 years of reports.

21 **PROFESSOR VALERIE NAPOLEON:**

22 This was -- it's a photo from a remarkable event
23 that took place in Edmonton several years ago now.
24 And there was a group of young people and others
25 from Asinewuche Winewak who took the report, the

1 Cree Legal Traditions report, as well as other work
2 that had been going on in the community, and they
3 hosted a day workshop, or half-day workshop at one
4 of the TRC events, one of the last TRC events, and
5 those kids and those community people taught an
6 audience of 300 kids from across Canada Cree legal
7 principles. And the way that they did it was
8 through stories, through different kinds of
9 mediums, different kinds of presentations.

10 But they figured out the Cree legal
11 principles, and they taught that entire auditorium
12 those principles. And they worked on that
13 presentation for a month or more, in order to make
14 sure that everybody was clear, that whole community
15 was behind all those kids, and then -- maybe you
16 would explain the shawls?

17 **PROFESSOR HADLEY FRIEDLAND:**

18 Yes. So, this was what the youth community decided
19 to do to demonstrate the principle of safety, to
20 say how important safety actually is for
21 reconciliation. We can't -- we know this actually
22 from trauma literature too, we can't -- you can't
23 start healing until you are safe. We can't jump
24 that step.

25 So, the way they demonstrated this is these

1 young women in this photograph worked on making
2 shawls that represented important things in their
3 life and to them, and they were helped by mothers
4 and aunties and other people, dads that were
5 capable of helping them design and put together
6 their shawls, and they -- as a symbol of that
7 safety, all the men in this picture are dads or
8 uncles or brothers of these young women, and they
9 put the shawls over these young women's shoulders,
10 and then, the young women walked out and showed off
11 their shawls in quite a beautiful way.

12 So, that's what they did to demonstrate how
13 important safety was and that safety actually gave
14 the foundation. And that's what we want. That's
15 what -- that's what we're working for.

16 These young women in this picture, they are my
17 nieces, and one is my daughter, and that's what we
18 want for them, is to be able to walk forward
19 proudly, being whoever they want to be, and having
20 that solid foundation for safety within their
21 families, within their communities, and within
22 society. For these young women to walk safely is,
23 I think, the common goal.

24 **PROFESSOR VALERIE NAPOLEON:**

25 That's it. We're done.

1 **LE COMMISSAIRE :**

2 Do you have questions, Maitre Boileau?

3 **Me MARIE-ANDRÉE DENIS-BOILEAU :**

4 Yes, I would have one question. It might be a very
5 big question, I don't know if you would be able to
6 answer that. It's because I noticed, in the last
7 three days, that, a lot of times, you were talking
8 about the fact that we have to change the type of
9 question we ask, or we have to ask better
10 questions. For example, in the video, there was
11 this person saying, "*Instead of asking, 'Should we*
12 *wear a skirt,' like we should ask maybe why is a*
13 *skirt important for certain people, why is the*
14 *skirt uncomfortable for certain people.*" You
15 talked about that as well, I think yesterday, when
16 you talked about this elder who testified at the
17 national event, talking about a life of abuse, and
18 maybe you have to ask, "*Well, why is she talking in*
19 *that way, and maybe she is trying to legitimize her*
20 *own experience.*" Like, so, this came up a lot, and
21 I'm just wondering what type of questions we should
22 ask ourselves before we ask questions, before we
23 question a person or a subject in general, how
24 could we -- some tools to reflect on our own
25 questions.

1 **PROFESSOR HADLEY FRIEDLAND:**

2 That, in itself, is a great question. I think
3 there is two parts. One part is, sometimes, I'll
4 say, "*You know, we can ask ourselves, are we living*
5 *up to our laws' aspirations, goals, how we imagine*
6 *what we want from our own laws? Do our laws make*
7 *sense today? Do they make sense in today's*
8 *context, or are there things that have become*
9 *distorted in practice? Are there things that are*
10 *troubling within the laws that we're practising?"*
11 I think that's very important.

12 Sometimes, I have said, "*I'm just fine.*" I
13 think if everyone just followed the law exactly,
14 with its highest aspiration, the meta-principles,
15 if the law was practiced exactly as we imagine and
16 aspire it to be, things would -- that would solve a
17 huge amount. Like let's not even talk about
18 cultural difference yet. Like that internal work
19 would do a huge amount of good. Nobody has taken
20 me up on that yet, but I think that's one question.

21 I think the other question is just questioning
22 what premise you're starting from. So, again, we
23 say like this premise that if there is anything
24 wrong, there is no such thing as Indigenous law, or
25 if there is any problems or any debate, it would be

1 impossible to implement Aboriginal justice. To
2 simply take a moment before asking the question and
3 question that, and have I made it clear, when I am
4 asking this question, depending -- of course it
5 matters where we're coming from and where we're
6 placed when we ask these questions, but saying,
7 *"What premises am I starting from? Would I ask*
8 *this of Canadian law? Would I ask this of Quebec*
9 *law? Am I expecting or anticipating an answer?"*
10 And then, think if more work needs to be done on
11 that question.

12 **PROFESSOR VALERIE NAPOLEON:**

13 So, the question of *"Would I ask this of Canadian*
14 *law"* is really important. I was interviewed by
15 three students, law students from Ottawa a couple
16 of days ago. And the question that they started
17 with was whether my community, Sauteau First
18 Nation, how our community would respond to
19 environmental problems. And so, I said, *"Would you*
20 *ask that question of Canadian law?"* And they said
21 no.

22 So, I said, *"If you're going to -- if you want*
23 *a response from Sauteau law, from a Sauteau legal*
24 *order, then make it specific as a legal question*
25 *that's"* -- so, you know, *"Frame it in terms of*

1 *within this legal order, what is the response to a*
2 *specific kind of environmental problem.”* And then,
3 you can get into who is responsible for it, you can
4 get into different processes, you can get into
5 whole different conversations. And then, you move
6 away from the generalities and the more
7 philosophical kinds of responses that are usually
8 the case with those kinds of questions.

9 Part of what is important there is not for
10 closing legitimate Indigenous legal processes the
11 same as one shouldn't foreclose legitimate Canadian
12 legal processes. So, don't -- like when thinking
13 about a question or when making a statement about
14 Indigenous law, first of all, one should always try
15 and ask questions rather than make statements, but
16 often, the statements, like whether it's about
17 stewardship or other kinds of assumptions about
18 Indigenous law, it's -- there is a statement made
19 about what is Indigenous law, as opposed to posing
20 that question to legitimate Indigenous legal
21 process, and then figuring it out.

22 And the failure to do that means that you
23 create those dichotomies. And so, in the work that
24 we've done on lands and resources, what we realized
25 is that you can't just place Indigenous people in

1 some idealized form of never interacting or never
2 changing their environment. You have to -- and you
3 do that if you sort of talk about respect for the
4 land and -- in a way that is limiting of people's
5 reasoned responses. And so, people made changes to
6 their environment for thousands of years. The way
7 they do it is principled. The way they do it is
8 through a process that involves the decision-makers
9 that have to be involved, it involves looking at
10 precedent, it involves looking at all different
11 kinds of things.

12 So, it's just -- it's just making sure that we
13 don't accept shortcuts about Indigenous law, any
14 more than we should about any other system of law.

15 **Me MARIE-ANDRÉE DENIS-BOILEAU :**

16 Another question, just drawing on what, Professor
17 Friedland, you just said, that, well, sometimes, if
18 we could -- well, just if we would apply the law as
19 it is, maybe we wouldn't have to talk about
20 cultural values. Do you mean like if we would
21 apply the law as it is, we wouldn't even have to
22 talk about Indigenous laws, in a way, or...?

23 **PROFESSOR HADLEY FRIEDLAND:**

24 And I don't want to go that far.

25

1 **Me MARIE-ANDRÉE DENIS-BOILEAU :**

2 Okay.

3 **PROFESSOR HADLEY FRIEDLAND:**

4 So, thank you for making sure I clarify that. I
5 think what I mean by that is, sometimes, in
6 conversations, people say, "*Well, what's the*
7 *problem? Fifty years. Fifty years of reports.*
8 *Massive failure. Overincarceration, violence is*
9 *growing.*" And then, people say -- and report after
10 report after report says, "*And the answer is*
11 *cultural difference.*"

12 So, first of all, that's not unpacked. We're
13 not looking at what are the differences and we're
14 not looking at the reasoning, we're not looking at
15 legal principles. It just becomes this black box
16 in saying "*cultural difference.*" There hasn't been
17 the same amount of self-reflection, and that's --
18 that's what I am saying, is that I think it's
19 important to look at Indigenous laws and what
20 resources can be drawn, and the times where there
21 are legitimate cultural differences.

22 I can give an example where there was a Cree
23 leader in court. The lawyers were talking about a
24 baby, a six-month-old baby, and both lawyers were
25 saying, "*This baby is just a baby. It's not like*

1 *he thinks or cares or notices anything.*" And the
2 Cree leader was incensed. He said, "*What are you*
3 *talking about? Of course, babies think. Of*
4 *course, they're aware of what's going around them.*"
5 And, in fact, I had the privilege of spending the
6 next two days of not just the leader, but everybody
7 else talking about how these lawyers just don't
8 realize this about babies.

9 So, that would be a really stark example of
10 where, perhaps, there's a genuine cultural
11 difference going on where, within the Cree world
12 view, babies think and teach you things, and within
13 the European view of babies, babies don't
14 necessarily think and teach you things in the same
15 way.

16 Those things happen, but I think, sometimes,
17 that's overblown, and you can say, "*Well, I can*
18 *learn that. I can understand that there is a*
19 *difference.*" Cree and Algonquin and Coast Salish
20 and Mi'kmaq people have been doing this for 300 to
21 400 years, where they believe something and
22 understand something in a very deep way and have
23 been forced and have to understand how to navigate
24 a system that doesn't hold those same world views.
25 So, it's possible for human beings to do this.

1 What is required for that is a level of respect, is
2 assumptions of reasonable people in reasoning
3 orders.

4 So, it's real, but sometimes, even when you
5 look at the practices that are happening, the
6 practice of Canadian law is not following the goals
7 or aspirations of Canadian law. And that, we have
8 to focus on. We can't ignore that either, and...

9 **PROFESSOR VALERIE NAPOLEON:**

10 I heard a Cree lawyer explain that, in every stage
11 of life, a person has a job to do in this life, and
12 the baby's job is to be a baby, like as a little
13 legal agent within Cree law.

14 The other way that people understand babies,
15 for the Dene, for instance, is they understand the
16 babies as medicine. The babies are good for the
17 rest of us and will help the rest of us heal in our
18 lives. There's lots of different ways of
19 understanding life and humans.

20 There is a report on Neil Stonechild. The
21 author's name escapes me, but one of the comments
22 in the Neil Stonechild Commission report is that
23 there was a cultural conflict. And what this
24 author does -- she's an Indigenous woman -- is she
25 writes that Neil Stonechild did not die of a

1 cultural conflict, what he died from was an abuse
2 of power and violence. It wasn't a conflict of
3 cultures.

4 And there's different ways, I think, that
5 people can respond to some of the challenges that
6 will come up with Indigenous law, whether it's with
7 a skirt or other things. Sometimes, when someone
8 will stand up and challenge me in my interpretation
9 of law or whatever, as people should do, but when
10 it is done with the intention of shutting down the
11 conversation, that's a different matter. And,
12 often, my response will be, "*I have a different*
13 *interpretation.*" Or, you know, again -- or going
14 back to, "*Why is that issue so important?*"

15 Or -- one of my male students from another
16 part of the world who is Indigenous was -- they
17 have very strict rules, continuing rules about
18 women and leadership, and women can't be in
19 leadership. And so, rather than allowing him to
20 just say that this is the state of nature in that
21 situation, you know, like what are the processes of
22 change, what are the -- what's the normative order,
23 and when he was unwilling to explore those kinds of
24 questions, those larger questions, my question to
25 him was, "*Are you saying that your culture has to*

1 *be sexist? Is that the argument you are making*
2 *here? Because that's what it sounds like."*

3 So, there's a lot of difficult conversations
4 to have. And in our work with law students before
5 we send them out to communities, we have them role-
6 play what to do when an all-knowing elder stands up
7 and pounds the table, or an all-knowing lawyer
8 stands up and pounds the table. Like there's -- we
9 need to think through what are respectful responses
10 that will allow debate, but not continue in a
11 polarized manner.

12 **Me MARIE-ANDRÉE DENIS-BOILEAU :**

13 And just a clarification on -- you've mentioned a
14 study named "*Studied to Death*," a report, just like
15 it's a very striking name of a report.

16 **PROFESSOR VALERIE NAPOLEON:**

17 Yes.

18 **Me MARIE-ANDRÉE DENIS-BOILEAU :**

19 Can you explain -- like maybe just say the author
20 and who made that report? If you remember. If you
21 don't...

22 **PROFESSOR VALERIE NAPOLEON:**

23 Can I send that to you?

24 **Me MARIE-ANDRÉE DENIS-BOILEAU :**

25 Yes.

1 **PROFESSOR VALERIE NAPOLEON:**

2 Yes. I mean, I do have a citation. I just don't
3 have it in my head.

4 **Me MARIE-ANDRÉE DENIS-BOILEAU :**

5 That's fine. Thank you. And just, finally, last
6 question: Is there a question that I didn't ask
7 that I should have asked..

8 **PROFESSOR VALERIE NAPOLEON:**

9 Perfect.

10 **Me MARIE-ANDRÉE DENIS-BOILEAU :**

11 ... that you would like to answer? Or anything
12 else?

13 **PROFESSOR VALERIE NAPOLEON:**

14 I don't think so. Likely, after this closes, I'll
15 think of something, but it's -- it's been a
16 challenging process for us, in that we've had to
17 pull together our thinking from our years of work
18 and try and do that in terms of, "*So, what have we*
19 *learned,*" and to share what we've learned. So,
20 likely we'll reflect on this and go through that
21 experience again of looking at, "*So, what did we*
22 *say? How come we said that?*" kind of thing.

23 **LE COMMISSAIRE:**

24 Maitre Boucher, do you have questions?

25

1 **Me MARIE-PAULE BOUCHER :**

2 I don't have questions. Thank you.

3 **LE COMMISSAIRE:**

4 No. Maitre Denis-Boileau, anything else? Would
5 you like to add something? No?

6 So, now, it will be time for me to thank you
7 very much for having accepted our invitation to
8 share with us concerning Indigenous laws. I will
9 keep in mind that Indigenous laws existed long
10 before the arrival of Europeans and that, as a
11 result of a few commission inquiries, it appears
12 that the justice system in Canada has failed
13 Aboriginal people. And, in 1991, it was written
14 "*on a massive scale,*" and later on, it was
15 repeated.

16 So, I understand that, as a result, law has
17 been and continues to be a significant obstacle to
18 reconciliation. This is even the case despite the
19 recognition that courts have begun to show that
20 justice has historically been denied and that such
21 denial shall not continue.

22 So, what can we do about that? Maybe is it
23 possible to reconcile Canadian law and
24 Indigenous laws? Is it possible to do something
25 with that, to go on?

1 We will remember what you told us since a few
2 days, or the last three days, and we will think
3 seriously about the way to recommend some ways to
4 improve the situation, because, as we realize it
5 was a failure, maybe there is something to do to
6 improve the situation. We will have to think
7 through those matters.

8 So, thank you very much again, and if you have
9 something in mind that you forgot to tell us, you
10 are always welcome, eh. You know Maitre Denis-
11 Boileau will receive, with pleasure, any
12 suggestions you will have to let us know how to
13 improve the situation.

14 Thank you very much. I hope you enjoyed your
15 stay in Val-d'Or.

16 **PROFESSOR VALERIE NAPOLEON:**

17 Oh, yes.

18 **LE COMMISSAIRE:**

19 You are always welcome, and have a nice day.

20 I think, at this time -- do you have some
21 documents to file?

22 -----

23

24

25

1 **Me MARIE-ANDRÉE DENIS-BOILEAU :**

2 Oui. So, we will be filing into evidence six
3 documents.

4 Madame la Greffière, le premier numéro?

5 **LA GREFFIÈRE :**

6 P-288.

7 **Me MARIE-ANDRÉE DENIS-BOILEAU :**

8 P-288.

9 **LA GREFFIÈRE :**

10 Two hundred eighty-eight.

11 **Me MARIE-ANDRÉE DENIS-BOILEAU :**

12 Thank you. On peut le faire en français, ça va
13 être...

14 **LA GREFFIÈRE :**

15 OK.

16 **Me MARIE-ANDRÉE DENIS-BOILEAU :**

17 ... plus facilitant.

18 **LA GREFFIÈRE :**

19 Oui.

20 **Me MARIE-ANDRÉE DENIS-BOILEAU :**

21 Alors, sous P-288, en liasse, « *Criminal Justice*
22 *Syllabus* », du cours de Alana Klein, et « *Criminal*
23 *Justice Evolving Reading List* », de Alana Klein
24 aussi.

25 ***** PIÈCE COTÉE P-288 *****

1 **LA GREFFIÈRE :**

2 OK.

3 **Me MARIE-ANDRÉE DENIS-BOILEAU :**

4 C'est deux documents du même cours.

5 En liasse encore une fois, un *course outline*,
6 « *Indigenous Laws: Questions and Methods for*
7 *Engagement - Law 599* », et le *reading list for that*
8 *same class*, en liasse. Donc, deux documents pour
9 le même cours.

10 ***** PIÈCE COTÉE P-289 *****

11 **LA GREFFIÈRE :**

12 P-289?

13 **Me MARIE-ANDRÉE DENIS-BOILEAU :**

14 P-289. Excusez-moi.

15 **LA GREFFIÈRE :**

16 Oui.

17 **Me MARIE-ANDRÉE DENIS-BOILEAU :**

18 Maintenant, sous P-290, « *Wahkotowin Course*
19 *Syllabus from the Faculty of Native Studies of the*
20 *University of Alberta.* »

21 ***** PIÈCE COTÉE P-290 *****

22 Sous P-291, un texte de Louise Otis et Eric H.
23 Reiter, « *Frontline Justice* ».

24 ***** PIÈCE COTÉE P-291 *****

25 Sous P-292, un texte de Matthew L.M. Fletcher,

1 « *Rethinking Customary Law in Tribal Court*
2 *Jurisprudence* ».

3 ***** PIÈCE COTÉE P-292 *****

4 **LA GREFFIÈRE :**

5 Yes.

6 **Me MARIE-ANDRÉE DENIS-BOILEAU :**

7 So, P-293, un texte de Alan Edwards et Jennifer
8 Haslett, « *Violence is not Conflict: Why it*
9 *Matters in Restorative Justice Practice* ».

10 ***** PIÈCE COTÉE P-293 *****

11 Et finalement, on avait deux engagements qui
12 sont maintenant des pièces, donc, on va transformer
13 les engagements en pièces. Le numéro E-217 devient
14 P-217.

15 ***** PIÈCE COTÉE P-217 *****

16 **LA GREFFIÈRE :**

17 Oui.

18 **Me MARIE-ANDRÉE DENIS-BOILEAU :**

19 Et E-220 devient P-220.

20 ***** PIÈCE COTÉE P-220 *****

21 **LA GREFFIÈRE :**

22 D'accord.

23 **Me MARIE-ANDRÉE DENIS-BOILEAU :**

24 Merci.

25

1 **LE COMMISSAIRE :**

2 So, now, we will adjourn till tomorrow morning,
3 9:30?

4 **Me MARIE-ANDRÉE DENIS-BOILEAU :**

5 Oui, où on va entendre le professeur Michel Morin.

6 **LE COMMISSAIRE :**

7 Alors, good afternoon. Bon après-midi à tous. À
8 demain.

9 **LA GREFFIÈRE :**

10 Alors, veuillez vous lever. Ajournement de
11 l'audience, demain, le sept (7) décembre, 9 h 30.

12 **LEVÉE DE LA SÉANCE**

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15 Je soussignée, **LOUISE ANNE CEGELSKI**, sténographe
16 officielle bilingue, certifiée sous mon serment d'office
17 que les pages qui précèdent sont et contiennent la
18 transcription exacte et fidèle, au meilleur de mes
19 connaissances et de mon jugement, de l'enregistrement
20 numérique effectué hors de mon contrôle et au meilleur de
21 la qualité dudit enregistrement, le tout conformément à
22 la loi.

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24

Et j'ai signé,

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26

Louise Anne Cegelski

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28

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LOUISE ANNE CEGELSKI

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Sténographe officielle n° 284087-1