



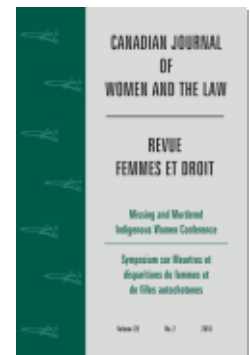
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Sexualized Violence and Colonialism: Reflections on the Inquiry into Missing and Murdered Indigenous Women

Sherene H. Razack

Canadians live in a society where missing and murdered Indigenous women are so commonplace an occurrence that, for two years now, volunteers have organized to dredge the river that runs through the city of Winnipeg looking for the bodies of Indigenous girls and women who have disappeared. “Drag the Red,” as this organization is called, has yet to find any bodies, but its dredging operations often catch women’s underwear.¹ The sheer horror of the prospect of Indigenous girls and women lying at the bottom of the river, a river that *volunteers* dredge, has yet to hit most Canadians, but, in 2015, Canadians elected a government that announced its intention to hold a national inquiry into missing and murdered Indigenous women, women who are unaccounted for across the country.

This issue came together after a symposium, jointly organized by the *Canadian Journal of Women and the Law* and the Canadian Feminist Alliance for International Action, in partnership with the Native Women’s Association of Canada on 30–31 January 2016, explored the prospect of a national inquiry. Indigenous women leaders, family members of missing and murdered women, academics, and activists, joined by six human rights experts from the United Nations and the Inter-American Commission on Human Rights, came together to explore what an inquiry into missing and murdered Indigenous women could accomplish. In the spirit of what Pamela Palmater in this issue calls “Shining Light on the Dark Places,” this issue of the *Canadian Journal of Women and the Law* brings together some of the presentations from that symposium. We hope that in sharing some of the reflections of the symposium that we contribute to an ever-widening circle of narratives that brings us closer to ending a violence that is surely a slow genocide in progress. The contributions offered in the following pages are intended as part of a social movement to end this violence. A momentum is building; that much is clear. The violence against Indigenous girls and women must end; *all* of our lives depend on it.

The first challenge of the symposium was to find the words and the theory to describe and analyze what it means when the body of a fifteen-year-old Indigenous

1. Holly Alexandruk, “Drag the Red to Continue for a Second Year”, *Global News* (17 May 2015) <<http://globalnews.ca/news/2003267/drag-the-red-to-continue-for-second-year-in-winnipeg>>.

girl, a child in foster care, is found floating in the Red River. Tina Fontaine of Sagkeeng First Nation was murdered in 2014. Shortly before her death, police found Tina in the company of a fifty-three-year-old intoxicated man, and despite running her name through the system and presumably noting that she was a child in foster care, they released her. She was later found unconscious, taken to hospital, and released once again in the care of Child and Family Services. Housed in a hotel for children in foster care, Tina soon disappeared again. It is important, Pam Palmater writes in this issue, that we understand that Tina did not slip through the cracks. Instead, at several points in her young life, police and other state officials watched her death unfold in slow motion. An inquiry must examine the police as instigator, perpetrator, and enabler, Palmater argues, and it must call state officials to account.

In my own article, I suggest that we call the justice system to account for missing and murdered Indigenous girls and women. I examine those gray zones in law where violence against Indigenous girls and women is authorized. In one such case, a Cree woman, Cindy Gladue, bled to death from wounds inflicted by Bradley Barton, a white man who paid Gladue for sex. Barton was acquitted of all of the charges (the case is on appeal), and the excessive violence so routinely meted out to Indigenous women was simply put down to rough sex gone too far. Barton, I suggest, paid for the right to use Gladue's body, a contract he understood as payment for the use of a thing and not a person. A body so used can be simply thrown away after use.

The law participates in this form of gendered disposability by accepting that the contract nullifies the violence. As Cherry Smiley writes in her own reflections on an inquiry, Indigenous women have, since the inception of the colonial project, been understood as sexually disposable, and social and legal institutions have sustained this logic. The inquiry must address the violence of the sex industry and how it, in turn, capitalizes on the construction of Indigenous women as dehumanized squaws. It must work towards abolishing the sex industry and correcting the socio-economic conditions and racism that disproportionately deliver Indigenous women to this industry.

The symposium presenters wrestled with what could be done about such a widespread and condoned sexualized annihilation. What do we even call it? Sexualized violence? Colonial violence? Annihilation? There is one thing, however, on which we all agreed. Only those unaffected by this violence can remain lost in despair. The rest of us know that it is time to act. We already know, Gwen Brodsky writes in her article "Enough Inquiry Already, Just Fix It," that the *Indian Act* is patriarchal and discriminatory and has severed Indigenous women from their power, their traditional roles, and their communities and lands, thereby increasing their vulnerability to male and state violence. We can fix the *Indian Act*, and we need not wait for an inquiry to do so.

We also already know how girls and women disappear and are murdered, and about the failures of the investigations into their deaths and the trials of their murderers. In their contribution, Jane Bailey and Sara Shayan consider how technology has enabled the trafficking of girls and women, working in concert with other root causes of violence against Indigenous women and girls, to “incubate” the national crisis of missing and murdered Indigenous women. They also consider the role of cyber-violence, online hate, and child pornography in devaluing the lives and worth of Indigenous women and girls. Amy Conroy and Teresa Scassa evaluate the potential of models tried elsewhere where front-line sexual assault victim advocates work with police in systematic reviews of cases. Mechanisms that allow Indigenous advocates to participate in oversight and correction must be considered by the inquiry if it is to generate long-term responses to police violence and indifference towards Indigenous women and girls.

What the symposium made clear is that we also already know a great deal about the features of successful inquiries. For Nathalie Des Rosiers, a successful inquiry is one that calls the state to account and engages citizens in dialogue. In her article, she reminds us that the process of the inquiry is also its message and that the process must reflect “strong reconciliation values.” Attentive to the public education function of inquiries, Des Rosiers offers a detailed plan for how the inquiry can work to change the national conversation about the value of the lives of Indigenous girls and women and, indeed, of Indigenous peoples. Those who struggle with the efficacy of public inquiries often express the view that they are bound to fail when they take on social issues that are as overwhelming as missing and murdered Indigenous women. The Honourable Stephen Goudge rejects this view in his speech reproduced in this volume.²

However large, the problems that inquiries take on are issues that we can and must solve. Turning to the McKenzie Valley Pipeline Inquiry (known as the Thomas Berger inquiry) as an example, Goudge observes that through their participation in the inquiry, Indigenous peoples of the North have come to know their own collective strength in a new way, and a whole generation of Indigenous leaders has emerged. Such long-term effects ought not to be underestimated. The contributions of Des Rosiers and Goudge suggest that we indulge neither in unthinking pessimism nor in unrestrained optimism. An inquiry both finds and produces truth, Des Rosiers notes, and there are ways to maximize the possibility that it does so. To this end, the symposium produced twenty-two recommendations, reproduced at the end of this issue, to shape the inquiry and to assist it along this path.

2. Justice Goudge’s address was originally presented as the inaugural lecture of the Willms & Shier Speaker Series in Environmental Law, in collaboration with the Centre for Environmental Law and Global Sustainability in the Faculty of Law at the University of Ottawa on 29 September 2015.

Inquiries often function to reproduce colonial truths. In the case of an inquiry into missing and murdered Indigenous women, the colonial truth that is reproduced can be a story about Indigenous dysfunction rather than a story of colonial violence and dispossession. In a country where colonialism is widely denied, this is a frightening possibility. Treacherously speaking in the language of healing and reparations, the colonial state can maintain its own legitimacy through inquiries. An inquiry that breaks this pattern is one that keeps Indigenous sovereignty at the centre of its vision, attends to modern forms of colonization and ongoing practices of unjust enrichment, and confronts the systematized devaluing of Indigenous lives that runs through the institutions of contemporary Canada. Such an inquiry would ask: what does sexualized violence have to do with colonialism?