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Discussion Paper

Indigenous Women and Self-Government

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The Native Women's Association of Canada (NWAC) is a national Indigenous advocacy organization representing the political voices of Indigenous women in all their diversities in Canada. NWAC advocates for and works with Métis, Inuit and First Nations – on- and off-reserve, status, and non-status, disenfranchised – across Canada. NWAC works to enhance, promote and foster the social, economic, cultural, and political well-being of Indigenous women, in all their diversities, within their respective communities

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Introduction

It is recognized that in many Indigenous nations, Indigenous women and men have different roles and responsibilities. It is oft noted that Indigenous women hold distinct knowledge, as part of fulfilling these roles and responsibilities.¹ Many Indigenous nations also recognized gender beyond the binary men and women, with more recent movements using the term two spirit to refer to broader gender identity and sexual orientation. There are many examples of the different roles Indigenous women within their societies that is well discussed in existing literature: from the Haudenasaunee clan mothers,² to the Anishinabe and Cree water protectors,³ to Métis women's roles in developing and maintaining the Métis nation.⁴ The Royal Commission on Aboriginal Peoples also noted that Inuit women had a specific and equally valued role within Inuit society.⁵ What is often pointed out when discussing these different roles, is that despite different roles for Indigenous women and men, that both were valued equally within Indigenous societies, and two spirit folk were also respected for their roles within their communities.

Unfortunately, the colonial process in Canada directly targeted Indigenous women with the intent of destroying family and nations and enforcing gender binaries and heterosexuality.⁶ Sam Grey describes the gendered nature of the colonial project in this way:

- 1 Janice Makokis, "Nehiyaw iskwew kiskinowâtasinahikewina - paminisowin namôya tipeyimisowin: Learning Self Determination Through the Sacred." (2008). *Canadian Woman Studies Les Cahiers De La Femme*, 26(3). See also Emma LaRocque "Metis and Feminist: Ethical Reflections on Feminism, Human Rights, and Decolonization" in Joyce Green's *Making Space for Indigenous Feminism*, (Winnipeg: Fernwood Publishing 2007) 53; and Nathalie Kermaoal and Isabel Altamirano-Jimenez, "Living on the Land: Indigenous Women's Understanding of Place," (Edmonton: Athabasca University Press, 2016).
- 2 Canada. Royal Commission on Aboriginal Peoples. (1996). *Report of the Royal Commission on Aboriginal Peoples*. Ottawa: The Commission, vol 4 at 7 [RCAP]. See also Robert A Williams Jr., "Gendered Checks and Balances: Understanding the Legacy of White Patriarchy in an American Indian Cultural Context," (1989-1990) 24 *Ga. L. Rev.* 1019.
- 3 Sharon Venne, "Understanding Treaty 6: An Indigenous Perspective," in Michael Asch, ed *Aboriginal and Treaty Rights in Canada: Essays on Law, Equity, and Respect for Difference* (Vancouver: UBC Press, 1997) 173 at 191. Aimée Craft, Deborah McGregor, Rayanna Seymour-Hourie, Sue Chiblow, "Decolonizing Anishinaabe nibi inakonigewin and gikendaasowin research," 2021, Routledge.
- 4 Brenda Macdougall, *One of the family: Metis culture in nineteenth-century northwestern Saskatchewan* (Vancouver: UBC Press, 2010) at 344-345.
- 5 RCAP, vol 4 at 22.
- 6 Kim Anderson, "The Powerful History of Native Women" (2000) 14:1 *Horizons* 15 at 18. See also Kai Pyle, "Reclaiming Traditional Gender Roles: A Two-Spirit Critique" in (2020) In *Good Relation*, Sarah Nickel and Amanda Fehr, eds. University of Manitoba Press.



“The power of Indigenous women waned as colonial power grew, depriving them of their status, participation, and autonomy in spiritual, sexual, economic, social, political, diplomatic, and military realms. Most lost not only ownership of, but often access to, the land, as well as their customary maternity and inheritance rights.” Where inequality existed prior, colonialism furthered gender disparity by supporting an androcentric view of Indigenous societies, privileging the Indigenous male voice both on and off reserves, while Indigenous women were consistently either misrepresented in, or altogether omitted from, the colonial record.”⁷

Existing literature has well documented the failure to address and include Indigenous women’s concerns and take a gendered analysis in self-government and self-determination processes.⁸ Indigenous women have long expressed concern that failure to include women’s concerns within self-determination, means that the gendered impacts of colonization will not be addressed. In effect, Indigenous women may not receive full benefits from any self-determination.

Not only has there been a failure to explicitly include Indigenous women’s concerns, Indigenous women’s efforts to address the gendered impacts of colonialism have led to accusations of “betraying the self-determination struggles and of cooptation into colonial, Western discourses of individualism.”⁹ Despite decades long conversations, there has been little success in addressing gender concerns within self-government; as a result, a divide remains between Indigenous women’s organizations and Indigenous organizations and governments. But, as recognized by the National Inquiry into Missing and Murdered Indigenous Women and Girls final report, “We recognize self-determination and self-governance as fundamental Indigenous and human rights and a best practice. Indigenous self-determination and self-governance in all areas of Indigenous society are required to properly serve and protect Indigenous women, girls, and 2SLGBTQIA people.”¹⁰

This discussion paper explores new ways to address challenges around Indigenous women’s inclusion in self-government processes, arguing for the benefits of engaging in a culturally relevant gender-based analysis during self-government processes. The Culturally Relevant Gender-Based Analysis (CRGBA) framework, developed by the Native Women’s Association of Canada, responds to gaps in existing gender-based analysis, drawing attention to cultural, historical, and intersecting aspects of identity among Indigenous

⁷ Sam Grey, “Self-Determination, Subordination, and Semantics: Rhetorical and Real-World Conflicts over the Human Rights of Indigenous Women” (2014) 47:2 UBC L Rev 495 at 499.

⁸ Kuokkanen, Rauna Johanna. *Restructuring Relations: Indigenous Self-Determination, Governance, and Gender*. Oxford University Press, 201 [Restructuring]. See also Sam Grey, above. Val Napoleon, “Aboriginal Discourse: Gender, Identity, and Community” in *Indigenous Peoples and the Law*, Ben Richardson, Shin Imai, & Kent McNeil, (UK: Hart, 2009) 233 at 235. See also Joyce Green, “Constitutionalising the Patriarchy: Aboriginal Women and Aboriginal Government,” (1993) 4:4 Const Forum 110. See also Megan Davis, “Aboriginal Women and the Right to Self-Determination,” (2012) 16(1) Australian Indigenous Law Review 78. See also Kiera L. Ladner, “Gendering Decolonisation, Decolonising Gender” (2009) 13.1 Australian Indigenous Law Review 62.

⁹ Rauna Kuokkanen, “Self-Determination and Indigenous Women’s Rights at the Intersection of International Human Rights” (2012) 34:1 Human Rights Quarterly 225 at 235 [Self-determination]; see also Sharon Donna McIvor, “Aboriginal Women Unmasked: Using Equality Litigation to Advance Women’s Rights” (2004) 16:1 Canadian Journal of Women and the Law 106 at 111.

¹⁰ National Inquiry into Missing and Murdered Indigenous Women and Girls (Canada). (2019). *Reclaiming power and place: The final report of the National Inquiry into Missing and Murdered Indigenous Women and Girls* Vol. 1b at 175 [NIMMIWG report].



women, Two-Spirit, and/or gender-diverse people. CRGBA considers historical and current issues faced by Indigenous women and 2SLGBTQQIA+ people, including impacts of colonization and intergenerational traumas.¹¹ This CRGBA framework is comprised of five key concepts: distinctions-based, intersectional, gender-diverse, Indigenous knowledge and trauma informed.

Since the passage of the UN *Declaration on the Rights of Indigenous Peoples* and the federal *UN Declaration Act* (UNDA), there have been renewed calls for recognizing the right to self-determination and increased pushes for self-government within Canada. The UNDA Action Plan identifies self-determination, self-government and recognition of treaties (Articles 3, 4, 37) as cross-cutting priorities. Under this priority, the government aims to ensure a Canada where:

- Indigenous peoples exercise and have full enjoyment of their rights to self-determination and self-government, including developing, maintaining and implementing their own jurisdiction, laws, governing bodies, institutions and political, economic and social structures related to Indigenous communities. ...
- Colonial laws, policies and practices that have interfered with Indigenous peoples' self-government are repealed or amended.
- Legal pluralism in Canada recognizes and reflects Indigenous legal orders. Recognition of the inherent jurisdiction and legal orders of Indigenous nations is therefore the starting point of discussions aimed at interactions between federal, provincial, territorial, and Indigenous jurisdictions and laws.

None of the actions identified to meet these goals makes any mention of Indigenous women. While the action plan as a whole is to be implemented in an "inclusive and intersectional" fashion, as with "the intentional and meaningful inclusion of First Nations, Inuit and Métis, Elders, youth, children, women, men, persons with disabilities, gender-diverse people and two-spirit individuals, as well as those residing in urban/off-reserve areas," there is no further details on how the gender-based analysis plus will be undertaken. Therefore, it remains to be seen how gender will be included in realizing self-determination, or whether it will continue to follow existing "gender-neutral" approaches.

This paper begins with a brief discussion on ways in which calls to consider women's voices and concerns within self-determination have been systematically ignored. In particular, it examines how exclusion has been reinforced through the separation of individual and collective rights, placing primacy of political rights over economic, social and cultural rights, and the gender division of rights. The paper then explores ways to start moving

¹¹ Native Women's Association of Canada, *Fact Sheet: Culturally Relevant Gender-Based Analysis Sharing Circle*, August 2022, https://nwac.ca/wp-content/uploads/2025/05/CRGBA_FACTSHEET_AUG2022-copy.pdf.



beyond the false distinction between Indigenous women’s rights and collective rights to self-determination. It does so by identifying common goals of creating a better future for future generations and thinking of self-determination beyond the western legal human rights discourse to better reflect Indigenous peoples’ own understandings of self-determination. Finally, this paper concludes with a short case study of the Heiltsuk constitution which incorporates a women’s council and a women’s declaration into the constitution.

Creating the Divide

The false construction of Indigenous women’s concerns as individual rights, which are then viewed as contrary to the collective rights of Indigenous peoples is one technique that has been used to leave Indigenous women’s concerns off the self-determination agenda. While it is true that “Self-determination is exercised as a collective right belonging to the indigenous group, membership of which is based on self-identification and collective acceptance of group members without discrimination.”¹²

However, as exemplified in UNDRIP article 7, collective and individuals rights work together: “1. Indigenous individuals have the rights to life, physical and mental integrity, liberty and security of person. 2. Indigenous peoples have the collective right to live in freedom, peace and security as distinct peoples and shall not be subjected to any act of genocide or any other act of violence, including forcibly removing children of the group to another group.” Article 7 recognizes that life and security of the person have both an individual and a collective aspect that must work together. There is no collective right to security if there are no individuals, and Indigenous individuals are not fully secure if the collectives they exist within are insecure. The same applies to Indigenous women being part of the collective, and the collective is part of Indigenous women. UNDRIP’s combination of individual and collective rights was noted by the Supreme Court of Canada.¹³

The divide is further expanded by creating a hierarchy between political rights and economic, social and cultural rights whereby political rights are deemed as primary – or need to be secured first. Economic, social, and cultural rights are often treated as secondary issues to be addressed by the self-determined nation once self-determination is recognized. By connecting Indigenous women’s concerns with economic, social and cultural rights, they are viewed as secondary to self-determination, which is associated with civil and political rights. Rauna Kuokkanen further explains this technique leaving Indigenous women’s concerns out of self-determination conversations:

¹² Human Rights Council, “Efforts to implement the United Nations Declaration on the Rights of Indigenous Peoples: indigenous peoples and the right to self-determination” report of the Expert Mechanism on the Rights of Indigenous Peoples, 4 August 2021, A/HRC/48/75 at para 13.

¹³ *Dickson v. Vuntut Gwitchin First Nation*, 2024 SCC 10.



The difficulty in implementing and exercising Indigenous self-determination lies in the binary opposition between self-determination and social issues created and maintained by international law, as well as political discourse and institutions, Indigenous and non-Indigenous alike. While self-determination deals with “hard issues” of land rights, resources, and governance, social issues, also framed as women’s or community issues, have to do with the welfare and well-being of individual and communities and are typically considered “soft issues.”¹⁴

The distinction between political and socio-economic rights is problematic. Human rights are indivisible, interdependent and inter-related. One cannot prioritize self-government and land rights at the expense of rights to clean water, housing, healthcare, and to be free from violence. There is no hierarchy of human rights. The denial of any human right has impacts on other human rights. Sam Grey argues that it is possible to include gender justice within self-determination, by conceptualizing “both as a single Indigenous self-determination project, grounded in human rights, which sees gender justice and cultural flourishing as coequal priorities.”¹⁵ As self-government discussions are grounded in self-determination as recognized within UNDRIP, a human rights instrument recognizing the minimum standards for the survival, well-being and dignity of Indigenous peoples, approaches that perpetuate the divide between Indigenous women and the collective right of self-determination are no longer appropriate.¹⁶

Through these different techniques, “Indigenous women’s rights remain a contentious and often neglected issue both at international and local levels.”¹⁷ What fails to be recognized in maintaining this divide between Indigenous women’s concerns and self-determination is the broader impacts on the collective. The failure to consider both the specific roles and responsibilities of women, as well as the gendered impacts of colonialism has the potential “to undermine [Indigenous women] as active producers of knowledge that participate in complex socio environmental community processes.”¹⁸ The failure to consider women’s concerns, as well as directly protect their knowledge and roles within their societies has potential impacts on the entire nation:

“for the most part, women’s knowledge of the land and resources remains unacknowledged politically and legally. Since men and women often have different traditional knowledge of natural resources in relation to ‘habitat, conservation, management, use, storing, and processing’, women’s knowledge can, and will disappear. This includes knowledge relating to access to, and control and use of, natural resources, which are basic elements of indigenous law.”¹⁹

¹⁴ Kuokkanen, *Restructuring*, at 17.

¹⁵ Grey.

¹⁶ Grey at 530.

¹⁷ Kuokkanen, *Self-determination* at 231.

¹⁸ Nathalie Kermaoal and Isabel Altamirano-Jimenez, “Introduction,” in *Living on the Land: Indigenous Women’s Understanding of Place*, (Edmonton: Athabasca University Press, 2016) 3 at 4.

¹⁹ Val Napoleon, “Aboriginal Discourse: Gender, Identity, and Community” in *Indigenous Peoples and the Law*, Ben Richardson, Shin Imai, & Kent McNeil, (UK: Hart, 2009) 233 at 243.





Discussion question: *how have your efforts to include Indigenous women’s voices and concerns within self-determination conversation been excluded? Did the explanations rely on the distinctions between individual and collective rights, or between political and socio-economic rights, or between general rights and Indigenous women’s rights?*

Moving Forward Together

Rauna Kuokkanen argues that the challenge with current approaches to self-determination is that they typically are formulated in response to, or in conversation with, settler colonialism.²⁰ Reframing conversations around self-determination to include Indigenous women’s voices and concerns requires moving beyond western-centric legal understandings of self-determination. This shift requires adopting an approach grounded in Indigenous worldviews, values, and ceremony.²¹

As described by S James Anaya, human rights views self-determination as a universal right, meaning human rights benefit “human beings as human beings and not sovereign entities as such. Like all human rights norms, moreover, self-determination is presumptively universal in scope and thus must be assumed to benefit all segments of humanity,”²² which of course includes Indigenous women. As Sam Grey notes, a “human rights approach thus frames Indigenous self-determination and Indigenous women’s rights as coequal concerns.”²³ Self-determination as a human right, equally guaranteed to all humans (peoples), is important to ensure that Indigenous peoples are recognized as peoples. This right applies equally to Indigenous men and women.²⁴

Ellen Gabriel further argues for the need to ensure self-determination supports the equal rights of men and women by utilizing Indigenous governing structures: “While many references are made by politicians and leaders alike that equality existed before colonization, we have yet to ... start utilizing our own Indigenous governing structures in a way that would restore the equal rights of both men and women.”²⁵ It should be noted that under international human rights law (and many Indigenous peoples’ laws), equality does not mean treating everyone in an identical fashion. Rather the focus is on substantive equality, sometimes understood as equity, where the focus is treatment of people necessary to achieve equal outcomes.

²⁰ Kuokkanen, Restructuring.

²¹ Makosis at 39.

²² Anaya, S. J. *Indigenous Peoples in International Law*. New York: Oxford University Press, 1996 at 76.

²³ Grey at 529.

²⁴ United Nations General Assembly, *United Nations Declaration on the Rights of Indigenous Peoples*, resolution / adopted by the General Assembly, 2 October 2007, A/RES/61/295, specifically articles 1, 2, 3 and 44 [UNDRIP].

²⁵ Ellen Gabriel, “Aboriginal Women’s Movement; A Quest for Self-determination,” (2011) 1(1) *Aboriginal Policy Studies* 183 at 186.



However, the scope and content of the right to self-determination must include Indigenous peoples' own understandings as grounded in our customs, laws and traditions.²⁶ For Janice Makosis, ceremony is key to understanding Indigenous worldviews and governance systems and should inform Indigenous peoples' exercises of self-determinations: "only when one truly immerses and embraces his/herself within Indigenous ceremony do they find the true meaning of an Indigenous way of thinking and experiencing the world through a true anti-colonial framework."²⁷ In working toward self-determination, Janice Makosis argues that

we have to return to our teachings found in the languages we speak, the songs we sing in ceremony, the teachings found in the ceremonial structures that have been passed on to us from our ancestors, and the philosophical bundles of knowledge found in the ways of our ancestors. ... In unearthing the meaning of 'self-determination' through our sacred positions as Cree women (held within the teachings that inform us of our roles and responsibilities) we are better equipped to assert our rightful places within our nations which will inevitably lead us to support the prosperity of our nations survival."²⁸

Incorporating Indigenous laws and ceremony into understandings of self-determination helps reframe it as necessarily inclusive of Indigenous women's voices and concerns. This approach addresses accusations that Indigenous women betray their nations by linking international human rights principles of equality with Indigenous laws on women's roles and responsibilities.

The idea of braiding together Indigenous, Canadian and international law has been engaged when discussing implementing UNDRIP in Canada. For example, the SCC stated "The metaphor of 'braiding' together these three types of norms has been helpfully proposed to explain how the Declaration should be implemented in Canada, so as to 'work out how state law and Indigenous law could be interwoven, with guidance from international law, to form a single, strong rope.'"²⁹ This braiding metaphor is equally applicable to implementing the right to self-determination, where there is a need to include Indigenous legal understanding of self-determination.

Embracing Indigenous law and worldviews regarding self-determination also moves away from the distinction between Indigenous women (and their concerns) and the collective. As stated by Patricia Monture, "individuals are the collective and the collective is the cumulative history, culture, governance traditions, ceremony and language of the people."³⁰ Engaging

²⁶ Makosis at 39. See also UNDRIP preambular para 7, which states "Recognizing the urgent need to respect and promote the inherent rights of indigenous peoples which derive from their political, economic and social structures and from their cultures, spiritual traditions, histories and philosophies, especially their rights to their lands, territories and resources."

²⁷ Makosis at 41.

²⁸ Makosis at 41-42.

²⁹ *Reference re An Act respecting First Nations, Inuit and Métis children, youth and families*, 2024 SCC 5 at para 7 [Reference case], citing G. Christie, "Indigenous Legal Orders, Canadian Law and UNDRIP", in *UNDRIP Implementation: Braiding International, Domestic and Indigenous Laws* (2017), 48, at p. 48; see also O. Fitzgerald and R. Schwartz, "Introduction" 1 at 3.

³⁰ Patricia A Monture-Angus, *Journeying Forward: Dreaming First Nations' Independence* (Halifax: Fernwood, 1999) at 137.



Indigenous law and values within self-determination also allows for Indigenous peoples' own understandings of gender and gender roles to be part of the conversation. As noted by Tracey Lindberg in reference to Cree perspectives on gender,

Maybe the reason that our languages seldom differentiate between gender and sex is because we are supposed to stand as one. In Cree, as *Neheiywak* we are people. As *Iskwew* (women), we have specific stories, ceremonies, dances, and traditions but *Iskwew* are not a segment of *Neheiywak*. We are the people; womanhood is our obligation and gift. That gendered line, as I mentioned at the outset, is not clear, and it zigs, zags, and becomes invisible depending on who we are with, what we are doing, and when we are doing it.³¹

Leona Makosis' research also supports the position that there is a need to breakdown distinctions between individuals and the collectives, based on Indigenous peoples' own laws and worldviews:

...we are not individualistic and independent of each other, much less the Creator. We have been born into a social order that is based on sacred laws and teachings of responsibility to one another. Hence, we are interconnected and interdependent beings. At no time in our lives, are we ever alone. We each have to fulfill roles and responsibilities as a result of our birth into Cree society.³²

Assertions of self-determination should therefore consider the roles and responsibilities of all people within the nation and ensure all voices are heard so that all people within the nation have the ability to fulfil their roles and responsibilities.

Finding Common Ground to Reframe the Conversation

While this paper has thus far provided arguments for why Indigenous women's voices and concerns must be included within self-determination processes, the question remains how to get people to actually engage in gender analyses when engaging in self-determination. The UNITAR Training Programme to Enhance the Conflict Prevention and Peacemaking Capabilities of Indigenous Peoples' Representatives is based on an interest-based approach to conflict resolution. The Programme highlights that long-term and lasting solutions require the need to bring both sides of conflicts together and identify shared, common goals. The idea is to move both parties away from positions that are often long entrenched, away from placing blame, to identify common and shared goals as the foundation for resolution.

³¹ Tracey Lindberg, "Not My Sister: What Feminists Can Learn about Sisterhood from Indigenous Women," (2004) 16 Can. J. Women & L. 342 at 351.

³² Makosis, citing Leona Makosis, *Teachings from Cree Elders: A Grounded Theory Study of Indigenous Elders*. Unpublished doctoral dissertation, University of San Diego, San Diego, ca, 2001 at 119.



One potential way to help move beyond the divide between Indigenous women and their communities and nations is perhaps to start to identify common goals within self-determination: which may include securing a better future for the youth. Rauna Kuokkanen's work on *Restructuring Relations*, found that upholding and protecting children was a common top priority among the Indigenous women she interviewed.³³ Ellen Gabriel also highlights the importance of future generations in self-determination: "as women of our nations, our obligations to present and future generations is fundamental to the success of our self-determination."³⁴

More broadly in Canada, many Indigenous peoples have also identified supporting youth as a priority area for self-government. The *Act Respecting First Nations, Inuit and Métis Children, Youth and Families*, exemplifies the priority of healthy families. This can be seen in the Act's preamble, in which the federal government is committed to working "with Indigenous peoples to support the dignity and well-being of Indigenous children and youth and their families and communities, as well as the achievement of their full potential, and to respecting, strengthening and building on the accomplishments of Indigenous peoples in this regard."³⁵ In *Reference Re An Act Respecting First Nations, Inuit and Métis Children, Youth and Families*, the SCC noted the purpose of the Act is to protect "the well being of Indigenous children, youth and families by promoting the delivery of culturally appropriate child and family services and, in so doing, advances the process of reconciliation with Indigenous peoples."³⁶ Clearly, the work that was undertaken to co-develop this legislation, pass their own laws with that jurisdiction recognized under the Act, and defend the Act in court signifies that well-being of Indigenous children, youth and families and communities is a high priority for many Indigenous peoples.

Similar sentiments regarding the importance of Indigenous peoples' responsibility toward children and families can be seen in the preamble of UNDRIP: "Recognizing in particular the right of indigenous families and communities to retain shared responsibility for the upbringing, training, education and well-being of their children, consistent with the rights of the child."³⁷

The goal of reframing the issue to center future generations is a way to try "to conceptualize Indigenous self-determination and Indigenous women's rights as mutually supportive."³⁸ If everyone were to come to the table focusing on what is needed for youth to thrive, healthy families would likely emerge as a priority issue. While the challenge to building healthy families is multifaceted and complex, surely ensuring the safety, well-

³³ Kuokkanen, *Restructuring*.

³⁴ Gabriel at 186.

³⁵ Reference case.

³⁶ Reference case at para 41.

³⁷ UNDRIP preambular para 13.

³⁸ Sam Grey at 530.



being and dignity of Indigenous women would be part of the conversation. For Rauna Kuokkanen, addressing violence against women, requires that self-determination works to “restructure all relations of domination,” including “those relations of domination that prevent Indigenous women from being legal and political actors and serve in their political and economic roles not only in the mainstream political system (i.e., representation in political institutions), but also according to their own governance practices.”³⁹

With the identification of the need to address the safety, well-being and dignity of Indigenous women, it could become easier and more logical to include Indigenous women within these conversations. Additionally, reframing the argument to focus on Indigenous youth, moving beyond Indigenous women versus the collective, can create space to identify and address a broader spectrum of distinctions beyond identification with First Nations, Inuit or Métis peoples, to further consider geographic location and residency, ability, socio-economic situation, as well as sexual orientation and gender identity.⁴⁰

Perhaps it is helpful to provide an example of how this reframing and refocusing of the conversation could play out. The protection and recognition of Indigenous peoples’ relationship with their lands, territories and resources is an apt example of this approach. Many Indigenous peoples have explained that protecting their relationship with their traditional lands, territories and resources is critical to ensuring future generations continue to be able to learn from the land and on the land. The arguments include that many Indigenous peoples’ identity is intimately connected to the land and so ensuring the collective identity (collective security as noted above) into the future, requires fulfilment of the responsibilities toward the land. Here we see land rights as needed to protect identity and security of future generations as a primary goal. This is a goal that most Indigenous peoples’ organizations and governments would identify with.

From this point of convergence of interests, specific risks to this goal can be identified. Development of Indigenous peoples’ lands without their full participation in any decision-making process is clearly a major threat. Working toward a deeper understanding of how development without Indigenous peoples’ involvement in decision making processes poses a threat to future generations, requires us to more fully explore the impacts. Here, we can connect impacts on land and the impacts on Indigenous women: “The encroachment on Indigenous lands is always connected to the assault on Indigenous bodies, especially those of women. Violence against women is common in circumstances where Indigenous people are engaged in protecting their territories from disruptive economic development projects.”⁴¹ Kuokkanen continues to argue that “an attack on Indigenous women’s bodies is always an assault on Indigenous lands. Dehumanizing

³⁹ Kuokkanen, Restructuring

⁴⁰ See discussion of distinctions in NIMMIWG report at 172.

⁴¹ Kuokkanen.



Indigenous women and degrading their bodies was a means to undermine and fragment Indigenous societies, which in turn enabled access to and dispossession of their territories."⁴² The assault of women's bodies that occurs both physically and metaphorically through development without Indigenous peoples, including Indigenous women's involvement, is a major threat to the existence and the health, well-being and security of future generations.

The idea here is not to subsume Indigenous women's voices and concerns to those of children and youth, but rather to use the common goal as a meeting place for deeper conversations. This reframing of the issue of self-determination to focus on future generations – the children and youth – creates space for conversations around the role of women in supporting the healing and moving forward toward health and strong nations. Janice Makosis passionately contends that "Indigenous women must re-assert and take back our rightful place within our nations so that we may assist in the healing, transforming, and strengthening of our people as they set out on that path of finding themselves so we become the thriving, powerful nations that existed prior to colonial imperialist agendas."⁴³

AN EXAMPLE

The Haítzaqv (Heiltsuk) Constitution and Haítzaqv Women's Declaration

The Haítzaqv (Heiltsuk) Nation includes 34 reserves, totaling 35,553 square kilometers, a fraction of their ancestral lands. Heiltsuk territory encompasses several tribes, including Wuyalitx, 'Qvuqyayaitxv, Wuilitxv, Yisdaitxv, and Xixis. Bella Bella, located on Campbell Island, is at the heart of their territory on the Central Coast of British Columbia. They share a common *Hítzaqv!a* language and unified cultural, political, and socio-economic structures.

The Haítzaqv explain that their genealogy extends through at least 700 generations of Haítzaqv people, who lived within our territory, forging strong alliances through arranged marriages among the Hemas' children. Haítzaqv history traces back at least 14,000 years, including surviving the Ice Age and great floods. During these times, the Heiltsuk moved to the high mountains flanking what is now called Campbell Island. Historically, the Heiltsuk Nation thrived with over 50 permanent villages and seasonal food camps along salmon rivers and marine trading routes, supporting a population exceeding 10,000. Haítzaqv/Heiltsuk means "to speak and act correctly," reflecting our principles that guide both

⁴² Kuokkanen.

⁴³ Makosis at 49.



our ancient and contemporary practices. This philosophy informs our *ǵviłás* (laws), which ensure the continued sustainability of our community and natural world.

The Haítzaqv have been working to write down their constitution since the early 2000s.⁴⁴ They explain that “Our Haítzaqv Constitution is rooted in our *Ǵviłás* (Laws), *Łáxváí* (Jurisdiction), and *Núyrń* (History), and it articulates our foundational governance principles.” They further explain that “The constitution serves to strengthen our inherent forms of governance, articulate our values and culture, and safeguard the rights and responsibilities of our people.” In many ways, the Haítzaqv Constitution follows a typical format beginning with a preamble that sets out the context for the Constitution. The substantive provisions begin with stating the purpose of the Constitution and guiding principles. The Constitution includes the Rights of Responsibilities of Haítzaqv people. Chapter 3 sets out the relationship with the Haítzaqv *wáxv:wúisaǵv* (territory), which includes the land, the submerged land, the surface water, the groundwater, the ocean, the sub-surface and the air space. Chapter 4 of the Constitution sets out the Haítzaqv government structure which includes the following governing institutions:

- a. the *Yímas* Council (hereditary leadership);
- b. the Tribal Council (elected political leadership);
- c. the Joint Leadership Assembly (contains two chambers: the *Yímas* Council and the Tribal Council);
- d. the *Tqílá* Council (the Executive including the Chief Councillor);
- e. the *Wúmaqs du Mnúyaqs* Council (Women’s Council); and
- f. the People’s Assembly (all Haítzaqv citizens 18 years of age and over).

The Constitution concludes with setting out the law-making authority of the government, administration of justice, financial administration and accountability, and the process for constitutional amendments.

According to the Constitution, the *Wúmaqs du Mnúyaqs* Council is advisory to the Joint Leadership Assembly and other governing institutions. The Constitution includes a glossary, which states that “*Wúmaqs*” means a Haítzaqv person of high rank and knowledge who identifies as a woman. The Constitution sets out specific areas for the *Wúmaqs du Mnúyaqs* Council to provide advice, which includes

⁴⁴ Heiltsuk Tribal Council, *Haítzaqv Constitution*, <https://heiltsuknation.ca/>.



- a. support, enhance and uphold Haítzaqvłá and Haítzaqv culture and tradition to promote a strong sense of Haítzaqv identity, place, and pride;
- b. foster collaborative governance that enhances social, cultural, educational, judicial, economic and familial well-being in the Haítzaqv Nation;
- c. uphold and support Haítzaqv values and morals to promote health and wellness within Haítzaqv society and the wáxv:wuí saǰv;
- d. the promotion of healthy lifestyles that include emotional, mental, physical and spiritual balance;
- e. the resolution of disputes within the Haítzaqv government;
- f. uphold ǰvı́łás, including the articulation, interpretation and application of ǰvı́łás;
- g. collaboration between governing institutions and with social service agencies, to support and ensure the safety and well-being of children, youth and women in prevention of family violence and neglect; and
- h. collaboration between governing institutions to articulate and develop Haítzaqv legislation to protect women, children, youth, and all those at risk.

The Wúmaqs du Mnúyaqs Council is not the only place where gender is considered within the Haítzaqv Constitution. The Constitution includes a Haítzaqv Women’s Declaration as Appendix B. Section 29 of the Constitution, requires that the Haítzaqv Government will honour, endorse and practice the principles of the Haítzaqv Women’s Declaration.

The Declaration begins by setting out

We are Haítzaqv women. We are as strong as cedar trees.

We are the mothers who give birth to nations. We are the mothers who bring future generations into being. We are the lifeblood of our people.

We are the daughters, the grandmothers and granddaughters, the aunties and nieces, the sisters of our Nation. We make our Nation rich.

We come from the matriarchy, and our womanhood is a blessing. We are the heart of Haítzaqv ceremonies. We are the heart of Haítzaqv families.

With this understanding of Haítzaqv women and their roles within the nation, the Declaration then proceeds to set out six key rights of women, each of which is grounded in a different principle: reciprocity, respect, love, equality, justice and joy. Grounding Haítzaqv



women's rights within Haítzaqv values counters arguments that including Indigenous women's rights is counter to the collective rights. The Declaration ends with a powerful statement that "This is consistent with the principles of our culture and the foundation of our work as Haítzaqv women and as matriarchs."

This powerful Declaration and the Wúmaqs du Mnúyaqs Council are not the only references to gender. Section 8(b)(i) sets out that every Haítzaqv citizen has the right of equality and equal protection and benefit of Haítzaqv law, including equal access to public services and to employment opportunities provided by the Haítzaqv government without discrimination and, in particular, without discrimination based on race or ethnicity, colour, religion, place of origin, age, sex, sexual orientation, gender, marital status, family status, political orientation, or mental or physical ability.

The Haítzaqv Constitution exemplifies how concerns of Indigenous women can be included within self-determination processes in multiple ways, all of which are deeply grounded in Haítzaqv culture and values: creation of a women's advisory council; recognizing the roles, responsibilities and rights of women; and including a broad right to equality within the Constitution. This inclusion of Haítzaqv women within the governance structure shows alignment between achieving the goals of the Haítzaqv nation and Haítzaqv women. Inclusion of Haítzaqv women is part of the overall governing principles which include to

- a. preserve the integrity and unity of the Haítzaqv Nation;
- b. secure the well-being of Haítzaqv citizens;
- c. protect and maintain the health and integrity of the wáxv:wúisaǎv;
- d. ensure táxváí and ġviłás are fully upheld, recognized and protected;
- e. protect, revitalize and strengthen Haítzaqvla and Haítzaqv culture and traditions...



Discussion question: *What are the underlying principles and values of your nation? What are the roles and responsibilities of women in promoting and maintaining the principles and values?*



Bringing Culturally Relevant Gender Based Analysis into Self-Determination

Once there is agreement to refocus the conversations around self-determination away from Indigenous women versus the collective by focusing on future generations and centering Indigenous children and youth, as noted above, the conversation shifts to building strong families and nations by addressing all the impacts of colonization. This is where the NWAC culturally relevant gender-based analysis provides direction on the questions to ask to when engaging in self-determination processes.

As noted earlier, the NWAC CRGBA framework is based on 5 key principles. In the framework, NWAC sets out questions to guide the culturally relevant gender-based analysis when undertaking law and policy review. Below is an excerpt of some of these questions are especially pertinent to consider when engaging in exercises of self-determination.

Distinctions: community and accounts for distinctions between the lived experiences of First Nations, Métis, Inuit, and on- and off-reserve, urban, and/or non-status Indigenous people.

- Are the distinct lived experiences of First Nations, Inuit, and Métis meaningfully represented?
- Have you also accounted for the experiences of on- versus off-reserve, rural versus urban, and status versus non-status Indigenous people?

Intersectionality: race & cultural identity, class, gender identity, age, ability, sexual orientation, location, impacts of colonization, education

- Does the program or policy account for how intersecting identities shape access and experiences of policies and programs?
- Does this program or policy account for the impacts of colonization = considered the experiences of Indigenous people, including disenfranchised, displaced, and/or non-status people? What about urban or off-reserve people?

Gender diversity: Does this program or policy centre heteronormative, trans-exclusionary, or binary values or ways of being? gender-inclusive and non-binary, recognizing that gender, sex, and sexuality are spectrums

- Considering the impacts of colonization, what are the contemporary lived realities of Indigenous women, Two-Spirit, transgender and gender-diverse people in this specific cultural/community context?



- Are Indigenous women, Two-Spirit, and gender-diverse people's distinct knowledge, ways of being, and roles incorporated or reclaimed within this policy response?

Indigenous knowledge:

- Have Indigenous knowledge holders (of all genders) contributed to and/or meaningfully engaged in the process?
- What were this specific community's kinship relationships, understandings of sexuality, gender, governance structures, legal traditions, and cultural values prior to colonization?
- What are some of the ways we can work to restore social, cultural, political, and economic balance and well-being in these communities?
- How were pre-existing community structures and ideologies changed through processes of colonization?

Trauma informed:

- Has consideration been given to the role that social policy plays in perpetuating intergenerational trauma?
- How does the policy promote safety? Does it reduce or prevent harm? How?

Continuing the Conversation

- *What are the shared priorities of Indigenous women and men in relation to self-determination in your community or nation?*
- *Does shifting the focus from Indigenous women and the perception of their rights as individual rights, to focusing on building nations for future generations – and what is needed to build healthy strong nations help shift the gaze away from the individual vs collective / women vs men/nation debate?*
- *Where do you see there being opportunities to start reframing the conversation to future generations?*
- *What are the limitations or challenges to trying to reframe the conversation in the ways suggested above?*

