



FEMMES AUTOCHTONES DU QUÉBEC INC.
QUEBEC NATIVE WOMEN INC.

Quebec Native Women Brief

As part of:

Specific consultations by the Committee on Institutions on Bill 24, An Act to amend the Act respecting the Quebec correctional system to provide for the power to require that an offender be connected to a tracking device

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About Quebec Native Women

Quebec Native Women (hereafter QNW) is a bilingual, non-profit organization founded in 1974 that began as a community-based initiative. Since July 2009, QNW has had consultative status with the United Nations Economic and Social Council (ECOSOC). Quebec Native Women (QNW) is an organization representing women from ten (10) First Nations of Quebec: Abenaki, Anishnabe, Attikamek, Innu, Eeyou, Wendat, Maliseet, Mig'maq, Mohawk and Naskapi. We represent First Nations women as well as urban Indigenous women. In 2015, QNW was recognized by Indigenous and Northern Affairs Canada as an Indigenous Representative Organization (IRO).

QNW's mission is to advocate for the human rights of Indigenous women and their families, both collectively and individually, and to represent the needs and priorities of its members to various levels of government, civil society and decision makers in all areas of activity that affect the rights of Indigenous people.

QNW has contributed to restoring the balance between Indigenous men and women by giving a strong voice to the needs and priorities of women for more than 47 years. QNW brings the needs and priorities of its members to the attention of authorities and decision makers in all areas of our work: health, youth, justice and public safety, women's shelters and the promotion of non-violence, human rights, international law, as well as employment and training. In this context, we play a role in education, awareness raising and research, and provide a structure for women to be active in their communities.

Background

The Indigenous component of the implementation of Bill 24, *An Act to amend the Act respecting the Quebec correctional system to provide for the power to require that an offender be connected to a device that allows the offender's whereabouts to be known* (hereinafter referred to as the Bill), must be addressed. The Public Inquiry Commission on relations between Indigenous Peoples and certain public services in Quebec: listening, reconciliation and progress (hereinafter the Viens Commission) made official what many Indigenous groups had been denouncing for several years¹. Indigenous people are over-represented in the criminal and correctional justice systems, as these are not adapted and are still marked by colonial policies of assimilation². In addition to being over-represented in these systems, they are also over-prosecuted, making it more likely that they will end up there for a second, third time, etc.

The final report of the *National Inquiry into Missing and Murdered Indigenous Women and Girls* (hereafter NIMMIWG) denounces the disproportionate rates of violence experienced by Indigenous women and girls³. The Survey of Safety in Public and Private Spaces (2018) also shows that Indigenous women experience a disproportionate level of violence compared to their non-Indigenous counterparts. In fact, 63% of First Nations and Inuit women have been physically or sexually assaulted since the age of 15 compared to 45% of non-Indigenous women⁴. Violence in all its forms⁵, but particularly psychological violence, physical violence, sexual violence and post-separation violence, has serious consequences for Indigenous women and their children.

¹ Viens Commission, "Public Inquiry Commission on relations between Indigenous Peoples and certain public services in Quebec: listening, reconciliation and progress", In *Government of Quebec*. Retrieved online: https://www.cerp.gouv.qc.ca/fileadmin/Fichiers_clients/Rapport/Final_report.pdf (February 14, 2022).

² *Ibid.*, p. 130-133, 224, 318.

³ National Inquiry into Missing and Murdered Indigenous Women and Girls, "Reclaiming Power and Place: The Final Report of the National Inquiry into Missing and Murdered Indigenous Women and Girls" Volume 1a. Retrieved online: https://www.mmiwg-ffada.ca/wp-content/uploads/2019/06/Final_Report_Vol_1a-1.pdf (February. 14, 2022).

⁴ Statistics Canada, 2018, "Intimate partner violence among diverse populations in Canada", in *Government of Canada*. Retrieved online: <https://www150.statcan.gc.ca/n1/en/daily-quotidien/210519/dq210519c-eng.pdf?st=5UksZ3UO> (July 14, 2021).

⁵ It is important to mention that our organization sees domestic violence as a broader phenomenon that refers to violence in all its forms.

In addition to experiencing violence in all its forms in a disproportionate manner, domestic violence is an internalized and trivialized issue for Indigenous people. No need to go into the history of the intergenerational impacts of colonization, Residential Schools, discriminatory and patriarchal laws to demonstrate that all of these assimilative policies are at the root of these disproportionate rates of violence that significantly affect the lives, well-being and safety of our women and girls. The COVID-19 pandemic has further exacerbated the problem of domestic and family violence. The reality of Indigenous women and girls living with domestic violence during the pandemic must be addressed, so that they do not lose their lives, especially in conditions of horrific violence. In many cases, they had no safe place to go, so they could not escape this problem. We must not forget that in communities, houses are often overcrowded, increasing the risk of domestic and family violence.

QNW General Comments

Preliminary comments

In general, QNW is in favour of Bill 24, *An Act to amend the Act respecting the Quebec correctional system to provide for the power to require that an offender be connected to a device that allows the offender's whereabouts to be known*. QNW has made spousal and family violence its focus since its inception in 1974. Our goal is to protect Indigenous women and girls who are victims of violence in all its forms, and who are more vulnerable than their non-Indigenous counterparts. Domestic violence is a significant societal issue that must be addressed with concrete and tangible actions in order to find solutions. Our organization believes that the implementation of these anti-reconciliation devices is a good starting point to address the disproportionate violence experienced by Indigenous women.

First, our organization believes that the imposition of electronic bracelets will not only better protect our Indigenous women and girls from domestic violence, but also from violence such as sexual crimes. QNW firmly believes that the enforcement of these bracelets, in conjunction with certain other complementary measures, will reduce the risk of recidivism and thus the rate of domestic violence that Indigenous women and girls disproportionately experience. However, our organization believes that this measure, implemented on an individual basis, cannot automatically eliminate domestic violence in our Indigenous and urban communities. Other complementary measures must be considered in order to address the issue more broadly. These measures are outlined in the final section of this brief.

QNW also believes that it is positive that the *Bill* provides for the wearing of an anti-approach bracelet in various circumstances, such as conditional release, to ensure that the conditions of release are respected, and for social reintegration purposes. Our organization believes that it is relevant that the issue of domestic violence be understood as something that can occur before, during and after a relationship between two people. Our organization also welcomes the fact that you do not seem to have any objection to making more than 500 bracelets available if necessary. Cases of domestic violence are not limited to 500 victims in Quebec. It is therefore important that

there be no limits in this regard and that as many bracelets as necessary are available, for the safety of our women and girls.

Domestic and family violence go hand in hand with human relationships that are often volatile, unstable and complex. In Indigenous communities, it is common for everyone to know each other and this makes the victim afraid to report the abuser. In this sense, our organization believes that it is appropriate that the victim must consent to the measure that concerns her. It is necessary for the victim to be safe from the aggressor at all times, whether she knows him/her or not, but it is also necessary that the victim consents.

Sentences in provincial prisons

Our organization would like to make one final comment before addressing the recommendations. QNW understands that the terms of the *Bill* make it mandatory to wear an anti-approach bracelet only for sentences of two (2) years less one (1) day, i.e. in provincial prisons. Our organization understands why this is so, but would like to see discussions initiated with the federal government so that a similar project could be implemented in federal penitentiaries as well. QNW believes that it is in the best interest of the Government of Canada to use Quebec as an example in this initiative.

Domestic violence can also occur in cases where a sentence of more than two (2) years is imposed. In practice, domestic violence can occur before a sentence is imposed, during (for example, in cases of temporary absences) and after the sentence has been served. It is important to remember that an act of domestic violence that is legally sanctioned is not necessarily the first act of violence. In many cases, repeated assaults occur before a victim reports her abuser. In this sense, if the objective of the *Bill* is to better protect victims of domestic violence, QNW believes that the fact that the anti-approach bracelet is only applicable when the sentence to be served is less than two (2) years and one (1) day does not sufficiently and adequately protect Indigenous women and girls. Our Indigenous women and girls have a right to be safe at all times, especially when they have been victims of unimaginable violence.

QNW's Recommendations

Although the *Bill* presents interesting solutions in the area of domestic violence, our organization believes that it should be more culturally adapted for Indigenous people, particularly for Indigenous women and girls. The *Bill* currently before us offers interesting solutions for cases of domestic violence in urban areas to protect Indigenous women and their children, but it is not adapted to the reality of Indigenous communities.

There are two (2) realities specific to Indigenous communities that are very important and that must be taken into account in the implementation of the *Bill*.

1) Function according to Geolocation

Firstly, QNW would like to raise the fundamental aspect of the functioning of electronic bracelets, namely geolocation. This is not the first time that our organization has mentioned this operational issue: it has been mentioned in government working committees on the project.

It is important to take into consideration that some Indigenous communities are very remote and therefore have limited access to services. The cellular network is one of these. Compared to urban areas where there are generally no issues with cellular service, not all Indigenous communities in Quebec are served by a reliable and consistent cellular network. This means that the use of this measure in communities does not guarantee real safety for Indigenous women and girls who are victims of violence. The connection to the mobile network **may** be either completely absent or intermittent, making it possible for domestic violence to recur at any time. QNW therefore believes that it is impossible to rely on geolocation in Indigenous communities to ensure the protection and safety of victims of domestic violence.

Considering that Indigenous women and girls disproportionately experience domestic and family violence, that they do not have access to all relevant services and that they live in an intergenerational cycle of violence due to colonization and patriarchal assimilation policies, **QNW recommends that the Quebec government spell out its approach when it comes to the use of**

the anti-approach bracelet in Indigenous communities and in all other settings where there is no mobile network. To do so, it must consult the Indigenous communities and organizations that work with an Indigenous clientele regarding the modalities of the implementation of this measure. It is essential that this be done in conjunction with the communities, Indigenous organizations, the Indigenous people concerned and the Indigenous and non-Indigenous workers who work directly with victims and offenders.

2) **Reality of Indigenous Communities**

In many cases, anti-approach bracelets can save lives through their preventive aspects. For example, let's consider a man who reoffends and tries to approach his ex-wife in an urban centre. If he is wearing an anti-approach bracelet, the worst-case scenario is likely to be avoided. In urban areas, the bracelet is essential to ensure effective surveillance and protection of our Indigenous women, their children and their families.

However, the situation in urban areas and Indigenous communities is completely different: the proximity between the victim and the offender does not allow for this kind of measure. Many Indigenous communities are quite small and the persons concerned are often in the same place or very close to it, without it being voluntary. The size of the community may well be too small to allow any appreciable distance for the safety of Indigenous women. All services are located in the centre of the community, i.e., the Band Council office, the medical centre, schools and daycare centres, convenience stores and grocery stores, gas stations, etc. In this sense, the likelihood of the victim and the offender unintentionally crossing paths is very high. Wearing an anti-approach bracelet is therefore not appropriate in these circumstances. For example, the Huron-Wendat community of Wendake covers an area of 1.64 km². Considering that all the services are located very close together, how is it possible for a victim and an offender not to cross paths by chance? Being in the same immediate area, the bracelet would not prevent the offender's attempts to re-offend.

In this sense, **QNW recommends that the government adapt the use of the anti-approach bracelet to the reality of each Indigenous community in terms of size.** If the minimum distance

for reporting to the police is too great for the context and size of the Indigenous community, we propose that it be reduced so that it is more proportional. In this sense, legislative changes could be made to the Bill to make it culturally appropriate for Indigenous people. It is essential that the implementation of this measure be culturally adapted to the reality and ways of doing things in Indigenous communities. In order to do so, communities, Indigenous experts and organizations must be consulted in order to be an integral part of the implementation and monitoring process of the anti-approach bracelet. QNW strongly believes that this measure could be very beneficial in ensuring real safety for our Indigenous women and girls, but this cannot happen if the measure is not adapted to their realities.

Other Elements to Consider

As mentioned above, QNW believes that, although the wearing of anti-approach bracelets will undoubtedly reduce the domestic violence that Indigenous women and girls in Quebec disproportionately experience, it is important to see the problem as a whole. To address it, it is important to take action at various levels for a more comprehensive and effective approach.

Social reintegration and therapy

First, QNW would like to focus on the reintegration aspect of section 26 of the *Quebec Correctional System Act* that you are proposing to amend with section 1 of the *Bill*. Our organization believes that the reintegration aspect must be seen from an Indigenous standpoint. In many Indigenous traditions and communities, "therapy" is not imposed on the abuser: the healing process involves the entire community and is very inclusive. In fact, both the victim and the abuser are part of it, as well as their respective families. In various situations, the wider community is also included in this healing process, which makes the healing process a very comprehensive and long process. In contrast to the Western approach, the perpetrator is not the only one involved in the healing process⁶. Therapy is a less punitive and more inclusive process that can have real positive effects on the offender's social reintegration.

Therapy is an essential part of healing. It is true to say that prison does not offer adequate rehabilitation compared to therapy and real follow-up with the aggressor. However, this healing process (therapy) must be culturally appropriate for Indigenous communities. Moreover, Indigenous people are generally reluctant to use services that are available to them from a non-Indigenous tradition (public services). Their negative experiences with government services and the fact that they are not adapted to the culture of the First Nations and Inuit add a significant barrier to consultation and the search for resources. Once again, the reality of Indigenous and non-

⁶ There is an extensive scientific literature on the healing process specific to First Nations people. Among others, Mylène Jaccoud's article [Mylène Jaccoud's article « Les cercles de guérison et les cercles de sentence autochtones au Canada »](#) explains very well the concept of the inclusion of women and men as well as the whole community in the traditional healing process of the communities. The [Fondation autochtone de guérison's](#) book also provides a complementary explanation of the Indigenous healing process.

Indigenous people is completely different and the *Bill* needs to be more adapted to the Indigenous reality regarding the concepts of healing and restorative justice.

Multidisciplinary intervention

QNW would also like to address the issue of police intervention. As soon as the device emits a signal that the offender is close by, the police are alerted to ensure that the victim is safe. Our organization believes that the intervention must be carried out by a multidisciplinary team of Indigenous police and workers, Indigenous men's violence workers, Kukums, Elders and traditional healers. Communication in cases of domestic violence between the different services is very important. Multidisciplinary teams must be created and they must be able to intervene in a culturally appropriate manner for First Nations and Inuit in a more timely and effective way. Collaboration between the different milieus allows, among other things, to build real trust in the interventions. It is well known that Indigenous people have less trust in non-Indigenous public institutions⁷. Their diverse experiences with the police, the justice system and the courts do not contribute to the sense of confidence of Indigenous women⁸. The reality is that the trust is simply not there. These multidisciplinary teams would also allow women and children to be prioritized to ensure their well-being. Finally, a more timely follow-up could be done.

Culturally appropriate training

Finally, QNW would like you to pay particular attention to the training received by judges who order the wearing of the anti-approach bracelet, police officers and all types of workers who work closely with Indigenous people, especially Indigenous women and girls. It is essential that they be properly trained and have a real understanding of Indigenous issues in order to be able to impose the right conditions.

Our organization firmly believes that the training given to these people must be established in collaboration with Indigenous organizations, communities and experts. The latter must be able to

⁷ Statistics Canada, *op.cit.*

⁸ Viens Commission, *op.cit.*

identify themselves or be identified by their peers, without government interference. Indigenous bodies are the bearers of knowledge and this must not be overlooked. Training in any field must be co-constructed and co-created by Indigenous experts and delivered by them. This ensures that Indigenous women and girls represent themselves, without being instrumentalized.

Nia:wen, Migwetc, Tshinashkumitin, Wela'lin, Wli Wni, Tiawenhk, Merci, Thank you!