



PROTECTEUR
DU CITOYEN



SUMMARY

FIRST FOLLOW-UP REPORT ON THE VIENS COMMISSION

ASSESSMENT OF THE IMPLEMENTATION OF THE 142 CALLS FOR ACTION
OF THE PUBLIC INQUIRY COMMISSION ON RELATIONS BETWEEN
INDIGENOUS PEOPLES AND CERTAIN PUBLIC SERVICES IN QUÉBEC:
LISTENING, RECONCILIATION AND PROGRESS

OCTOBER 2023



SUMMARY

Why a public inquiry?

In 2016, further to allegations of police brutality towards Indigenous women in Val-d'Or and Abitibi-Témiscamingue, the Government of Québec created the Public Inquiry Commission on relations between Indigenous Peoples and certain public services in Québec: listening, reconciliation and progress (the Viens Commission). The Commission's final report was published on September 30, 2019.

Follow-up entrusted to the Québec Ombudsman

The Viens Commission's final report contains 142 calls for action. These include a request to the government to entrust to the Québec Ombudsman the follow-up on these calls for action until they are fully achieved. The Québec Ombudsman therefore began discussions to obtain the opinion of First Nations and Inuit authorities and organizations on this mandate. Having obtained their approval, in 2021 it announced that it would begin work.

Advisory Circle

With a view to impartiality and rigour, in addition to consulting government departments and agencies, follow-up work was conducted in collaboration with an Advisory Circle. Composed of representatives of First Nations and Inuit organizations, it was mandated to advise the Québec Ombudsman's team and to provide feedback about the assessment of the follow-up on the calls for action.

The Québec Ombudsman's findings

The Québec Ombudsman has concluded that nearly four years after the Viens report was tabled, **slightly less than one third of the Viens Commission's calls for action have been implemented or are progressing as expected**. However, it concedes that it would be unfair to put all the calls for action on an equal footing when it comes to efforts, resources or the time needed to achieve them.

The underperformance in terms of goal attainment is due to:

- Lack of an overall strategy by the Government of Québec regarding follow-up to the Viens Commission's calls for action;
- Lack of substantive planning based on coordinating the main authorities;

- Fragmented initiatives that limit systemic change;
- The fact that the opinions of First Nations and Inuit representatives expressed at forums and committees are not fully taken into account. Often, their contribution is sought only after the government apparatus has made a decision;
- Government authorities' lack of eagerness for giving full effect to the recognition of Indigenous people's rights, notably by not making these rights part of public service organization and delivery and by failing to make the changes that this recognition requires;
- The fact that tripartite negotiations between the federal and provincial governments and First Nations and Inuit have not led to real advances so far;
- The fact that the resources allocated by the government to respond to the needs and priorities identified by the Viens Commission are insufficient, which shows that public decision-makers lack a sense of urgency about issues that are disturbing.

Cross-disciplinary calls for action

Of the 26 cross-disciplinary calls for action:

- 3 have been fully implemented
- 4 are progressing as expected
- 19 have not generated any satisfactory outcomes.

Among the objectives to attain was that the **United Nations Declaration on the Rights of Indigenous Peoples** be enshrined within Québec's legislative framework further to a joint process involving the Government of Québec and the Indigenous representatives. Also, there is the need to produce a clear picture of First Nations and Inuit realities by collecting and analyzing **reliable ethno-cultural data**, and the pressing need to address **housing**. In another vein, public authorities must roll up their sleeves to co-construct a strategy for protecting and promoting First Nation and Inuit language rights. Also, there must be a **strategic overall vision in education** that makes it possible to adapt and match school services to the needs of Indigenous pupils and students, while respecting the autonomy of First Nations and Inuit communities and institutions. Lastly, a change in the mindset and practices within government departments and agencies hinges on **structured professional development for staff**.

Sector-based calls for action

Of the 13 calls for action concerning police services:

- Only 1 has been fully implemented
- 4 are progressing as expected
- 8 have not generated any satisfactory outcomes.

The objectives to attain include global and concerted implementation of the calls for action by municipal police forces. To do this, **clear guidelines common to all police services must be adopted**. It is also important that Indigenous police services be **recognized as autonomous bodies and essential services**. This would enable them to have sustainable funding, to negotiate as equals with other police forces and the governments of Québec and Canada, and to affirm their jurisdiction. As it now stands, tripartite negotiations (federal and provincial governments and Indigenous communities) are stalled. Lastly, the **security of Indigenous women** and their right to physical integrity and to equality must be a foremost concern for police services. This objective remains to be defined and made a priority. In this regard, a mechanism for following up on the calls for justice in the NIMMIWG's Supplementary Report for Québec is essential.

Of the 16 calls for action concerning justice services:

- 2 have been fully implemented
- 7 are progressing as expected
- 7 have not generated any satisfactory outcomes.

As the Viens Commission sees it, in many respects, Québec's legal system is incompatible with Indigenous values and legal traditions. Among the objectives to achieve, studying and **promoting Indigenous law** must be a priority, along with the legislative amendments needed to ensure greater **autonomy for Indigenous communities** in handling offences committed by their members. The quality of **collaboration by the Ministère de la Justice with Indigenous partners** must be improved so that every person involved fully engages in moving projects forward and so that trust and recognition prevail. Moreover, interdepartmental dialogue and cooperation must be strengthened in matters of justice-related issues. Lastly, it is high time that action be taken to increase **access of the population of Nunavik to justice services**.

Of the 18 calls for action concerning correctional services:

- only 1 has been fully implemented
- 7 are progressing as expected
- 10 have not generated any satisfactory outcomes.

Among the objectives to achieve, action is needed across the entire correctional system to generate radical change and, ultimately, **eliminate systemic discrimination against First Nations and Inuit**. How correctional services operate for Indigenous people must be rethought and system tools and standards must be redefined. Also, conditions must be put in place **to foster fruitful collaboration between public authorities and all Indigenous partners**, current and future, with a view to promoting and maintaining equal-to-equal dialogue. Lastly, improving and adapting the **prison conditions of First Nations and Inuit women**, as well as factoring in their specific needs, must be priorities and call for urgent corrective action.

Of 34 calls for action concerning health services and social services:

- Only 1 has been implemented
- 9 are progressing as expected
- 24 have not generated any satisfactory outcomes.

The breadth of the changes expected in health and social services demands a **long-term global strategy** to counter the fragmentation that could well be caused by the sheer number of projects in fields deemed priorities by the Ministère de la Santé et des Services sociaux (MSSS). In the same vein, preventing discrimination must figure among the broad thrusts proposed by MSSS in establishing clear guidelines that institutions must follow before new tragedies occur. It also seems important that MSSS extend the scope of the principle of population responsibility if it intends to promote and achieve true equality in terms of access to health and social services by First Nations and Inuit no matter where they live. Furthermore, it is crucial that departmental representatives have what they need for **committee work to come to fruition**. Finally, it seems essential that **tripartite negotiations** be devoted to developing solutions to the problems of access to healthcare and social services identified in CERP, based on prioritization carried out jointly with the Indigenous authorities concerned.

Of the 30 calls for action concerning youth protection services:

- only 1 has been fully implemented
- 3 are progressing as expected
- 26 have not generated any satisfactory outcomes.

First and foremost, service effectiveness objectives entail strengthening collaboration between Indigenous organizations and MSSS as equals. **This vision of co-construction must extend to all the province's DYPs working in an Indigenous context.** If there are to be reforms that can bring about systemic changes within youth protection services, global directives accompanied by the levers needed to implement them are required. Close monitoring will also ensure the consistency of actions throughout the network.

These transformations must come with practice support tools created with the specific characteristics of Indigenous Peoples in mind, with the explicit aim of eliminating all forms of discrimination in applying the Youth Protection Act (YPA) and related departmental policies and directives. To achieve this, given the scope of the issues involved in youth protection in an Indigenous context, it is urgent and imperative that MSSS have sufficient expertise and internal resources. Finally, MSSS's actions must be aimed at achieving concrete, lasting and measurable results, while respecting Indigenous rights and focusing on increasing their autonomy in youth protection.

Overall findings

After analyzing the initiatives put in place by the various departments and agencies in response to the Viens Commission's 142 calls for action, the Québec Ombudsman has come to the conclusion that action by the government apparatus as a whole should be based on the following five overarching principles:

- **Adopt an overall strategy for implementing the calls for action and improve departmental coordination:** leadership with the necessary instruments to coordinate the actions of all public sectors is required to achieve objectives, particularly with regard to implementing cross-disciplinary calls for action.

- **Increase coherence between commitments and actions concerning First Nations and Inuit:** government actions are not systematically in line with commitments to principles, which can limit recognition and exercise of First Nations and Inuit rights, in addition to undermining the trust of Indigenous representatives in their ministerial counterparts.
- **Generate systemic change:** the Québec government's actions do not always reflect a tangible desire to redefine public services in depth so that they meet Indigenous citizen's needs and aspirations.
- **Improve collaboration and co-constructing solutions with Indigenous representatives:** although changes in the ways of collaborating have been observed in certain sectors, a more sustained willingness to co-construct with Indigenous authorities, particularly by opening discussions upstream from government initiatives – including draft legislation – is lacking.
- **Understand the purpose of calls for action that are imprecisely or unrealistically worded:** when relevant, the Québec government should focus on resolving the issues underlying the wording of calls for action and seek to understand how they are interpreted by Indigenous authorities and representatives.

Summary table

In the Appendix to this report, the Québec Ombudsman reviews each call for action and comments on its application, progress or, on the contrary, the results pending.